

POWER PURCHASE AGREEMENT

BETWEEN

THE CITY OF RIVERSIDE

AND

CAMINO SOLAR, LLC

(“CAMINO” SOLAR + BESS PROJECT)

DATED AS OF [_____], 2019

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POWER PURCHASE AGREEMENT

PARTIES

THIS POWER PURCHASE AGREEMENT ("**Agreement**") which is dated for convenience as of [_____], 2019, is being entered into by and between the City of Riverside, a California charter city and municipal corporation ("**Buyer**"), and Camino Solar, LLC, a limited liability company organized and existing under the laws of the State of Delaware ("**Seller**"). Each of Buyer and Seller is referred to individually under this Agreement as a "**Party**" and together they are referred to as the "**Parties**."

RECITALS

WHEREAS, Buyer has adopted or is adopting policies to comply with the California Renewable Energy Resources Act that are designed to increase the amount of energy that it provides to its retail customers from eligible renewable energy resources; and

WHEREAS, Seller's parent, Avangrid Renewables, LLC, proposed on behalf of Seller to develop and operate the Facility (as hereafter defined) and, following negotiation, Seller has agreed to sell to Buyer, and Buyer has agreed to purchase, certain renewable energy, capacity, Ancillary Services, and associated environmental attributes; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which such sales and purchases shall be made.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. The following capitalized terms in this Agreement and the appendices hereto shall have the following meanings:

"**Acceptable Form of Performance Assurance**" means, at the option of Seller, either (a) cash to be held in escrow by Buyer, (b) cash to be held in an escrow account in form and substance satisfactory to Buyer in its sole discretion (an "**Escrow Account**"), or (c) a separate letter of credit substantially in the form of Appendix K from a Qualified Issuer.

"**Adjusted BESS Capacity Price**" has the meaning set forth in Section 9.4(b).

"**ADS**" has the meaning set forth in Section 9.4(a).

"**Affiliate**" means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person or of an Affiliate of such Person. As used in this Agreement, "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management,

policies or activities of a Person, whether through ownership of voting securities, its capacity as a sole or managing member, its capacity as a general partner, by contract, or otherwise.

“**Agreement**” has the meaning set forth in the preamble to this Agreement, and includes Appendices A through Q and Schedule 12.2(h).

“**Agreement Term**” has the meaning set forth in Section 2.2.

“**Ancillary Services**” has the meaning set forth in the CAISO Tariff.

“**Annual BESS Availability**” means, for the applicable Contract Year, the availability of the BESS during such Contract Year calculated in accordance with Appendix J-1.

“**Annual BESS Availability Guarantee**” has the meaning set forth in Section 9.4(a).

“**Annual Contract Quantity**” means, for the applicable Contract Year, the quantity of PV Metered Output and Deemed Delivered Energy (during Compensable Curtailments) set forth for such Contract Year in Appendix G.

“**Appeal**” has the meaning set forth in Section 3.1.

“**ASME**” means American Society of Mechanical Engineers.

“**Assumed Daily Deliveries**” has the meaning set forth in Section 13.3(c).

“**ASTM**” means American Society for Testing and Materials.

“**Authorized Auditors**” means representatives of Buyer or Buyer’s Authorized Representatives who are authorized to conduct audits on behalf of Buyer.

“**Authorized Representative**” has the meaning set forth in Section 14.1.

“**AWS**” means American Welding Society.

“**Bankruptcy**” means any case, action or proceeding under any bankruptcy, reorganization, insolvency or receivership law or any dissolution or liquidation proceeding commenced by or against a Person and, if such case, action or proceeding is not commenced by such Person, such case or proceeding shall be consented to or acquiesced in by such Person or shall result in an order for relief, or shall remain undismissed for sixty (60) days.

“**BESS**” means the 11 MW four-hour lithium-ion battery energy storage system included in the Facility, consisting of battery storage modules and racks, power conversion and transformation equipment, battery management systems, equipment for communication, thermal regulation, environmental conditioning and safety, control systems and related software, enclosures, and such other incidental or ancillary equipment or components as may be necessary or appropriate.

“**BESS Capacity Payment**” means (a) for any month from and after the Commercial Operation Date, the BESS Capacity Price or Adjusted BESS Capacity Price, as applicable according to Section 9.4, multiplied by the BESS Contract Capacity, or (b) for any month or partial

month prior to the Commercial Operation Date, seventy-five percent (75%) of the BESS Capacity Payment calculated in accordance with the foregoing clause (a) and prorated based on the number of days, if any, during such month or partial month when Startup and Test Energy is received by Buyer with full BESS Contract Capacity and BESS availability.

“**BESS Capacity Price**” means Six Dollars and 48/100 (\$6.48) per kW of BESS Contract Capacity per month.

“**BESS Communication Protocol**” has the meaning set forth in Section 7.3(e).

“**BESS Contract Capacity**” means eleven megawatts (11 MW).

“**BESS Instructions**” means the instructions, and any subsequent updates, in either case directed by Buyer or the CAISO via the BMS or another method of communication, to charge or discharge the BESS, in each case in a manner consistent with the BESS Communication Protocol and the terms and conditions of this Agreement.

“**BESS Metered Input**” means all Energy delivered into the BESS, as measured in MWh by the CAISO-approved and polled Electric Metering Device at the BESS and published in the SQMD System.

“**BESS Metered Output**” means all Energy delivered to the Point of Delivery from the BESS, net of electrical losses, as measured in MWh by the CAISO-approved and -polled Electric Metering Device at the BESS and published in the SQMD System.

“**BESS Performance Guarantees**” means, collectively, the Dischargeable Energy Performance Guarantee, the Round Trip Efficiency Performance Guarantee, the Monthly BESS Availability Guarantee, the Annual BESS Availability Guarantee, and the Cumulative ADS Deviation Performance Guarantee.

“**BMS**” means the battery control and management system for the BESS.

“**Brown Act**” has the meaning set forth in Section 14.19(e).

“**Business Day**” means any day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California or New York, New York.

“**Buy-Down Amount**” has the meaning set forth in Section 3.5.

“**Buy-Down Election Notice**” has the meaning set forth in Section 3.5.

“**Buyer**” has the meaning set forth in the preamble to this Agreement.

“**Buyer’s Check Meters**” has the meaning set forth in Section 11.6(e).

“**CAISO**” means the California Independent System Operator.

“**CAISO Costs**” means (a) all current and future costs, expenses, fees, charges, credits and other amounts assessed by the CAISO to Seller or to Buyer in connection with the Facility and

(b) any and all costs, expenses, fees, charges and other amounts incurred in connection with performing Scheduling services, settlement services and serving as the Scheduling Coordinator. CAISO Costs include any and all fees, costs and charges that come into existence for integration of the Facility (by virtue of being an intermittent solar and energy storage resource) into the CAISO grid and any imbalance costs, expenses and charges.

“**CAISO Expenditure Cap**” has the meaning set forth in Section 8.8(a).

“**CAISO Tariff**” means the CAISO FERC Electric Tariff, Fifth Replacement Volume, including the rules, protocols, procedures and standards attached thereto and any replacement thereof or successor thereto in effect.

“**CAMD**” means the Clean Air Markets Division of the EPA, any successor agency and any other state, regional or federal or intergovernmental entity or Person that is given authorization or jurisdiction or both over a program involving the registration, validation, certification or transferability of Environmental Attributes.

“**Capacity Rights**” means the rights, whether in existence as of the Effective Date or arising thereafter during the Agreement Term, to capacity, associated attributes or reserves or any of the foregoing as may in the future be defined by the CAISO, or any other balancing authority, reliability entity or Governmental Authority associated with the electric generating and storage capability of the Facility, including the right to resell such rights.

“**CEC**” means California’s State Energy Resources Conservation and Development Commission, also known as the California Energy Commission.

“**CEC Certified**” means that the CEC has certified that the Facility is an eligible renewable energy resource in accordance with Public Utilities Code Section 399.12(e) and the guidelines adopted by the CEC.

“**CEC Compliant**” means, when used with respect to the Facility or any other facility at any time, that the Facility or such other facility is CEC Certified and in compliance with the CEC Performance Standard and any other applicable CEC Requirements to which it is subject.

“**CEC Performance Standard**” means, at any time, the applicable greenhouse gas emissions performance standard in effect at such time for baseload electric generation facilities and storage facilities that are owned or operated (or both) by local publicly-owned electric utilities, or for which a local publicly-owned electric utility has entered into a contractual agreement for the purchase of power and services from such facilities, as established by the CEC or other Governmental Authority having jurisdiction over Buyer.

“**CEQA**” means the California Environmental Quality Act, Public Resources Code §§ 21000, *et seq.*

“**CEQA EIR**” has the meaning set forth in Section 3.1.

“**CEQA EIR Acceptability Notice**” has the meaning set forth in Section 3.1.

“**CEQA EIR Unacceptability Notice**” has the meaning set forth in Section 3.1.

“Change in Control” means the occurrence, whether in a single transaction or in a series of related transactions at any time during the Agreement Term of any one or more of the following: (a) a merger or consolidation of Seller or any upstream equity owner of Seller at any level below the entity set forth in Section 1 of Schedule 12.2(h) (any such upstream entity, an **“Upstream Equity Owner”**) with or into any other Person or any other reorganization in which the members of Seller or such Upstream Equity Owner immediately prior to such consolidation, merger, or reorganization, own less than fifty percent (50%) of the equity ownership of the surviving entity or cease to have the power to control the management and policies of the surviving entity immediately after such consolidation, merger, or reorganization, (b) any transaction or series of related transactions in which in excess of fifty percent (50%) of the equity ownership of Seller or any Upstream Equity Owner or the power to control the management and policies of Seller or any Upstream Equity Owner is transferred to another Person, (c) a sale, lease, or other disposition of all or substantially all of the assets of any Upstream Equity Owner, (d) the dissolution or liquidation of any Upstream Equity Owner, or (e) any transaction or series of related transactions that has the substantial effect of any one or more of the foregoing; provided, however, that a Change in Control shall not include any transaction or series of transactions in which the membership interests in Seller or any Upstream Equity Owner are issued or transferred to another Person solely for the purpose of a Tax Equity Financing. Seller shall provide written notice to Buyer prior to the occurrence of any Change in Control in accordance with Sections 12.5(a) and 14.6.

“Change in Law” means a change in any federal, state, local or other law (including any environmental laws, RPS Law or EPS Law), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permitting conditions, certification conditions, authorization, approval of a Governmental Authority or WREGIS, including the adoption of any new law, resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval or the issuance of any replacement or substitute law, resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval, in any case, which is binding on a Party, the Parties, or the Facility or any of the products sold therefrom.

“CMS” has the meaning set forth in the definition of **“Special Project Entity.”**

“COD Certificate” means the certificate set forth on Appendix L and, if applicable due to Buyer’s rejection thereof, any resubmission of such certificate in accordance with Section 3.4.

“Code” means the Internal Revenue Code of 1986.

“Commercial Operation” means that (a) Seller has demonstrated to the reasonable satisfaction of Buyer, and the Independent Engineer has confirmed in writing, that the conditions set forth in the Independent Engineer certificate included in the COD Certificate have been met with respect to the PV System, the BESS, and the Facility as a whole, and (b) Seller has demonstrated, to the reasonable satisfaction of Buyer, that any conditions in the COD Certificate not certified to by the Independent Engineer have been met with respect to the PV System, the BESS, and the Facility as a whole, and in the case of both (a) and (b), the COD Certificate has been accepted, or deemed accepted, by Buyer in accordance with the procedure set forth in Section 3.4.

“Commercial Operation Date” means the date set forth in a COD Certificate that Buyer has accepted, or is deemed to have accepted, from Seller.

“Compensable Curtailments” has the meaning set forth in Section 7.4(c).

“Compliance Costs” has the meaning set forth in Section 8.6.

“Compliance Expenditure Cap” has the meaning set forth in Section 8.7(a).

“Compliant” has the meaning set forth in Section 8.6.

“Confidential Information” has the meaning set forth in Section 14.19(a).

“Consent and Agreement” has the meaning set forth in Section 13.4 and shall be substantially in the form attached as Appendix M.

“Contract Price” means the applicable price per MWh for Facility Metered Output, as set forth in Appendix A.

“Contract Year” means the period beginning on the Commercial Operation Date and ending on the first anniversary of the Commercial Operation Date and each of the fourteen (14) succeeding twelve-month periods thereafter.

“Cost Allocation Methodology” has the meaning set forth in the definition of “Special Project Entity.”

“Costs” has the meaning set forth in Section 13.3(f)(iii).

“Cover Damages” has the meaning set forth in Section 6.4.

“CPRA” has the meaning set forth in Section 14.19(e).

“Cumulative ADS Deviation Liquidated Damages” has the meaning set forth in Section 9.4(c)(i).

“Cumulative ADS Deviation Performance Guarantee” has the meaning set forth in Section 9.4(a).

“Daily Delay Damages” means a daily amount of damages equal to Fourteen Thousand Eight Hundred Fifty and 00/100 Dollars (\$14,850.00).

“Daily Delay Damages Cap” has the meaning set forth in Section 3.3(c).

“Day-Ahead Market” has the meaning set forth in the CAISO Tariff.

“Deemed Delivered Energy” means the PV Metered Output that could have been delivered and measured at the Point of Delivery but for (a) a Compensable Curtailment or Non-Compensable Curtailment or (b) a Force Majeure on Seller’s side of the Point of Delivery, the quantity of which, in either case, shall be determined by Seller using the Real-Time Park-Potential

Energy communicated to Seller via the PV System's SCADA system, or, if the SCADA system is not used, as calculated in accordance with Appendix P.

"Default" has the meaning set forth in Section 13.1.

"Defaulting Party" has the meaning set forth in Section 13.1.

"Delivery Term" has the meaning set forth in Section 2.2.

"Development Security" has the meaning set forth in Section 5.6(a).

"Dischargeable Energy Adjustment Factor" has the meaning set forth in Appendix J-2.

"Dischargeable Energy Performance Guarantee" has the meaning set forth in Section 9.4(a).

"Discharging Energy" means Energy discharged by the BESS via the BESS Instructions.

"Dispute" has the meaning set forth in Section 14.3(a).

"Dispute Notice" has the meaning set forth in Section 14.3(a).

"Downgrade Event" means, with respect to a financial institution, or a provider of a letter of credit or Escrow Account hereunder, (a) the failure of such financial institution to maintain the credit rating or organizational status of a Qualified Issuer, or (b) the commencement by such a financial institution of involuntary or voluntary bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar proceeding (whether under any present or future statute, law or regulation), or (c) Buyer has elected to terminate any relationship with any such Person(s) pursuant to directives from any Governmental Authorities applicable to Buyer.

"Early Termination Date" has the meaning set forth in Section 13.3(a)(i).

"EEI" means Edison Electric Institute.

"Effective Date" means the date that both Seller and Buyer have executed this Agreement.

"Electric Metering Device(s)" means all meters, metering equipment, and data processing equipment conforming to the requirements set forth in Section 11.6 and used to measure, record, or transmit data relating to the Energy output from the Facility, including the quantities of PV Metered Output, BESS Metered Input, and BESS Metered Output. Electric Metering Devices include the metering current transformers and the metering voltage transformers.

"Eligible Intermittent Resources Protocol" or **"EIRP"** means the Eligible Intermittent Resources Protocol, as may be amended from time to time, as set forth in the CAISO Tariff.

"Energy" means electrical energy.

"Environmental Attribute Reporting Rights" means all rights to report the ownership of the Environmental Attributes to any Person including under Section 1605(b) of the Energy

Policy Act of 1992, or any other current or future international, federal, state or local law, regulation or bill, or otherwise.

“Environmental Attributes” means Renewable Energy Certificates, and any and all other current or future credits, benefits, emissions reductions, offsets or allowances, howsoever entitled, named, registered, created, measured, allocated or validated (a) that are at any time recognized or deemed of value (or both) by either Party, applicable laws, or any voluntary or mandatory program of any Governmental Authority or other Person, and (b) that are attributable to (i) generation of PV System Energy or Replacement Energy delivered by Seller to Buyer, (ii) storage of Energy or other services in connection with the BESS, and (iii) the emissions or other environmental characteristics of such PV System Energy or such Replacement Energy or its displacement of conventional or other types of Energy generation. Environmental Attributes include any of the aforementioned arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, carbon, or any other greenhouse gas or chemical compound, particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change (the **“UNFCCC”**), the Kyoto Protocol to the UNFCCC, California’s greenhouse gas legislation (including California Assembly Bill 32 (Global Warming Solutions Act of 2006) and any regulations implemented pursuant to the Global Warming Solutions Act of 2006, including any compliance instruments accepted under the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations of the California Air Resources Board), or any similar international, federal, state or local program or crediting “early action” with a view thereto, or laws or regulations involving or administered by the CAMD, and all Environmental Attribute Reporting Rights, including all evidences (if any) thereof such as Renewable Energy Certificates of any kind. Environmental Attributes for purposes of this definition are separate from the PV System Energy. Environmental Attributes exclude (A) investment tax credits, any local, state or federal production tax credits, depreciation deductions or other tax credits providing a tax benefit to Seller or any other Person based on ownership or a security interest in the Facility or PV System Energy, including any investment or production tax credit expected to be available to Seller with respect to the Facility, (B) any other depreciation deductions and benefits, and other tax benefits arising from ownership or operation of the Facility, and (C) cash grants or other financial incentives from any local, state or federal government available to Seller with respect to the Facility.

“Environmental Documents” has the meaning set forth in Section 3.1.

“Environmental Laws” means any federal, state or local laws (including common law), statutes, ordinances, rules, regulations, binding orders, injunctions or judgments pertaining to public health, safety, pollution, or the presence of or release of Hazardous Materials on, under or about the Facility Site.

“EPA” means the United States Environmental Protection Agency.

“EPS Compliant” when used with respect to the Facility or any other facility at any time, means that the Facility or facility, as applicable, satisfies both the PUC Performance Standard and the CEC Performance Standard in effect at the time; provided, if it is impossible for the Facility or facility, as applicable, to satisfy both the PUC Performance Standard and the CEC Performance Standard in effect at any time, such Facility or facility, as applicable, shall be deemed EPS Compliant if it satisfies the CEC Performance Standard in effect at the time and those portions of the PUC Performance Standard in effect at the time that it is possible for such Facility or facility,

as applicable, to satisfy while at the same time satisfying the CEC Performance Standard in effect at the time.

“EPS Law” means Sections 8340 and 8341 of the California Public Utilities Code.

“Escrow Account” has the meaning set forth in the definition of “Acceptable Form of Performance Assurance.”

“Excess Energy” means, for any Contract Year, any PV System Energy that is in excess of one hundred twenty percent (120%) of the Annual Contract Quantity for such Contract Year. For purposes of this definition, Deemed Delivered Energy shall be counted toward the Annual Contract Quantity.

“Excess Energy Price” means the price per MWh (\$/MWh) paid by Buyer to Seller for Excess Energy according to the provisions of Appendix A.

“Facility” means the combined PV System and BESS to be located on the Facility Site, including the structures, facilities, equipment, fixtures, appurtenances, improvements and associated real and personal property, physical and intangible property, and other rights and interests as further described in Appendix B.

“Facility Lender” means any lender(s) providing senior or subordinated construction, interim or long-term debt or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, including any Tax Equity Financing or Sale Leaseback Financing or refinancing, and any Person providing interest rate protection agreements to hedge any of the foregoing debt obligations.

“Facility Metered Output” means, during each Settlement Interval, the Net PV Metered Output and BESS Metered Output, together, as a positive or negative number.

“Facility Metered Output Payment” means, for any month of the Agreement Term, an amount equal to the product of (a) the Contract Price for Facility Metered Output, subject to the adjustments set forth in this Agreement, multiplied by (b) the total amount of Facility Metered Output delivered during such month.

“Facility Site” means the real property (including all fixtures and appurtenances thereto) and related physical and intangible property generally identified in Appendix B (as may be modified in accordance with Section 12.4(c)) as (a) owned or leased by Seller where the Facility is located or will be located, and (b) any easements, rights of way or other contractual or real property rights held or to be held by Seller, for distribution or transmission lines, interconnection facilities, or roadways servicing such Facility Site or the Facility located (or to be located) thereon.

“Fair and Reasonable” has the meaning set forth in the definition of “Special Project Entity.”

“FERC” means the Federal Energy Regulatory Commission.

“Financing Agreement” shall mean any credit agreement, loan agreement or similar agreement, to be executed between Seller and a Facility Lender.

“**Force Majeure**” has the meaning set forth in Section 14.5(b).

“**Force Majeure Notice**” has the meaning set forth in Section 14.5(a).

“**Forced Outage**” means the removal of service availability of the Facility, or any portion of the Facility, for emergency reasons or conditions in which the Facility, or any portion thereof, is unavailable due to unanticipated failure, including as a result of Force Majeure.

“**Full Capacity Deliverability Status**” or “**FCDS**” has the meaning set forth in the CAISO Tariff.

“**Gains**” has the meaning set forth in Section 13.3(f)(i).

“**Generator Interconnection Agreement**” means that certain large generator interconnection agreement and associated documents (or any successor agreement and associated documentation) by and between Seller, or Affiliate of Seller, Southern California Edison, and the CAISO governing the terms and conditions of Seller’s interconnection with the CAISO grid, including any description of the plan for interconnecting to the CAISO grid.

“**Governmental Authority**” means any federal, state, regional, city or local government, any intergovernmental association or political subdivision thereof, or other governmental, regulatory or administrative agency, court, commission, administration, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority, or any Person acting as a delegate or agent of any Governmental Authority. The term “Governmental Authority” shall not include Buyer.

“**Grace Period**” means (a) if the Commercial Operation Date occurs on or before the fifteenth (15th) day of a month, the period from the Commercial Operation Date through the fifth full calendar month after the Commercial Operation Date, and (b) if the Commercial Operation Date occurs after the fifteenth (15th) day of a month, the period from the Commercial Operation Date through the sixth full calendar month after the Commercial Operation Date.

“**Green Value**” consists of the market value of (a) avoided greenhouse gas emissions and/or credits associated with RPS Compliant Energy, and (b) all other Environmental Attributes and avoided emissions-related attributes and benefits that would otherwise have been realized had Seller generated and delivered the Guaranteed PV Metered Output for the applicable Measurement Period, and shall be calculated as an amount equal to the time-weighted average of the prices of greenhouse gases and other Environmental Attributes (as published in commercial indices related to California energy markets) that would have been realized for each MWh of the Shortfall Energy; provided, that if for any Measurement Period there does not exist a liquid trading market that is mutually agreeable to the Parties to determine such Green Value, the Green Value will be equal to the replacement cost for the attributes described in clauses (a) and (b) above, expressed in \$/MWh, as of the final day of the Measurement Period in which the applicable Shortfall Energy accrues.

“**Grid-Charging Energy**” means, for any Settlement Interval, the amount of BESS Metered Input in excess of the amount of PV Metered Output, if any, for such Settlement Interval.

“**Guaranteed Commercial Operation Date**” or “**GCOD**” means May 1, 2022, as may be extended due to an event of Force Majeure in accordance with Section 3.3(c).

“Guaranteed PV Metered Output” means (a) for the Initial Measurement Period, an amount equal to the sum of (i) 40% of the Annual Contract Quantity for the first Contract Year, plus (ii) 80% of the Annual Contract Quantity for the second Contract Year, and (b) for each Measurement Period after the Initial Measurement Period, 80% of the Annual Contract Quantity for the Contract Year constituting such Measurement Period.

“Hazardous Materials” means any hazardous substances, pollutants, contaminants, wastes, or materials (including petroleum (including crude oil or any fraction thereof), petroleum wastes, radioactive materials, hazardous wastes, toxic substances, or asbestos or any materials containing asbestos) designated, regulated, or defined under any Environmental Law.

“IEEE” means Institute of Electrical and Electronics Engineers.

“Independent Engineer” means (a) Black & Veatch, (b) Mott MacDonald, (c) UL, LLC (fka AWS Truepower), or (d) such other engineer as may be jointly selected by the Parties.

“Independent Manager” means a manager who is not at the time of initial appointment, or at any time while serving as Independent Manager, and has not been at any time during the preceding five (5) years: (a) a member, stockholder, equityholder, director, manager (except as the Independent Manager of Seller), officer, employee, partner, attorney or counsel of Seller, any member of Seller, or any Affiliate of Seller; (b) a customer, supplier or other Person who derives any of its purchases or revenues from its activities with Seller, any member of Seller, or any Affiliate of Seller (other than for serving as Independent Manager of Seller); (c) a Person controlling or under common control with any such stockholder, equityholder, partner, manager, customer, supplier or other like Person; or (d) a member of the immediate family of any such member, stockholder, equityholder, director, officer, employee, manager, partner, customer, supplier or other like Person.

“Initial Measurement Period” means the period beginning on the first day after the six (6)-month anniversary of the Commercial Operation Date and ending on the final day of the second Contract Year.

“Insurance” means the policies of insurance as set forth in Appendix F.

“Interest Rate” means the lesser of (a) two hundred (200) basis points above the per annum “Prime Rate” reported daily in *The Wall Street Journal*, or (b) the maximum rate permitted by applicable Requirements of Law.

“ISA” means Instrument Society of America.

“Issuer Bank” means any issuer of a letter of credit that is organized under the laws of the United States or any state thereof.

“Key Milestones” means each of the LGIA Milestone, the Notice of Determination Milestone, the Site Mobilization Milestone, and the GCOD, each as further described in Appendix B, and as may be extended in accordance with Section 3.3(c).

“Knowledge” means (a) with respect to Seller, the actual knowledge, after due inquiry, of any officer or any other agent, employee or representative of Seller responsible for the

management of the operation or maintenance of the Facility or any fact, circumstance or condition, and (b) with respect to Buyer, the actual knowledge, after due inquiry, of any officer or any other agent, employee or representative of Buyer responsible for Buyer's performance of its obligations under this Agreement.

"Legal Opinion" means an executed original of a written legal opinion of counsel for Seller, or other counsel reasonably acceptable to Buyer, addressed to Buyer and dated as of the Effective Date, covering the opinions set forth in Appendix Q.

"Lessor" has the meaning set forth in the definition of "Sale Leaseback Financing."

"Lien" means any mortgage, deed of trust, lien, security interest, retention of title or lease for security purposes, pledge, charge, encumbrance, attachment, claim, easement, right of way, covenant, condition or restriction, leasehold interest, purchase right or option, of any other Person in or with respect to any real or personal property.

"Locational Marginal Price" or "LMP" has the meaning set forth in Appendix C of the CAISO Tariff.

"Losses" has the meaning set forth in Section 13.3(f)(ii).

"Major Maintenance Blockout" has the meaning set forth in Section 7.4(a).

"Major Subcontractors" has the meaning set forth in Section 11.5(a).

"Market Price Index" means the average monthly firm market price at SP-15 for On Peak hours and Off Peak hours as published by CAISO for the applicable Measurement Period; provided, that in the event there are no longer market prices for SP-15, the Parties will mutually agree to a replacement market price index that most closely reflects the geographic location of the SP-15 market at the Effective Date; and, provided, further, that if a market price index for solar energy that would more accurately track the price of the PV System Energy is created, the Parties may mutually agree to adapt such index price as the "Market Price Index" at such time.

"Material Adverse Effect" means any effect that is material and adverse to the operations or physical condition of the Facility, or that limits the ability of Seller to perform its obligations hereunder.

"Measurement Period" means (a) the Initial Measurement Period, and (b) each Contract Year after the Initial Measurement Period.

"MESA" means the Modular Energy Storage Architecture Standards Alliance.

"Milestone" has the meaning set forth in Section 3.3(a).

"Milestone Date" means the deadline associated with each Milestone as set forth in Appendix B.

"Monthly BESS Availability Guarantee" has the meaning set forth in Section 9.4(a).

“Monthly BESS Availability” means, for the applicable month, the availability of the BESS during such month calculated in accordance with Appendix J-1.

“Monthly Payment” means, for a given month of the Agreement Term, an amount equal to (a) the Facility Metered Output Payment for such month, plus (b) the BESS Capacity Payment for such month, plus (c) any other payments owed to Seller under this Agreement, less (d) any other payment owed to Buyer under this Agreement.

“Monthly PV System Availability” means, for the applicable month, the availability of the PV System during such month calculated in accordance with Appendix J-1.

“Monthly PV System Availability Adjustment Factor” has the meaning set forth in Appendix J-2.

“Monthly PV System Availability Guarantee” has the meaning set forth in Section 9.4(a).

“Monthly PV System Availability Requirement” has the meaning set forth in Appendix J-1.

“MW” means megawatt or megawatts, as applicable.

“MWh” means megawatt-hour or megawatt-hours, as applicable.

“NERC” means the North American Electric Reliability Council.

“NERC Reliability Standards” means the reliability standards developed by North American Electric Corporation and applicable to the Facility.

“Net PV Metered Output” means, during each Settlement Interval, an amount of Energy, as a positive or negative number, equal to (a) PV Metered Output minus (b) BESS Metered Input.

“New Resource Implementation Process” or **“NRIP”** means the process and requirements for new resource implementation, as amended from time to time, as set forth in the CAISO Tariff.

“Ninety Day Period” has the meaning set forth in Section 3.1.

“Non-Compensable Curtailments” has the meaning set forth in Section 7.4(c).

“Non-Defaulting Party” has the meaning set forth in Section 13.3(a).

“Notifying Party” has the meaning set forth in Section 14.3(a).

“NTP” means a full notice to proceed issued by Seller to its general contractor for the commencement of installation and construction of the Facility pursuant to which such general contractor is obligated to commence the installation and construction of the Facility.

“Operating Insurance” means the Insurance associated with the Facility after the achievement of Commercial Operation, including Builder’s Risk coverages, as set forth in Appendix F, which are associated with construction or personnel.

“OSHA” means Occupational Safety & Health Administration.

“Outside COD” means the “Outside Commercial Operation Date” specified in Article I of Appendix B.

“Pacific Prevailing Time” or **“PPT”** means the time in Los Angeles, California when actual transactions are made.

“Party” and **“Parties”** have the meanings set forth in the preamble to this Agreement.

“Performance Security” has the meaning set forth in Section 5.6(b).

“Permit” means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the Facility, the production and delivery to the Point of Delivery of Energy, Capacity Rights and Environmental Attributes, or any other transactions or matter contemplated by this Agreement (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements), including those described in Appendix I.

“Permitted Encumbrances” means (a) any Lien approved by Buyer in a writing separate from this Agreement which expressly identifies the Lien as a Permitted Encumbrance, (b) Liens in favor of Facility Lenders, (c) Liens for Taxes not yet due or for taxes being contested in good faith by appropriate proceedings, so long as such proceedings do not involve (i) a material risk of the sale, forfeiture, loss of the Facility or any part thereof, or (ii) a restriction on the use of the Facility or any part thereof, provided that such proceedings end by the expiration of the Agreement Term, (d) suppliers’, vendors’, mechanics’, workman’s, repairman’s, employees’ or other like Liens arising in the ordinary course of business for work or service performed or materials furnished in connection with the Facility for amounts the payment of which is either not yet delinquent, bonded or is being contested in good faith by appropriate proceedings, so long as such proceedings will have ended by the expiration of the Agreement Term and do not involve a material risk of the sale, forfeiture, loss of the Facility or any part thereof, (e) agreements between Seller and third parties related to the Facility Site, or memoranda thereof; or (f) easements, rights of way, use rights, exceptions, encroachments, reservations, restrictions, conditions or limitations, so long as they do not materially interfere with or impair the operation of the Facility as contemplated by this Agreement.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.

“Point of Delivery” means the high-side of the Southern California Edison Whirlwind 220 kV substation, provided that in the case of Replacement Energy, an alternative delivery point may be designated by Buyer.

“Present Value Rate” means, at any date, the sum of 0.50% plus the yield reported on page “USD” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally-recognized trading screen reporting on-line intraday trading in United States government securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that most nearly matches the remaining term of the Agreement at that date.

“Principals” means any board chair, president, chief executive officer, chief operating officer and any other individual who serves in the functional equivalent of one or more of those positions, as well as any individual who holds an ownership interest in Seller or any Upstream Equity Owner of at least twenty percent (20%), and any employee of Seller who is authorized by Seller to represent Seller before the City of Riverside.

“Prudent Utility Practices” means those practices, methods, and acts, that are commonly used by a significant portion of the solar power generation industry, the battery energy storage industry, and the combined solar power generation and battery storage industry, in each case in prudent engineering and operations to design, construct and operate and maintain electric equipment (including solar powered facilities and battery energy storage facilities) lawfully and with safety, reliability, dependability, efficiency, and economy, including any applicable practices, methods, acts, guidelines, standards and criteria of the CAISO, FERC, NERC, WECC and all applicable Requirements of Law.

“PUC” means the California Public Utilities Commission.

“PUC Performance Standard” means, at any time, the greenhouse gas emission performance standard in effect at such time for baseload electric generation facilities owned or operated (or both) by load-serving entities and not local publicly-owned electric utilities, as established by the PUC or other Governmental Authority under the EPS Law.

“PV Metered Output” means all PV System Energy delivered to the Point of Delivery, net of all auxiliary loads, station electrical uses and electrical losses from the PV System to the Point of Delivery, as measured in MWh by CAISO-approved and -polled Electric Metering Devices located at the PV System and published in the SQMD System.

“PV System” means the forty-four (44) MW (ac) solar photovoltaic electric generating facility to be developed, constructed, owned and operated by Seller that, along with the BESS, comprises the Facility.

“PV System Contract Capacity” means forty-four (44) MW (ac), as may be adjusted pursuant to Section 3.5.

“PV System Energy” means Energy generated by the PV System.

“Q/A” has the meaning set forth in Appendix H.

“Q/C” has the meaning set forth in Appendix H.

“**Qualified Issuer**” means an Issuer Bank that (a) maintains a current long-term credit rating (corporate or long-term senior unsecured debt) of “A3” or higher by Moody’s Investors Service, Inc. and “A-” or higher by Standard & Poor’s, and (b) has not suffered a Downgrade Event.

“**Qualified Operator**” means, with respect to (a) the PV System portion of the Facility (i) an Affiliate of Seller, or (ii) a Person reasonably acceptable to Buyer that, in either case, has at least three (3) years of operating experience with utility scale photovoltaic solar-powered generation facilities that are in excess of forty-four (44) MW in capacity, and (b) the BESS, a Person reasonably acceptable to Buyer that has operating experience with battery energy storage systems that are comparable in size, configuration and capabilities to the BESS, including being connected to, or feeding Energy to, a high voltage transmission level. As of the Effective Date, the Parties agree that Avangrid Renewables, LLC and its Affiliates are Qualified Operators.

“**Qualified Transferee**” means a Person that (a) (i) has a net worth at the time of the transfer that is equal to or greater than \$150,000,000, or who has a parent or an Affiliate with a net worth at the time of the transfer equal to or greater than \$150,000,000, (ii) (A) retains or causes the Subsequent Owner to retain, a Qualified Operator to operate the Facility (or otherwise agrees not to interfere with the existing Qualified Operator for the Facility) and (B) has, if the time of determination is three (3) years or less following the Effective Date, two (2) years of experience owning, leasing, or managing electrical generation through renewable resources and energy storage with at least two (2) projects of 25 MW or higher, or if the time of determination is more than three (3) years following the Effective Date, has four (4) years of experience owning, leasing or managing electrical generation through renewable resources with at least two (2) projects of 44 MW or higher, (iii) executes a written assumption agreement in favor of Buyer pursuant to which such Person shall assume all of the obligations of Seller under the PPA, (iv) is a Special Project Entity, and (v) is not at the time of transfer in active litigation against Buyer, or (b) is reasonably acceptable to Buyer.

“**Quality Assurance Program**” has the meaning set forth in Section 5.4.

“**Real-Time Park-Potential Energy**” means the real-time park potential energy calculated in the Facility’s SCADA system or, if the SCADA system is not used, as set forth in Appendix P.

“**Recipient Party**” has the meaning set forth in Section 14.3(a).

“**Remaining Term**” means, at any date, the remaining portion of the Agreement Term at that date without regard to any early termination of this Agreement.

“**Remedial Action Plan**” has the meaning set forth in Section 3.3(b).

“**Renewable Energy Certificates**” means a certificate of proof associated with the generation of electricity from an RPS Compliant eligible renewable energy resource, which certificate is issued through the accounting system established by the CEC pursuant to the RPS Law, evidencing that one (1) MWh of Energy was generated and delivered from such eligible renewable energy resource. Such certificate is a tradable environmental commodity (also known

as a “green tag” or “renewable energy credit”) for which the owner of the Renewable Energy Certificate can prove that it has purchased renewable Energy.

“**Replacement Energy**” means Energy produced by a facility (or facilities) other than the Facility that, at the time delivered to Buyer: (a) is Compliant, and (b) qualifies under California Public Utilities Code Section 399.16(b)(1).

“**Replacement Energy Liquidated Damages**” has the meaning set forth in Section 9.3(a).

“**Requirement of Law**” means federal, state and local laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority (including those pertaining to electrical, building, zoning, Environmental Laws and occupational safety and health requirements).

“**Requirements**” means, collectively, any applicable standards, Prudent Utility Practices, all applicable Requirements of Law, the Permits, Seller’s Quality Assurance Program, and any other requirements set forth in this Agreement.

“**Round Trip Efficiency Adjustment Factor**” has the meaning set forth in Appendix J-2.

“**Round Trip Efficiency Performance Guarantee**” has the meaning set forth in Section 9.4(a).

“**RPS Compliant**” means, when used with respect to the Facility or any other facility at any time, that all Energy generated by such Facility or facility, as applicable, at all times shall, together with all of the associated Environmental Attributes, qualify as a “portfolio content category 1” eligible renewable resource under the RPS Law and meet the requirements of Public Utilities Code Section 399.16(b)(1).

“**RPS Law**” means the California Renewable Energy Resources Act, including the California Renewables Portfolio Standards Program (Article 16 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code) and California Public Resources Code Sections 25740 through 25751, Division 25.5 of California Health and Safety Code (commencing with Section 38580), and any related regulations or guidebooks promulgated by the CEC or, as applicable, the CARB, and as all of the foregoing may be promulgated and implemented from time to time, and any replacement laws or regulations.

“**Sale Leaseback Financing**” means a sale-leaseback whereby the Facility or the Facility Site (which for purposes of this definition shall exclude any easements associated with the transmission line) is sold by Seller to one or more investors (each, a “**Lessor**”) and leased back by Seller and Seller retains a right of quiet enjoyment over the Facility Site (or the Facility, as applicable) during the lease term as long as Seller pays Lessor thereof rent and meets its other obligations under the lease, provided that a Sale Leaseback Financing shall comply with the provisions of Section 12.5.

“**Sandia Publication**” means D. L. King, W. E. Boyson, J. A. Kratochvil, *PHOTOVOLTAIC ARRAY PERFORMANCE MODEL, SAND2004-3535*, Albuquerque, New Mexico 87185-0752, Sandia National Laboratories, August 2004.

“**SCADA**” means supervisory control and data acquisition.

“**Schedule or Scheduling**” means the actions of Seller and Buyer, or their Authorized Representatives, including each of the Transmission Providers, if applicable, of notifying, requesting and confirming to the CAISO the amounts of PV Metered Output, BESS Metered Input, BESS Metered Output, and Replacement Energy expected to be delivered consistent with the Scheduling interval at or from the Point of Delivery on any given date during the Delivery Term, all in the manner contemplated by the CAISO Tariff.

“**Scheduled Outage**” means any outage with respect to the Facility other than a Forced Outage.

“**Scheduled Outage Cap**” has the meaning set forth in Section 7.4(a).

“**Scheduled Outage Projection**” has the meaning set forth in Section 7.4(a).

“**Scheduling Coordinator**” has the meaning set forth in the CAISO Tariff.

“**Scheduling Procedures**” has the meaning set forth in Section 7.3(f).

“**Seller**” has the meaning set forth in the preamble to this Agreement.

“**Seller’s Check Meters**” has the meaning set forth in Section 7.3(e)(iii).

“**Settlement Interval**” has the meaning set forth in the CAISO Tariff.

“**Settlement Statement**” has the meaning set forth in the CAISO Tariff.

“**Shortfall Energy**” has the meaning set forth in Section 9.1.

“**Shortfall Make Up Period**” has the meaning set forth in Section 9.1.

“**Site Control**” means that Seller shall: (a) own the Facility Site; (b) be the grantee or licensee of one or more easements with respect to the Facility Site, which, in each case, permit Seller to perform its obligations under this Agreement; (c) be the lessee under one or more leases with respect to the Facility Site which permit Seller to perform its obligations under this Agreement; or (d) have otherwise provided evidence satisfactory to Buyer of Seller’s right to control the Facility Site so as to permit Seller to perform its obligations under this Agreement.

“**Site Mobilization Milestone**” means the date upon which (a) Seller’s general contractor has commenced installation and construction of the Facility pursuant to Seller’s issuance of NTP, and (b) all permits listed in Appendix I have been obtained, are final and are in full force and effect.

“**SP-15 Price**” means the CAISO SP-15 Trading Hub Day-Ahead Market hourly LMP, as published by the CAISO. For the avoidance of doubt, the SP-15 Price shall not include the value of any Environmental Attributes or Capacity Rights, if any.

“**Special Project Entity**” means a limited liability company that at all times:

(a) shall not (i) (A) engage in any consolidation or merger with or into any other business entity, (B) acquire by purchase or otherwise all or substantially all of the business or assets of or beneficial interest in any other entity, or (C) transfer, lease or sell, in one transaction or any combination of transactions, all or substantially all of its properties or assets, except in each such case to the extent permitted herein; (ii) modify, amend or waive any provisions of its organizational documents related to its status as a Special Project Entity; or (iii) terminate its organizational documents or its qualifications and good standing in any jurisdiction where it is required to be qualified or in good standing;

(b) notwithstanding its omnibus powers was organized solely for the purpose of acquiring, developing, owning, holding, selling, financing, leasing, transferring, exchanging, managing and operating the Facility, entering into this Agreement with Buyer, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(c) has not been, is not, and will not be engaged in any business unrelated to the acquisition, development, construction, ownership, management or operation of the Facility;

(d) other than excess real property rights, has not had, and does not have and will not have, any assets other than those related to the Facility;

(e) has held itself out as and will hold itself out to the public as a legal entity separate and distinct from any other entity (other than as an Affiliate to Avangrid Renewables, LLC) and has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

(f) has maintained and will maintain its accounts, organizational books and records, resolutions and agreements separate from any other Person and has filed and will file its own tax returns (except to the extent treated as a "disregarded entity" for tax purposes and not required to file tax returns under applicable law);

(g) Reserved.

(h) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(i) has not made or held and will not make or hold loans or advances to any Person or evidence of indebtedness issued by any Person other than intercorporate loans and deposits pursuant to the central cash management system maintained by Avangrid, Inc., any successor to Avangrid, Inc., or any other direct or indirect parent of Seller (as such system may be amended or replaced from time to time, the "*CMS*");

(j) has not made and will not make any gifts or fraudulent conveyances to any person;

(k) has not identified and will not identify its members, or any Affiliate of any member, as a division or part of it, and has not held itself out and identified itself and shall not hold itself out and identify itself as a division or department of any other Person;

(l) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its members or Affiliates, except (i) pursuant to the terms of the CMS, (ii) on terms that are intrinsically fair, commercially reasonable or no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party ("**Fair and Reasonable**"), or (iii) on terms determined by the SAP cost allocation methodology employed by Avangrid, Inc. for the allocation of direct and indirect costs to all or substantially all of its subsidiaries, or any successor thereto (the "**Cost Allocation Methodology**"), provided that Seller reasonably believes that the allocation methodology, taken as a whole, is Fair and Reasonable; or (iv) in connection with the development or construction of the Facility, provided that (except with respect to clause (iv) below), any indebtedness or other obligations of Seller pursuant to any such transaction with its members or Affiliates shall be fully performed and discharged in their entirety on or prior to the occurrence of the Commercial Operation Date, or (v) as otherwise set forth and permitted in this Agreement;

(m) does not and will not have any obligation to indemnify, and has not indemnified and will not indemnify any Person other than (i) its officers, managers, or members, as the case may be, and the Independent Manager in connection with activities related to the performance of this Agreement, or (ii) entities requiring indemnification in the normal course of business in connection with the development, construction, ownership, and operation of the Facility, including the Kern County Planning Department;

(n) has considered and shall consider the interests of its creditors, if any, in connection with all limited liability company actions, if at any time it perceives that it is not or believes that it may not be (i) solvent or (ii) able to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due;

(o) does not and will not have any of its obligations guaranteed by any Affiliate and does not and will not hold itself out as being responsible for the debt obligations of any other Person, except (i) general obligation or mortgage bonds of Avangrid, Inc., (ii) in connection with the development or construction of the Facility; provided that any such debt obligations shall be fully performed and discharged on or prior to the occurrence of the Commercial Operation Date, or (ii) in accordance with the Generator Interconnection Agreement;

(p) has (i) complied and will comply with the terms and provisions contained in its organizational documents, and (ii) has observed and will observe all customary limited liability company formalities under applicable laws and its organizational documents;

(q) has not participated and will not participate in any cash management system with any other Person, other than the CMS, and has not and will not otherwise commingle its funds or assets with those of any other Person;

(r) has held and will hold its assets in its own name and will conduct all business in its own name;

(s) has maintained and will maintain its accounting records and other entity documents separate from any other Person;

(t) has paid and will pay, either directly or through the CMS, its own liabilities and expenses, including the salaries of any employees it might have, out of its own funds and

assets and will maintain a sufficient number of employees, if it reasonably requires any of its own employees, in light of its business operations;

(u) has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for, the debts of any other Person (other than an Affiliate of Seller solely as provided in (l) and (o) of this definition) and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person (other than an Affiliate of Seller solely as provided in (l) and (o) of this definition), except in accordance with the Generator Interconnection Agreement; provided, however, that it may join in any guarantee of the indebtedness of Avangrid Renewables, LLC, Avangrid, Inc., or any other Affiliate (i) in which all or substantially all of Avangrid Renewables, LLC's other project company Affiliates join as guarantors or co-obligors and, provided further, that such guarantee contains a net worth limitation on the amount of the guaranteed obligations thereunder, a fraudulent transfer savings clause, or other terms as Seller determines to be appropriate to prevent the guarantee from rendering Seller insolvent, or (ii) as otherwise permitted pursuant to this Agreement;

(v) does not have and will not acquire obligations or securities of its members or any Affiliate except as permitted under (l), (o) and (u) of this definition and pursuant to the CMS;

(w) has allocated and will allocate any overhead expenses that are shared with any Affiliate, including, if applicable, paying for shared space and services performed by any employee of an Affiliate, either (i) pursuant to the Cost Allocation Methodology, provided that Seller reasonably believes that the allocation methodology, taken as a whole, is Fair and Reasonable, or (ii) on other terms that are Fair and Reasonable;

(x) now maintains and uses, and will maintain and use, separate invoice bearing its name; such invoices utilized by it or utilized to collect its funds or pay its expenses have borne and shall bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being its agent;

(y) except in connection with the development or construction, or financing of the development or construction of the Facility, has not pledged and will not pledge its assets for the benefit of any other Person, other than Permitted Encumbrances;

(z) as of the Effective Date has, and will thereafter maintain, an operating agreement which provides that it will not dissolve, merge, liquidate or consolidate or amalgamate with or into, or transfer all or substantially all of its assets to, another Person, other than in accordance with the terms in Section 14.6 of this Agreement;

(aa) is and intends to remain solvent and has paid and intends to continue to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall have or become due, and has maintained, is maintaining and intends to maintain through intercorporate capital allocation by loans and deposits pursuant to the CMS adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; and

(bb) now has and will have no indebtedness other than (i) indebtedness to Avangrid, Inc. pursuant to the CMS, (ii) loans (or lease payments) made by a Facility Lender

pursuant to a Financing Agreement, (iii) liabilities incurred in the ordinary course of business relating to its ownership, leasing and operation of the Facility and its routine administration, the amounts of which are normal and reasonable under the circumstances, (iv) any other liabilities incurred in the ordinary course of business relating to its development and construction of the Facility, provided that any such liabilities shall be fully discharged on or prior to the achievement of the Commercial Operation Date, and (v) such other liabilities that are permitted pursuant to the foregoing paragraphs of this definition and the other terms of this Agreement.

“**SQMD System**” means the CAISO Settlement Quality Meter Data System (i.e., MRI-S or any successor or replacement thereof).

“**Startup and Test Energy**” means Facility Metered Output, measured in MWh, delivered to the Point of Delivery prior to the Commercial Operation Date.

“**Subcontractors**” has the meaning set forth in Section 11.5(a).

“**System Emergency**” means each of the following: (a) “System Emergency” as set forth in the CAISO Tariff and (b) a condition or situation that in the judgment of Buyer (i) is imminently likely to endanger life or property; or (ii) is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, reliability of, or damage to the Transmission System, Transmission Provider’s interconnection facilities (as defined in the Generator Interconnection Agreement) or the transmission systems of others to which the Transmission System is directly connected.

“**Taking**” has the meaning set forth in Section 12.4(f).

“**Tax**” or “**Taxes**” means each federal, state, county, local and other (a) net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise, property or leasehold tax and (b) customs, duty or other fees, assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto.

“**Tax Equity Financing**” means, with respect to Seller or any Upstream Equity Owner, any transaction or series of transactions in which (a) (i) one or more tax equity investors (each, a “**Tax Equity Investor**”) buys an interest in Seller, or any Upstream Equity Owner acting as a holding company for Seller, (ii) such Tax Equity Investors are thereafter allocated as much as 99% of income, loss and tax credits associated with Seller until a “flip date,” after which such allocations are reduced to as little as 4.95% of such income, loss and tax credits associated with Seller, (iii) after such “flip date” the other party or parties to such transaction or series of transactions that was the recipient of the remainder of any income, loss and tax credit allocations (that is, the non-Tax Equity Investor to the transaction or series of transactions) shall have an option to repurchase any Tax Equity Investors’ interest in Seller or such Upstream Equity Owner acting as a holding company for Seller, and (iv) such non-Tax Equity Investor’s interest in Seller or such Upstream Equity Owner retains management control over the Facility, but must obtain the agreement of the Tax Equity Investors prior to taking major decisions (in accordance with the applicable tax equity financing documents) with respect to Seller or such Upstream Equity Owner acting as a holding company, or (b) there is a Sale Leaseback Financing.

“**Tax Equity Investor**” has the meaning set forth in the definition of “Tax Equity Financing.”

“**Termination Notice**” has the meaning set forth in Section 13.3(a).

“**Termination Payment**” means in the case of a Default, the amounts, calculated pursuant to Section 13.3 payable by the Defaulting Party, as applicable, to liquidate this Agreement.

“**Third Party Sale Replacement Price**” has the meaning set forth in Section 6.3.

“**Thirty Day Notice Period**” has the meaning set forth in Section 3.1.

“**Tier One**” has the meaning set forth in Section 5.1(d).

“**Transmission Provider**” means the Person(s) operating the Transmission System(s) providing Transmission Services to or from the Point of Delivery.

“**Transmission Services**” means the transmission and other services required to transmit PV Metered Output to or from the Point of Delivery.

“**Transmission System**” means the facilities utilized to provide Transmission Services.

“**UNFCCC**” has the meaning set forth in the definition of “Environmental Attributes.”

“**Upstream Equity Owner**” has the meaning set forth in the definition of “Change in Control.”

“**WECC**” means the Western Electricity Coordinating Council.

“**WREGIS**” means Western Renewable Energy Generation Information System.

“**WREGIS Certificates**” has the meaning set forth in Section 8.4.

“**WREGIS Operating Rules**” means the rules describing the operations of the Western Renewable Energy Generation Information System, as published by WREGIS.

“**WREGIS Withhold Amount**” has the meaning set forth in Section 11.2.

Other terms defined herein have the meanings so given them in this Agreement.

Section 1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) time is of the essence;
- (b) the singular number includes the plural number and vice versa;
- (c) reference to any Person includes such Person’s successors and assigns but, in case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

- (d) reference to any gender includes the other;
- (e) reference to any agreement (including this Agreement), document, instrument, tariff or Requirement means such agreement, document, instrument, or tariff, or Requirement, as amended, modified, replaced or superseded and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof;
- (f) reference to any Article, Section, or Appendix means such Article of this Agreement, Section of this Agreement, or such Appendix to this Agreement, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;
- (g) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or Section or other provision hereof or thereof;
- (h) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;
- (i) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including";
- (j) reference to time shall always refer to Pacific Prevailing Time; and reference to any "day" or "month" shall mean a calendar day or month, as applicable, unless otherwise indicated;
- (k) the term "or" is not exclusive; and
- (l) the terms "shall" and "will" shall have the same meaning and be of equal force and effect.

ARTICLE II EFFECTIVE DATE, TERM AND EARLY TERMINATION

Section 2.1 Effective Date. This Agreement shall be effective as of the Effective Date. No more than five (5) Business Days after the Effective Date, Seller shall deliver (or caused to be delivered) to Buyer (a) copies of all resolutions and other documents evidencing the limited liability actions described in Section 12.2(b), certified by an authorized representative of Seller as being true, correct, and complete, (b) an incumbency certificate signed by the secretary of Seller certifying as to the names and signatures of the authorized representatives of Seller, and (c) the Legal Opinion. No more than twenty (20) Business Days after the Effective Date, Seller shall deliver to Buyer the Development Security. No more than thirty (30) days after the Effective Date, Seller shall deliver to Buyer, and Buyer shall have received evidence reasonably satisfactory to Buyer that Seller continues to maintain Site Control.

Section 2.2 Agreement Term and Delivery Term. The term of this Agreement shall commence on the Effective Date and shall end upon the date that is fifteen (15) years from the Commercial Operation Date (the "*Agreement Term*"). This Agreement shall have a delivery term commencing on the Commercial Operation Date and ending on the final day of the Agreement

Term, unless sooner terminated in accordance with the terms of this Agreement (the “*Delivery Term*”).

Section 2.3 Survivability. The provisions of this Section 2.3, Section 5.6, Section 11.5, Article XIII, and Article XIV shall survive the termination of this Agreement. In addition, applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to provide for final billing and adjustments related to the period prior to termination of this Agreement, including payment of any money due and owing to Seller or Buyer pursuant to this Agreement, including Section 3.3, Section 5.6, Section 6.1, Section 6.3, Section 6.4, Section 9.2, Section 9.3, Section 9.4, and Article XI.

Section 2.4 Early Termination.

(a) **Early Termination by Mutual Agreement.** This Agreement may be terminated by mutual written agreement of the Parties.

(b) **Early Termination for Default.** Upon the occurrence and during the continuation of a Default subject to applicable cure periods, if any, the Non-Defaulting Party may, in its sole discretion, terminate this Agreement as set forth in Section 13.3.

(c) **Early Termination for CEQA EIR Unacceptability Notice.** Buyer may, in its sole discretion, terminate this Agreement in accordance with Section 3.1.

(d) **Early Termination for Compliance Failure.** Buyer, in its sole discretion, may terminate this Agreement pursuant to Section 8.7(c).

(e) **Early Termination for CAISO Non-Compliance.** Buyer, in its sole discretion, may terminate this Agreement pursuant to Section 8.8(a).

(f) **Early Termination for Failure to Achieve Commercial Operation.** Buyer, in its sole discretion, may terminate this Agreement effective upon notice to Seller if Seller fails to achieve Commercial Operation by the Outside COD.

(g) **Early Termination for Force Majeure.** This Agreement may be terminated pursuant to Section 14.5.

(h) **Early Termination for Failure to Obtain CEC Certification.** Buyer may, in its sole discretion, terminate this Agreement effective upon notice to Seller pursuant to Section 3.6 if the Facility is not CEC Certified by the date that is six (6) months following the Commercial Operation Date, which date may be extended due to a Change in Law (in which case, the provisions of Section 8.7 shall apply).

(i) **Early Termination for Failure to obtain FCDS.** Buyer may, in its sole discretion, terminate this Agreement pursuant to Section 8.9

Any termination of this Agreement under this Section 2.4 shall be without prejudice to the rights and remedies of either Party for Defaults occurring prior to such termination.

**ARTICLE III
DEVELOPMENT OF THE FACILITY**

Section 3.1 Permitting and CEQA Determinations. Buyer has all rights and powers available to it as a responsible agency under CEQA to participate in the CEQA review of the Facility, including commenting on Kern County's notice of preparation, consulting with Kern County during preparation of the CEQA environmental impact report ("**CEQA EIR**"), and commenting on the draft CEQA EIR. On or before the thirtieth (30th) day after Kern County's public filing of a notice of determination under CEQA (such period referred to herein as the "**Thirty Day Notice Period**") (a copy of which notice Seller shall promptly, and in no event more than five (5) Business Days after such filing has been made, provide to Buyer for review), Buyer shall issue, based on Buyer's independent review of the CEQA EIR, one of the following: (a) a notice confirming that Buyer has approved the purchase of Facility Metered Output (the "**CEQA EIR Acceptability Notice**"), or (b) a notice that Buyer has determined not to approve the purchase of the Facility Metered Output hereunder, and to terminate this Agreement due to the significant adverse environmental effects from the Facility specified in the CEQA EIR (the "**CEQA EIR Unacceptability Notice**"); provided, however, that so long as (i) Kern County has made either (A) a determination of no unmitigated significant adverse impact, or (B) a determination of significant adverse impact, but Kern County has issued a statement of overriding consideration, and (ii) no challenge has been successfully made or is pending against the determination of Kern County as of the end of such Thirty Day Notice Period (an "**Appeal**"), Buyer shall issue a CEQA EIR Acceptability Notice. In the event that an Appeal is still pending against the determination of Kern County as of the end of the Thirty Day Notice Period, then Buyer shall have an additional ninety (90) days to make its determination ("**Ninety Day Period**"); provided, that if such Appeal is still pending at the end of such Ninety Day Period, then (a) the Parties agree to meet no later than fifteen (15) days after the end of the Ninety Day Period to address resolution of the Appeal and any modifications or amendments that may be mutually agreed upon to preserve this Agreement, and (b) Buyer shall have an additional amount of time as mutually agreed to by the Parties to make its determination. If Buyer fails to provide Seller with a notice by the end of such thirty (30) day period, so long as no challenge has been successfully made or is pending against the determination of Kern County as of such date, Buyer will be deemed to have issued a CEQA EIR Acceptability Notice. The Parties shall work together in good faith to make any necessary amendments to this Agreement required in connection with the CEQA review process. Upon delivery by Buyer of a CEQA EIR Unacceptability Notice, this Agreement shall automatically terminate without further liability to either Party. Seller shall represent the Facility as necessary at all meetings and proceedings before all Governmental Authorities and timely prepare all environmental documents required for the review of the Facility under CEQA (the "**Environmental Documents**") and any relevant Milestones.

Section 3.2 Design, Development and Construction of the Facility. Seller shall cause the location, design, configuration and capacities of the Facility be consistent with the Requirements, including the characteristics and other requirements for the Facility set forth in Appendix B, and also subject to any conditions that are imposed by Kern County or any responsible agency as part of the CEQA review of the Facility. Seller shall use commercially reasonable and diligent efforts to site, develop, finance and construct the Facility. Seller shall own the Facility and the Facility Site (or lease the Facility and Facility Site pursuant to a Sale Leaseback Financing or other lease arrangement acceptable to Buyer) during the Agreement Term. Seller shall develop, finance and construct the Facility at its sole risk and expense and in compliance with the Requirements, provided that meeting these requirements shall not relieve Seller of its other obligations under this Agreement. Any failure by Seller to inspect the physical condition of the Facility Site, including any local or other conditions that may be material to Seller's performance

of its obligation under this Agreement, shall not relieve Seller from any responsibility for estimating properly the difficulty and cost of successfully constructing, maintaining or operating the Facility in accordance with this Agreement or from proceeding to construct, maintain and operate the Facility successfully without any expense to Buyer. Subject to any restrictions set forth in this Agreement, Seller may subcontract its duties or obligations under this Agreement without the prior written consent of Buyer, provided, that no such subcontract shall relieve Seller of any of its duties or obligations hereunder.

Section 3.3 Milestone Schedule; Daily Delay Damages.

(a) Attached as Appendix B is a schedule of the milestones for the development of the Facility through the Commercial Operation Date (each milestone, a “**Milestone**”) and the Milestone Dates associated therewith, including the Guaranteed Commercial Operation Date. Seller shall achieve each Milestone by no later than the Milestone Date specified therefor, and Seller may achieve Commercial Operation no earlier than July 31, 2021. From and after the Effective Date until the date on which Commercial Operation has been achieved, Seller shall provide Buyer with monthly reports in substantially the form set forth in Appendix N with updates related to Facility development and progress, including timing and status for obtaining all requisite Permits set forth in Appendix I and achieving interconnection of the Facility and the Milestones, as set forth in Appendix B. Seller shall provide Buyer not less than thirty (30) days’ written notice of the date on which it will commence delivery of Startup and Test Energy.

(b) If Seller fails to achieve any Milestone by the Milestone Date therefor, Seller shall immediately notify Buyer of such failure and, no more than ten (10) days following the failure to achieve such Milestone, provide Buyer with a written action plan detailing how Seller will cure such failure (such plan, a “**Remedial Action Plan**”). The proposed Remedial Action Plan must in all cases be acceptable to Buyer, such acceptance not to be unreasonably withheld, delayed or conditioned. The Remedial Action Plan shall specify in reasonable detail Seller’s analysis of the causes of the missed Milestone Date, the actions that Seller plans to take to correct such underperformance, and the time needed to complete such corrective actions. Seller shall complete any and all corrective action pursuant to the provisions of the Remedial Action Plan. Seller may (i) supplement the Remedial Action Plan, as may be reasonably required, or (ii) provide Buyer with written notice of any deviations from the approved Remedial Action Plan; provided that in the case of (i) or (ii), any supplements to, or deviations from, the Remedial Action Plan must be acceptable to Buyer, such acceptance not to be unreasonably withheld, delayed or conditioned.

(c) In addition to the preparation of a Remedial Action Plan in accordance with Section 3.3(b), if Seller fails to achieve any Key Milestone by the Milestone Date therefor, Seller shall pay Buyer the Daily Delay Damages for each day between the Milestone Date for the applicable Key Milestone and the date upon which such Key Milestone is achieved (or the Agreement is terminated by Buyer under Section 13.1(i) or Section 13.1(j)) up to an aggregate amount equal to Two Million Seven Hundred Thousand Dollars (\$2,700,000) (the “**Daily Delay Damages Cap**”). If multiple Key Milestones are missed on any given day, then Seller shall pay to Buyer the aggregate amount of such Daily Delay Damages for all missed Key Milestones. If, notwithstanding Seller’s failure to timely achieve any other Milestone by the Milestone Date therefor as set forth in Appendix B, Seller is thereafter able to achieve the Commercial Operation Date on or before the Guaranteed Commercial Operation Date, as may be extended due to an event of Force Majeure pursuant to the terms of this Agreement, then any amounts previously paid as

Daily Delay Damages will be refunded to Seller (minus any other damages or amounts that are due and owing to Buyer under this Agreement as of such date). Buyer may draw from the Development Security the amount of any such Daily Delay Damages in accordance with Section 5.6(d); provided, that Seller shall have no obligation to replenish the Development Security if drawn upon. If an event of Force Majeure occurs, each Key Milestone (and each subsequent Key Milestone, as applicable) shall be extended for a period equal to the duration of the occurrence of such Force Majeure event, but in no event to exceed twelve (12) months from the date of the occurrence of such event of Force Majeure in accordance with Section 14.5(c).

(d) Notwithstanding anything to the contrary set forth in this Agreement, in no event shall the Commercial Operation Date occur later than the Outside COD, and the failure to achieve the Commercial Operation Date by the Outside COD shall be an immediate Default by Seller, not subject to extension or cure of any kind.

(e) The Parties agree that the damages that Buyer would incur due to Seller's failure to timely achieve a Key Milestone would be difficult or impossible to predict with certainty, and it is impractical or difficult to assess actual damages in those circumstances, but the Daily Delay Damages are a fair and reasonable calculation of such damages for Seller's failure to achieve any Key Milestone by the Milestone Date therefor.

Section 3.4 Certification of Commercial Operation Date. Seller shall provide Buyer with no fewer than ninety (90) days' prior written notice of the date on which Seller anticipates achieving all of the conditions precedent to Commercial Operation of the Facility as specified in the Appendix L. Once the COD Certificate has been delivered, Buyer may either accept or reject the COD Certificate; provided, that Buyer may not unreasonably withhold, delay or condition acceptance of the COD Certificate, and any rejection by Buyer must be reasonable and contain a written description with reasonable detail of Buyer's reasons therefor. If Buyer does not respond to the COD Certificate within thirty (30) days after its receipt, Buyer shall be deemed to have accepted the COD Certificate. If Buyer rejects the COD Certificate, Seller shall promptly correct those defects or deficiencies detailed in Buyer's rejection of the COD Certificate and resubmit the COD Certificate until Buyer notifies Seller that it has been accepted. Any Daily Delay Damages otherwise payable under Section 3.3(c) shall be excused for each day following the date of Seller's first delivery of a COD Certificate under this Section 3.4 until the date on which Buyer responds to, or is deemed to have accepted, such COD Certificate under this Section 3.4; provided, however, that if Buyer reasonably rejects Seller's COD Certificate, Daily Delay Damages shall be due and payable for each day between the Guaranteed Commercial Operation Date and the date that a revised COD Certificate has been delivered by Seller and accepted by Buyer.

Section 3.5 PV Capacity Buy-Down. No later than ninety (90) days prior to the Commercial Operation Date, Seller may, at its option by providing notice to Buyer (the "**Buy-Down Election Notice**"), make a one-time election to reduce the PV System Contract Capacity by up to ten percent (10%). If Seller delivers a Buy-Down Election Notice to Buyer, then (a) Seller shall pay to Buyer an amount (the "**Buy-Down Amount**") equal to (i) One-Hundred Fifty Thousand Dollars (\$150,000), *multiplied by* (ii) the difference between 44 MW and the reduced PV System Contract Capacity as set forth in the Buy-Down Election Notice, and (b) no sooner than 90 days following Buyer's receipt of the Buy-Down Election Notice, and only if Seller has paid the Buy-Down Amount, Seller may submit a COD Certificate in accordance with Section 3.4; provided, however, that neither Seller's delivery of a Buy-Down Election Notice, nor payment of the Buy-

Down Amount, shall extend any Milestone Date or excuse any Daily Delay Damages otherwise payable by Seller under Section 3.3(c). The Parties agree that damages that Buyer would incur as a result of Seller's exercise of the election set forth in this Section 3.5 would be difficult or impossible to predict with certainty, and it is impractical or difficult to assess actual damages, but the Buy-Down Amount is a fair and reasonable calculation of such damages.

Section 3.6 CEC Certification. Seller shall provide Buyer with a copy of the CEC pre-certification of the Facility at least thirty (30) days prior to the date on which Startup and Test Energy is first delivered to Buyer at the Point of Delivery. Promptly, and in no event more than ten (10) days following the later of (a) the Commercial Operation Date, or (b) the earliest date that the CEC allows a Facility to submit an application, Seller shall file with the CEC all materials and documents required to demonstrate that the Facility is a combined solar photovoltaic plus battery energy storage facility entitled to be CEC Certified. Seller shall promptly provide Buyer with copies of all submittals to the CEC and other correspondence between Seller and the CEC. Failure by Seller to comply with the requirements set forth in this Section 3.6 shall constitute an event of default by Seller, subject to the cure periods set forth in Section 13.1(b).

Section 3.7 Other Information. Seller shall provide to Buyer such other information that is in the possession of Seller or its Affiliates or is reasonably available to Seller regarding the permitting, engineering, construction or operations of Seller, its subcontractors or the Facility, and other data concerning Seller, its subcontractors or the Facility that Buyer may, from time to time, reasonably request in writing, subject to Seller's obligations of confidentiality to third parties with respect to such information.

Section 3.8 Effect of Liquidated Damages. The payment of Daily Delay Damages or the Buy-Down Amount as provided in this Article III shall not limit Buyer's right to (a) exercise any right or remedy available under this Agreement or at law or in equity for any other breach or default occurring concurrently with, before, or after Seller's delay in achieving the applicable Milestone by the Milestone Date therefor or election to exercise Seller's buy-down right, (b) recover any damages not directly attributable to such delay or buy-down or to pursue any indemnity claims in accordance with this Agreement, or (c) terminate this Agreement pursuant to Section 13.3; provided, however, that the payment of applicable Daily Delay Damages and Buyer's right to terminate this Agreement in exchange for the Termination Payment specified in and under the conditions set forth in Section 13.3(g) shall be Buyer's exclusive remedy for Seller's failure to cause the Project to achieve Commercial Operation within the time frames specified herein.

ARTICLE IV OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 Compliance with Electrical Service Requirements. Seller shall, at its sole expense, operate and maintain the Facility: (a) in accordance with the Requirements and the requirements of applicable manufacturer's and operator's specifications and using commercially reasonable efforts to comply with any published recommendations of the manufacturers and suppliers of the solar panels, battery and other major components of the Facility; (b) with due regard for the safety, security and reliability of the interconnection facilities and the Transmission

System; and (c) in a manner that is reasonably likely to maximize the output of Energy from Facility and the use of the BESS.

Section 4.2 General Operational Requirements. In addition to the requirements set forth in Section 4.1 and elsewhere in this Agreement, Seller shall, at all times employ or cause to be employed qualified and trained personnel for managing, operating and maintaining the Facility and for coordinating with Buyer and Buyer's Authorized Representative. Seller shall ensure that necessary personnel are available on-site or on-call twenty-four (24) hours per day during the Delivery Term. The Facility shall be operated during the Delivery Term by a Qualified Operator. For the avoidance of doubt, in no event will the operation of the Facility by a third party, nor shall Buyer's approval of any third-party operator, relieve Seller of any of its obligations hereunder.

Section 4.3 Operation and Use of the BESS; Grid-Charging Energy.

(a) Seller shall procure, install, configure, operate, and maintain the BESS in a manner consistent with meeting all of the BESS Performance Guarantees described in Section 9.4 of this Agreement and shall otherwise cause the BESS to provide the services contemplated herein, and to operate throughout the Agreement Term, in accordance with the terms and conditions of this Agreement. Buyer or Buyer's agent shall have the exclusive right to schedule or designate the BESS to charge or discharge via the BESS Instructions, subject to the limitation that the use of the BESS (i) shall not exceed three hundred sixty (360) complete charge/discharge cycles per Contract Year with a maximum output of eleven (11) megawatts and (ii) for the first sixty-three (63) months of the Delivery Term, in any given Settlement Interval, the BESS shall be charged only when the PV System is generating Energy and only up to the amount of PV Metered Output generated in such Settlement Interval. Other than physical limitations, Buyer's exercise of its rights to schedule and designate the BESS to charge or discharge pursuant to this Section 4.3(a) shall not be subject to any maximum or minimum state of charge limitation. Seller shall not dispatch or operate the BESS other than via the BESS Instructions. The BESS shall not provide any Energy for use or consumption by the Facility and, during the first sixty-three (63) months of the Delivery Term, the BESS shall not be charged with any Grid-Charging Energy. Seller shall implement safeguards, notices, and advance warning systems into the BESS to prohibit operation of the BESS outside of the limitations set forth in this Section 4.3.

(b) Beginning on the first day of the sixty-fourth (64th) month after the Commercial Operation Date, Buyer shall have the right to charge the BESS using Grid-Charging Energy.

Section 4.4 Operation and Maintenance Plan after Commercial Operation. Following the Commercial Operation Date, Seller shall:

(a) Provide to Buyer on a monthly basis, (i) a report showing Facility performance, maintenance activities, and such other details as Buyer may reasonably request, and (ii) any other regularly prepared operations and maintenance status reports of the Facility provided to WECC or lenders pursuant to the Financing Agreement.

(b) In addition to the other required and preventive maintenance actions contained in this Agreement, provide notification to Buyer of its actions to: (i) conduct regular visual equipment inspections and log significant parameters; (ii) identify all preventive maintenance requirements for the following calendar year, including the performance of

maintenance in accordance with Section 7.4(a); (iii) schedule and assign routine maintenance during operations, Scheduled Outages, and, if applicable, Forced Outages (as a result of outage and curtailment notifications during any such Forced Outage), as well as maintenance that can be conducted in parallel; (iv) conduct periodic maintenance to various equipment, and provide a report about any findings to Buyer; (v) conduct periodic Q/A and Q/C activities and inspections in accordance with Appendix H, reports of which Seller shall also provide to Buyer; (vi) provide regular replacement/augmentation plans with respect to the BESS; and (vii) hire Subcontractors, as applicable, to meet the Facility's maintenance, betterment, and improvement needs.

ARTICLE V COMPLIANCE DURING CONSTRUCTION AND OPERATION PERIOD

Section 5.1 In General.

(a) **The Facility.** Seller shall perform, or cause to be performed, all engineering, design and construction in a good and workmanlike manner and in material compliance with the Requirements. Seller warrants that, as of the Commercial Operation Date: (i) the Facility, its engineering, design and construction, and its components and related work shall be free from material defects caused by errors or omissions in design, engineering, and construction, and (ii) the Facility will comply in all material respects with the Requirements and any reports or studies. Seller also warrants that throughout the Agreement Term it will monitor the operation and maintenance of the Facility and that said operation and maintenance is, and will be, in material compliance with all applicable standards, reports, studies, Permits, Prudent Utility Practices, and Requirements of Law applicable to the Facility, Seller's Quality Assurance Program, and any other provisions of this Agreement. Without limiting the foregoing, Seller shall promptly repair and/or replace, consistent with Prudent Utility Practice, any component of the Facility that may be damaged or destroyed or otherwise not operating properly. Seller shall, subject to Seller's reasonable judgment consistent with Prudent Utility Practices, exercise commercially reasonable efforts to undertake all published, recommended, or required updates or modifications from manufacturers or suppliers to the Facility, its equipment and materials, including procedures, programming and software in a timely manner. Seller shall, at its expense, maintain throughout the Agreement Term an inventory of spare parts for the Facility in a quantity that is consistent with applicable manufacturers' recommendations and Prudent Utility Practice.

(b) **Startup and Testing.** Prior to the Commercial Operation Date, Seller shall cause Buyer to have the right, during normal working hours and subject to Seller's or its subcontractors' reasonable requirements and procedures in respect of confidentiality (subject to the provisions set forth in Section 14.19 and safety), to:

(i) review and monitor the subcontractors' performance and achievement and, with respect to the BESS, supply of all initial performance tests and all other tests required under the Facility construction contracts that must be performed in order to achieve completion, with respect to which Seller shall provide to Buyer a schedule for the performance of such tests at least ten (10) Business Days before such tests are scheduled to begin;

(ii) be present to witness such initial performance and acceptance tests and review the results thereof; and

(iii) upon notice to Seller, perform such detailed examinations, inspections and quality surveillance and tests as, in the judgment of Buyer, are appropriate and advisable to determine that the Facility equipment and all ancillary components of the Facility have been installed in accordance with this Agreement and the Facility construction contracts, all applicable standards, Prudent Utility Practices, Requirements of Law, the Quality Assurance Program and the Milestones, provided that such examinations, inspections, quality surveillance and tests shall not interfere with the operations of the Facility or Seller's or its subcontractors' work.

(c) **Access and Cooperation.** Seller shall:

(i) permit Buyer and its Authorized Representatives, advisors, engineers and consultants to observe, inspect and monitor, upon reasonable notice to Seller during normal working hours and subject to Seller's or its subcontractors' reasonable requirements and procedures in respect of confidentiality (subject to the provisions set forth in Section 14.19) and safety, all operations and activities, including the performance of the contractor(s) under the construction contract(s) pertaining to the Facility, the design, engineering, procurement and installation of the equipment, start up and testing, and Commercial Operation and to make notes about and copy (and make such copies and notes available to Buyer) all documents, drawing, plans, specifications, permits, test results, and information as Buyer may reasonably request;

(ii) make the personnel of, and consultants to, the subcontractors and Seller available to Buyer and Buyer's agents, Authorized Representatives and consultants at reasonable times and with prior notice for purposes of discussing any aspect of the Facility or the development, engineering, construction, installation, testing or performance thereof;

(iii) otherwise cooperate in all reasonable respects with Buyer and Buyer's Authorized Representative, advisors, engineers and consultants in order to allow Buyer to exercise its rights under this Section 5.1; and

(iv) from and after the Commercial Operation Date, except in the event of a System Emergency, accommodate Buyer's requests to visit the Facility during Seller's regular business hours upon reasonable notice.

(d) **Equipment Suppliers.** Seller shall only engage with Tier One manufacturers, or with engineering, procurement and construction (EPC) contractors who contract with Tier One manufacturers, for the solar panels and the battery to be incorporated into the Facility. A "**Tier One**" solar panel or battery manufacturer means a manufacturer whose photovoltaic-powered solar panels or batteries are (i) financeable by a Qualified Issuer, or (ii) if not a Qualified Issuer, financeable by a Person with a net worth of at least Five Hundred Million Dollars (\$500,000,000). Seller shall have the right to select the chemical composition of the battery in its sole discretion so long as such battery meets the requirements of this Agreement; provided, that Seller will provide notice to Buyer if the chemical composition of the battery is not lithium ion phosphate. Seller shall provide the full BESS specifications from the selected Tier One manufacturer of the BESS to Buyer prior to the Commercial Operation Date.

Section 5.2 Effect of Review by Buyer. Any review by Buyer of the design, construction, engineering, operation or maintenance of the Facility, and witness of testing hereunder, is solely for the information of Buyer. Buyer shall have no obligation to share the

results of any such review or observation with Seller, nor shall any such review or observation, or the results thereof (whether or not the results are shared with Seller), nor any failure to conduct any such review relieve Seller from any of its obligations under this Agreement. By making any such review, Buyer makes no representation as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller shall in no way represent to any third party that any such review by Buyer of the Facility, including any review of the design, construction, operation or maintenance of the Facility or observation of testing by Buyer, is a representation by Buyer as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

Section 5.3 Compliance With Standards.

(a) Seller shall cause the Facility and all parts thereof to be designed, constructed, tested, operated and maintained to meet all of the requirements of this Agreement, all applicable requirements of the latest revision of the ASTM, ASME, AWS, EPA, EEI, IEEE, IEC, ISA, MESA, National Electrical Code, National Electric Safety Code, OSHA, as applicable, Uniform Building Code, Uniform Plumbing Code, Underwriters Laboratory Standards, National Fire Protection Agency as well as the applicable local County Fire Department Standards of the applicable county, FERC-approved NERC Reliability Standards, and other codes and standards and operations and maintenance requirements applicable to the services, equipment, and work as generally shown in this Agreement, as well as all applicable Requirements of Law not specifically mentioned in this Section 5.3.

(b) Seller shall cause all of its personnel and systems to adhere to any physical and cyber-related security policies, standards, requirements, and procedures applicable to the Facility under Requirements of Law and Prudent Utility Practices, including requirements that may be imposed by FERC, NERC, WECC, the United States Department of Energy, the EPA, or the United States Department of Homeland Security, as well as any applicable cyber-related policies and procedures of Buyer notified to Seller. Seller shall implement and maintain security measures reasonably consistent with the foregoing designed to (i) ensure the security and confidentiality of Buyer's Confidential Information, (ii) prohibit unauthorized access to Buyer's Confidential Information stored on or procured through servers, equipment, or repositories used by Seller or otherwise handled by Seller, (iii) protect against any anticipated threats or hazards to the security and integrity of Buyer's Confidential Information, and (iv) ensure the proper disposal of Buyer's Confidential Information.

Section 5.4 Quality Assurance Program. As a condition of, and no later than the occurrence of, the Commercial Operation Date, Seller shall maintain and comply with a written quality assurance policy ("*Quality Assurance Program*") attached hereto as Appendix H, and Seller shall cause all work performed on or in connection with the Facility to materially comply with said Quality Assurance Program.

Section 5.5 Preservation of the Facility. Except as expressly permitted by this Agreement, Seller shall not sell or otherwise dispose of, or create, incur, assume, or permit to exist any Lien (other than the Permitted Encumbrances) on, any portion of the Facility or any other

property or assets which are necessary for the operation, maintenance, and use of the Facility, without the prior written approval of Buyer.

Section 5.6 Security Provided by Seller.

(a) Seller shall, by no later than twenty (20) Business Days following the Effective Date, deliver to Buyer an Acceptable Form of Performance Assurance in the amount of Two Million Seven Hundred Thousand Dollars (\$2,700,000), which Acceptable Form of Performance Assurance shall guarantee Seller's obligations under this Agreement prior to the achievement of the Commercial Operation Date (the "*Development Security*"). Seller shall maintain the Development Security until Seller posts the Performance Security pursuant to Section 5.6(b), or until Buyer is required to return the Development Security under Section 5.6(c) below.

(b) As a condition to the achievement of the Commercial Operation Date, Seller shall furnish to Buyer an Acceptable Form of Performance Assurance in the amount of Five Million Five Hundred Thousand Dollars (\$5,500,000), which Acceptable Form of Performance Assurance shall guarantee Seller's obligations under this Agreement from and after the Commercial Operation Date (the "*Performance Security*"). Seller may elect to apply the Development Security toward the Performance Security. Seller shall maintain such Performance Security until Buyer is required to return the Performance Security to Seller as set forth in Section 5.6(e) below.

(c) If (i) upon the Commercial Operation Date, no damages or other amounts are due and owing to Buyer under this Agreement and Seller does not elect to apply the Development Security toward the Performance Security, or (ii) this Agreement terminates prior to the occurrence of the Commercial Operation Date while the Development Security is outstanding, then Buyer shall return to Seller the remaining amount of the Development Security (or any portions thereof if damages or other amounts are due and owing to Buyer under this Agreement), less any amounts previously drawn by Buyer in accordance with this Agreement, within ten (10) Business Days after Seller's provision of the Performance Security or the effective date of such early termination.

(d) Buyer may draw on the Development Security or the Performance Security, as applicable, (i) at any time following Seller's failure to pay Daily Delay Damages, Replacement Energy Liquidated Damages, Cumulative ADS Deviation Liquidated Damages, or any other liquidated damages provided for hereunder in the amount of such Daily Delay Damages, Replacement Energy Liquidated Damages, Cumulative ADS Deviation Liquidated Damages, or other liquidated damages, as applicable, in each case within fifteen (15) days after the applicable damages accrue, (ii) upon Seller's failure to make a Termination Payment to Buyer in accordance with Section 13.3, in the amount of the unpaid Termination Payment, or (iii) upon Seller's failure to make any other payment due to Buyer hereunder in the amount of the unpaid payment; provided, that, in the case of a draw made under clause (iii), any such amount shall have been invoiced to Seller, shall be past due, and shall not be the subject of a good faith dispute between the Parties in accordance with Section 11.3. Promptly, and in no event more than five (5) Business Days following any draw by Buyer on the Performance Security, Seller shall replenish the amount drawn on the Performance Security such that the amount of the Performance Security is restored to the full amount set forth in Section 5.6(b); provided, however, that Seller's obligation to replenish the Performance Security if drawn upon will be capped at Nine Million Dollars (\$9,000,000), which

cap is in addition to the Five Million Five Hundred Thousand Dollar (\$5,500,000) balance of the initial Performance Security.

(e) Buyer shall return the unused portion of Development Security or Performance Security, as applicable, if any, to Seller promptly upon the later of: (i) the expiration or termination of the Agreement Term, and (ii) all of the obligations of Seller arising under this Agreement being paid (whether directly or indirectly such as through set-off or netting) or performed in full.

(f) Seller shall provide, or cause to be provided, a replacement Acceptable Form of Performance Assurance in the required amount set forth in this Section 5.6 within the earlier of three (3) Business Days and five (5) calendar days after the earliest to occur of (i) in the case of a letter of credit, Buyer notifying Seller that it reasonably believes that the Qualified Issuer of such letter of credit, in accordance with the bail-in write down provisions under Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014, may be or become unable to perform its obligations under such letter of credit, (ii) a Downgrade Event (provided that Seller shall have thirty (30) days if the Downgrade Event is pursuant to clause (c) of that definition), (iii) in the case of a letter of credit, the date that Seller becomes aware of, or Buyer notifies Seller of, the occurrence of any one of the following events: (A) the failure of the issuer of the letter of credit to renew such letter of credit twenty (20) Business Days prior to the expiration of such letter of credit, or (B) the failure of the issuer of the letter of credit to honor Buyer's properly documented request to draw on such letter of credit in accordance with its terms; or (iv) the issuer of the letter of credit or the bank that holds cash in an Escrow Account becoming Bankrupt.

(g) In the event that a replacement Acceptable Form of Performance Assurance in the required amount is not delivered in accordance with Section 5.6(f), Buyer shall have the right to demand payment of the full amount of the existing Development Security or Performance Security, as applicable, and to retain such amount in order to secure Seller's obligations under this Agreement; provided that, if and to the extent such retained amount exceeds the value of payment and performance in full of all of Seller's obligations under this Agreement, Buyer shall refund any excess amount to Seller promptly after all such obligations of Seller under this Agreement have been paid or performed in full.

(h) Seller shall, from time to time as requested by Buyer, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid and enforceable under all Requirements of Law the Development Security or the Performance Security and the rights of Buyer with respect to such Development Security or Performance Security.

(i) Notwithstanding the other provisions of this Agreement, each of the Development Security and the Performance Security constitutes security for, but is not a limitation of, Seller's obligations under this Agreement.

Section 5.7 Decommissioning and Other Costs. Buyer shall not be responsible for (a) any costs or expenses in connection with the decommissioning or demolition of the Facility, or

(b) any environmental or other liability associated with the decommissioning or demolition of the Facility, in each case without regard to the timing or cause of the decommissioning or demolition.

Section 5.8 Annual Certification. On an annual basis from and after the Commercial Operation Date, Seller shall, within fourteen (14) days following the end of each Contract Year, provide Buyer with an annual certification signed by an authorized representative of Seller stating that the representations and warranties set forth in this Agreement remain true and correct as of the date of such certification, and that there exists no Default, or, to the Knowledge of Seller, any event which, with the giving of notice or passage of time, or both, would become a Default by Seller, as of such date, provided that if a Default or such an event exists as of such date, Seller shall list, in detail, the nature of the event, the period during which it has existed and the actions that Seller is taking taken, is taking, or proposes to take with respect to such event.

Section 5.9 Taxes. Seller shall pay or cause to be paid all Taxes on or with respect to the Energy and any Environmental Attributes or any other transactions arising before or at the Point of Delivery. Buyer shall pay or cause to be paid all Taxes on or with respect to the Energy and any Environmental Attributes or any other transactions from (but excluding) the Point of Delivery. If Seller is required by a Requirement of Law to remit or pay Taxes that are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Taxes. If Buyer is required by Requirement of Law to remit or pay Taxes that are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller hereunder. If Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a party to pay or be liable to pay any Taxes for which it is exempt under law. A Party that is exempt at any time and for any reason from one or more Taxes shall bear the risk that such exemption shall be lost or the benefit of such execution is reduced.

Section 5.10 Environmental Credits. Seller shall, if applicable, obtain in its own name and at its own expense any and all pollution or environmental credits or offsets necessary to operate the Facility in compliance with the Requirements of Law; provided, however, that Seller shall not use any Environmental Attributes to satisfy the foregoing obligation.

ARTICLE VI PURCHASE AND SALE OF POWER

Section 6.1 Purchases by Buyer. Seller shall deliver to Buyer, and Buyer or its designee shall receive from Seller under this Agreement, the Facility Metered Output at the Point of Delivery.

(a) Prior to the Commercial Operation Date, but no earlier than June 30, 2021, Seller may sell and deliver, and Buyer shall purchase and accept, Startup and Test Energy at the rate for such Energy set forth in Appendix A. Prior to June 30, 2021, Seller may sell and deliver, and Buyer may (but is not obligated to) purchase and accept Startup and Test Energy at such rate.

(b) Following the Commercial Operation Date, Seller shall sell and deliver, and Buyer shall purchase and accept, the Facility Metered Output for each Contract Year during the Delivery Term at the applicable Contract Price set forth in Appendix A, subject to any adjustments thereto set forth in this Agreement.

(c) Notwithstanding the foregoing, in no event shall Buyer be required to purchase and receive a quantity of PV Metered Output in any hour that exceeds the quantity of PV Metered Output that the Facility is capable of producing when operating at the PV System Contract Capacity.

Section 6.2 Point of Delivery. Seller shall deliver all Facility Metered Output (and Replacement Energy, if any) to Buyer at the Point of Delivery (or, with respect to Replacement Energy, such other location as reasonably requested by Buyer or otherwise mutually agreed upon in writing by the Parties), and Buyer, or its designee, shall receive all such Facility Metered Output (and Replacement Energy, if any) from Seller at the Point of Delivery (or, with respect to Replacement Energy only, such other location as reasonably requested by Buyer or otherwise mutually agreed upon in writing by the Parties).

Section 6.3 Seller's Failure. Except with respect to Grid-Charging Energy and as provided in Article IX, in no event shall Seller have the right to procure energy from sources other than the Facility for sale and delivery pursuant to this Agreement. During the Agreement Term and subject to the terms and conditions of this Agreement, all of the PV System Energy, BESS Metered Input, and Discharging Energy shall be dedicated to Buyer, and Seller shall not sell or deliver any PV System Energy, BESS Metered Input, Discharging Energy, or associated Environmental Attributes or Capacity Rights to any third party; provided, that Seller may sell to any third-party purchaser (a) PV System Energy (and associated Environmental Attributes and Capacity Rights) that is curtailed due to a Force Majeure event that prevents Buyer from receiving such PV System Energy at the Point of Delivery, or (b) PV System Energy (and associated Environmental Attributes and Capacity Rights) that is not accepted by Buyer at the Point of Delivery during the continuation of a Default by Buyer. Unless excused as set forth herein, if Seller sells to a third party all or any part of the PV System Energy, BESS Metered Input, Discharging Energy or any associated Environmental Attributes or Capacity Rights required to be delivered by Seller under this Article VI, Article VIII or Article X, then Seller shall pay Buyer, on the date payment would otherwise be due to Seller, an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting (i) the price per MWh that would have been payable by Buyer for the PV System Energy, BESS Metered Input, or Discharging Energy had such Energy been delivered to the Point of Delivery as Facility Metered Output, from (ii) the greater of (A) the value of Energy and associated Environmental Attributes at the time of Seller's third-party transaction, or (B) the price actually paid by Buyer to obtain Replacement Energy (the "**Third Party Sale Replacement Price**"). Buyer shall provide Seller prompt written notice of the Third Party Sale Replacement Price, together with back-up documentation.

Section 6.4 Buyer's Failure. Unless excused by Force Majeure or Seller's failure to perform (including the failure of the BESS to be available to accept Energy), if Buyer fails to receive at the Point of Delivery all or any part of the Facility Metered Output or Replacement Energy required to be received by Buyer under this Article VI, Article IX, or Article X, Buyer shall, on the date payment would otherwise be due to Seller, as Seller's sole remedy and Buyer's sole liability, pay Seller Cover Damages; provided that Seller shall use commercially reasonable efforts to resell any Facility Metered Output not able to be received by Buyer. "**Cover Damages**" means the positive difference, if any, obtained by subtracting (a) the amount for which Seller, acting in a commercially reasonable manner, resells any Facility Metered Output (or, absent any such sales despite using commercially reasonable efforts to procure such sales, zero dollars (\$0)), from (b) the price that would have been payable by Buyer for such Facility Metered Output not

received by Buyer. Seller shall provide Buyer with prompt written notice of the Cover Damages together with back-up documentation.

**ARTICLE VII
TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS**

Section 7.1 In General.

(a) Seller shall use all reasonable efforts consistent with Prudent Utility Practices to maximize the output of PV System Energy and availability of the BESS. Subject to Buyer's role as Seller's Scheduling Coordinator for the Facility, Seller shall arrange for, and shall bear all risks associated with, transmission and delivery of (i) all PV Metered Output from the PV System to the Point of Delivery, (ii) all BESS Metered Input from the Point of Delivery to the BESS, and (iii) all BESS Metered Output from the BESS to the Point of Delivery, including that Seller shall arrange and pay for the interconnection of the Facility to the CAISO grid and any Transmission Services required to fulfill the foregoing obligations. In the event Seller procures transmission to sell Energy to a third party, Seller shall be responsible for any costs or charges associated therewith.

(b) Buyer shall be obligated to pay for all Facility Metered Output as invoiced under Section 11.1(a)(ii), and Buyer shall arrange for the acceptance and transmission of PV Metered Output and BESS Metered Output from the Point of Delivery, including that Buyer shall arrange and be responsible for Transmission Services from the Point of Delivery, and shall Schedule or arrange for Scheduling and Transmission Services with its Transmission Providers. Seller shall bear all risks associated with such acceptance and transmission of PV Metered Output with respect to which title does not transfer to Buyer at the Point of Delivery pursuant to Section 7.5, and Buyer shall bear all risks associated with such acceptance and transmission of all other PV Metered Output and all BESS Metered Output.

Section 7.2 Scheduling Coordinator; CAISO Cost Allocation. Buyer or Buyer's designee shall act as Scheduling Coordinator for the Facility in order to permit Buyer to control when it takes delivery of PV System Energy from the Facility. Buyer shall have the full right and obligation to Schedule all Energy from the Facility (including PV Metered Output, BESS Metered Output, and any Energy Seller needs to sell in mitigation of damages as required hereunder) in accordance with all CAISO and other applicable requirements. Seller shall cause the Facility to have two separate resource IDs with CAISO for Scheduling purposes (one ID for each of the PV System and BESS). Seller shall pay Buyer six thousand two hundred fifty dollars (\$6,250) each month for the Scheduling Coordinator services provided by Buyer to Seller. Buyer shall be financially responsible for and shall pay for all CAISO Costs; provided, however, that notwithstanding the foregoing, Seller shall assume all liability and reimburse Buyer for any and all costs or changes under a Settlement Statement (a) incurred by Buyer because of Seller's failure to perform any covenant or obligation set forth in this Agreement, (b) incurred by Buyer because of any outages, including Scheduled Outages and Forced Outages, for which notice has not been provided as required under this Agreement, or (c) to the extent arising as a result of Seller's failure

to comply with a curtailment notice under Section 7.4 if such failure results in incremental costs to Buyer.

Section 7.3 Forecasting and Scheduling of Energy.

(a) Except upon the occurrence of a curtailment under Section 7.4, Buyer, as Seller's Scheduling Coordinator, shall Schedule all PV Metered Output (as applicable), BESS Metered Output, BESS Metered Input, and Replacement Energy (including all Energy sold by Seller in mitigation of damages hereunder) in accordance with the CAISO Tariff, EIRP, NERC and WECC operating policies and criteria, and any other applicable guidelines, and the Scheduling and forecasting procedures provided in or developed under this Section 7.3. Seller, at its own cost, shall install metering, telemetry and control equipment so as to be able to provide PV System Energy and Discharging Energy to the Point of Delivery and respond to CAISO, Transmission Provider, or reliability coordinator's dispatch orders.

(b) Seller will take all actions, at its sole cost and expense, required to comply with the Eligible Intermittent Resources Protocol and the New Resource Implementation Process. Whenever applicable, Seller and Buyer shall comply with EIRP and NRIP and all additional tariffs and protocols issued by the CAISO relating to eligible intermittent resources, non-generator resources, or storage facilities during the Delivery Term.

(c) Seller or Seller's Authorized Representative shall provide the following non-binding forecasts, and any updates to such forecasts, to the Scheduling Coordinator based on the most current forecast of PV System Energy and Replacement Energy:

(i) At least one-hundred twenty (120) days before (A) the scheduled Commercial Operation Date and (B) the beginning of each Contract Year, a non-binding forecast of each month's average-day deliveries of PV Metered Output and Replacement Energy from the Facility, for the following eighteen (18) months.

(ii) No later than sixty (60) days before the beginning of each month during the Delivery Term, a non-binding forecast of each day's average hourly deliveries of PV Metered Output and Replacement Energy, for such month.

(iii) No later than ten (10) Business Days before the beginning of each month during the Delivery Term, a non-binding forecast of each day's average hourly deliveries of PV Metered Output and Replacement Energy for the following month.

(iv) On the first Business Day of each calendar week during the Delivery Term, a non-binding forecast of each day's average deliveries of PV Metered Output and Replacement Energy, by hour, for the following fourteen (14) days.

(v) By 5:30 AM PPT on the Business Day immediately preceding each day of delivery of PV Metered Output and Replacement Energy during the Delivery Term, a copy of a non-binding hourly (or as then-appropriate) forecast of deliveries of PV Metered Output and Replacement Energy for each hour of the immediately succeeding day. Any forecast provided on a day prior to any non-Business Day shall include forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Seller or Seller's Authorized Representative shall,

by 9:00 AM PPT, provide a copy of any updates to such forecast indicating a change in forecasted PV Metered Output from the then-current forecast.

(vi) Prior to 12:00 PM PPT of the Business Day immediately preceding each WECC Prescheduling Day (as defined by WECC) for each hour of the Delivery Day (as defined by WECC) in MW or MWh units (as applicable), in the format reasonably designated by the Scheduling Coordinator, a non-binding pre-schedule forecast of PV Metered Output and Replacement Energy via email. The pre-scheduled amounts of PV Metered Output and Replacement Energy shall be the good faith estimate of Seller or Seller's Authorized Representative of the anticipated delivery of PV Metered Output and Replacement Energy at the time. Any forecast provided on a day prior to any non-Business Day shall include forecasts for the next day, each succeeding non-Business Day and the next Business Day. Seller or Seller's Authorized Representative shall provide a copy of any and all updates to the forecast of the Facility's availability from the then-current forecast. Except for Forced Outages, Seller shall operate the Facility with the objective that, for each hour scheduled, the actual Facility availability shall be maintained in accordance with the pre-schedule plan submitted to the Scheduling Coordinator.

(d) Seller or Seller's Authorized Representative shall notify the Scheduling Coordinator via email, followed by a telephone call, or other mutually acceptable method, of any hourly changes due to a change in Facility availability or an outage no later than one-hundred five (105) minutes prior to the start of such Scheduling hour, or such other limit as specific in the CAISO Tariff. Seller or Seller's Authorized Representative shall notify the Scheduling Coordinator of other unanticipated changes in availability by email or telephone as promptly as reasonably possible. Any notice delivered under this Section 7.3(d) shall include the reason for the outage and an estimated duration of the outage. Once the outage has ended, Seller or Seller's Authorized Representative shall notify Buyer that the outage has ended, the cause of the outage, and the actions taken to resolve the outage in order for the CAISO outage report to be updated accordingly.

(e) Seller shall develop and install all communications systems necessary for the operation of the Facility in accordance with Prudent Utility Practices, including communications systems that provide for (w) the receipt and following of automated dispatch instructions from the CAISO, (x) enabling of automated generation control capability for Ancillary Services upon Buyer's request, (y) an online-based user interface for Buyer to monitor the BESS status in real time, including the BESS' state of charge and all other relevant operating parameters of the BESS, and (z) data feed between the PV System and the BESS. No later than ninety (90) days prior to the date on which Startup and Test Energy is first received from the Facility, Buyer and Seller shall agree upon a communications protocol with respect to the matters set forth in the foregoing sentence, clauses (i)-(iv) below, and such other matters concerning communications to or from the BESS as Seller and Buyer shall deem appropriate (the "**BESS Communication Protocol**"). Commencing on the first date on which Startup and Test Energy is received from the Facility, and continuing throughout the Delivery Term, Seller shall provide to Buyer the following data on a real-time basis, with minimal lag time, and in a format that reasonably allows Buyer to copy, paste or otherwise use such data:

(i) Read-only access to the BMS for information related to (A) availability of the BESS for Energy that is charged and Discharging Energy, and (B) state of charge, grid-charging, degradation, operating modes, and set points of the BESS;

(ii) Read-only access via secure log-in credentials to Energy output information collected by the SCADA system for the Facility; provided that if Buyer is unable to access the Facility's SCADA system, then upon written request from Buyer, Seller shall provide energy output information to Buyer in four (4)-second intervals in the form of a one (1)-hour flat file to Buyer through a secure file transport protocol (FTP) system with an e-mail back-up for each flat file submittal. Seller shall store such information for up to three (3) months after delivery thereof to Buyer;

(iii) Read-only access to all Electric Metering Devices (other than meteorological data) installed, owned and operated by Seller at the Facility (the "***Seller's Check Meters***"); and

(iv) Such other information about the Facility as may be reasonably requested from time to time by the Scheduling Coordinator.

(f) Seller and the Scheduling Coordinator shall mutually develop forecasting and Scheduling procedures in addition to those set forth in this Section 7.3 (collectively with the forecasting and Scheduling procedures set forth in this Section 7.3, the "***Scheduling Procedures***") in order to administer the provisions of this Agreement in compliance with all applicable Requirements and requirements of the Transmission Provider, CAISO, NERC, WECC, and any balancing authority involved in the Scheduling of Energy under this Agreement. Seller and the Scheduling Coordinator shall promptly cooperate to make any reasonably necessary and appropriate modifications to the Scheduling Procedures (including, if necessary, by amending this Agreement) as may be required from time to time.

Section 7.4 Scheduled Outage; Curtailments.

(a) Buyer and Seller shall cooperate to minimize Scheduled Outages during certain periods of each Contract Year (not to exceed three (3) months per Contract Year, with respect to each of the PV System and the BESS), but in accordance with Prudent Utility Practices (such periods of time, the "***Major Maintenance Blockout***"). No later than one hundred twenty (120) days prior to the scheduled Commercial Operation Date and the commencement of each Contract Year thereafter, Buyer shall provide Seller with its specified Major Maintenance Blockout. In the absence of such updated notification, the most recent previous Major Maintenance Blockout notification shall apply. Seller shall (i) minimize its Scheduled Outages during the Major Maintenance Blockout in a manner that is agreeable to both Parties and is consistent with Prudent Utility Practices, and (ii) schedule Scheduled Outages such that they do not result in more than fifteen percent (15%) of the PV System Contract Capacity being off-line at any single time between sunrise and sunset. In no event shall Seller's Scheduled Outages with respect to the BESS exceed a total of two (2) weeks per Contract Year (the "***Scheduled Outage Cap***"). No later than sixty (60) days prior to the scheduled Commercial Operation Date and, for each calendar year thereafter, no later than the deadline for providing the CAISO with proposed maintenance outages for the following year as described in the CAISO Tariff, Seller shall provide Buyer with its non-binding written projection of all Scheduled Outages for the succeeding three (3) calendar years (the "***Scheduled Outage Projection***") adhering to the Scheduled Outage Cap

and reflecting a minimized schedule of scheduled maintenance during the Major Maintenance Blockout. In addition, Seller shall cooperate in good faith with Buyer's maintenance scheduling requests consistent with Prudent Utility Practices. The Scheduled Outage Projection shall include information concerning all projected Scheduled Outages during such period, including (i) the anticipated start and end dates of each Scheduled Outage; (ii) a description of the maintenance or repair work to be performed during the Scheduled Outage; and (iii) the anticipated MW capacity of the PV System, the BESS, and the Facility as a whole, if any, during the Scheduled Outage. Seller shall notify Buyer of any change in the Scheduled Outage Projection as soon as practicable, but in no event later than thirty (30) days prior to the originally scheduled date of the Scheduled Outage. Seller will use commercially reasonable efforts to accommodate reasonable requests of Buyer with respect to the timing of Scheduled Outages and Seller will, to the extent consistent with Prudent Utility Practices, coordinate Scheduled Outages to coincide with planned transmission outages. In the event of a System Emergency, Seller shall make all reasonable efforts to reschedule any Scheduled Outage previously scheduled to occur during the System Emergency.

(b) In addition to reporting outages to Buyer within any applicable time period for reporting outages under the CAISO Tariff and applicable rules and regulations of the CAISO, in the event of a Forced Outage affecting (i) at least ten percent (10%) of the installed capacity of the PV System, or (ii) ten percent (10%) of the BESS, to the extent practicable, Seller shall notify Buyer within two (2) hours after the commencement of the Forced Outage and, within seven (7) days thereafter, provide detailed information concerning the Forced Outage, including (i) the start and anticipated end dates of the Forced Outage; (ii) a description of the cause of the Forced Outage; (iii) a description of the maintenance or repair work to be performed during the Forced Outage; and (iv) the anticipated MW capacity of the PV System, the BESS, and the entire Facility, if any, during the Forced Outage. Seller shall take all reasonable measures and exercise commercially reasonable efforts to avoid Forced Outages and to limit the duration and extent of any such outages. Seller shall notify Buyer no later than two (2) hours prior to commencing recommissioning of either the PV System or the BESS, as applicable, following the end of any such Forced Outage.

(c) Seller shall reduce deliveries of all or any portion of the PV System Energy and Discharging Energy within fifteen (15) minutes (subject to Prudent Utility Practices) after receiving notice from Buyer, the CAISO, a Transmission Provider, or any reliability entity during curtailment periods affecting Buyer, including for curtailments required due to (i) a System Emergency (other than due to a Force Majeure event as described in (ii)), (ii) an event of Force Majeure, or (iii) the unavailability of the BESS due to a failure by Seller such that PV System Energy must be curtailed (curtailments under subsections (i), (ii), and (iii), "***Non-Compensable Curtailments***"), (iv) system improvements and/or scheduled and unscheduled repairs or maintenance on Buyer's side after the Point of Delivery (other than due a Force Majeure event as described in (ii) above), (v) Buyer's failure to Schedule the PV Metered Output or BESS Metered Output from the Point of Delivery as required by this Article VII, or (vi) for any other reason, including any economic or operational reason (including Buyer's economic bid offer into CAISO), in Buyer's sole discretion (curtailments under subsections (iv), (v), or (vi), "***Compensable Curtailments***"). Curtailments shall be measured in five (5) minute increments and in a manner that is consistent with the Scheduling Procedures.

(d) Buyer shall not pay Seller for any Deemed Delivered Energy during Non-Compensable Curtailments. Buyer shall pay Seller for Deemed Delivered Energy during Compensable Curtailments as if such Deemed Delivered Energy were Facility Metered Output,

but only to the extent arising after the Commercial Operation Date. Any curtailment occurring prior to the occurrence of the Commercial Operation Date shall be non-compensable to Seller by Buyer.

(e) The Contract Price for Deemed Delivered Energy during Compensable Curtailments shall be: (i) the Energy price set forth in Section 2 of Appendix A for Deemed Delivered Energy that would not have been Excess Energy had it been delivered, and (ii) the Excess Energy Price set forth in Section 3 of Appendix A for Deemed Delivered Energy that would have been Excess Energy had it been delivered.

(f) Seller shall provide the capability to implement curtailments and adjust curtailment amounts in real-time by means of setpoints received from the SCADA system. Seller shall install sufficient measuring equipment at the Facility to collect data necessary to reasonably determine the amount of Deemed Delivered Energy.

(g) In the event of any inconsistency between the provisions in this Section 7.4 and any applicable requirements of CAISO, the provisions of CAISO shall govern.

Section 7.5 Title; Risk of Loss.

(a) Seller shall have title to, risk of loss of, and exclusive custody of, and shall be responsible for any damages or injury caused by, (i) all PV System Energy prior to the Point of Delivery, (ii) all BESS Metered Input from the Point of Delivery and in the BESS, (iii) all Discharging Energy prior to the Point of Delivery, and (iv) during any Settlement Interval (A) if Net PV Metered Output is a positive number, all PV Metered Output (less Net PV Metered Output) and associated Environmental Attributes, and (B) if Net PV Metered Output is a negative number, all PV Metered Output and associated Environmental Attributes, in the case of clauses (A) and (B), from the Point of Delivery.

(b) Title to and risk of loss of (i) all BESS Metered Output and (ii) during any Settlement Interval, if Net PV Metered Output is a positive number, all Net PV Metered Output and associated Environmental Attributes, shall pass to Buyer at the Point of Delivery, and Buyer shall have exclusive custody of and be responsible for any damages or injury caused by all such Energy from the Point of Delivery.

(c) Seller warrants that it will deliver all Facility Metered Output, Replacement Energy, Capacity Rights, and the associated Environmental Attributes to Buyer free and clear of all Liens created by any Person other than Buyer.

**ARTICLE VIII
ENVIRONMENTAL ATTRIBUTES; EPS AND RPS COMPLIANCE**

Section 8.1 Transfer of Environmental Attributes. In addition to the agreement between Buyer and Seller to purchase and sell Energy on the terms and conditions set forth herein, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all right, title, and interest in and to all Environmental Attributes, free and clear of all Liens, whether now existing or acquired by Seller or that hereafter come into existence or are acquired by Seller during the Agreement Term, for all Facility Metered Output and Replacement Energy. Seller agrees to transfer and make such Environmental Attributes available to Buyer immediately to the fullest extent allowed by

applicable law upon Seller's production or acquisition of such Environmental Attributes. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of (other than Liens on the proceeds of the Environmental Attributes in favor of Facility Lender) and will not in the future assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of such Environmental Attributes to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Environmental Attributes. The consideration for the transfer of Environmental Attributes is contained with the relevant prices for Facility Metered Output, as set forth in Appendix A.

Section 8.2 Reporting of Ownership of Environmental Attributes. During the Agreement Term, Seller shall not report to any Person that the Environmental Attributes granted hereunder to Buyer belong to any Person other than Buyer, and Buyer may report under any program that such Environmental Attributes purchased hereunder belong to it.

Section 8.3 Environmental Attributes. Upon Buyer's request, Seller shall take all actions and execute all documents or instruments necessary under all applicable laws, regulations, bilateral arrangements or other voluntary Environmental Attribute programs of any kind, as applicable, to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term.

Section 8.4 Use of Accounting System to Transfer Environmental Attributes. In furtherance and not in limitation of Section 8.3, Seller shall use WREGIS or any successor system to evidence the transfer of any Environmental Attributes considered Renewable Energy Credits under applicable law or any voluntary program ("*WREGIS Certificates*") associated with Facility Metered Output or Replacement Energy in accordance with WREGIS reporting protocols and shall register the Facility with WREGIS. After the Facility is registered with WREGIS, at Buyer's option, Seller shall, to the extent permissible under WREGIS rules, transfer WREGIS Certificates using the Forward Certificate Transfer method, as described in WREGIS Operating Rules, from Seller's WREGIS account to up to three WREGIS accounts, as designated by Buyer. Seller shall be responsible for the WREGIS expenses associated with registering the Facility, maintaining its account, WREGIS Certificate issuance fees, and transferring WREGIS Certificates to Buyer or Buyer's Authorized Representative, or any other designees, and Buyer shall be responsible for the WREGIS expenses associated with maintaining its account, or the accounts of its designees, if any, and subsequent transferring or retiring of WREGIS Certificates. Forward Certificate Transfers shall occur monthly based on the certificate creation time-line established by the WREGIS Operating Rules then in effect. Seller shall be responsible for, at its expense, validating and disputing data with WREGIS prior to WREGIS Certificate creation each month. In the event that WREGIS is not in operation, or WREGIS does not track Seller's transfer of WREGIS Certificates to Buyer, Buyer's Authorized Representative, or its designees for purposes of any Renewable Energy Certificates attributed, accrued, realized, generated, produced, recognized or validated relative to the Facility Metered Output or Replacement Energy, Seller shall document the production and transfer of Renewable Energy Certificates under this Agreement by delivering to Buyer an attestation in the form set forth in Appendix D for the Renewable Energy Certificates produced by the Facility, or Replacement Energy, measured in whole MWh, or by such other method as Buyer may reasonably designate. If any of the foregoing is or becomes inconsistent

with the WREGIS rules, the Parties shall reasonably cooperate to amend the foregoing procedures in a manner reasonably requested by either Party consistent with the then-effective WREGIS rules.

Section 8.5 Further Assurances. If WREGIS (or any successor thereto) is no longer available to provide the services described in Section 8.4, Seller shall, until such time as a substitute provider reasonably acceptable to both Parties is available to provide such services, continue to document the production of Environmental Attributes by delivering with each invoice to Buyer an attestation for Environmental Attributes (i) produced by the Facility or (ii) included with Replacement Energy for the preceding month. The form of attestation is set forth as Appendix D. At Buyer's request, the Parties shall execute all such documents and instruments and take such other action in order to effect the transfer of the Environmental Attributes specified in this Agreement to Buyer's Authorized Representatives as Buyer may reasonably request. In the event of the promulgation of a scheme involving Environmental Attributes administered by CAMD, upon notification by CAMD that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to CAMD to effectuate any transfers.

Section 8.6 RPS, CEC and EPS Compliance. Subject to Section 8.7, Seller warrants that, upon achievement of Commercial Operation, the Facility will be, and shall throughout the Agreement Term remain, (a) RPS Compliant, (b) CEC Compliant, including, without limitation, with regard to the PV System charging of the BESS, and (c) EPS Compliant (collectively, "**Compliant**"); provided, however, that if at any time the RPS Law or EPS Law is replaced with a state-wide carbon program or similar program, (i) Seller may satisfy its obligations to cause the Facility to be RPS Compliant or EPS Compliant, as applicable, by causing the Facility to comply with such new program, (ii) the provisions of Sections 8.6 and 8.7 shall apply as if such new program were the RPS Law or EPS Law, as applicable, and (iii) the Parties shall negotiate in good faith any amendments to this Agreement required to allow the Facility to qualify for such new program. Subject to Section 8.7, Seller shall assume all risks, costs or expenses associated with, arising from, or resulting from, its obligation to keep the Facility Compliant, including any costs or expenses incurred by Seller and paid directly to any third parties in connection with or related to greenhouse gas emissions reporting, WREGIS, or maintenance of a CEC certification and verification (the "**Compliance Costs**"). From time to time and at any time requested by Buyer, Seller will furnish to Governmental Authorities, Buyer or any other Person designated by Buyer, all certificates and other documentation reasonably requested by Buyer in order to assist Buyer in qualifying the Facility as Compliant.

Section 8.7 Change in Law.

(a) In the event of a Change in Law after the Effective Date that (i) impacts the ability of the Facility to remain RPS Compliant or EPS Compliant, or (ii) changes any Compliance Costs required to maintain or bring the Facility into RPS Compliance or EPS Compliance, then Seller shall (A) assume any risk of bringing the Facility into Compliance and (B) take all commercially reasonable actions to continue to satisfy Seller's warranty and obligations under Section 8.6; provided, however, that Seller's obligation to incur out-of-pocket expenses to achieve RPS Compliance or EPS Compliance, as applicable, in the event of a Change in Law shall be limited, in the aggregate, to Two Million Dollars (\$2,000,000) (the "**Compliance Expenditure Cap**"). Buyer may, but shall have no obligation to, pay amounts beyond the Compliance

Expenditure Cap to enable the Facility to achieve RPS Compliance or EPS Compliance, as applicable. During any period of time that the Facility is not RPS Compliant, the Contract Price shall be reduced by Fifteen Dollars (\$15) per MWh of Facility Metered Output to reflect the diminished value of “brown” energy”; provided, however, that if Compliance is restored such that it retroactively applies to a prior period, as confirmed in writing by the Governmental Authority with jurisdiction to determine such Compliance, Buyer will pay Seller fifteen dollars (\$15) for each MWh of the Facility Metered Output associated with such retroactive period for which Seller received such reduced Contract Price.

(b) If, due to a Change in Law and despite taking commercially reasonable actions pursuant to Section 8.7(a), Seller fails to meet its warranty under Section 8.6 (including in circumstances where the correction of such failure is solely within the control of Seller), then:

(i) If the Facility remains not RPS Compliant, the reduced contract Price shall remain in place for the remainder of the Agreement Term unless the Facility is brought back into RPS Compliance, including if Seller is unable to regain RPS Compliance due to impossibility; provided, however, that if the RPS Law ceases to be effective (and is not replaced by a similar Law), then the Contract Price shall remain unchanged.

(ii) If the Facility remains not EPS Compliant, then Buyer and Seller shall cooperate to take such actions as are reasonably practicable, within their respective control, and have the least adverse impact on the PV System and use of the BESS, as may be necessary in order for the Facility to regain EPS Compliance, including, if necessary, by modifying the operating parameters for, or the use of, the BESS, to the extent sufficient to regain EPS Compliance; provided, however, that if any actions (from time to time) required for the Facility to become EPS Compliant diminish or impair in any respect the value of the Facility Metered Output or use of the BESS, then Buyer and Seller shall mutually agree upon a reduction to the Contract Price or BESS Capacity Price, as applicable, that is proportionate to such reduction in value to Buyer of the Facility Metered Output or use of the BESS, as applicable, which reduced Contract Price or BESS Capacity Price shall remain in effect until such time as Buyer receives the full (or increased) value of the Facility Metered Output and use of the BESS, whereupon the applicable reduction to the Contract Price or BESS Capacity Price shall be reduced or eliminated, as the case may be; and, provided, further, that if the EPS Law ceases to be effective (and is not replaced by a similar Law) or the EPS Law is determined by a Governmental Authority not to apply to the Facility, then the Contract Price and BESS Capacity Price shall remain unchanged.

(c) Notwithstanding the foregoing provisions of this Section 8.7, (i) Buyer shall have no obligation to purchase Facility Metered Output or make BESS Capacity Payments at any time that the Facility fails to be EPS Compliant if such compliance is required by applicable Law, and (ii) if the Facility fails to be Compliant for a period of three hundred sixty (360) consecutive days during the Delivery Term, then Buyer may terminate this Agreement effective upon notice to Seller without liability to either Party, except for such liabilities that accrued prior to the date of termination or that otherwise survive termination in accordance with the terms of this Agreement.

Section 8.8 Change in CAISO Tariff.

(a) If a change in the CAISO Tariff, including any change resulting from or relating to CAISO’s Hybrid Resources or Energy Storage and Distributed Energy Resources initiatives, requires any modifications to the Facility to enable Seller to deliver, and Buyer to

receive, Facility Metered Output, use of the BESS, Capacity Rights, and the right to use the BESS for the provision of Ancillary Services, in each case to and from the CAISO system, then Seller shall be solely responsible for bringing the Facility into compliance with the CAISO Tariff, as modified, in a manner that preserves Buyer's economic benefits with respect to the Facility prior to any such change in the CAISO Tariff; provided, that Seller's obligation to incur out-of-pocket expenses to achieve such compliance shall be limited in the aggregate to two million dollars (\$2,000,000) (the "**CAISO Expenditure Cap**"). If, after Seller's expenditure in an amount equal to the CAISO Expenditure Cap, the Facility does not satisfy the requirements of the CAISO Tariff, as modified, Buyer may elect to (i) pay amounts beyond the CAISO Expenditure Cap to enable the Facility to comply with the CAISO Tariff, as modified, or (ii) terminate this Agreement effective upon notice to Seller without liability to either Party, except for such liabilities that accrued prior to the date of termination or that otherwise survive termination in accordance with the terms of this Agreement.

(b) If a change in the CAISO Tariff requires any modifications to the Facility to enable the Facility to qualify for any new product in the CAISO, then, at Buyer's election, the Parties shall negotiate in good faith any necessary amendments to this Agreement to enable the Facility to meet the requirements for such new product; provided, that while the Parties may agree to amendments providing for cost allocation with respect to any necessary modifications to the Facility, including increased costs to either Buyer or Seller, such amendments will not increase the Contract Price or BESS Capacity Price or otherwise involve additional payment by Buyer for any new CAISO products themselves.

Section 8.9 FCDS Compliance. Seller shall cause the Project to achieve FCDS of 54.28 MW by no later than June 1, 2020 and will maintain such FCDS throughout the Delivery Term. If the Project fails to achieve FCDS by June 1, 2020, Buyer may terminate this Agreement effective upon notice to Seller without liability to either Party, except for such liabilities that accrued prior to the date of termination or that otherwise survive termination in accordance with the terms of this Agreement.

ARTICLE IX MAKEUP OF SHORTFALL ENERGY; PERFORMANCE GUARANTEES

Section 9.1 Makeup of Shortfall. If in any Measurement Period, the total amount of PV Metered Output and Deemed Delivered Energy is less than the Guaranteed PV Metered Output for such Measurement Period (such difference in amount for such Measurement Period, the "**Shortfall Energy**"), then, subject to and in accordance with Section 9.2, Seller shall remedy such shortfall by delivering to Buyer Replacement Energy in the immediately following Measurement Period (the "**Shortfall Make Up Period**") in an amount equivalent to the Shortfall Energy for the preceding Measurement Period. Any Energy delivered during any Shortfall Make Up Period in excess of the Guaranteed PV Metered Output for such Shortfall Makeup Period shall qualify as Replacement Energy, subject to the conditions and requirements set forth in Section 9.2.

Section 9.2 Replacement Energy. Seller shall deliver all Capacity Rights and Environmental Attributes associated with Replacement Energy, which Environmental Attributes shall have the same or comparable value, including with respect to the timeframe for retirement of such Environmental Attributes, if any, as the Environmental Attributes that would have been generated by the Facility during the period for which the Replacement Energy is being provided. If Seller cures any undelivered Shortfall Energy with Replacement Energy, such deliveries of

Replacement Energy shall be limited to an amount that shall not, at any time, exceed a total amount of MWh per hour equal to the total quantity of PV Metered Output that would have been produced from the Facility operating at the PV System Contract Capacity during such hour, except as may be expressly agreed upon by Buyer in its sole discretion. If Seller fails to deliver Replacement Energy as described above, then Buyer may purchase Replacement Energy and associated Environmental Attributes, promptly notify Seller of the costs thereof, and Seller shall reimburse Buyer for Buyer's costs of such Replacement Energy and associated Environmental Attributes. If Buyer does not purchase Replacement Energy and associated Environmental Attributes, Seller shall be responsible for Replacement Energy Liquidated Damages as set forth in Section 9.3.

Section 9.3 Replacement Energy Liquidated Damages.

(a) If at the end of the Shortfall Makeup Period there remains any Shortfall Energy that has not been cured with Replacement Energy in accordance with Section 9.1 and Section 9.2, Seller shall pay Buyer within sixty (60) days after the end of the Shortfall Make Up Period, as liquidated damages, an amount for each MWh of remaining Shortfall Energy equal to the positive difference, if any, obtained by subtracting (i) the Contract Price that Buyer would have paid for such remaining Shortfall Energy had it been timely delivered, from (ii) the sum of (A) the Market Price Index for such remaining Shortfall Energy and (B) the Green Value associated therewith (the "***Replacement Energy Liquidated Damages***").

(b) The Parties acknowledge and agree that the damages that Buyer would incur due to the failure to deliver the Shortfall Energy would be difficult or impossible to predict with certainty, and it is impractical and difficult to assess actual damages in those circumstances and, therefore, the payment of Replacement Energy Liquidated Damages is a fair and reasonable remedy for such damages. The provision of Replacement Energy Liquidated Damages shall be in lieu of actual damages for the occurrence of any Shortfall Energy hereunder that is not cured with PV Metered Output and/or Replacement Energy; however, the payment of Replacement Energy Liquidated Damages shall not limit Buyer's rights to (i) exercise any right or remedy available under this Agreement or at law or in equity for any other breach or default occurring concurrently with, before, or after the failure to meet the Guaranteed PV Metered Output, including a Default under Section 13.1(k), or (ii) recover any damages not directly attributable to such failure.

Section 9.4 Performance Guarantees, Remedies and Termination Rights.

(a) Throughout the Delivery Term, Seller warrants that (i) the BESS will perform at a rate that results in the dischargeable Energy at any time equaling or exceeding the Guaranteed Dischargeable Energy, as illustrated in and calculated on a monthly basis in accordance with Appendix J-1 (the "***Dischargeable Energy Performance Guarantee***"); (ii) the Round Trip Efficiency, as calculated in accordance with Appendix J-1, will not fall below the amount specified in Appendix J-1 during any month (the "***Round Trip Efficiency Performance Guarantee***"); (iii) Monthly BESS Availability, as calculated in accordance with Appendix J-1, will be at least eighty-five percent (85%) for each month (the "***Monthly BESS Availability Guarantee***") and Annual BESS Availability, as calculated in accordance with Appendix J-1, will be at least ninety percent (90%) for each Contract Year (the "***Annual BESS Availability Guarantee***"); (iv) for the first sixty-three (63) months of the Term, the Monthly PV System Availability during each month, as calculated in accordance with Appendix J-1, will equal or exceed the Monthly PV System Availability Requirement for such month, as specified in Appendix J-1 (the "***Monthly PV System Availability Guarantee***"); and (v) the BESS will charge

and discharge from zero percent (0%) to one hundred percent (100%) without limitation, and the BESS Metered Output will not deviate from the automated dispatch system of the CAISO (the “ADS”) by more than five percent (5%), each as calculated on a monthly basis in accordance with Appendix J-1 (the “*Cumulative ADS Deviation Performance Guarantee*”); provided, with respect to the Cumulative ADS Deviation Performance Guarantee, that unless caused by Seller’s error, Seller shall not be responsible for deviations from the ADS that result in an infeasible dispatch signal from the CAISO in instances where there are discrepancies between the CAISO’s market assumptions about the state of charge of the BESS and the actual state of charge of the BESS.

(b) In the event of a failure of the Dischargeable Energy Performance Guarantee, the Round Trip Efficiency Performance Guarantee, the Monthly BESS Availability Guarantee, or the Monthly PV System Availability Guarantee, the BESS Capacity Price shall be reduced for each month that the applicable guarantee is not satisfied and continue until the first month that the applicable guarantee is satisfied. The resulting adjusted BESS Capacity Price for any non-compliant month (the “*Adjusted BESS Capacity Price*”) shall be determined as follows:

(i) In the event of a failure of the Dischargeable Energy Performance Guarantee, the Adjusted BESS Capacity Price shall be an amount equal to the product of (A) the BESS Capacity Price, *multiplied by* (B) the Dischargeable Energy Adjustment Factor calculated for such month in accordance with Appendix J-2.

(ii) In the event of a failure of the Round Trip Efficiency Performance Guarantee, the Adjusted BESS Capacity Price shall be an amount equal to the product of (A) the BESS Capacity Price, *multiplied by* (B) the Round Trip Efficiency Adjustment Factor calculated for such month in accordance with Appendix J-2.

(iii) In the event of a failure of the Monthly BESS Availability Guarantee, the Adjusted BESS Capacity Price shall be an amount equal to the product of (A) the BESS Capacity Price, *multiplied by* (B) a fraction where (I) the numerator is an amount equal to the actual Monthly BESS Availability for such month, calculated in accordance with Appendix J-1, and (II) the denominator is 0.85.

(iv) In the event of a failure of the Monthly PV System Availability Guarantee, the Adjusted BESS Capacity Price shall be an amount equal to the product of (A) the BESS Capacity Price, *multiplied by* (B) the Monthly PV System Availability Adjustment Factor calculated for such month in accordance with Appendix J-2.

(v) In the event of a failure of multiple guarantees addressed by this Section 9.4(b) in the same month, the Adjusted BESS Capacity Price for such month shall be an amount equal to the lowest Adjusted BESS Capacity Price resulting from application of the formulas set forth in the foregoing Section 9.4(b)(i)-(iv).

(vi) Notwithstanding Section 9.4(b)(i)-(v), in the event of a failure of either the Dischargeable Energy Performance Guarantee or the Round Trip Efficiency Performance Guarantee that, in either case, continues for six (6) consecutive months following the last day of the first non-compliant month, the Adjusted BESS Capacity Price for each succeeding month shall be reduced to zero dollars (\$0) until Seller has completed any necessary remedial measures to bring the BESS back into compliance with the applicable guarantee.

(c) In the event of a failure of the Cumulative ADS Deviation Performance Guarantee, Seller shall be obligated to pay liquidated damages to Buyer as follows:

(i) Seller shall pay to Buyer for each month that the Cumulative ADS Deviation Performance Guarantee is not satisfied (as determined each month in accordance with Appendix J-1), an amount equal to the lesser of (A) the product of the Cumulative ADS Deviation Liquidated Damages Calculation for such month, as set forth in Appendix J-2, and (B) Fifty Thousand Dollars (\$50,000) (such lesser amount, the “*Cumulative ADS Deviation Liquidated Damages*”).

(ii) The Parties acknowledge and agree that the damages that Buyer would incur due to the failure of the Cumulative ADS Deviation Performance Guarantee would be difficult or impossible to predict with certainty, and it is impractical and difficult to assess actual damages in those circumstances and, therefore, the payment of Cumulative ADS Deviation Liquidated Damages is a fair and reasonable remedy for such damages. The provision of Cumulative ADS Deviation Liquidated Damages shall be in lieu of actual damages for the occurrence of any failure of the Cumulative ADS Deviation Performance Guarantee; however, the payment of Cumulative ADS Deviation Liquidated Damages shall not limit Buyer’s rights to (A) exercise any right or remedy available under this Agreement or at law or in equity for any other breach or default occurring concurrently with, before, or after the failure to meet the Cumulative ADS Deviation Performance Guarantee, or (B) recover any damages not directly attributable to such failure.

(d) Notwithstanding Buyer’s recourse to the Adjusted BESS Capacity Price remedy, as described in Section 9.4(b), or the Cumulative ADS Deviation Liquidated Damages remedy, as described in Section 9.4(c), Seller shall be considered in Default under this Agreement:

(i) for failure of the Dischargeable Energy Performance Guarantee, if: (A) any such failure continues for a period of twelve (12) consecutive months following the last day of the first non-compliant month, or (B) the total number of non-compliant months for such guarantee is equal to eighteen (18) or more at any time during the Delivery Term; provided, that if Seller fails to satisfy the Dischargeable Energy Performance Guarantee during the Grace Period, such non-compliant months will not count against the total number of non-compliant months giving rise to a termination right under this clause (i)(B), but shall not otherwise affect any other remedies to which Buyer is entitled under this Agreement;

(ii) for failure of the Round Trip Efficiency Performance Guarantee, if: (A) any such failure continues for a period of twelve (12) consecutive months following the last day of the first non-compliant month, or (B) the total number of non-compliant months for such guarantee is equal to nineteen (19) or more at any time during the Delivery Term; provided, that if Seller fails to satisfy the Round Trip Efficiency Performance Guarantee during the Grace Period, such non-compliant months will not count against the total number of non-compliant months giving rise to a termination right under this clause (ii)(B), but shall not otherwise affect any other remedies to which Buyer is entitled under this Agreement;

(iii) for failure of the Cumulative ADS Deviation Performance Guarantee, if: (A) any such failure continues for a period of three (3) consecutive months following the last day of the first non-compliant month, or (B) the total number of non-compliant months for such guarantee is equal to eight (8) or more at any time during the Delivery Term; provided, that

if Seller fails to satisfy the Cumulative ADS Deviation Performance Guarantee during the Grace Period, such non-compliant months will not count against the total number of non-compliant months giving rise to a termination right under this clause (iii)(B), but shall not otherwise affect any other remedies to which Buyer is entitled under this Agreement; or

(iv) for failure of the Annual BESS Availability Guarantee, if: (A) any such failure continues for a period of one (1) Contract Year following the last day of any non-compliant Contract Year, or (B) the total number of non-compliant Contract Years for such guarantee is equal to three (3) or more at any time during the Delivery Term.

Section 9.5 BESS Replenishment. Seller shall replenish the capacity of the BESS by the end of the fifth (5th) and tenth (10th) Contract Years, such that the augmented BESS capacity is available on the first day of the sixth (6th) and eleventh (11th) Contract Years, respectively, in order to achieve the Guaranteed Dischargeable Energy volumes set forth Appendix J-1.

ARTICLE X CAPACITY RIGHTS AND ANCILLARY SERVICES

Section 10.1 Purchase and Sale of Capacity Rights and Ancillary Services. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement between Buyer and Seller to purchase and sell Facility Metered Output on the terms and conditions set forth herein, Seller hereby transfers to Buyer, and Buyer hereby accepts from Seller, (a) all of the Capacity Rights, including resource adequacy, local capacity requirement, flexible resource capacity attributes, and other present and future capacity value related to the Facility, and (b) the right to use the BESS for the provision of Ancillary Services, in each case, subject to the restrictions in Section 4.3. Buyer and Seller acknowledge and agree that the consideration for the transfer of Capacity Rights and the right to provide Ancillary Services is contained within the relevant prices for Facility Metered Output and the BESS Capacity Payments. Without limiting any of Buyer's obligations hereunder, in no event shall Buyer have any obligation or liability whatsoever for any debt pertaining to the Facility by virtue of Buyer's ownership of the Capacity Rights or otherwise.

Section 10.2 Representation Regarding Ownership of Capacity Rights. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and will not in the future assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than Buyer, or attempt to do any of the foregoing with respect to any of the Capacity Rights. Seller shall not report to any Person that any of the Capacity Rights belong to any Person other than Buyer. Buyer may, at its own risk and expense, report to any Person that the Capacity Rights belong to it.

Section 10.3 Further Assurances. Seller shall execute and deliver such necessary documents and instruments and take such other action as Buyer may reasonably request to effect

recognition and transfer of the Capacity Rights to Buyer. Seller shall bear the costs associated therewith.

ARTICLE XI
BILLING; PAYMENT; AUDITS; METERING; ATTESTATIONS

Section 11.1 Billing and Payment. Billing and payment for the Energy purchases by Buyer under this Agreement and for any other amounts due and payable by Buyer or Seller hereunder shall be as follows:

(a) On or before the tenth (10th) day of the month following a month in which transactions occur hereunder, Seller shall render an invoice (including the name of the Facility, Seller's address and the contact information of the preparer) to Buyer showing the following for the preceding month, as applicable:

- (i) Startup and Test Energy billed pursuant to Appendix A, if any.
- (ii) An amount equal to the total Facility Metered Output during such month, specifying the portions of the Facility Metered Output attributable to Net PV System Metered Output and BESS Metered Output, and the resulting Facility Metered Output Payment.
- (iii) An accounting of the Guaranteed PV Metered Output for the applicable Measurement Period, an accounting of new or made-up Shortfall Energy and/or Replacement Energy, if applicable, and a confirmation as to whether Seller met or exceeded the Guaranteed PV Metered Output.
- (iv) Excess Energy billed pursuant to Appendix A.
- (v) The BESS Capacity Payment for the previous month.
- (vi) Any reimbursement to Buyer for the purchase of Replacement Energy.
- (vii) Seller's reasonable calculation of the amount of Deemed Delivered Energy and amounts owed by Buyer in accordance with Section 7.4(e).
- (viii) Any Grid Charging Energy during the previous month.
- (ix) Any other payments due to Buyer or to Seller under this Agreement, including amounts due to Buyer in connection with third party sales of curtailed Energy under Section 6.3 and any unpaid liquidated damages that have accrued prior to the invoice date.

(b) Monthly invoices, to the extent applicable, shall be based on meter readings as described in Section 11.6.

(c) Monthly invoices shall be sent to the address set forth in Appendix C or such other address as is provided by Buyer in writing.

(d) If the Monthly Payment is a positive number, the Monthly Payment shall be payable by Buyer. If the Monthly Payment is a negative number, the Monthly Payment shall be

payable by Seller. Subject to the provisions of Section 11.2, Buyer or Seller, as applicable, shall pay the Monthly Payment as set forth in each monthly invoice by wire transfer to the accounts designated on the invoice rendered by Seller (or the accounts notified by Buyer to Seller, if the Monthly Payment or other amounts are owed by Seller to Buyer) on or before the twentieth (20th) day after receipt by Buyer of the applicable invoice. Bills or portions of bills which are not paid by the due date shall thereafter accrue interest at the Interest Rate, from and including the date payment was due until the date such payment is made.

(e) Attestations of Environmental Attribute transfers to Buyer pursuant to Sections 8.4 and 8.5, if applicable, shall accompany monthly invoices.

Section 11.2 WREGIS Withholding. Prior to the Facility becoming CEC Certified and if, at any time after the Facility is CEC Certified, Seller fails to transfer Renewable Energy Credits to Buyer's WREGIS account in accordance with Section 8.4 within one hundred twenty (120) days after delivery of the corresponding Facility Metered Output or Replacement Energy, Buyer shall have the right to withhold from any payment to Seller, for each MWh of Facility Metered Output or Replacement Energy delivered under Section 6.1, an amount equal to Fifteen Dollars (\$15) per MWh (such amount, the "**WREGIS Withhold Amount**") until such time as the WREGIS Certificate associated with such MWh has been credited to Buyer's WREGIS account as set forth in Section 8.4, and Buyer shall pay the WREGIS Withhold Amount previously withheld by Buyer for each MWh for which a WREGIS Certificate was credited to Buyer's WREGIS account in such month. If Buyer's right to withhold the WREGIS Withhold Amount is triggered after the Facility is CEC Certified in accordance with this Section 11.2, such right shall remain in effect until three hundred sixty-five (365) days after the date that Seller causes Renewable Energy Credits to once again be transferred to Buyer's WREGIS account in accordance with Section 8.4.

Section 11.3 Disputed Invoices. In the event any portion of any bill is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment shall promptly notify the other Party in writing of the basis for the dispute. Disputes shall be discussed by the Authorized Representatives, who shall use reasonable efforts to amicably and promptly resolve the disputes, and any failure to agree shall be subject to resolution in accordance with Section 14.3. Upon resolution of any dispute, the required amount of payment or refund shall be paid within ten (10) days after such determination, with interest accrued at the Interest Rate from and including the due date until the date such payment or refund is paid.

Section 11.4 Right of Setoff. In addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, either Party shall have the right at any time or from time to time, without notice to the other Party or any other Person (any such notice being hereby expressly waived), to set off against any amount due such Party under this Agreement any amount due from the other Party under this Agreement, including any amounts due because of breach of this Agreement or any other obligation and any costs payable by Seller under Section 9.2 if and to the extent paid in the first instance by Buyer.

Section 11.5 Records and Audits.

(a) Seller shall cause any subcontractors and suppliers providing services or supplies under this Agreement (such subcontractors or suppliers, "**Subcontractors**") to maintain, and Seller shall itself maintain, all records pertaining to the management of this Agreement, related subcontracts, and performance of services pursuant to this Agreement (including all billings, costs,

metering, and Environmental Attributes), in their original form, including reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to verify all costs claimed to have been incurred and services performed pursuant to this Agreement. Buyer and the Authorized Auditors shall have the right to discuss any such records with Seller's officers and independent public accountants (and by this provision Seller authorizes said accountants to discuss such billings and costs), all at such times and as may be reasonably requested, and all such records shall be retained, and shall be subject to examination and audit by the Authorized Auditors, for a period of not less than four (4) years following final payment made by Buyer hereunder, or, if the payment is made in the last year of the Delivery Term, no less than the four (4) years following the expiration or termination date of this Agreement. Seller shall make said records or, to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof, available to the Authorized Auditors at Seller's offices located at all reasonable times and without charge. The Authorized Auditors shall have the right to reproduce, photocopy, download, transcribe, and the like, any such records. Any information provided by Seller on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. Seller shall not, however, be required to furnish the Authorized Auditors with commonly available software. In addition, the labor records of the Subcontractors of all agreements entered into after the Effective Date and having a value in excess of \$250,000 (such Subcontractors, "**Major Subcontractors**") shall be subject at any time with thirty (30) days prior written notice to audits or examinations by Authorized Auditors, using generally accepted auditing practices and principles and applicable Governmental Authority auditing standards, to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation. If Seller utilizes or is subject to FAR, Part 30 and 31, *et seq.* accounting procedures, or a portion thereof, examinations and audits will utilize such information. To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective. Consistent with standard auditing procedures, Seller will be provided thirty (30) days to review the Authorized Auditor's examination results or audit and respond to the Authorized Auditor's report (and Buyer shall have the obligation to cause the Authorized Auditor to correct its report to the extent Seller provides evidence reasonably satisfactory to Buyer and the Authorized Auditor of any incorrect statement) prior to the examination's or audit's finalization and public release. If the Authorized Auditor's examination or audit indicates Seller has been overpaid under a previous payment application, the identified overpayment amount shall be paid by Seller to Buyer within twenty (20) days of notice to Seller of the identified overpayment. Notwithstanding the foregoing, if the audit reveals that Buyer's overpayment to Seller is more than five percent (5.0%) of the billings reviewed, Seller shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit. Such examination or audit expenses and costs shall be paid by Seller to Buyer within twenty (20) days of notice to Seller of such costs and expenses.

(b) Without limiting any of Buyer's rights under the foregoing Section 11.5(a), upon Buyer's reasonable request, Seller shall make available for Buyer's review and inspection (i) any agreements with a Qualified Operator providing for the operation and maintenance of the Facility; provided, that copies of such agreements may be redacted solely with respect to pricing and related financial terms, and (ii) an executed copy of the manufacturer's warranty for the BESS.

Section 11.6 Electric Metering Devices.

(a) The PV Metered Output made available to Buyer by Seller under this Agreement shall be measured using CAISO-approved and -polled revenue-quality Electric Metering Devices (in compliance with the CAISO Tariff and relevant protocols and dedicated exclusively to the Facility) procured, installed, owned and maintained by Seller at the PV Facility, and the BESS Metered Input and BESS Metered Output shall be measured using CAISO-approved and -polled revenue-quality Electric Metering Devices (in compliance with the CAISO Tariff and relevant protocols and dedicated exclusively to the Facility) procured, installed, owned and maintained by Seller at the BESS, in each case, as depicted and labeled "Metering System" in the metering diagram attached to this Agreement as Appendix O. All such Electric Metering Devices used to provide data for the computation of payments shall be sealed and Seller shall only break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Section 11.6. Seller shall arrange and bear all costs associated with the installation of the Electric Metering Devices needed for the registration, recording and transmission of information regarding the Energy. Seller shall use commercially reasonable efforts to support any efforts by Buyer to obtain CAISO meter data applicable to the Facility and all inspection, testing and calibration data and reports from the CAISO. If the CAISO makes any adjustment to any CAISO meter data for a given time period, Seller agrees that it shall submit revised monthly invoices, in accordance with Section 11.1, covering the entire applicable time period in order to fully conform such adjustments to the meter data. Seller shall submit any revised invoices no later than thirty (30) days after the date on which the CAISO provides Seller with binding adjustments to the meter data.

(b) Seller, at no expense to Buyer, shall inspect and test all such Electric Metering Devices upon installation and at least annually thereafter. Seller shall provide Buyer with reasonable advance notice of, and permit representatives of Buyer to witness and verify, such inspections and tests. Upon request by Buyer or Buyer's Authorized Representative, Seller or Seller's Authorized Representative shall perform additional inspections or tests of any such Electric Metering Devices and shall permit a qualified representative of Buyer to inspect or witness the testing of any such Electric Metering Devices. The actual expense of any such requested additional inspection or testing shall be borne by Seller. Seller shall provide copies of any inspection or testing reports to Buyer. Any representative of Buyer witnessing or verifying a test under this Section 11.6(b) shall (i) not interfere with Seller's performance of such test, and (ii) comply with any written site-specific rules or regulations.

(c) If an Electric Metering Device fails to register, or if the measurement made by an Electric Metering Device is found upon testing to be inaccurate by more than plus or minus one percent (+/- 1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy, such adjustment to be made by the Scheduling Coordinator. The adjustment period shall be determined by reference to Buyer's Check Meters or as far as can be reasonably ascertained by Buyer or Buyer's Authorized Representative from the best available data, subject to review and approval by Seller (such approval not to be unreasonably withheld). If the period of the inaccuracy cannot be ascertained reasonably, any such adjustment shall be for a period equal to one-third of the time elapsed since the preceding test of the Electric Metering Devices. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, Buyer shall use the corrected measurements as determined in accordance with this

Section 11.6 to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller; if the difference is a negative number, that difference shall be paid by Seller to Buyer, or at the discretion of Buyer, may take the form of an offset to payments due to Seller from Buyer. Payment of such difference by the owing Party shall be made not later than twenty (20) days after the owing Party receives notice of the amount due, unless Buyer elects payment via an offset.

(d) Commencing on the first date on which Startup and Test Energy is produced by the Facility, and continuing throughout the Delivery Term, Seller shall provide to Buyer read-only access to all Electric Metering Devices installed, owned and operated by Seller that are used to measure PV Metered Output, BESS Metered Input, and BESS Metered Output.

(e) At Buyer's option, Buyer may install, own and operate Electric Metering Devices at the Facility and/or the Point of Delivery ("*Buyer's Check Meters*"). Seller shall, and shall cause each of its contractors and subcontractors to grant to Buyer rights of access to the Buyer's Check Meters during normal working hours and subject to Seller's, and Seller's contractors' and/or subcontractors' reasonable requirements and procedures in respect of safety. Commencing on the first date on which Startup and Test Energy is received from the Facility, and continuing throughout the Delivery Term, Buyer shall provide to Seller on a real-time basis read-only access to Buyer's Check Meters. Buyer's Check Meters shall be for check purposes only and shall not be used for the measurement of PV Metered Output, BESS Metered Output and BESS Metered Input, except as provided in Section 11.6(c) above. The installation, operation and maintenance of Buyer's Check Meters shall be performed entirely by Buyer at Buyer's sole cost and expense.

Section 11.7 Facility Load. Seller shall be solely responsible for providing and paying for Energy to cover the on-site load and parasitic load of the Facility. Seller shall not use PV System Energy, BESS Metered Input, or Discharging Energy for such purposes, and Seller shall, at its sole cost, acquire, install, and maintain separate electric meters for the parasitic load of the BESS.

ARTICLE XII REPRESENTATIONS AND WARRANTIES; COVENANTS OF SELLER

Section 12.1 Representations and Warranties by Buyer. Buyer represents and warrants to Seller that:

(a) Buyer is a validly existing California municipal district under the laws of the State of California and has the legal power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) The execution, delivery and performance by Buyer of this Agreement have been duly authorized by all necessary action, and do not require any consent or approval of Buyer's Board of Directors or members other than that which has been obtained.

(c) As of the date of Buyer's execution of this Agreement, (i) the execution and delivery of this Agreement, (ii) the consummation of the transactions contemplated hereby, and (iii) the fulfillment of and compliance with the provisions of this Agreement do not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any legal requirements, or any deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing, which conflicts or breaches, individually, or in the aggregate, would reasonably be expected to result in a material adverse effect.

(d) This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) To Buyer's Knowledge, there is no pending or threatened action or proceeding affecting Buyer before any Governmental Authority, which purports to affect the legality, validity, or enforceability of this Agreement.

Section 12.2 Representations and Warranties by Seller. Seller represents and warrants to Buyer that:

(a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation, is qualified to do business in the State of California and has the legal power and authority to own its properties, and to carry on its business as now being conducted. Seller has the legal power and authority to enter into this Agreement and, subject to the receipt of additional regulatory approvals, to carry out the transactions contemplated hereby, and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) The execution, delivery and performance by Seller of this Agreement have been duly authorized by all necessary limited liability company action, and do not and will not require any consent or approval of Seller's managing member or equity holders other than that which has been obtained.

(c) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the provisions of this Agreement, do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any Requirement of Law, or any organizational documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any Lien upon any of the properties or assets of Seller (except as contemplated hereby).

(d) This Agreement is a party constitutes the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement

of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) There is no pending or, to the Knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority that purports to affect the legality, validity or enforceability of this Agreement to which it is a party.

(f) Seller is not in violation of any Requirement of Law which violations, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect on the business, assets, operations, or condition (financial or otherwise) of Seller, or the ability of Seller to perform any of its obligations under this Agreement.

(g) All investors have been informed by Seller of the existence of this Agreement on or before the date of such investment in Seller.

(h) As of the Effective Date, the organizational structure and ownership of Seller and each Upstream Equity Owner, including a list of each of such entity's Principals, is as set forth in Section 2 of Schedule 12.2(h). Schedule 12.2(h) may be updated from time to time by agreement of Buyer and Seller to account for a Change in Control that has been consented to by Buyer in accordance with this Agreement.

(i) Seller has not entered into this Agreement with the actual intent to hinder, delay or defraud any creditor and Seller received reasonably equivalent value in exchange for its obligations under this Agreement. No petition in bankruptcy has been filed against Seller, and neither Seller nor any of its respective constituent Persons has ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for its benefit as a debtor.

(j) All Tax returns and reports of Seller required to be filed by it have been timely filed, and all Taxes shown on such Tax returns to be due and payable and all assessments, fees and other governmental charges upon Seller and upon its properties, assets, income, business and franchises that are due and payable have been paid when due and payable. Seller knows of no proposed Tax assessment against Seller that is not being actively contested by it in good faith and by appropriate proceeding.

(k) Seller owns or possesses, or reasonably expects to obtain in the ordinary course of business or possess in a timely manner, all patents, rights to patents, trademarks, copyrights and licenses necessary for the performance by Seller of this Agreement and the transactions contemplated thereby, without any conflict with the rights of others, and Seller's use thereof does not infringe on the intellectual property rights of third parties.

(l) Seller has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of the PV System Energy, BESS Metered Input, Discharging Energy, or any associated Environmental Attributes or Capacity Rights except to Buyer in accordance with this Agreement.

(m) Seller has Site Control. Seller's agents and representatives have visited, inspected and become familiar with the Facility Site and its surface physical condition relevant to the obligations of Seller pursuant to this Agreement, including surface conditions, normal and usual soil conditions, roads, utilities, and topographical, solar radiation, and air and water quality

conditions. Seller is familiar with all local and other conditions that may be material to Seller's performance of its obligations under this Agreement (including, transportation, seasons and climate, access, weather, handling and storage of materials and equipment, and availability and quality of labor and utilities). Seller has determined that the Facility Site constitutes an acceptable and suitable site for the construction and operation of the Facility and the associated transmission line in accordance herewith.

(n) To Seller's Knowledge, there are no investigations, inquiries, orders, hearings, actions or other proceedings by or before any Governmental Authority that are pending or, to the best of Seller's Knowledge, threatened in connection with any Permit or Environmental Laws with respect to the Facility or the Facility Site. Neither Seller nor, to Seller's Knowledge, any third party has used, released, generated, manufactured, produced, or stored in, on, under or about the Facility Site any Hazardous Materials that could reasonably be expected to subject Seller or Buyer to liability under any Environmental Laws. To Seller's Knowledge, with the exception of those Hazardous Materials used and stored in accordance with Environmental Laws and pursuant to any applicable Permit, there are no Hazardous Materials used, stored or present at, in, on or under the Facility Site that could reasonably be expected to subject the Seller or Buyer to liability under any Environmental Laws.

Section 12.3 Covenant of Seller Related to Seller's Status as Special Project Entity. Seller shall at all times comply with the requirements of, and qualify as, a Special Project Entity.

Section 12.4 Covenants of Seller Related to the Facility Site.

(a) Seller shall at all times (i) maintain Site Control, and (ii) prevent the imposition of any Liens or encumbrances, other than Permitted Encumbrances, on the Facility Site. If a Lien or encumbrance other than a Permitted Encumbrance is imposed on the Facility Site, Seller shall give Buyer prompt notice thereof and shall promptly take action to release such Lien or encumbrance.

(b) Seller shall not develop or improve the Facility Site in a manner that would result in a material adverse effect on Seller's obligations in this Agreement. Seller shall cause any development or improvement of the Facility and the transmission line to be located thereon to be done in accordance with this Agreement and the terms and conditions of any Permits and Environmental Documents.

(c) Seller shall, or shall cause the Lessor, if applicable, to timely and duly record in the land records of the applicable county or counties of the State of California, or as otherwise provided by applicable law, all agreements relating to the Facility Site or memoranda thereof, to the extent recordable under federal or state law.

(d) Seller shall give Buyer immediate notice of (i) any default notice received by Seller or the Lessor or delivered by Seller or the Lessor under any agreement concerning the Facility Site, or (ii) the commencement of any action, arbitration, mediation, or other proceeding pertaining to any agreement concerning the Facility Site. Seller shall deliver to Buyer, immediately upon service or delivery thereof on, to or by Seller or the Lessor, a copy of each petition, summons, complaint, notice of motion, order to show cause, brief, and other pleading or paper, however designated, which shall be served or delivered in connection with any such action, arbitration, mediation, or other proceeding.

(e) Upon any payment by Buyer to cure any default of Seller or the Lessor under any agreement relating to the Facility Site, Buyer may offset amounts otherwise due Seller pursuant to the Monthly Payment hereunder by the amount of such cure payment or remedy cost until Buyer has been fully repaid.

(f) If (i) there is (A) a complete taking of the Facility or any substantial portion thereof, (B) a partial taking of a portion of the Facility under a statute or by right of eminent domain or private purchase in lieu thereof, or (C) a condemnation brought against the Facility or any substantial portion thereof (as applicable, a "**Taking**"), and (ii) (A) such Taking prevents Seller from repairing, restoring, reconstructing, or replacing all or any portion of the Facility subject to the Taking, or (B) Seller determines that, as a result of such Taking, it is not economical or desirable to repair, restore, reconstruct, or replace all or any portion of the Facility subject to the Taking, then (1) in the case of clause (ii)(A), Seller or the Lessor shall pay Buyer, from the amount of the sum awarded to and actually received by Seller or the Lessor, and limited to Buyer's Termination Payment, including damages and interest, the pro rata amount of the demonstrable loss in value of this Agreement to Buyer resulting from such Taking, and this Agreement shall be terminated and the provisions of Section 14.5(d) shall apply thereto, or (2) in the case of clause (ii)(B), Seller shall be in immediate Default under this Agreement. Seller shall promptly deliver notice to Buyer as to whether Seller has made a determination under clause (ii)(B).

Section 12.5 Covenants of Seller Related to Tax Equity Financing.

(a) Seller shall provide Buyer with at least one hundred twenty (120) days' prior written notice of the reasonably likely occurrence of any consolidation, merger, or reorganization or other similar transaction, or series of similar transactions, involving Seller or any other Upstream Equity Owner.

(b) Seller shall provide Buyer with at least one hundred twenty (120) days' prior written notice of the consummation of a Tax Equity Financing, which notice shall include (i) introductory and contact information about and for any potential Tax Equity Investors, (ii) a summary of the provisions related to, and the structure surrounding, the power to control the management and policies of Seller, and any entity that is jointly-owned by any Upstream Equity Owner and such Tax Equity Investor arising in connection with the Tax Equity Financing, and (iii) a statement of the circumstances under which such provisions and structure could be modified by such Tax Equity Investor. Such notice shall be in addition to, and not in lieu of, any notice required under Section 14.6.

(c) In addition to the items listed in subparagraph (b) above, in the event of a Sale Leaseback Financing, promptly after closing thereof, Seller shall also provide Buyer with true and correct copies of all agreements with the Lessor (with confidential terms redacted).

(d) It shall be a Default (which shall be subject to cure only if such Default is reasonably capable of being promptly and completely cured by Seller, and if not capable of being promptly and completely cured by Seller, shall be an immediate Default without opportunity to cure hereunder) should Seller enter into a Sale Leaseback Financing unless the Lessor or Lessors thereunder and Seller shall have concurrently entered into an agreement with Buyer providing for (i) substantially the terms set forth in Appendix E, and (ii) estoppel certificate(s) from such Lessor or Lessors certifying that this Agreement remains in full force and effect and binding on Seller and

that each agreement providing for Seller's rights in and to the Facility Site remains in full force and effect and binding on the third parties thereto.

(e) Seller shall deliver, or cause to be delivered, copies of all resolutions and other documents evidencing the actions taken to approve, execute and deliver such Sale Leaseback Financing Agreements and any the documents required in Section 12.5(d), in each case certified by an authorized representative of Seller as being true, correct and complete, and an incumbency certificate signed by the secretary of Seller certifying as to the names and signatures of the authorized representatives of Seller.

Section 12.6 Permits. Seller shall, at its expense, take all steps necessary to maintain all Permits, including as set forth in Appendix I, for the performance of Seller's obligations hereunder, the construction of the Facility, and the ownership and operation of the Facility, in accordance with the Requirements.

ARTICLE XIII DEFAULT; TERMINATION AND REMEDIES

Section 13.1 Default. Each of the following events or circumstances shall constitute a "*Default*" by the responsible Party (the "*Defaulting Party*"):

(a) **Payment Default.** Failure by either Party to pay any amount when and as due under this Agreement which is not cured within twenty (20) days after receiving written notice thereof from the other Party.

(b) **Performance Defaults.** Failure by either Party to perform any of its duties or obligations under this Agreement when and as due, which is not cured within thirty (30) days after receipt of written notice thereof from the other Party; provided, that if such failure cannot be cured within such thirty (30) day period, despite reasonable commercial efforts, such Party shall have up to ninety (90) days to cure. Notwithstanding the foregoing, such cure periods shall not apply to (i) the breaches covered by Section 13.1(a) and Sections 13.1(c)-(m), which shall be subject to the cure periods, if any, set forth in such Sections, respectively, or (ii) the Defaults specified in Section 9.4(d), clause (2) of Section 12.4(f), Section 12.5(d), Section 14.17(b), and any other Section that specifies a Default that is not subject to a cure period.

(c) **Breach of Representations and Warranties.** Inaccuracy in any material respect as of the Effective Date of any representation, warranty, certification or other statement made by a Party that, if capable of being cured, is not cured within thirty (30) days after receipt of notice thereof.

(d) **Bankruptcy.** Bankruptcy of Buyer or Seller.

(e) **Security Default.** The failure of Seller to timely issue, maintain or replace the Development Security or the Performance Security in compliance with the provisions of Section 3.3(c) or Section 5.6.

(f) **Insurance Default.** The failure of Seller to maintain and provide the required insurance for the required period of coverage as set forth in Appendix F, which is not cured within ten (10) days after receipt of written notice thereof from Buyer.

(g) **Fundamental Change.** Except as permitted by Section 14.6, (i) a Party makes an assignment of its rights or delegation of its obligations under this Agreement, or (ii) a Change in Control occurs (whether voluntary or by operation of law).

(h) **Facility Site Agreement Default.** Except as may be expressly permitted by this Agreement, any agreement providing for Seller's rights and interests in and to the Facility Site fails to be in effect or is terminated for any reason, and such agreement is not reinstated to be in full force and effect within twenty (20) days thereafter.

(i) **Key Milestone Default.** Seller permits Daily Delay Damages to accrue in an amount greater than the Daily Delay Damages Cap.

(j) **Commercial Operation Date Default.** Failure by Seller to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, as may be extended pursuant to Section 3.3(c), plus any extension for the payment of Daily Delay Damages up to, but in no event beyond, the Outside COD.

(k) **Shortfall Energy Termination Default.** The failure of the Facility during any two consecutive Contract Years after the first Contract Year to deliver at least sixty percent (60%) of the applicable Annual Contract Quantity for each such Contract Year; provided, that Seller shall have a one-time ability during the Delivery Term to cure such Default during the next Contract Year, if caused by a failure of the main power transformer, or during the first six (6) months of the next Contract Year, if caused by a failure of the medium voltage switchgear or main circuit breaker, in each case, by repairing or replacing the main power transformer, medium voltage switchgear, or main circuit breaker, as applicable.

(l) **Provision of Real Time Data Default.** The failure of Seller to provide any of the real time data required to be delivered under Section 7.3(e), which failure is not cured within forty-eight (48) hours after receipt of written email notice thereof from Buyer; provided, that such cure period may be extended for up to one (1) week following such forty-eight (48) hour initial cure period by adjusting the BESS Capacity Payment pro rata, for the month(s) in which such cure period occurs, to reflect a BESS Capacity Price of zero (\$0) for the duration of the cure period.

Section 13.2 Default Remedy.

(a) If Buyer is in Default for nonpayment, subject to any duty or obligation under this Agreement, Seller may, at its sole option, (i) suspend service, (ii) sell PV System Energy, Environmental Attributes and Capacity Rights to third parties pursuant to and in accordance with Section 6.3, or (iii) continue to provide services pursuant to its obligations under this Agreement; provided that nothing in this Section 13.2(a) shall affect Seller's other rights and remedies set forth in this Section 13.2; and provided, further, that PV System Energy sold to third parties shall not count toward the Guaranteed PV Metered Output hereunder. Seller's continued service to Buyer shall not act to relieve Buyer of any of its duties or obligations under this Agreement.

(b) Notwithstanding any other provision herein, if any Default has occurred and is continuing, the affected Party may, whether or not the dispute resolution procedure set forth in Section 14.3 has been invoked or completed, bring an action in any court of competent jurisdiction

as required by Section 14.3 seeking injunctive relief in accordance with applicable California or federal rules of civil procedure.

(c) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and Buyer is the Defaulting Party, Seller may without further notice exercise any rights and remedies provided herein or otherwise available at law or in equity, including the right to terminate this Agreement upon giving notice of intent to terminate to Buyer. No failure of Seller to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Seller of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

(d) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and Seller is the Defaulting Party, Buyer may without further notice exercise any rights and remedies provided for herein, or otherwise available at law or equity, including (i) application of all amounts available under the Development Security or Performance Security against any amounts then payable by Seller to Buyer under this Agreement, and (ii) termination of this Agreement pursuant to Section 13.3. No failure of Buyer to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Buyer of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

Section 13.3 Termination for Default.

(a) If a Default occurs, the Party that is not the Defaulting Party (the “*Non-Defaulting Party*”) shall have the right, for so long as the Default is continuing, and subject to applicable cure rights, and without limiting any other rights or remedies available to the Non-Defaulting Party under this Agreement, by notice by it (“*Termination Notice*”) to the Defaulting Party (i) establish a date (which shall be no earlier than the date of such notice and no later than twenty (20) days after the date of such notice) (“*Early Termination Date*”) on which this Agreement shall terminate, and (ii) withhold any payments due in respect of this Agreement, provided, upon the occurrence of any Default of the type described in Section 13.1(d), this Agreement shall automatically terminate, without notice or other action by either Party as if an Early Termination Date had been declared immediately prior to such event.

(b) If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate in a commercially reasonable manner its Gains, Losses and Costs resulting from the termination of this Agreement and the resulting Termination Payment. The Gains, Losses and Costs relating to the Energy, Environmental Attributes, and Capacity Rights that would have been required to be delivered under this Agreement had it not been terminated shall be determined by comparing the amounts Buyer (if the Non-Defaulting Party) would have paid or Seller (if the Non-Defaulting Party) would have received therefor under this Agreement to the equivalent quantities and relevant market prices either quoted by a bona fide third party offer or which are reasonably expected by Buyer (if the Non-Defaulting Party) or by Seller (if the Non-Defaulting Party) to be available in the market under a replacement contract for this Agreement covering the same products and having a term equal to the Remaining Term at the date of the Termination Notice adjusted to account for differences in transmission, if any. The Non-Defaulting Party shall not be required to enter into any such replacement agreement in order to determine its Gains, Losses and Costs or the Termination Payment. To ascertain the market prices of a replacement

contract, the Non-Defaulting Party may consider, among other valuations, quotations from dealers in Energy contracts and bona fide third party offers.

(c) For purposes of the Non-Defaulting Party's determination of its Gains, Losses and Costs and the Termination Payment, it shall be assumed, regardless of the facts, that Seller would have sold, and Buyer would have purchased, each day during the Remaining Term (i) PV Metered Output in an amount equal to the Assumed Daily Deliveries, (ii) the Environmental Attributes associated therewith, (iii) all Capacity Rights associated therewith, and (iv) the full BESS Contract Capacity. The "*Assumed Daily Deliveries*" is an amount equal to the greater of (A) the quotient of the Guaranteed PV Metered Output divided by the number of days in the corresponding Measurement Period, and (B) the average daily amount of PV Metered Output during the Delivery Term, if any.

(d) The Non-Defaulting Party shall notify the Defaulting Party of the Termination Payment, which notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Defaulting Party shall, within ten (10) Business Days after receipt of such notice, pay the Termination Payment to the Non-Defaulting Party, together with interest accrued at the Interest Rate from the Early Termination Date until paid. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, the Termination Payment shall be zero.

(e) If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be submitted to informal non-binding Dispute resolution as provided in Section 14.3(a). Following resolution of the Dispute, the Defaulting Party shall pay the full amount of the Termination Payment (if any) determined by such resolution as and when required, but no later than thirty (30) days following the date of such resolution, together with all interest, at the Interest Rate, that accrued from the Early Termination Date until the date the Termination Payment is paid.

(f) For purposes of this Agreement:

(i) "*Gains*" means, with respect to a Party, an amount equal to the present value of the economic benefit (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner.

(ii) "*Losses*" means, with respect to a Party, an amount equal to the present value of the economic loss (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner.

(iii) "*Costs*" means, with respect to a Party, brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred or in entering into new arrangements which replace this Agreement, excluding attorneys' fees, if any, incurred in connection with enforcing its rights under this Agreement. Each Party shall use reasonable efforts to mitigate or eliminate its Costs.

(iv) In no event shall a Party's Gains, Losses or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.

(v) The Present Value Rate shall be used as the discount rate in all present value calculations required to determine Gains, Losses and Costs.

(g) Notwithstanding the foregoing provisions of this Section 13.3, if Seller is the Defaulting Party as a result of a Default under Section 13.1(j), the Termination Payment shall be equal to \$3,000,000 (less any Daily Delay Damages already paid).

(h) At the time for payment of any amount due under this Section, each Party shall pay to the other Party all additional amounts, if any, payable by it under this Agreement (including any amounts withheld pursuant to Section 13.3(a)(ii)).

Section 13.4 Cure Rights of Facility Lender and Buyer. Buyer shall provide such consents to assignment, substantially in the form attached as Appendix M, as may be reasonably requested by Seller or any Facility Lender (other than a Tax Equity Investor); provided that the terms of such financing or refinancing and the documentation relating thereto shall comply with the applicable terms and conditions of this Agreement (such consent, the “*Consent and Agreement*”). The Consent and Agreement shall (a) provide that Buyer will provide the Facility Lender or its agent with a copy of any notice of default delivered to Seller under Section 13.1 and the opportunity to cure any such default during any applicable period set forth in Section 13.1, and (b) require that the provisions of any Financing Agreement provide Buyer with the right, but not the obligation, at any time, to pay any or all amounts due from Seller thereunder, and to do any other act or thing required of Seller, in each case to cure any default of Seller thereunder, or to prevent the termination of such Financing Agreement. Seller shall promptly repay Buyer for any costs or expenses incurred by Buyer in making any such payments or otherwise incurred by Buyer in connection with curing a default by Seller. In addition, Buyer shall, if reasonably requested by a Tax Equity Investor, provide a written consent providing such Tax Equity Investor with the right, but not the obligation, at any time, to pay any or all amounts due from Seller to Buyer hereunder, and to do any other act or thing required of Seller, in each case to cure any default of Seller under this Agreement in a manner that is consistent with the applicable terms and conditions of this Agreement, and to provide a customary estoppel certificate, provided that the terms and conditions of any such consent, or any such estoppel certificate, shall have no (and could not reasonably be expected to have any) adverse effect on Buyer’s rights under this Agreement, and, except for a reasonable additional cure period for the Tax Equity Investor to cure a default of Seller as set forth in the consent with such Tax Equity Investor, shall be consistent with the terms and conditions of this Agreement. Seller shall bear any costs and expenses, including reasonable attorneys’ fees, incurred by Buyer in the negotiation of such consent and estoppel certificate required by a Tax Equity Investor hereunder.

ARTICLE XIV MISCELLANEOUS

Section 14.1 Authorized Representative. Each Party shall designate an authorized representative who shall be authorized to act on its behalf with respect to those matters contained herein (each, an “*Authorized Representative*”), which shall be the functions and responsibilities of such Authorized Representatives. Each Party may also designate an alternate who may act for the Authorized Representative. Within thirty (30) days after the Effective Date, each Party shall notify the other Party in writing of the identity of its Authorized Representative and alternate if designated. Each Party shall promptly notify the other Party of any subsequent changes in such designation. The Authorized Representatives shall have no authority to alter, modify, or delete

any of the provisions of this Agreement. Prior to the Commercial Operation Date, the Authorized Representative of each Party will meet periodically to discuss issues related to the sharing of information on the development, construction, design and operation and maintenance of the Facility; provided, however, except as otherwise provided herein with respect to the scheduling of Startup and Test Energy, that Buyer shall have no right to approve Seller's schedules or budgets. Each Party by notice to the other Party may also designate a Person as its designee as provided in this Agreement. To the extent that an Authorized Representative's contact information is not provided in Appendix C, at the time a Party designates such Authorized Representative, such Party shall concurrently provide written notice to the other Party of such Authorized Representative's contact information.

Section 14.2 Notices. All notices, requests, demands, consents, waivers and other communications which are required under this Agreement shall be in writing and shall be deemed properly sent if delivered in person, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix C. The Parties may update Appendix C, from time to time, to designate another person, address or office to which notices shall be delivered by delivering notice to the other Parties in accordance with this Agreement. In addition to the foregoing, the Parties may agree in writing at any time to deliver notices, requests, demands, consents, waivers and other communications through alternate methods, such as electronic mail.

Section 14.3 Dispute Resolution. Subject to Section 13.2(b), regarding suits for injunctive relief, disputes under this Agreement between Seller and Buyer may be resolved in accordance with the provisions of this Section 14.3.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 14.3) (a "**Dispute**"), either Party (the "**Notifying Party**") may deliver to the other Party (the "**Recipient Party**") notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a "**Dispute Notice**"). The Dispute Notice shall include a schedule of the availability of the Notifying Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall, within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a parallel schedule of availability of the Recipient Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute. Following delivery of the respective senior officers' schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the thirty (30)-day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party.

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Section 14.3(a) and Section 14.3(b) by the expiration of the thirty (30) day period set forth in Section 14.3(a), then either Party may pursue any legal remedy available to it in accordance with the provisions of Section 14.11 and Section 14.12 of this Agreement.

(d) As stated in Section 14.11, this Agreement shall be governed by, interpreted and enforced in accordance with laws of the State of California, without regard to the conflict of

laws principles thereof. In addition to the Dispute resolution process set forth in this Section 14.3, but subject to Section 14.19, the Parties shall comply with California law governing claims against public entities and presentment of such claims.

Section 14.4 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action not inconsistent with the provisions of this Agreement that may be reasonably necessary to effectuate the purposes and intent of this Agreement.

Section 14.5 Force Majeure.

(a) A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement (other than the obligations of a Party to make payment of amounts due under this Agreement) when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate; provided the Party has given a written detailed description of the full particulars of the Force Majeure to the other Party reasonably promptly after becoming aware thereof (and in any event within fourteen (14) days after the initial occurrence of the claimed Force Majeure) (the "***Force Majeure Notice***"), which notice shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party providing such notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. Notwithstanding anything in this Agreement to the contrary, if Seller is unable to deliver or Buyer is unable to receive Excess Energy due to a Force Majeure, Buyer shall have no obligation to pay Seller for the Excess Energy not delivered or received by reason thereof. It is understood by the Parties that, subject to the provisions of Section 7.4, the foregoing provisions shall not excuse any obligations of Seller with respect to delivery of the Guaranteed PV Metered Output under Article VI, or Shortfall Energy and Replacement Energy provided under Article IX, or either Party's obligation to make Monthly Payments up to the time that Seller ceases deliveries of Energy due to Force Majeure. In no event shall Buyer be obligated to compensate Seller or any other Person for any losses, expenses or liabilities that Seller or such other Person may sustain as a consequence of any Force Majeure.

(b) The term "***Force Majeure***" means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, terrorism, storm or flood, Taking, fire or explosion or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (i) which prevents one Party from performing any of its obligations under this Agreement, (ii) which could not reasonably be anticipated as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such Affiliate or subcontractor is responsible), and (iv) which by the exercise of due diligence and acting in accordance with the Requirements the affected Party is unable to overcome or avoid or cause to be avoided; provided nothing in this clause (iv) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force

Majeure shall exercise reasonable efforts to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following: (1) Seller's failure to construct, operate or maintain the Facility in accordance with this Agreement, except to the extent such failure was itself caused by an event of Force Majeure; (2) any increase of any kind in any cost; (3) delays in or inability of a Party to obtain financing or other economic hardship or change in financial or market conditions of any kind; (4) a Party's ability to enter into a similar contract at a more favorable price or under more favorable conditions or other economic reasons; (5) curtailment or other interruption of any Transmission Service unless such curtailment or interruption was itself caused by an event of Force Majeure; (6) delays, nonperformance of suppliers, vendors, or other third parties with whom a Party has contracted, unless such delays or nonperformance were caused by an event of Force Majeure; or (7) Facility or related equipment failure of any kind, unless such failure was itself caused by an event of Force Majeure.

(c) If a Force Majeure event is continuing for more than six (6) months, the affected Party shall provide evidence that it has commenced and is diligently pursuing the repair work or other actions as may be necessary to overcome such Force Majeure as detailed in a mutually agreed upon form of progress report. Either Party may terminate the Agreement if a Party's material obligations under the Agreement have been excused by an event of Force Majeure for a period in excess of twelve (12) consecutive months.

(d) Any termination of this Agreement under this Section 14.5 shall be "no-fault" and neither Party shall have any liability or obligation to the other Party arising out of such termination. Notwithstanding the foregoing, upon any such termination, the Parties shall discharge their payment obligations for any and all amounts hereunder that may be owing, including for any existing Shortfall Energy or other outstanding payments due in the ordinary course that occurred prior to the termination. Buyer shall return to Seller the Development Security or Performance Security, as applicable, less any amounts drawn by Buyer in accordance with this Agreement. The exercise by Buyer of its right to terminate the Agreement shall not render Buyer liable for any losses or damages incurred by Seller whatsoever.

Section 14.6 Assignment of Agreement; Change in Control.

(a) Except as set forth in this Section 14.6, neither Party may assign any of its rights, or delegate any of its duties or obligations under this Agreement without the prior written consent of the other Party; provided, however, that either Party may assign this Agreement to an Affiliate with the consent of the other Party, not to be unreasonably delayed, conditioned, or withheld. Any Change in Control (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of Buyer (except as provided in Section 14.6(d) with respect to certain collateral assignments or pledges of the membership interests in Seller), which consent shall not be unreasonably delayed, conditioned, or withheld; provided, any assignment of the membership interests in Seller to an equity investment partner in connection with a Change in Control that meets the following requirement shall be deemed reasonable (x) such investment partner has a demonstrable net worth of at least Five Hundred Million Dollars (\$500,000,000) or is a fund or one of a group of funds with at least \$500,000,000 under management, (y) Avangrid Renewables, LLC or a direct or indirect subsidiary of Avangrid

Renewables, LLC continues to directly or indirectly hold non-tax equity voting interests in the Seller and retains rights pursuant to Seller's limited liability company operating agreement to approve major decisions involving Seller and the Facility, and (z) Avangrid Renewables, LLC, a direct or indirect subsidiary of Avangrid Renewables, LLC, or a Qualified Operator continues to manage and operate the Facility on a day-to-day basis. Seller shall provide Buyer with ninety (90) days' prior written notice of any Change in Control. Concurrently with any reorganization or financing transaction or transactions constituting any Change in Control in which Seller merges or consolidates with any other Person and ceases to exist, the successor entity to Seller shall execute a written assumption agreement in favor of Buyer pursuant to which any such successor entity shall assume all of the obligations of Seller under this Agreement and agree to be bound by all the terms and conditions of this Agreement, or the successor entity shall acknowledge the continuing obligations of Seller to perform all of the obligations of Seller under this Agreement.

(b) Buyer may assign this Agreement, with the consent of Seller (not to be unreasonably delayed, conditioned, or withheld) to a California municipal utility, to a joint powers authority established under the California Joint Exercise of Powers Act, or to a California municipal district that provides electric utility service to customers in its district.

(c) Seller shall not sell or transfer all or any portion of the Facility or assets related thereto (other than equipment that has been replaced in accordance with Prudent Utility Practices) to any Person other than a Person to whom Seller assigns this Agreement in accordance with this Section 14.6, other than a Sale Leaseback Financing (for which notice is required), without the prior written consent of Buyer; provided, that any such sale or transfer shall be in compliance with the provisions of Section 12.5(d). Any purported sale or transfer in violation of this Section 14.6(c) shall be null and void and of no force or effect.

(d) Buyer's consent shall not be required in connection with the collateral assignment or pledge of (i) this Agreement to any Facility Lender, or (ii) all or a portion of the membership interests in Seller or a Seller Upstream Equity Owner, in either case, for the purpose of financing or refinancing of the development, construction, ownership and operation of the Facility; as long as (1) the terms of such financing or refinancing, and the documentation relating thereto, comply with the applicable terms and conditions of this Agreement, and (2) in connection with any such assignment or pledge and the exercise of remedies by any Facility Lender, the Facility Lender acknowledges and agrees to be bound by the requirement that the Facility be operated and maintained by a Qualified Operator. Seller shall provide Buyer with ninety (90) days' prior notice of any such collateral assignment or pledge. Notwithstanding the foregoing or anything else expressed or implied herein to the contrary, Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of the Energy, Environmental Attributes or Capacity Rights (not including the proceeds thereof) to any Facility Lender.

(e) It is specifically agreed that there are no third party beneficiaries of this Agreement, and that, except as provided in this Section 14.6, this Agreement shall not grant any rights enforceable by any Person not a party to this Agreement.

(f) In no event shall Buyer be liable to any Facility Lender for any claims, losses, expenses or damages whatsoever other than liability Buyer may have to Seller under this Agreement. In the event of any foreclosure, whether judicial or nonjudicial, or any deed in lieu of foreclosure, in connection with any deed of trust, mortgage, or other similar Lien, such Facility Lender shall be bound by the covenants and agreements of Seller in this Agreement; provided,

however, that until the Person who acquires title to the Facility executes and delivers to Buyer a written assumption of Seller's obligations under this Agreement in form and substance acceptable to Buyer, such Person shall not be entitled to any of the benefits of this Agreement. Any sale or transfer of all or any portion of the Facility by Facility Lender shall be made only to an entity that is a Qualified Transferee.

(g) Seller shall reimburse, or shall cause the Facility Lender to reimburse, Buyer for the incremental direct expenses incurred by Buyer in the preparation, negotiation, execution and/or delivery of any documents requested by Seller or the Facility Lender, and provided by Buyer, pursuant to this Section 14.6.

(h) Notwithstanding anything to the contrary in this Agreement, if any of the transactions, or series of transactions, constituting a Change of Control occurs with respect to Avangrid Renewables, LLC, Avangrid Renewables Holdings, Inc., or Avangrid, Inc., or their respective successors, then Seller shall promptly (i) deliver notice of such Change of Control to Buyer, (ii) provide Buyer with an updated organizational chart to replace the chart attached to Schedule 12.2(h) of this Agreement, (iii) provide Buyer with any updates to Appendix C resulting from such Change of Control, and (iv) provide Buyer with any additional information in connection with such Change of Control as may be necessary to minimize disruption of the operation of the Facility or the administration of this Agreement, including any information requested by Buyer. Solely for purposes of this Section 14.6(h), all references to "Seller" and "Upstream Equity Owner" in the definition of "Change of Control" shall be deemed to instead refer to "Avangrid Renewables, LLC," "Avangrid Renewables Holdings, Inc.," and/or "Avangrid, Inc." and their respective successors, as applicable.

Section 14.7 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

Section 14.8 Attorney Fees & Costs. Both Parties agree that in any action to enforce the terms of this Agreement that each Party shall be responsible for its own attorney fees and costs. Each of the Parties was represented by its respective legal counsel during the negotiation and execution of this Agreement. Notwithstanding the foregoing, to the extent Buyer incurs legal costs in order to facilitate a Sale Leaseback Financing under Section 12.5(c) or the collateral assignment or pledge of this Agreement under Section 14.6(d), to evaluate whether a Change in Control has occurred, or such other action or review that is at the request of Seller, including in Section 14.6(g), or as may be required due to the actions or omissions of Seller, Seller shall bear Buyer's reasonable and documented legal costs therefor.

Section 14.9 Voluntary Execution. Both Parties acknowledge that they have read and fully understand the content and effect of this Agreement that the provisions of this Agreement have been reviewed and approved by their respective counsel. The Parties further acknowledge that they have executed this Agreement voluntarily, subject only to the advice of their own counsel,

and do not rely on any promise, inducement, representation or warranty that is not expressly stated herein.

Section 14.10 Entire Agreement; Amendments. This Agreement (including all Appendices and Exhibits) contains the entire understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, discussions or agreements between the Parties, or any of them, concerning that subject matter, whether written or oral, except as expressly provided for herein. This is a fully integrated document. Each Party acknowledges that no other party, representative or agent, has made any promise, representation or warranty, express or implied, that is not expressly contained in this Agreement that induced the other Party to sign this document. This Agreement may be amended or modified only by an instrument in writing signed by each Party.

Section 14.11 Governing Law. This Agreement shall be governed by, interpreted and enforced in accordance with and construed under the laws of the State of California without regard to conflict of law principles.

Section 14.12 Venue. All litigation arising out of, or relating to this Agreement, shall be brought in a state or federal court in the County of Riverside in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

Section 14.13 Execution in Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if both signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

Section 14.14 Effect of Section Headings. Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

Section 14.15 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. Notwithstanding anything expressed or implied herein to the contrary, nothing contained herein shall preclude either Party from pursuing any available remedies for breaches not rising to the level of a Default, including recovery of damages caused by the breach of this Agreement and specific performance or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise. Each Party acknowledges that money damages may not be an adequate remedy for violations of this Agreement and that either Party may, in its sole discretion, seek and obtain from a court of competent jurisdiction specific performance or injunctive or such other relief as such court may deem just and proper to enforce this Agreement or to prevent any violation hereof. Each

Party hereby waives any objection to specific performance or injunctive relief. The rights granted herein are cumulative.

Section 14.16 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties or to impose any partnership obligation or liability upon either such Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 14.17 Indemnification; Damage or Destruction; Insurance; Limit of Liability.

(a) **Indemnification.** Seller undertakes and agrees to indemnify and hold harmless Buyer, its Board of Directors, officers and employees, and, at the option of Buyer, defend Buyer, and any and all of its Board of Directors, officers, agents, employees, advisors, and Authorized Representatives from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Seller's employees and agents, or damage or destruction to any property of either Party or third persons, or in any manner arising by reason of any breach of this Agreement by Seller, or by any failure of a representation of Seller to be true in all material respects, or by the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of Seller, or any of Seller's officers, agents, employees, or subcontractors of any tier, except to the extent caused by the gross negligence or willful misconduct of Buyer, its Board of Directors, officers, agents, or employees.

(b) **Damage or Destruction.** Subject to the provisions of Section 14.5, in the event of any damage or destruction of the Facility or any part thereof, the Facility or such part thereof shall be diligently repaired, replaced or reconstructed by Seller so that the Facility or such part thereof shall be restored to substantially the same general condition and use as existed prior to such damage or destruction, unless a different condition or use is determined by Seller using its reasonable discretion taking into account the economics of repair, replacement, or reconstruction. Proceeds actually received of Insurance with respect to such damage or destruction maintained as provided in this Agreement shall be applied in Seller's reasonable discretion, subject to the consent of the Facility Lender, not to be unreasonably withheld, to the payment for such repair, replacement or reconstruction of the damage or destruction. In the event that Seller determines that as a result of any damage or destruction of the Facility, or any part thereof, it is not economical or desirable to apply Insurance proceeds to restoring the Facility as described above, then (i) Seller shall promptly deliver notice of such determination to Buyer, and (ii) Seller shall be in immediate Default under this Agreement.

(c) **Insurance.** Seller shall obtain and maintain the Insurance coverages listed in Appendix F.

(d) **Condemnation or Other Taking.** For the Agreement Term, Seller shall promptly notify Buyer of the institution of any proceeding for the Taking of the Facility or any portion thereof. Buyer may cooperate with Seller to participate in any such proceeding and Seller will deliver to Buyer all instruments necessary or required by Buyer to permit such participation.

(e) **LIMITATION OF LIABILITY.** EXCEPT TO THE EXTENT INCLUDED IN (I) THE DAILY DELAY DAMAGES, REPLACEMENT ENERGY LIQUIDATED DAMAGES, CUMULATIVE ADS DEVIATION LIQUIDATED DAMAGES, OR ANY OTHER LIQUIDATED DAMAGES, (II) INDEMNIFICATION OBLIGATIONS, AND (III) OTHER SPECIFIC CHARGES EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY HEREUNDER SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF A PARTY'S PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT, WHETHER BASED ON OR CLAIMED UNDER CONTRACT, TORT (INCLUDING SUCH PARTY'S OWN NEGLIGENCE) OR ANY OTHER THEORY AT LAW OR IN EQUITY, PROVIDED, HOWEVER, THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SELLER, OR ANY OF SELLER'S OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS OF ANY TIER.

Section 14.18 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect, provided that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

Section 14.19 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective directors, officers, employees, representatives and agents, as a condition to receiving confidential information hereunder, to keep confidential, except as required by applicable laws: (i) all documents, data, drawings, studies, projections, plans and other written information that relate to economic benefits to, or amounts payable by, either Party under this Agreement, and (ii) documents that are clearly marked "Confidential" at the time a Party shares such information with the other Party ((i) and (ii), the "**Confidential Information**"). The provisions of this Section 14.19 shall survive and shall continue to be binding upon the Parties for period of one (1) year following the date of termination of this Agreement. Notwithstanding the foregoing, information shall not be considered Confidential Information which (A) is disclosed with the prior written consent of the originating Party, (B) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (C) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (D) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Either Party may, without violating this Section 14.19, disclose matters that are made confidential by this Agreement:

(i) To its counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, actual or prospective co-owners, investors, lenders, underwriters, contractors, suppliers, and others involved in construction, operation, and financing transactions and arrangements for a Party or its subsidiaries, Affiliates, or parent;

(ii) To Governmental Authorities and parties involved in any proceeding in which either Party is seeking a Permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; to Governmental Authorities or the public as required by any applicable law, regulation, order, rule, ruling or other Requirement of Law, including oral questions, discovery requests, subpoenas, civil investigations or similar processes and laws or regulations requiring disclosure of financial information, information material to financial matters, and filing of financial reports; and

(iii) To WREGIS in accordance with WREGIS Operating Rules.

(c) If a Party is requested or required, pursuant to any applicable law, regulation, order, rule, ruling or other Requirement of Law, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice to the other Party of such request or requirement so that, at such other Party's expense, such other Party can seek a timely protective order or other appropriate remedy concerning such disclosure.

(d) Notwithstanding the foregoing or any other provision of this Agreement, Buyer may record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement, including the Development Security, and the Performance Security, and the rights, Liens and priorities of Buyer with respect to such credit support.

(e) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer is subject to disclosure as required by the California Public Records Act, Cal. Govt. Code §§ 6250, *et. seq.* ("**CPRA**"), and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950, *et. seq.* ("**Brown Act**"). Confidential Information of Seller provided to Buyer pursuant to this Agreement will become the property of Buyer and Seller acknowledges that Buyer shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any claims or causes of action whatsoever resulting from or arising out of Buyer's copying or releasing to a third party any Confidential Information of Seller pursuant to the CPRA or Brown Act.

(f) If Buyer receives a CPRA request for Confidential Information of Seller, and Buyer determines that such Confidential Information is subject to disclosure under the CPRA, then Buyer will notify Seller of the request and its intent to disclose the documents. Buyer will comply with the disclosure requirements of the CPRA, including with respect to the release of documents, unless Seller timely obtains a court order prohibiting such release.

(g) Each Party acknowledges that any disclosure or misappropriation of Confidential Information by such Party in violation of this Agreement could cause the other Party or their Affiliates irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Therefore, each Party agrees that the non-breaching Party shall have the right to apply to any court of competent jurisdiction for a restraining order or an injunction restraining or enjoining any breach or threatened breach of this Agreement and for any other equitable relief that such non-breaching Party deems appropriate. This right shall be in addition to any other remedy available to the Parties in law or equity, subject to the limitations set forth in Section 14.17(e).

Section 14.20 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 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).

Section 14.21 No Dedication of Facilities. Any undertaking by one Party to the other Party under any provisions of this Agreement shall not constitute the dedication of the Facility or any portion thereof of either Party to the public or to the other Party or any other Person, and it is understood and agreed that any such undertaking by either Party shall cease upon the termination of such Party’s obligations under this Agreement.

Section 14.22 Service Contract. The Parties agree that this Agreement is intended to be a “service contract” within the meaning of Section 7701(e) of the Code.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each Party was represented by legal counsel during the negotiation and execution of this Agreement and the Parties have executed this Agreement as of the dates set forth below effective as of the Effective Date.

THE CITY OF RIVERSIDE

Date: _____ By: _____
Al Zelinka
City Manager

Approved as to legal form:

By: *Susan Wilson*
Susan Wilson
Assistant City Attorney

Certified as to availability of funds:

By: *[Signature]*
Edward Enriquez
Chief Financial Officer

CAMINO SOLAR, LLC

By: AVANGRID RENEWABLES, LLC, Managing Member

LEGAL
[Signature]

By: _____
Alejandro de Hoz
Authorized Representative

By: *[Signature]*
Steve Krump
Authorized Representative

IN WITNESS WHEREOF, each Party was represented by legal counsel during the negotiation and execution of this Agreement and the Parties have executed this Agreement as of the dates set forth below effective as of the Effective Date.

THE CITY OF RIVERSIDE

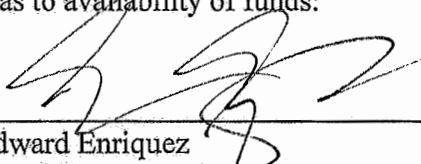
Date: _____

By: _____
Al Zelinka
City Manager

Approved as to legal form:

By: _____
Susan Wilson
Assistant City Attorney

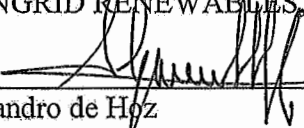
Certified as to availability of funds:

By: _____

Edward Enriquez
Chief Financial Officer

CAMINO SOLAR, LLC

By: AVANGRID RENEWABLES, LLC, Managing Member



By: _____

Alejandro de Hoz
Authorized Representative

By: _____
Steve Krump
Authorized Representative

APPENDIX A

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

CONTRACT PRICE

- 1. Payment for Startup and Test Energy.** Subject to the limitations in Section 3.3(a), Buyer shall purchase Startup and Test Energy and all associated Environmental Attributes and Capacity Rights for an aggregate price equal to seventy-five percent (75%) of the Contract Price per MWh set forth below in (2) – “Payment for PV Metered Output.” All Startup and Test Energy shall be scheduled in accordance with the Scheduling Procedures.
- 2. Payment for Facility Metered Output.** Commencing on the Commercial Operation Date, Buyer shall purchase Facility Metered Output (other than Excess Energy) and associated Environmental Attributes, and Capacity Rights pursuant to Section 11.1(a) for an aggregate price equal to \$27.70 per MWh, as may be adjusted in accordance with the terms of the Agreement.
- 3. Payment for Excess Energy.** Buyer shall pay Seller for all Excess Energy and associated Environmental Attributes and Capacity Rights for an aggregate price equal to fifty percent (50%) of the then-applicable price per MWh for PV Metered Output, as such price may be adjusted in accordance with the Agreement.

APPENDIX B

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

FACILITY DESCRIPTION AND MILESTONE SCHEDULE

ARTICLE I. FACILITY DESCRIPTION

- | | |
|---|---|
| 1. Name of Facility: | Solar photovoltaic powered electric generating facility combined with a battery energy storage system, together known as the “Camino Project” |
| 2. Facility Site: | Kern County, California

The Camino Project site is located approximately 10 miles west of the area of Rosamond, Kern County, California. |
| 3. Generator Owner*: | Camino Solar, LLC |
| 4. Generator Operator*: | Camino Solar, LLC, or its Affiliate |
| 5. Equipment: | |
| (a) Type of Facility: | Photovoltaic solar generation and battery energy storage system |
| (b) PV System Contract Capacity: | 44 MW-ac at the PV System Facility |
| (c) BESS Contract Capacity: | 11 MW-ac at the BESS Facility |
| 6. Target Commercial Operation Date: | May 1, 2022 |
| 7. Outside Commercial Operation Date: | October 31, 2022 |
| 8. Generation limit at the Point of Delivery: | 54.28 MW-ac |

ARTICLE II. MILESTONE SCHEDULE

Note - a "" designates a Key Milestone.
Shaded items are complete as of the Effective Date.*

	Milestone Date	Milestone Description
1.	December 1, 2019	Draft Environmental Impact Report complete
2.	November 1, 2019	Execution of Large Generator Interconnection Agreement between CAISO and Southern California Edison*
3.	June 30, 2020	Final Notice of Determination under CEQA and NEPA*
4.	August 1, 2021	Site mobilization*
5.	March 1, 2022	Commencement of start-up activities
6.	April 1, 2022	Initial synchronization of the Facility
7.	May 1, 2022	Guaranteed Commercial Operation Date*

APPENDIX C

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

**BUYER AND SELLER BILLING, NOTIFICATION AND
SCHEDULING CONTACT INFORMATION**

1. Authorized Representative. Correspondence pursuant to Section 14.1 shall be transmitted to the following addresses:

1.1 If to Buyer:

Public Utilities General Manager
Riverside Public Utilities
3901 Orange Street
Riverside, CA 92501
Phone: 951-826-5504
Facsimile: 951-826-2450

With a copy to:

Utilities Power Resources Manager, Contracts and Projects
Riverside Public Utilities
3435 Fourteenth Street
Riverside, CA 92501
Phone: 951-826-8505
Facsimile: 951-715-3563

And an electronic copy to:

SWilson@riversideca.gov
Attn: Assistant City Attorney

Or, if sent electronically under Section 4.4, send to all the emails listed below:

TCorbin@riversideca.gov
DEGarcia@riversideca.gov
NXu@riversideca.gov
JMayne@riversideca.gov

1.2 If to Seller:

Camino Solar, LLC
Attn: Contract Administration
1125 NW Couch Street, Suite 700
Portland, OR 97209
Phone: 503-796-7034
Facsimile: 503-796-6907
Email: contracts.admin@avangrid.com

With copies to:

Camino Solar, LLC
Attn: Asset Manager, Alex Telegin
1125 NW Couch St., Ste. 700
Portland, OR 97209
Email: Alex.Telegin@avangrid.com
Phone: 503-478-6357

Camino Solar, LLC
Attn: General Counsel, Ben Lackey
1125 NW Couch St., Ste. 700
Portland, OR 97209
Email: Benjamin.Lackey@avangrid.com
Phone: 503-796-7127

2. Billings and payments pursuant to Section 6.1 and Appendix A shall be transmitted to the following addresses:

- 2.1 If Billing to Buyer:

Power Settlements
Riverside Public Utilities
3435 Fourteenth Street
Riverside, CA 92501
Phone: 951-826-8515/8516
Facsimile: 951-715-3563

Or, if sent electronically, under Section 4.4, send to the email listed below:

Settlements@riversideca.gov

- 2.2 If Payment to Buyer:

Power Settlements
Riverside Public Utilities
3435 Fourteenth Street
Riverside, CA 92501
Phone: 951-826-8515/8516

Facsimile: 951-715-3563

Or, if sent electronically, under Section 4.4, send to the email listed below:

Settlements@riversideca.gov

2.3 If Billing to Seller:

Attn: Settlements
Phone: 503-796-6959 or 503-796-7150
Facsimile: 503-796-6905
Email: IBR_PWR_Settlements@avangrid.com

2.4 If Payment to Seller:

Attn: Settlements
Phone: 503-796-6959 or 503-796-7150
Facsimile: 503-796-6905
Email: IBR_PWR_Settlements@avangrid.com

3. All notices (other than scheduling notices) required under the Agreement shall be sent pursuant to Section 14.2, postage prepaid, to the address specified below:

If to Buyer:

Public Utilities Assistant General Manager, ROSA
Riverside Public Utilities
3435 Fourteenth Street
Riverside, CA 92501
Phone: 951-826-5914
Facsimile: 951-715-3563

With a copy to:

Utilities Power Resources Manager, Contracts and Projects
Riverside Public Utilities
3435 Fourteenth Street
Riverside, CA 92501
Phone: 951-826-8505
Facsimile: 951-715-3563

And an electronic copy to:

SWilson@riversideca.gov
Attn: Assistant City Attorney

Or, if sent electronically, under Section 4.4, send to all the emails listed below:

DEGarcia@riversideca.gov
NXu@riversideca.gov
JMayne@riversideca.gov

If to Seller:

Camino Solar, LLC
Attn: Contract Administration
1125 NW Couch Street, Suite 700
Portland, OR 97209

Phone: 503-796-7034
Facsimile: 503-796-6907
Email: contracts.admin@avangrid.com

With a copy to:

Attn: Alex Telegin, Asset Manager
1125 NW Couch St., Ste. 700
Portland, OR 97209
Email: Alex.Telegin@avangrid.com

4. Following the achievement of Commercial Operation, and throughout the Delivery Term, all notices related to scheduling of the Facility shall be sent to the following address:

If to Buyer:

Real Time Desk
Telephone: 951-715-3519
951-715-3520 (backup)

And electronically to the email listed below:

marketoperations@rvsdpower.org

If to Seller:

Attn: Juan Cartagena
Phone: 503-796-7139 or 503-796-7150
Email: presched.wind@avangrid.com

With a copy to:

Attn: Alex Telegin, Asset Manager

1125 NW Couch St., Ste. 700
Portland, OR 97209
Email: Alex.Telegin@avangrid.com

APPENDIX D
TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC
FORM OF ATTESTATION

_____ (Seller) Environmental Attribute Attestation and Bill of Sale

_____ (“Seller”) hereby sells, transfers and delivers to the City of Riverside (“Buyer”) the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation from the Facility described below:

Facility name and location:

Fuel Type:

Capacity (MW): _____ Operational Date:

As applicable: CEC Reg. no. _____ Energy Admin. ID no. _____ Q.F. ID no. _____

<u>Dates</u>	<u>MWhrs generated</u>
_____ 20__	_____
_____ 20__	_____
_____ 20__	_____

in the amount of one Environmental Attribute or its equivalent for each megawatt hour generated.

Seller further attests, warrants and represents as follows:

- i) the information provided herein is true and correct;
- ii) its sale to Buyer is its one and only sale of the Environmental Attributes and associated Environmental Attribute Reporting Rights referenced herein;
- iii) the Facility generated and delivered to the grid the Energy in the amount indicated as undifferentiated Energy; and
- iv) Seller owns the Facility and each of the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the indicated Energy for delivery to the grid have been generated and sold by the Facility.

This serves as a bill of sale, transferring from Seller to Buyer all of Seller's right, title and interest in and to the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the Energy for delivery to the grid.

Contact Person: _____ tel:

APPENDIX E

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

SALE LEASEBACK REQUIREMENTS

If Seller enters into a Sale Leaseback Transaction, then, with respect to the Lease arising thereunder, Seller and the Lessor thereunder shall agree in writing with Buyer to the following:

(a) Performance of Lease Obligations. Seller shall at all times keep, perform, observe and comply with, or cause to be kept, performed, observed and complied with, all material covenants, agreements, conditions and other provisions required to be kept, performed, observed and complied with by or on behalf of Seller from time to time pursuant to the Lease, and Seller shall not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, would reasonably be expected to impair the rights of Seller under the Lease, or could be grounds for the Lessor to terminate the Lease.

(b) Notice of Default. Seller shall give Buyer immediate notice of (i) any default or of any event which, with the giving of notice or passage of time, or both, would become a default under the Lease or of the receipt by Seller of any notice from the Lessor thereof, or (ii) the commencement or threat of any action or proceeding or arbitration pertaining to the Lease. Buyer, at its option, may take any action (but shall not be obligated to take any action) from time to time deemed necessary or desirable by Buyer to prevent or cure, in whole or in part, any default by Seller under the Lease. Seller shall deliver to Buyer, promptly following service or delivery thereof on, to or by Seller, a copy of each petition, summons, complaint, notice of motion, order to show cause and other pleading or paper, however designated, which shall be served or delivered in connection with any such action, proceeding or arbitration.

(c) Lessor Bankruptcy. In the event of the termination, rejection, or disaffirmance by Lessor (or by any receiver, trustee, custodian, or other party that succeeds to the rights of the Lessor) under the Lease pursuant to the Bankruptcy Code (U.S.C. §§ 101 *et seq.*), Seller shall cooperate and work in good faith with Buyer to exercise Seller's rights under Section 365 of the Bankruptcy Code (including, without limitation, the election available pursuant to Section 365(h) of the Bankruptcy Code, and any successor provision) in a manner consistent with and in furtherance of the purpose of the Agreement and Buyer's interests in the Agreement (by which Seller acknowledges the importance of the Lease as security). Without limiting the generality of the foregoing sentence, Seller shall not, without Buyer's prior written consent, which shall not be unreasonably withheld, elect to treat the Lease or the leasehold estate created thereby as terminated under Section 365 of the Bankruptcy Code, after rejection or disaffirmance of the Lease by the Lessor (whether as debtor in possession or otherwise) or by any trustee of the Lessor, and any such election made without such consent shall be void at inception and of no force or effect. At the

request of Buyer, Seller will join in any election made by Buyer under the Bankruptcy Code and will take no action in contravention of the rights granted to Buyer pursuant this Section (c). In the event there is a termination, rejection, or disaffirmance by the Lessor (whether as debtor in possession or otherwise) or by any trustee of the Lessor pursuant to the Bankruptcy Code and, Seller elects, with Buyer's consent, to have Seller remain in possession under any legal right Seller may have to occupy the property pursuant to the Lease, then Seller shall remain in such possession and shall perform all acts necessary for Seller to retain its right to remain in such possession, whether such acts are required under the then existing terms and provisions of the Lease or otherwise.

(d) Seller Bankruptcy. In the event that a petition under the Bankruptcy Code shall be filed by or against Seller and Seller or any trustee of Seller shall decide to reject or disaffirm the Lease pursuant to the Bankruptcy Code (or allow the same), Seller shall give Buyer at least ten (10) days prior notice of the date on which application shall be made to the court for authority to reject or disaffirm the Lease or the Lease will be otherwise rejected. Buyer shall have the right, but not the obligation, to serve upon Seller or such trustee within such ten (10) day period a notice stating that (i) Buyer demands that Seller (whether as debtor in possession or otherwise) or such trustee assume and assign the Lease to Buyer pursuant to the Bankruptcy Code, and (ii) Buyer covenants to cure, or to provide adequate assurance of prompt cure of, all defaults (except defaults of the type specified in Section 365(b)(2) of the Bankruptcy Code) and to provide adequate assurance of future performance under the Lease. In the event that Buyer serves any such notice as provided above, Seller (whether as debtor in possession or otherwise) shall not seek to reject or disaffirm the Lease and Seller (whether as debtor in possession or otherwise).

(e) Default Cure (non-bankruptcy). In the event of monetary default under the Lease other than in connection with a bankruptcy filing by or against Seller, upon any payment by Buyer to cure any default of Seller, as lessee thereunder, and thereby to prevent termination of the Lease or the exercise of any other remedy of the Lessor thereunder arising out of such default, Seller, within ten (10) days following receipt of notice from Buyer that it made such payment, shall pay the amount of such payment to Buyer plus interest accruing thereon at the Interest Rate, from and including the date of the payment by Buyer to cure such default to but excluding the date of such payment by the Seller.

(f) Memorandum. A memorandum of the Lease shall be recorded in the applicable county.

APPENDIX F
TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC
INSURANCE

I. GENERAL REQUIREMENTS

With respect to all of the insurance required herein other than Builders' Risk, no later than thirty (30) days after the date of the Effective Date, and with respect to the Builders' Risk policy, no later than thirty (30) days prior to the start of construction of the Facility, Seller shall furnish Buyer evidence of coverage from insurers acceptable to Buyer and in a form acceptable to Buyer's Risk Manager. Such insurance shall be maintained by Seller at Seller's sole cost and expense.

Such insurance shall not limit or qualify the liabilities and obligations of Seller assumed under this Agreement. Buyer shall not by reason of its inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

Any insurance carried by Buyer which may be applicable shall be deemed to be excess insurance and Seller's insurance is primary for all purposes despite any conflicting provision in Seller's policies to the contrary.

Said evidence of insurance shall contain a provision that the policy cannot be canceled or reduced in coverage or amount without first giving thirty (30) days prior notice thereof (ten (10) days for non-payment of premium) to the City of Riverside.

Should any portion of the required insurance be on a "Claims Made" policy, Seller shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which Buyer may immediately terminate or suspend the Agreement.

Seller shall be responsible for all Major Subcontractors' compliance with the insurance requirements set forth herein, and shall be responsible for ensuring that all other Subcontractors obtain and maintain, throughout the performance of any work, types of insurance with limits and terms that are normal and customary for the industry and types of services being provided.

II. SPECIFIC COVERAGES REQUIRED

A. Commercial Automobile Liability

Seller shall provide Commercial Automobile Liability insurance which shall include coverage for liability arising out of the use of owned, non-owned, and hired vehicles for performance of the work as required to be licensed under the California or any other applicable state vehicle code. The Commercial Automobile Liability insurance shall have not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and shall apply to all operations of Seller.

The Commercial Automobile Liability policy shall include each of Buyer and its members, officers, agents, and employees as additional insureds with Seller, and shall insure against liability for death, bodily injury, or property damage resulting from the performance of this Agreement. The form of evidence of insurance shall be a Buyer's Additional Insured Endorsement or policy acceptable to Buyer's Risk Management Section.

B. Commercial General Liability

Seller shall provide Commercial General Liability insurance on an occurrence basis ISO GL form or equivalent with Blanket Contractual Liability, Independent Contractors, Broad Form Property Damage, Premises and Operations, Products and Completed Operations, Fire Legal Liability and Personal Injury coverages included, with limits of liability not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and in the aggregate. The limits of liability are to be specific for this Agreement. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such coverage shall be on an endorsement to the policy acceptable to the Buyer's Risk Management Section, and shall provide for the following:

1. Include Buyer and its members, officers, agents, and employees as additional insureds with the Named Insured for the activities and operations under this Agreement.
2. Severability-of-Interest or Cross-Liability Clause such as: "The policy to which this endorsement is attached shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the company's liability."
3. A description of the coverages included under the policy.

C. Excess Liability

Seller may use an Umbrella or Excess Liability Coverage to meet coverage limits specified in this Agreement. Seller shall require the carrier for Excess Liability to properly schedule and to identify the underlying policies as provided for Buyer on an endorsement to the policy acceptable to Buyer's Risk Management Section. Such policy shall include, as appropriate, coverage for Commercial General Liability, Commercial Automobile Liability, Employer's Liability, or other applicable insurance coverages.

D. Workers' Compensation/Employer's Liability Insurance

Seller shall provide Workers' Compensation insurance covering all of Seller's employees in accordance with the laws of any state in which the work is to be performed and including Employer's Liability insurance and a Waiver of Subrogation in favor of Buyer. The limit for Employer's Liability coverage shall be not less than One Million Dollars (\$1,000,000) each accident and shall be a separate policy if not included with Workers' Compensation coverage. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such insurance shall be in the form of a Buyer Special Endorsement of insurance or on an endorsement to the policy acceptable to Buyer's Risk Management Section. Workers' Compensation/Employer's Liability exposure may be self-insured provided that Buyer is furnished with a copy of the certificate issued by the state authorizing Seller to self-insure. Seller shall notify Buyer's Risk Management Section by receipted delivery as soon as possible of the state withdrawing authority to self-insure.

E. Builders' Risk

Builder's Risk insurance shall be of the "all risk" type, shall be written in completed value form, and shall protect Seller against risks of damage to buildings, structures, and materials and equipment that constitute part of the Facility, whether on site or in transit, unless transit is covered under a separate policy, including off-site storage. The amount of such insurance shall be not less than the insurable value of the work at completion. The Builder's Risk insurance shall provide for losses to be payable to Seller. The Builders' Risk policy shall insure against all risks of direct physical loss or damage to property from any cause including testing, ensuing loss or resulting damage, commissioning, earthquake and flood. Earthquake and flood insurance may be sublimited with limits acceptable to Buyer and Seller, such acceptance not to be unreasonably withheld. Seller shall provide evidence satisfactory to Buyer's Risk Manager demonstrating that the date of expiration of the Builders' Risk policy shall occur concurrently with, or subsequent to, the date upon which the Property All Risk policy required in Section II(F) is in full force and effect. Earthquake and flood insurance may be sublimited with limits based on commercially reasonable efforts that would be acceptable to Buyer, such acceptance not to be unreasonably withheld.

F. Property All Risk Insurance

Seller shall procure and maintain or cause to be procured and maintained an All Risk Physical Damage policy to insure the full replacement value of the property located at Facility as described in this Agreement. The policy shall include coverage for boiler and machinery breakdown, earthquake, flood, expediting expense, extra expense, Business Interruption, ensuing loss from faulty workmanship, faulty materials, and/or faulty design. Earthquake and flood may be sublimited with limits acceptable to Buyer and Seller, such acceptance not to be unreasonably withheld. This policy shall incept as of the Commercial Operation Date. Earthquake and flood insurance may be sublimited with limits based on commercially reasonable efforts that would be acceptable to Buyer, such acceptance not to be unreasonably withheld.

G. Pollution Remediation Legal Liability Insurance

Seller shall provide Pollution Remediation Legal Liability insurance, which shall provide coverage with limits of liability not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and in the aggregate.

APPENDIX G

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

ANNUAL CONTRACT QUANTITY

Contract Year	Annual Contract Quantity (MWh)
1	149,521
2	148,773
3	148,030
4	147,289
5	146,553
6	145,820
7	145,091
8	144,366
9	143,644
10	142,926
11	142,211
12	141,500
13	140,792
14	140,088
15	139,388

APPENDIX H

TO THE POWER PURCHASE AGREEMENT BETWEEN THE CITY OF RIVERSIDE AND CAMINO SOLAR, LLC

QUALITY ASSURANCE PROGRAM

Seller shall implement a Quality Assurance (“Q/A”) Program to ensure that the performance of the Facility fulfills the Requirements. The Q/A Program shall provide assurance that the Facility will comply with the Requirements and the manufacturers’ or suppliers’ requirements for successful operation of the Facility.

Quality at Seller

Seller believes that quality is the unit of measure for assessing fulfillment of project goals. A quality project meets or exceeds the contract requirements and accepted standards of professional and industry practice. Furthermore, high quality projects are those that address client and societal needs more successfully than “low” quality projects. While this may seem like a straightforward definition, the process to ensure quality is much more involved and includes quality management, quality planning, quality control, quality assurance, a quality system, and total quality management.

“Quality assurance” refers to a process that reduces the potential for error throughout the phases of a project. On projects with a Q/A Program, the chances of producing a poor quality deliverable are substantially reduced. Quality control procedures are an integral part of quality assurance. Historically, industry has used the term “quality control” to indicate a checking procedure for verifying the quality of deliverables. This checking commonly occurs at the end of the process, long after an error may have been made and compounded by subsequent work. While quality control checks at the end of a project are an essential exercise, scheduled periodic reviews at each phase of project conceptual and final design are integral to Seller’s Q/A Program. In addition, quality maintenance which meets or exceeds manufacturers’ or suppliers’ requirements and best industry practices must be an integral part of Seller’s Q/A Program.

The Quality Management Process

The surest way to achieve satisfactory quality is to adhere to a proven quality process. The term “quality” most accurately refers to a project’s ability to satisfy needs when considered as a whole and each part of the process meets or exceeds the standards of Prudent Utility Practices.

Seller's project management team is responsible for proactively planning and directing the quality of the work process, services, and deliverables. Seller's project management team targets the following areas to monitor quality:

- 1) A written Q/A Manual.
- 2) Independent engineering review of the entire project process, from design review through Commercial Operation.
- 3) A written maintenance manual for the Facility for the duration of the commercial operation that complies with the maintenance manuals of the manufacturers and suppliers from whom Seller has purchased equipment and/or material and best industry practices.

Q/A Manual

The idea of a Q/A manual is to incorporate quality assurance in all areas of project execution. Seller has found that quality needs to be institutionalized into the project process, not only in the budgeting process, but everywhere. For example, specific tasks and duties need to be allocated to specific individuals; roles and interface points need to be clearly defined; individual assignments need to be realistic; special attention needs to be paid to complex areas within projects; schedules need to be realistic and achievable; and lastly the work culture needs to be enjoyable and open so that employees are empowered to react quickly to symptoms of quality problems before they actually manifest.

Seller's quality program shall be documented in a Quality Assurance manual (the "Q/A Manual"). The form and the format of the Q/A Manual shall be developed by Seller, or its agent, but must comply with Prudent Utility Practices and follow manufacturers' and suppliers' recommendations. The content of the Q/A Manual shall provide written descriptions of policies, procedures and methodology to accomplish a quality project. Seller shall submit three (3) copies of the Q/A Manual within ninety (90) days after NTP to Buyer or Buyer's Authorized Representative. The Q/A Manual shall be kept current by Seller throughout the term of this Agreement through the submittal of revisions, as appropriate, by Seller to Buyer or Buyer's Authorized Representative.

The Q/A Manual shall describe the authority and the responsibility of the Persons in charge of the Q/A Program and inspection activities. Furthermore, it shall provide the plan and strategy for quality control and review during the construction period. The Q/A Manual shall strive, at a minimum, to define control procedures or methods to assure the following:

- (a) The design documents, drawings, specifications, Q/A procedures, records, inspection procedures and purchase documents are maintained to be current, accurate and in compliance with all applicable law.
- (b) The purchased materials, equipment and services comply with the Requirements.
- (c) The materials received at the site are inspected for compliance with specifications.
- (d) The subcontracted work is adequately inspected by third parties as necessary.

- (e) Proper methods are employed for the qualification of personnel who are performing work for the construction of the Facility.
- (f) Proper documentation, control and disposition of nonconforming equipment and materials is maintained.
- (g) Proper records are kept and available following project completion to ensure accurate documentation of as-built conditions.
- (h) Detailed and complete plan for maintenance and operation during commercial operations consistent with manufacturers' and suppliers' recommendations and best industry practices.

Conceptual Design Review

Seller has a team of professionals who develop and review conceptual design. The team consists of specialists in land-use and planning, permitting, meteorology, engineering, construction, project management, and finance. A preliminary site plan is developed in order to assess the solar resource, project constructability, site access, cultural and biological impact, land use restrictions, and landowner requirements. At this stage, the site plan is reviewed, modified as necessary, and used to begin the permitting and public review process. The site plan may be further modified based on comments received during the permitting and public review process. Subsequent to this phase, final third-party engineering will commence.

Final Engineering Design

Third party engineering firms, licensed to practice in the state in which the project is to be constructed, will commence the detailed design necessary for the permitting and construction of the Facility. Each firm will have its own quality assurance and quality control procedures, however, Seller and a third-party independent engineer will review the final work products to ensure conformance with this Agreement. When Seller and third-party independent engineer have completed a multiple phase review process, and all comments have been addressed, the design is considered final and ready for construction permitting.

During the final engineering design process, geotechnical studies will be finalized as needed. If existing subsurface conditions are different from anticipated, the design may be modified to account for any variances. Any changes of this nature will be documented in as-built design drawings and approved in advance by Seller.

Quality Assurance at the Construction Site

Seller will hire a third-party general contractor to construct the project. The contractor will be required to have a quality assurance program implemented by its own staff, and utilizing third party inspectors as necessary. The primary areas of focus are assuring conformance of construction to design drawings, conformance of materials to specifications, and to ensure prudent industry standards and best practices are being utilized. The contractor will be required to provide third party inspection and testing as necessary. The contractor will also be required to maintain a set of drawings during the course of construction, which will be used to document any changes to

the design documents. Proposed project changes would be reviewed and approved in the field by Seller's construction management team prior to implementation.

The contractor will provide the required oversight and training of its installation crew to ensure the construction of the Facility meets its quality guidelines. As necessary, equipment suppliers will have technical advisors on site to inspect, advise, and sign off on installation means and methods. In addition, Seller will have its own construction management team on site consisting of a construction manager and quality inspectors who will observe performance of all areas of the work and ensure compliance with design documents and Q/A procedures. The contractor and appropriate equipment suppliers will commission the Facility per prudent industry standards, equipment specifications, and utility requirements. Prior to construction completion, a punchlist will be developed by the contractor, Seller, Seller's representatives, and third-party independent engineer. This punchlist is maintained by the contractor, and is signed off by Seller upon completion of all punchlist items. Lastly, the independent engineer will perform periodic audits during construction to oversee critical items, confirm construction progress, and provide independent reporting and assessments to the project stakeholders.

Following completion of the project, the contractor will be required to provide to Seller as-built design drawings, record of all testing documentation, and final permit approvals. This documentation will be maintained at the project site during operations of the Facility.

Quality Assurance During Commercial Operations

Seller shall supply a Quality Assurance Plan for Buyer's review and approval no less than sixty (60) days prior to the anticipated Commercial Operation Date. Upon receipt of Quality Assurance Plan, Buyer shall provide written approval, such approval not to be unreasonably withheld, or comment within ten (10) Business Days.

APPENDIX I

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

PERMITS

*Shaded items have been obtained as of the Effective Date.

Permits	Notes/Status/Agency
CUP/Amendment	County of Kern
CEQA Clearance – EIR	County of Kern
Right-of-Way Grant	Bureau of Land Management
Streambed Alteration Agreement (if applicable)	California Department of Fish and Wildlife
RWQCB 401 Certification (if applicable)	Lahontan Regional Water Quality Control Board
General Permit for Construction (SWPPP)	Issuance of Waste Discharge Identification Number (WDID) by State Water Resources Control Board
Grading and Building Permits	Issued by Kern County
Dust Control Plan	Approval by Eastern Kern Air Pollution Control District

APPENDIX J-1

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

**BESS PERFORMANCE GUARANTEES; MONTHLY PV SYSTEM AVAILABILITY
GUARANTEE**

- A. Round Trip Efficiency Performance Guarantee shall (i) adjust on an annual basis per Schedule 1 and (ii) adjust on a monthly basis based on the BESS average state of charge per Schedule 2.

Schedule 1 - Base RTE

Contract Year	Round Trip Efficiency Level (per month)
1	86.5%
2	86.3%
3	86.1%
4	85.9%
5	85.7%
6	85.5%
7	85.3%
8	85.1%
9	84.9%
10	84.7%
11	84.5%
12	84.3%
13	84.1%
14	83.9%
15	83.7%
Average	85.1%

Schedule 2 - State-of-Charge Adjustment

The Round Trip Efficiency Performance Guarantee shall be adjusted based on the monthly average SOC of the BESS (as measured by the BMS). SOC Adjustment A will be applied to determine whether or not Seller has complied with the Round Trip Efficiency Performance Guarantee for a given month. SOC Adjustment B will be applied to the calculation of the Round Trip Efficiency Adjustment Factor pursuant to Appendix J-2 (B).

State-of-Charge	SOC Adjustment A	SOC Adjustment B
	Adjustment for calculation of compliance with Round Trip Efficiency Guarantee	Adjustment for calculation of Round Trip Efficiency Adjustment Factor pursuant to Appendix J-2 (B)
0%	0.00%	0.00%
5%	0.30%	0.00%
10%	0.60%	0.00%
15%	0.90%	0.00%
20%	1.20%	0.00%
25%	1.50%	0.00%
30%	1.80%	0.00%
35%	2.10%	0.00%
40%	2.40%	0.00%
45%	2.70%	0.00%
50%	3.00%	0.00%
55%	3.30%	0.00%
60%	3.60%	0.67%
65%	3.90%	1.33%
70%	4.20%	2.00%
75%	4.50%	2.67%
80%	4.80%	3.33%
85%	5.10%	4.00%
90%	5.40%	4.67%
95%	5.70%	5.33%
100%	6.00%	6.00%

B. BESS Degradation Rate

Earlier Of:		
Contract Year	Cycles After Commissioning	Guaranteed Dischargeable Energy (MWh)
1	360	41.54
2	720	40.83
3	1080	40.13
4	1440	39.42
5	1800	38.72
6	2160	58.78
7	2520	57.73
8	2880	56.67

9	3240	55.62
10	3600	54.56
11	3960	39.78
12	4320	39.07
13	4680	38.37
14	5040	37.66
15	5400	36.96

B. BESS Performance Guarantee Calculations

For purposes of this Appendix J-1, the following terms shall have the respective meanings ascribed to them:

- “**Energy In**” or “**EI_{ijk}**” means BESS Metered Input, in kWhs, during interval *i* of day *j* in month *k*.
- “**Energy Out**” or “**EO_{ijk}**” means BESS Metered Output, in kWhs, during interval *i* of day *j* in month *k*.
- “**Round-Trip Dispatch Discharge Signal**” or “**RTDDS_{ijk}**” means kWh energy that the CAISO instructs to be discharged from the BESS during interval *i* of day *j* in month *k*.
- “**Round-Trip Dispatch Charge Signal**” or “**RTDCS_{ijk}**” means kWh energy that the CAISO instructs to be charged to the BESS during interval *i* of day *j* in month *k*.
- “**Cycles**” means the number of BESS cycles (charge/discharge, including any fractional component) from time point A to time point B, as tracked by the BESS control software system.
- “**State-of-Charge**” or “**SOC**” means the average state of charge of the BESS during the course of month *k*, as measured by the BMS.
- “**MW Out of Service**” or “**MWout_{ijk}**” means the capacity taken out of service during interval *i* of day *j* in month *k* under an Outage Management System (OMS) ticket.
- “**SOMS**” means the annual sum of (de-rate adjusted) OMS tickets submitted to the CAISO, measured in total hours.

Then, for the specified time periods defined below, the following methods shall be used to track, measure and verify the applicable metrics for determining Seller’s satisfaction of the BESS Performance Guarantees:

- (i) Dischargeable Energy (DE) – calculated on a monthly basis for month *k* and compared to the Guaranteed Dischargeable Energy (GDE) amount for such Contract Year or cumulative number of Cycles, as applicable, shown in Part B of this Appendix J-1 (“**Part B**”):

$$DE_k = \frac{\sum_{i,j} EO_{i,j,k}}{Cycles} \geq MWh \text{ GDE values in Part B}$$

- (ii) Round Trip Efficiency (RTE) – calculated on a monthly basis for month k and compared to a fixed constant:

$$RTE_k = \frac{\sum_{i,j} EO_{i,j,k}}{\sum_{i,j} EI_{i,j,k}} \geq \text{Base RTE} - \text{SOC Adjustment A}$$

- (iii) Monthly BESS Availability – calculated on a monthly basis for month k and compared to a fixed constant:

$$SOMS_{k,y} = \sum_{ij} \left(\frac{MWout_{ijk}}{11} \right)$$

and

$$\text{Monthly BESS Availability} = \frac{TH_{k,y} - SOMS_{k,y}}{TH_{k,y}} \geq 0.85$$

where $SOMS_{k,y}$ represents the SOMS for the k^{th} month of the y^{th} contract year and $TH_{k,y}$ represents the total number of hours in the same corresponding month. The BESS Availability metric shall not be reduced for (i) any OMS tickets originated at the request of the Buyer to enable the Seller to perform replenishment improvements to the BESS, (ii) the unavailability of the PV Facility or (iii) Scheduled Outages agreed to by the Parties.

- (iv) Annual BESS Availability – calculated on a Contract Year basis and compared to a fixed constant:

$$SOMS_y = \sum_{ijk} \left(\frac{MWout_{ijk}}{11} \right)$$

and

$$\text{Annual BESS Availability} = \frac{8760 - SOMS_y}{8760} \geq 0.90$$

where $SOMS_y$ represents the SOMS for the y^{th} contract year, and where the 8760 annual hours shall be adjusted to 8784 hours during each leap year. The BESS

Availability metric shall not be reduced for (i) any OMS tickets originated at the request of the Buyer to enable the Seller to perform replenishment improvements to the BESS, (ii) the unavailability of the PV Facility or (iii) Scheduled Outages agreed to by the Parties.

- (v) Cumulative ADS Deviation (CADSD; includes both charging and discharging instructions) – calculated on a monthly basis for month k and compared to a fixed constant:

$$CADSD_k = \frac{\sum_{i,j} (|EO_{i,j,k} - RTDDS_{i,j,k}| + |EI_{i,j,k} - RTDCS_{i,j,k}|)}{\sum_{i,j} RTDDS_{i,j,k} + \sum_{i,j} RTDCS_{i,j,k}} \leq 0.05$$

C. Monthly PV System Availability Guarantee Calculations

Based on the anticipated need for 12.94 MW of PV System Energy to charge the BESS each day during each month, the following table sets forth the PV System availability required to satisfy such need as a function of the total expected PV System Energy generated (during HE11-HE14) each day during each month:

Month	Daily Expected PV System Energy (MW) (HE11-HE14)	PV System Energy Required for Daily BESS Charging (MW)	PV System Availability Requirement (%)
January	29.806	12.94	43.4%
February	34.116	12.94	37.9%
March	40.855	12.94	31.7%
April	40.425	12.94	32.0%
May	42.823	12.94	30.2%
June	44.117	12.94	29.3%
July	42.863	12.94	30.2%
August	43.887	12.94	29.5%
September	42.817	12.94	30.2%
October	37.258	12.94	34.7%
November	30.625	12.94	42.3%
December	26.137	12.94	49.5%

For each day (the j^{th} day in the applicable k^{th} month), the availability of the PV System (*PVSA*) shall be calculated as follows:

$$PVSA_{jk} = \frac{\sum_{i=HE11 \text{ to } HE14} \min(APVSA_{ij}, PVSAR_{jk} \%)}{4}$$

where $APVSA$ represents the actual PV System availability for interval i , which shall be equal to the Availability Factor (AF) of the PV System (calculated in accordance with Appendix P), and $PVSAR$ represents the applicable PV System Availability Requirement, as forth in the table above.

Based on the foregoing calculations for each day j in month k , the average monthly availability of the PV System for month k (the “**Monthly PV System Availability**,” as represented below by $PVSA_k$) shall be calculated as follows and compared against the PV System Availability Requirement applicable to month k overall, as set forth in the table above (the “**Monthly PV System Availability Requirement**,” as represented below by $PVSAR_k$):

$$PVSA_k = \frac{\sum_{j=1 \text{ to } m} PVSA_{jk}}{m} \geq PVSAR_k$$

where m represents the number of days in month k .

APPENDIX J-2

TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC

REMEDY CALCULATIONS FOR FAILURE OF BESS PERFORMANCE
GUARANTEES AND MONTHLY PV SYSTEM AVAILABILITY GUARANTEE

- A. For purposes of determining the Adjusted BESS Capacity Price due to a failure of the Dischargeable Energy Performance Guarantee, the “*Dischargeable Energy Adjustment Factor*” shall be equal to the result of the following formula (where k represents the applicable month that such guarantee is not satisfied):

$$\frac{DE_k}{GDE_k}$$

- B. For purposes of determining the Adjusted BESS Capacity Price due to a failure of the Round-Trip Efficiency Performance Guarantee, the “*Round-Trip Efficiency Adjustment Factor*” shall be equal to the result of the following formula (where k represents the applicable month that such guarantee is not satisfied):

$$\frac{RTE_k}{\text{Base RTE} - \text{SOC Adjustment B}}$$

- C. For purposes of determining the Cumulative ADS Deviation Liquidated Damages due to a failure of the Cumulative ADS Deviation Performance Guarantee, the “*Cumulative ADS Deviation Liquidated Damages Calculation*” shall mean (where k represents the applicable month that such guarantee is not satisfied):

$$100 * (CADSD_k - 0.05) * [\$5,000]$$

- D. For purposes of determining the Adjusted BESS Capacity Price due to a failure of the Monthly PV System Availability Guarantee, the “*Monthly PV System Availability Adjustment Factor*” shall be equal to the result of the following formula (where k represents the applicable month that such guarantee is not satisfied):

$$\frac{PVSA_k}{PVSAR_k}$$

APPENDIX K

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

FORM OF LETTER OF CREDIT

**IRREVOCABLE AND UNCONDITIONAL, STANDBY
LETTER OF CREDIT NO. _____**

Applicant:

Beneficiary:

City of Riverside
Attn: Credit Manager

Amount:

Expiration Date:

Expiration Place:

Ladies and Gentlemen:

We hereby issue our Irrevocable and Unconditional Standby Letter of Credit in favor of the beneficiary by order and for the account of the applicant which is available at sight for USD \$XX,XXX,XXX by sight payment upon presentation to us at our office at **[bank's address]**,¹ of: (i) your written demand for payment containing the text of Exhibit I, (ii) your signed statement containing the text of Exhibit II and, (iii) the original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings) (the "Documents"). Drawings may be presented via fax to _____. The original Letter of Credit and documents are to be sent via overnight courier to our address indicated above.

A presentation under this Letter of Credit may be made only on a day, and during hours, in which such office is open for business, and payments can be effected via wire transfer (a "Business Day"). Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit

¹ Note to Issuer: The Letter of Credit must be payable in U.S. dollars within the continental U.S.

shall remain in full force and effect with respect to any continuing balance; *provided* that the Available Amount shall be reduced by the amount of each such drawing.

Upon presentation to us of your Documents in conformity with the foregoing, we will, on the third (3rd) succeeding Business Day after such presentation, irrevocably and without reserve or condition except as otherwise stated herein, make payment hereunder in the amount set forth in the demand. Payment shall be made to your order in the account at the bank designated by you in the demand in immediately available funds. We agree that if, on the Expiration Date, the office specified above is not open for business by virtue of an interruption of the nature described in the Uniform Customs Article 36, this Letter of Credit will be duly honored if the specified Documents are presented by you within thirty (30) days after such office is reopened for business.

Provided that the presentation on this Letter of Credit is made on or prior to the Expiration Date and the applicable Documents as set forth above conform to the requirements of this Letter of Credit, payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from the Applicant or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely a written order issued by a court, which order specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of the Applicant or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment.

We agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related Documents(s) referred to above with care so as to ascertain that on their face they appear to comply with the terms of this credit and that if such demand(s) and Document(s) on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s).

This Letter of Credit shall terminate upon the earliest to occur of (i) our receipt of a notice in the form of Exhibit IV hereto signed by an authorized officer of Beneficiary, accompanied by this Letter of Credit for cancellation, (ii) our close of business at our aforesaid office on the Expiration Date, or if the Expiration Date is not a Business Day, then on the next Business Day.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for one (1) year from the Expiration Date, or any future expiration date, unless at least thirty (30) calendar days prior to the Expiration Date (or any future expiration date), we send you notice by registered mail, return receipt requested or overnight courier at your address herein stated or such other address of which you notify us in advance in writing that we elect not to consider this Letter of Credit extended for any such additional period.

We may, in our sole discretion, increase or decrease the stated amount of this Letter of Credit, and the Expiration Date may be extended, by an amendment to this Letter of Credit in the form of Exhibit III signed by us. Any such amendment for decrease shall become effective only upon acceptance by your signature on a hard copy amendment.

You shall not be bound by any written or oral agreement of any type between us and the Applicant or any other person relating to this credit, whether now or hereafter existing.

We hereby engage with you that your demand(s) for payment in conformity with the terms of this Letter of Credit will be duly honored as set forth above. All fees and other costs associated with the issuance of and any drawing(s) against this Letter of Credit shall be for the account of the Applicant. All of the rights of the Beneficiary set forth above shall inure to the benefit of your successors by operation of law. In this connection, in the event of a drawing made by a party other than the Beneficiary, such drawing must be accompanied by the following signed certification and copy of document proving such successorship:

“The undersigned does hereby certify that [drawer] is the successor by operation of law to the City of Riverside, a beneficiary named in [name of bank] Letter of Credit No. _____.”

Except so far as otherwise expressly stated herein, this Letter of Credit is subject to the “Uniform Customs and Practices for Documentary Credits,” (2007 Revision) of the International Chamber of Commerce Publication No. 600 (the “Uniform Customs”). As to matters not governed by the Uniform Customs, this Letter of Credit shall be governed by and construed in accordance with the laws of the State of California. Any litigation arising out of, or relating to this Letter of Credit, shall be brought in a State or Federal court in the County of [_____] in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Exhibit I, II, III and IV hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as otherwise provided in this paragraph.

Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at the address referred to above, and shall specifically refer to this Letter of Credit no. _____.

Yours faithfully,

(name of issuing bank)

By _____
Title _____

Exhibit I
Demand for Payment

Re: Irrevocable and Unconditional Standby Letter of Credit

No. _____ Dated _____, 20__

To Whom It May Concern:

Demand is hereby made upon you for payment to us of \$ _____ by deposit to our account no. _____ at **insert name of bank**. This demand is made under, and is subject to and governed by, your Irrevocable and Unconditional Standby Letter of Credit No. ___ dated _____, 20__ in the amount of \$ _____ established by you in our favor for the account of _____ as the Applicant.

DATED: _____, 20__

THE CITY OF RIVERSIDE

By: _____
Name:
Title:

Exhibit II
Statement

Re: Irrevocable and Unconditional Standby Letter of Credit

No. _____ Dated _____, 20__

[Insert Bank Address]

To Whom It May Concern:

Reference is hereby made to your Irrevocable and Unconditional Standby Letter of Credit No. [_____] dated [_____] in the amount of \$[_____] established by you in our favor for the account of _____, as the Applicant.

We hereby certify to you that \$_____ is due, owing and unpaid to us by the Applicant in that certain [DESCRIBE AGREEMENT].

DATED: _____, 20 __

THE CITY OF RIVERSIDE

By: _____
Name:
Title:

Exhibit III
Amendment

Re: Irrevocable and Unconditional Standby Letter of Credit

No. _____ Dated _____, 20__

Beneficiary:

Applicant:

City of Riverside

[_____]

To Whom It May Concern:

The above referenced Irrevocable and Unconditional Standby Letter of Credit is hereby amended as follows: by **[increasing][decreasing][leaving unchanged]** (strike two) the stated amount by \$_____ to a new stated amount of \$_____ or by extending the Expiration Date to _____ from _____. All other terms and conditions of the Letter of Credit remain unchanged.

This amendment is effective only when accepted by the City of Riverside, below.

Dated: _____

Yours faithfully,

(name of issuing bank)

By: _____

Name: _____

Title: _____

ACCEPTED

The City of Riverside

By: _____

Name: _____

Title: _____

Date: _____

Exhibit IV
Surrender

Re: Irrevocable and Unconditional Standby Letter of Credit

No. _____ Dated _____, 20__

[Insert Bank Address]

Notice of Surrender of Letter of Credit

Date: _____

Attention: Letter of Credit Department

Ladies and Gentlemen:

We refer you to your above-mentioned Irrevocable and Unconditional Standby Letter of Credit (the "Letter of Credit"). The undersigned, an authorized signatory of the City of Riverside, hereby surrenders this Letter of Credit to you for cancellation as of the date set forth above. No payment is demanded of you under this Letter of Credit in connection with this surrender.

Very truly yours,

THE CITY OF RIVERSIDE

By _____

Title _____

APPENDIX L

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

COMMERCIAL OPERATIONS

In accordance with the terms of that certain Power Purchase Agreement dated as of _____, 201_ (“*Agreement*”) by and between the City of Riverside (“*Buyer*”) and Camino Solar, LLC (“*Seller*”), in order to determine achievement of Commercial Operation of the Facility, Seller shall demonstrate to Buyer that the Facility is operating and able to produce PV Metered Output, deliver Facility Metered Output to Buyer, and receive BESS Metered Input in accordance with the terms of the Agreement by delivery of a Certificate of Commercial Operation (the “*Certificate*”), signed by an authorized representative of Seller as to all of the items below, and which shall include a certificate in the form attached hereto of an Independent Engineer, licensed in the State of California, regarding the Facility’s ability to deliver Facility Metered Output and receive BESS Metered Input and confirming the items set forth therein. Any term used but not defined in the Certificate shall have the meaning set forth in the Agreement. The Certificate shall be submitted by Seller, along with reasonable documentation as may be requested by Buyer, and certify as to the following:

1. All solar panels comprising the Facility have been installed in accordance with the manufacturer’s specifications.
2. The electrical collection system related to the solar panels referenced in (1) above is complete, functional, and energized for the Facility.
3. Seller’s collector substation is complete and capable of delivering an as-available product.
4. The battery comprising the BESS has been installed in accordance with the manufacturer’s specifications.
5. Copies of any documentation provided by the manufacturer of the solar panels referenced in (1) above, or the battery referenced in (4) above, stating the solar panels or battery, as applicable, have been manufactured in accordance with such manufacturer’s specifications, including a copy of the full BESS specifications, have been provided to Buyer.
6. The Facility, as applicable, is operational and interconnected with the Point of Delivery and capable of delivering the Facility Metered Output and receiving the BESS Metered Input.

7. Construction of the Facility has been completed in accordance with the terms and conditions of this Agreement, and the Facility possesses all of the characteristics required by, and satisfies all of, the Requirements.

8. The Facility has successfully completed all testing required by Prudent Utility Practices, Southern California Edison, the CAISO, or any Requirement of Law, to be completed prior to full commercial operations, including, without limitation, operating the Facility for a period of not less than ten (10) consecutive days and delivering PV Metered Output up to the PV System Contract Capacity and BESS Metered Output up to the BESS Contract Capacity during such period to the Point of Delivery.

9. The BESS is capable of performing at a rate that results in the Discharging Energy equaling or exceeding 44 MWh, as measured at the Electric Metering Device at the BESS.

10. Seller has obtained all of the Permits required for the development, construction, operation and maintenance of the Facility, including those identified in Appendix I of the PPA, and all such Permits are final and effective.

11. Seller has obtained the Operating Insurance.

12. Seller has entered into an agreement providing for the operation and maintenance of the Facility with a Qualified Operator.

13. Buyer has received the Performance Security in a form reasonably acceptable to Buyer.

14. Seller has fully performed and discharged any liabilities, indebtedness, guarantees or other obligations in compliance with the definition of "Special Project Entity."

15. Seller has provided Seller's proof of registration with NERC for all applicable Function Types in the NERC Compliance Registry in accordance with the currently effective NERC Rules of Procedure.

16. Seller has provided Buyer's mapping of NERC registered Function Types in accordance with the currently-effective WECC Entity Function Mapping procedures.

17. Seller has provided and Buyer has found reasonably acceptable Seller's QA Program in accordance with Appendix H.

18. Buyer has received a copy of the CEC pre-certification of the Facility.

Upon reasonable notice and during regular business hours, Buyer's representative(s) may inspect the Facility and observe the testing associated with achievement of Commercial Operation, provided that such representative(s) of Buyer shall at all times comply with Seller's written instructions regarding safety and security while on the Facility Site.

INDEPENDENT ENGINEER CERTIFICATE

In accordance with the terms of that certain Power Purchase Agreement dated as of _____, 201_ (“*Agreement*”) by and between the City of Riverside (“*Buyer*”) and Camino Solar, LLC (“*Seller*”), in order determine achievement of Commercial Operation of the Facility, I, _____, an Independent Engineer, licensed in the State of California, certify the following regarding the Facility:

1. All solar panels comprising the Facility have been installed in accordance with the manufacturer’s specifications.
2. The electrical collection system related to the solar panels referenced in (1) above is complete, functional, and energized for the Facility.
3. Seller’s collector substation is complete and capable of delivering an as-available product.
4. The battery comprising the BESS has been installed in accordance with the manufacturer’s specifications.
5. The Facility, as applicable, is operational and interconnected with the Point of Delivery and capable of delivering the Facility Metered Output and receiving the BESS Metered Input.
6. Construction of the Facility has been completed in accordance with Prudent Utility Practices.
7. The Facility has successfully completed all testing required by Prudent Utility Practices, Southern California Edison or CAISO to be completed prior to full commercial operations, including, without limitation, operating the Facility for a period of not less than ten (10) consecutive days and delivering PV Metered Output up to the PV System Contract Capacity and BESS Metered Output up to the BESS Contract Capacity during such period to the Point of Delivery.

Signed,

Name:
Title:
Date:

APPENDIX M
TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC

FORM OF CONSENT AND AGREEMENT

[**Note:** In the event Seller elects to obtain financing or enter into a Sale Leaseback post Commercial Operation, this form will be revised accordingly by the mutual consent of the Parties.]

CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT (this “Consent”), dated as of _____, 20__, by and among the City of Riverside (“Buyer”), [_____] (in its capacity as collateral agent for the Facility Lenders under the Financing Agreement, as defined below, “Lender”) and Camino Solar, LLC, a Delaware limited liability company (“Seller”). Each of Buyer, Seller and Lender is referred to under this Agreement as a “Party” and together they are referred to as the “Parties.” Capitalized terms used but not defined herein shall have the meanings set forth in the PPA (as defined below).

RECITALS

A. [_____] (“Borrower”), an indirect owner of Seller, entered into a Financing Agreement with Lender, as administrative agent and collateral agent and certain other lenders party thereto, dated as of _____, 20__ (the “Financing Agreement”), under which Seller will finance the construction of an up to [_____] MW solar-powered electric generating facility (the “PV System”) and battery energy storage system (“BESS” and, together with the PV System, the “Facility” as further described in the PPA). Seller and Lender have also entered into a Guarantee and Security Agreement (the “Security Agreement”) under which Seller collaterally assigned its interest under the PPA to Lender as collateral for the credit facilities under the Financing Agreement and a deed of trust or mortgage under which Seller has granted to Lender a lien on the Facility to be recorded in Kern County, California (the “Financing Deed of Trust”). Additionally, [_____] (“Pledgor”) has entered into a Guarantee, Pledge and Security Agreement pursuant to which it has pledged to Lender all of the membership interests in Seller, to secure Borrower’s obligations under the Financing Agreement (the “Pledge Agreement” and, together with the Security Agreement and Financing Deed of Trust, the “Lender Collateral Documents”). On the “Term Conversion Date” (which for purposes of this Consent shall mean the date upon which the construction period security is released, the construction loan is converted to a term loan, the Lender Collateral Documents are terminated, and the remaining collateral security in the Facility is as described by Lender in Section 4.10 hereof), the only remaining

collateral security of the Lender securing the obligations of the Borrower under the Financing Agreement will be the membership interests in and any assets of the Pledgor and the Borrower, and there will be no remaining collateral security of the Lender in the Seller or its assets that secures the obligations of the Borrower under the Financing Agreement. A true and correct copy of each of the Lender Collateral Documents has been furnished to Buyer.

B. Buyer and Seller entered into that certain Power Purchase Agreement, dated as of [] (as may be amended, supplemented, or modified from time to time, the "PPA"), pursuant to which Seller will develop, finance, construct, own, and operate the Facility, and will, except as otherwise provided in the PPA, sell the Energy to Buyer.

C. Pursuant to Section 13.4 of the PPA, Seller has requested Buyer's consent to the assignment, pursuant to the Security Agreement, by Seller to Lender of Seller's interest under the PPA. In addition, this Consent is entered into in compliance with Section 14.6(d) of the PPA.

AGREEMENT

1. Assignment and Agreement.

1.1 Consent to Assignment. Buyer hereby consents to the collateral assignment to Lender pursuant to the Security Agreement of Seller's rights to and under the PPA, pursuant to the Financing Deed of Trust of Seller's interests in the Facility and pursuant to the Pledge Agreement of Pledgor's membership interests in Seller (together, the "Assigned Interests") as security for Borrower's obligations under the Financing Agreement. Subject to the terms and conditions of this Consent, Buyer agrees that in exercising its remedies, Lender may exercise Seller's rights under the PPA.

1.2 Notices: Right to Cure by Lender. Buyer shall deliver to Lender a copy of any notice delivered by Buyer to Seller pursuant to Section 13.1 of the PPA and shall give Lender the right to cure the relevant default during the cure period (if any) applicable to such default. Buyer shall not terminate or suspend its performance under the PPA until the expiration of any applicable cure period available to Seller under the PPA. Failure of Buyer to provide such notice to Lender shall not constitute a breach of the PPA or this Consent by Buyer, and Lender agrees that Buyer shall have no liability to Lender for such failure whatsoever; provided that no claim of default or termination of the PPA by Buyer shall be binding without such notice and the lapsing of the applicable periods set forth above. If Lender fails to cure a default within the applicable period, Buyer shall have all its rights and remedies with respect to such default as set forth in the PPA.

1.3 Subsequent Owner. Subject to the terms and conditions of this Consent, the Parties agree that the Lender shall, at least ten (10) days prior to any foreclosure or other transfer of the Facility or the Assigned Interests, notify Buyer of the pendency of such foreclosure or transfer and, in addition, Lender shall subsequently notify Buyer following the occurrence of such foreclosure or transfer. If Lender notifies Buyer in writing that it has foreclosed on the Facility or the Assigned Interests pursuant to the Lender Collateral Documents, or taken a "deed in lieu of foreclosure", Lender or its permitted successor or assigns, or any other purchaser of the Assigned Interests (each such permitted successor or assign or other purchaser of the Assigned Interests, a "Subsequent Owner"), shall be recognized as a party substituting for Seller under the PPA so long

as such Subsequent Owner meets the qualifications for a Qualified Transferee and the terms and conditions of the PPA as in effect on such date of assignment or foreclosure shall continue to apply to such Subsequent Owner. For purposes of the definition of Qualified Transferee contained in the PPA, any Person identified on Exhibit E hereof or an Affiliate of such Person shall be a Qualified Operator, so long as such Person is not in active litigation adverse to Buyer.

1.4 Buyer Cure Rights under the Financing Agreement. Under the Financing Agreement, the Lenders shall agree not to exercise remedies under the Financing Agreement or any related collateral documents that could preclude Buyer from exercising its purchase option pursuant to Section 1.5 below until Buyer has been given the cure period applicable to the default under Financing Agreement to reasonably demonstrate that it is diligently pursuing appropriate action to cure and is making sufficient progress toward curing such default; and the effect of any such cure by Buyer shall be as if Seller had cured the applicable default within the cure period afforded Seller under the Financing Agreement, including cessation of exercise of remedies by the Lenders. Upon any payment or cure by Buyer relating to such a default by Seller, the amounts expended by Buyer to provide such cure, including any defaulted payment and interest thereon at the Interest Rate, and all other payments made and expenses incurred by Buyer in providing such cure shall be (a) applied, in the event of the purchase of the Facility by Buyer under Section 1.5 hereof, toward a reduction in the purchase price in the amount expended to provide such cure, provided that the purchase price shall not be less than the Facility Debt (as defined below), or (b) reimbursed by Seller within thirty (30) days following such purchase or foreclosure to Buyer. For purposes of this Consent and the PPA, "Facility Debt" shall mean the obligations of Seller arising solely in connection with the Facility secured by a Lien of a Facility Lender in compliance with the provisions of the PPA, including principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, or benefit monetization, swap or interest rate hedging breakage costs and any claims or interest due with respect to any of the foregoing, and specifically excluding any obligations associated with any equity investment or Tax Equity Financing provided to Seller, or any Affiliate of Seller, to support the development, construction and operation of the Facility. Upon the request of the Buyer, the Lender can send a written notice of the amount of Facility Debt that is needed to be received by the Lender pursuant to the Financing Agreement.

1.5 Buyer's Purchase in Lieu of Foreclosure. In the event of any default by Seller under the Financing Agreement that has not been cured as provided hereunder or thereunder, prior to taking any action, whether judicial or non-judicial, to foreclose upon and sell the Facility or the Assigned Interests (in either case, a "Foreclosure Sale") pursuant to the Lender Collateral Documents, or prior to taking a deed in lieu of foreclosure, Lender shall, concurrent with any statutory notice required to be delivered to Seller, give notice in writing to Buyer not less than thirty (30) days prior to the date of such Foreclosure Sale or taking of a deed in lieu of foreclosure in the form of Exhibit A hereto containing the information specified therein (the "Foreclosure Notice").

(a) Upon receipt by Buyer of a Foreclosure Notice, Buyer shall have the right, at its option, to purchase the Facility from Seller in lieu of foreclosure as set forth in this Section 1.5. In the event that, within thirty (30) days following Buyer's receipt of such Foreclosure Notice, Buyer furnishes written notice to Lender that it will (concurrent with and subject to the closing of a bond financing by Buyer) exercise its option to purchase the Facility, which notice shall be in

the form of, and containing the information specified in, Exhibit B hereto (the “Purchase Notice”), including setting forth the date of such purchase (which shall be within ninety (90) days following the date of Buyer’s notice to Lender in the form of Exhibit B, which date may be reasonably extended by Buyer for up to an additional fifteen (15) days in order to close the bond financing), Buyer shall purchase the Facility from Seller as hereinafter provided. The purchase price of the Facility shall be paid by the Buyer to the account designated by the Lenders and shall be negotiated between the parties, and shall be equal to or greater than the aggregate of the Facility Debt and the transaction and loan breakage costs. In consideration of such payment, Lender shall, upon the closing therefor, release of record all of the liens and security interests under the Lender Collateral Documents.

(b) If Buyer has not provided Lender a notice in the form of Exhibit C prior to the end of such ninety (90) day period after the Foreclosure Notice, then the Lenders may effect the Foreclosure Sale or take a deed in lieu of foreclosure at any time after the end of such ninety (90) day period.

1.6 Foreclosure Sale. In the event Buyer does not exercise its option or rights as provided under Section 1.5 above, and a Foreclosure Sale under the Lender Collateral Documents shall take place (a) Buyer or any Member shall have the right to bid at such Foreclosure Sale for the purchase of the Facility, and (b) failing a successful bid by Buyer or any such Member at such Foreclosure Sale, Lender may sell the Assigned Interests pursuant to such Foreclosure Sale, free of any rights of Buyer under this Section 1.6, and, in each such case, Seller waives, to the extent permitted by law, all rights of redemption, stay or appraisal.

1.7 Third Party Beneficiary. No action of Buyer taken pursuant to the exercise of its rights as provided in this Consent shall be deemed to be a waiver of any right accruing to Buyer on account of the occurrence of any matter which constitutes a default or a breach of Seller’s obligations under the Financing Agreement.

1.8 No Assignment. Buyer agrees that it shall not, without the prior written joint consent of Seller and Lender (such consent to not be unreasonably withheld, conditioned or delayed) sell, assign or transfer any of its rights under the PPA other than in accordance with Section 14.6 of the PPA. Lender shall be deemed to have consented to such sale, assignment or transfer should it fail to respond within forty-five (45) days after the date of the notice from Buyer.

1.9 Limitation of Liability.

(a) Seller agrees that it shall indemnify and hold Buyer harmless from any third-party claims, losses, liabilities, damages, costs or expenses (including, without limitation, any direct, indirect or consequential claims, losses, liabilities, damages, costs or expenses, including legal fees) in connection with or arising out of any of the transactions related to the Financing Agreement or any of the Lender Collateral Documents, or this Consent.

(b) In the event of any Foreclosure Sale, or any deed in lieu of foreclosure, in connection with any Lender Collateral Documents, Lender or Subsequent Owner, and their successors in interest and assigns, if performance of the PPA is reasonably possible, shall cause the Seller or Subsequent Owner to assume in writing and agree to be bound by the covenants and

agreements of Seller in the PPA; provided, however, that until the Subsequent Owner executes and delivers to Buyer a written assumption of Seller's obligations under the PPA in form and substance reasonably acceptable to Buyer, such Person will not be entitled to any of the benefits of the PPA. In addition, Lender agrees that in no event shall Buyer be liable to Lender or any Subsequent Owner for any claims, losses, expenses or damages whatsoever other than liability Buyer may have to Seller under the PPA. In the event a Subsequent Owner elects to perform Seller's obligations under the PPA, the recourse of Buyer in seeking the enforcement of such obligations shall be limited to any Development Security, or the Performance Security, as applicable, provided pursuant to the PPA and the value (taking into account indebtedness secured by the Facility, including indebtedness arising in connection with such Development Security or the Performance Security, as applicable) of the Subsequent Owner's interest in the Facility.

2. Payments under the PPA. Without limiting the rights of Buyer under the PPA, Buyer shall pay any amounts owed in the manner and when required under the PPA directly to the accounts specified below or otherwise designated by Lender to Buyer in writing. From and after such time as an entity qualifies as a Subsequent Owner, Buyer shall pay all such amounts owed directly to or at the written direction of such Subsequent Owner. Seller hereby directs Buyer, and Buyer agrees, to make all payments and amounts Buyer is obligated to pay to Seller under the PPA, which payments shall satisfy any such payment obligations of Buyer to Seller in full and complete satisfaction of Buyer's obligations to Seller under the PPA, to the following account:

Bank Name: _____
Account Number: _____
ABA Number: _____
Account Name: [_____]

Lender and Seller agree that any change in payment notification shall become effective within thirty (30) days after receipt by Buyer of written notice thereof in accordance with this Consent. Buyer shall have no liability to Seller or Lender (or their successors and assigns) for making payments due or to become due under the PPA to Lender or for failure to direct such payments to Lender rather than Seller.

3. Acknowledgements; Representations and Warranties.

(a) Seller and Lender acknowledge that Buyer has not made and hereby makes no representation or warranty, expressed or implied, that Seller has any right, title or interest in the collateral secured by the Lender Collateral Documents (the "Collateral") and Lender acknowledges that it has not relied upon any such representations of Buyer. Lender acknowledges that it is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Collateral.

(b) Except as otherwise expressly provided herein, Lender acknowledges that Buyer shall not have any contractual obligations to Lender, and Lender acknowledges that it has not relied upon any representations of Buyer in connection with its lending arrangements with Seller.

(c) Seller and Lender acknowledge that Buyer shall have no liability to Seller or Lender resulting from or related to this Consent, or for consenting to any future assignments of the Collateral or any interest of Seller or Lender therein.

(d) Seller and Lender each agree that Buyer shall at all times have (and Buyer hereby expressly reserves) the right to set off or deduct from payments due to Seller under the PPA amounts owing to Buyer by Seller under the PPA.

(e) Lender represents and warrants that it is duly authorized to enter into and perform its obligations under this Consent.

(f) Seller represents and warrants to Buyer that the rights of Buyer to exercise its cure rights and other rights and remedies hereunder, including to purchase the Facility in accordance with the provisions of Section 1.5 of this Consent, do not and will not conflict with the Financing Agreement, and are permitted by the Financing Agreement, the Lender Collateral Documents, and any related agreements and documents securing Seller's performance under the Financing Agreement.

(g) Buyer agrees that any foreclosure by Lender on the membership interests in Borrower or Pledgor upon the occurrence of a default by Borrower under the Financing Agreement shall not constitute a breach under the PPA if the Facility is operated and maintained by a Qualified Operator (as defined in the PPA) following any such foreclosure. Lender shall obtain Buyer's consent (such consent not to be unreasonably withheld) prior to any transfer by Lender of the membership interests in Borrower or Pledgor upon the occurrence of a default by Borrower under the Financing Agreement to an entity other than a Qualified Transferee.

4. Miscellaneous.

4.1 Governing Law; Submission to Jurisdiction.

(a) This Consent shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles.

(b) All litigation arising out of, or relating to this Consent, shall be brought in a State or Federal court in the County of Riverside in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

4.2 Conflicts. This Consent does not modify or alter any of the terms of the PPA (except the address to which the notices referred to herein are to be delivered), and to the extent the terms and conditions herein conflict with those in the PPA, the term and conditions of the PPA shall control. Except as set forth herein, Buyer shall have no obligation or liability to Lender with respect to the PPA. For purposes of this provision, Seller and Buyer agree that the extended cure periods provided in Section 1.2, the rights of a Subsequent Owner in Section 1.3, the restriction on assignment in Section 1.8, the payments pursuant to Article 2, and the agreement regarding change in control in Section 3(g) do not conflict with the PPA.

4.3 Counterparts. This Consent may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all of which shall together constitute one and the same instrument.

4.4 Amendment, Waiver. Neither this Consent nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by Buyer and Lender, and after the initial funding by any Tax Equity Investor, such Tax Equity Investor.

4.5 Successors and Assigns. This Consent shall bind and benefit Buyer and Lender, and their respective successors and permitted assigns.

4.6 Attorneys' Fees. Seller shall reimburse Buyer for all actual and documented costs and expenses incurred by Buyer in connection with the facilitation of Seller's collateral assignment or pledge of the PPA, or any other action taken in connection with the transactions contemplated in this Consent, or otherwise pursuant to any request made by Seller or any Lender.

4.7 Representation by Counsel. Each of the Parties was represented by its respective legal counsel during the negotiation and execution of this Consent.

4.8 Estoppel Certificate. Buyer agrees to deliver to the Tax Equity Investors and the Lender a customary estoppel certificate substantially in the form of Exhibit D on the date of delivery of this Consent, in connection with the initial funding by the Tax Equity Investors and in connection with the achievement of Commercial Operation of the Facility following receipt of a written request therefor from Seller.

4.9 Notices. Any communications between the Parties or notices provided herein to be given shall be given to the following addresses:

If to Seller:

Camino Solar, LLC
c/o []

If to Buyer:

City of Riverside
Public Utilities General Manager
Riverside Public Utilities
3901 Orange Street
Riverside, CA 92501
Phone: 951-826-5504
Facsimile: 951-826-2450

With a copy to:
Utilities Power Resources Manager,
Contracts and Projects
Riverside Public Utilities
3435 Fourteenth Street
Riverside, CA 92501
Phone: 951-826-8505
Facsimile: 951-715-3563

And an electronic copy to:
SWilson@riversideca.gov
Attn: Assistant City Attorney

If to Lender:

All notices or other communications required or permitted to be given hereunder shall be in writing and shall be considered as properly given (a) if delivered in person, (b) if sent by overnight delivery service, (c) if mailed by first class United States Mail, postage prepaid, registered or certified with return receipt requested, or (d) if sent by prepaid telegram or by facsimile. Any Party may change its address for notice hereunder by giving written notice of such change to the other Parties.

4.10 Termination of Collateral Documents and Consent. Seller and Lender agree that upon the termination of the Lender Collateral Documents on the Term Conversion Date (as defined in the Recitals), the only remaining collateral security of the Lender securing the obligations of the Borrower under the Financing Agreement will be the membership interests in and any assets of the Pledgor and the Borrower, and there will be no remaining collateral security of the Lender in the Seller or its assets that secures the obligations of the Borrower under the Financing Agreement. Seller agrees to deliver notice of the occurrence of the Term Conversion Date to Buyer (with a copy to Lender) promptly but in no event more than 10 days after such Term Conversion Date. The Parties agree that, as of such date, any rights, duties or obligations arising hereunder shall terminate and no longer be applicable; provided, that Sections 1.9(a), 3, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.9, 4.10, and 4.11 and the definition of "Facility Debt" in Section 1.4 shall survive the termination of this Consent.

4.11 Tax Equity Investor Accession. Each of Buyer, Lender, Seller and the Tax Equity Investors hereby agree as follows:

(a) Effective as of the earlier to occur of (1) the date that the obligations under the Financing Agreement are repaid in full; (2) the Term Conversion Date and (3) [____]; provided that clause 4.11(a)(i) below shall not be applicable until the earlier to occur of one of subclauses (1) or (2) of this clause 4.11(a):

i. The rights of the Lender under Section 1 hereof and the payment direction in Section 2 hereof will terminate.

ii. Buyer will not terminate the PPA or suspend performance of its services under the PPA on account of any Default (as defined under the PPA) of Seller thereunder, without written notice to the Tax Equity Investors and first providing to the Tax Equity Investors (i) ten (10) Business Days from the date notice of Default is delivered to the Tax Equity Investors to cure such Default if such Default is the failure to pay amounts to Buyer which are due and payable by Seller under the PPA, or (ii) forty-five (45) days from receipt of such notice, to cure such Default if the Default cannot be cured by the payment of money to Buyer.

(b) The address of the Tax Equity Investors for purposes of all notices and other communications is:

[_____]

and

[_____]

With copies to:

[_____]

and

[_____]

and

[_____]

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Consent and Agreement to be duly executed and delivered as of the date first above written.

THE CITY OF RIVERSIDE

By: _____
[]
City Manager

Date: _____

Attest: _____
[]
City Clerk

Approved as to legal form:

By: _____
Susan Wilson
Assistant City Attorney

CAMINO SOLAR, LLC, a Delaware limited liability company

By: _____
Name: []
Title: []

[LENDER]

By: _____
Name: []
Title: []

[Signature Page to PPA Consent]

EXHIBIT A
to Consent and Agreement

FORM OF FORECLOSURE NOTICE
[Letterhead of Lender]

[Insert date]

Via Certified Mail, Return Receipt Requested

Riverside Public Utilities
3901 Orange Street
Riverside, CA 92501
Attn: City Manager

Re: Camino Project

Ladies and Gentlemen:

This notice is provided to you pursuant to the Consent and Agreement (“Consent”) dated as of _____, 20__, among the City of Riverside (“Buyer”), _____, as collateral agent (“Lender”) and Camino Solar, LLC (“Seller”). This is a Foreclosure Notice, as defined in the Consent. Capitalized terms used herein and not defined herein have the respective meanings given in the Consent.

As of the date hereof, the following amounts are due and owing by Seller under the Financing Agreement:

Principal amount of loans:
Accrued Interest:
Reimbursable Amounts
Fees:

As of the date hereof, interest is accruing at the rate of ___% per annum ***[Insert if applicable: and fees are accruing at the rate of __% per annum]***. This interest rate will apply until ***[insert date which is end of current interest period]***, from which time the interest rate may be higher or lower. A default rate of interest equal to 2% above the otherwise applicable rate ***[does/does not]*** currently apply ***[If does not currently apply, add: but may be applied at any time]***. ***[If applicable, state: The principal amount of loans shown above does not reflect the entire loan commitment under the Financing Agreement. Additional loans may be made, with or without the Seller’s consent, and such additional loans will accrue interest as provided in the Financing Agreement.]***

An Event of Default, as defined in the Financing Agreement, has occurred and is continuing. The Lender intends to foreclose upon the Assigned Interests or take a deed in lieu of foreclosure on a date estimated to be *[insert day no less than ninety (90) days from the date of notice]*. Such date may be modified as permitted by law, but will in no event be prior to ninety (90) days after the date hereof.

Very truly yours,

[_____]

EXHIBIT B
to Consent and Agreement

FORM OF PURCHASE NOTICE

[Letterhead of the City of Riverside]

[Insert date]

Via Certified Mail, Return Receipt Requested

[_____]

[Address]

[City, State ZIP]

Attn: [_____]

Re: Camino Project

Ladies and Gentlemen:

This notice is provided to you pursuant to the Consent and Agreement (“Consent”), dated as of _____, 20__, among the City of Riverside (“Buyer”), _____, as collateral agent (“Lender”) and Camino Solar, LLC (“Seller”). This is a Purchase Notice, as defined in the Consent. Capitalized terms used and not defined herein have the respective meanings given in the Consent.

We have received your foreclosure Notice, dated **[insert date of Foreclosure Notice]**. By this Purchase Notice, we hereby notify Lender that we will exercise our option and purchase the Facility pursuant to our rights under Section 1.5(a) of the Consent no later than ninety (90) days from the date of the Foreclosure Notice, and upon consummation of such purchase, pay to Lender, for the account of the Lenders, the Facility Debt.

Very truly yours,

THE CITY OF RIVERSIDE

By: _____

[_____]
City Manager

Date: _____

Attest: _____

[_____]
City Clerk

EXHIBIT C
to Consent and Agreement

FORM OF PURCHASE NOTICE

[Letterhead of the City of Riverside]

[Insert date]

Via Certified Mail, Return Receipt Requested

[_____]

[Address]

[City, State ZIP]

Attn: [_____]

Re: Camino Project

Ladies and Gentlemen:

This notice is provided to you pursuant to the Consent and Agreement (“Consent”), dated as of _____, 20__, among the City of Riverside (“Buyer”), _____, as collateral agent (“Lender”) and Camino Solar, LLC (“Seller”). Capitalized terms used herein and not defined herein have the respective meanings given in the Consent.

We have received your Foreclosure Notice, dated *[insert date of Foreclosure Notice]*. By this notice, we hereby notify Lender that we believe that the purchase of the Facility pursuant to Section 1.5(b) of the Consent will not take place within the ninety (90) day period following our receipt of such Foreclosure Notice. We will, within ten (10) days after the end of such ninety (90) day period, purchase from the Lenders all of their right, title and interest in, to and under the Financing Agreement, related promissory notes, and Lender Collateral Documents, for a price equal to the Facility Debt.

Very truly yours,

THE CITY OF RIVERSIDE

By: _____

[_____]

City Manager

Date: _____

Attest: _____

[_____]

City Clerk

EXHIBIT D
to Consent and Agreement

[FORM OF] PPA ESTOPPEL CERTIFICATE

[Date]¹

Reference is made to that certain Power Purchase Agreement (the "Power Purchase Agreement") dated as of [_____] (the "PPA"), by and between the City of Riverside, a California municipal district ("Buyer"), and Camino Solar, LLC, a Delaware limited liability company ("Seller"). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. The copy of the PPA, as amended, attached as Exhibit A, constitutes a true and complete copy of the PPA.

2. The PPA is in full force and effect and has not been modified or amended in any way [**since** [_____, **201**]], and constitutes the only agreement between Buyer and Seller other than that certain Consent and Agreement dated as of [_____, **20**].

3. Buyer has not transferred or assigned its interest in the PPA.

4. Buyer is not in default under the PPA nor has Buyer breached any of its representations, warranties, agreements or covenants under the PPA and, to Buyer's Knowledge, no facts or circumstances exist which, with the passage of time or the giving of notice nor both, would constitute a default or breach by Buyer under the PPA or that would give Seller the right to terminate the PPA. To Buyer's Knowledge, Seller is not in default under the PPA nor, to Buyer's Knowledge, has Seller breached any of its representations, warranties, agreements or covenants under the PPA and, to Buyer's Knowledge, no facts or circumstances exist which, with the passage of time or the giving of notice nor both, would constitute a default or breach by Seller under the PPA or that would allow Buyer to terminate the PPA.

5. All representations made by Buyer in the PPA were true and correct as of the effective date of the PPA and continue to be true and correct.

6. To Buyer's Knowledge, no event, act, circumstance or condition constituting an event of Force Majeure under the PPA has occurred and is continuing.

7. Seller has not claimed any amounts under the indemnification obligation of Buyer set forth in the PPA.

¹ To be delivered on the date of delivery of the Consent and, upon the initial funding and upon the final funding under the Tax Equity transaction commensurate with COD.

EXHIBIT E
to Consent and Agreement

Qualified Operators

Avangrid Renewables, LLC, or its Affiliates

provided, however, that no Person listed above shall be a Qualified Operator if at the relevant time such Person is in active litigation adverse to Buyer.

APPENDIX N

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

FORM OF PRE-COD MONTHLY REPORT

See Attached.



1125 NW Couch St., Suite 700
Portland, OR 97209
[date]

Monthly Progress Report Camino Solar + BESS





Camino Solar + BESS Project

1.0 Brief Generating Facility Description

1.1 General

Camino is owned and operated by Camino Solar LLC with a maximum nameplate capacity of 44 MW PV + 11 MW battery storage.

1.2 Site

The Generating Facility is located in Kern County, California, approximately 10 miles west of the area of Rosamond.

1.3 Interconnection

The Generating Facility will interconnect to SCE's 220 kV Whirlwind substation.

1.4 Site Improvements

The site of the Generating Facility will be improved to include the following attributes: PV solar panels racking and inverters, collection systems, battery storage modules and racks, power conversion and transformation equipment, environmental conditioning and safety and such other incidental or ancillary equipment or components as may be necessary and appropriate.





Camino Solar + BESS Project

2.0 Milestone Schedule

No.	Date	Milestones	Progress Report
1	11.1.19	Execution of Large Generator Interconnection Agreement between CASIO and Southern California Edison	[]
2	12.1.19	Draft Environmental Impact Report complete.	[]
3	6.30.20	Final Notice of Determination under CEQA and NEPA.	[]
4	8.1.2021	Site mobilization.	[]
5	3.1.22	Commencement of start-up activities.	[]
6	4.1.22	Initial synchronization.	[]
7	5.1.22	Guaranteed commercial operation date.	[]

3.0 Forecast of Activity in [Month]

3.1 Design/Engineering

[]

3.2 Major Equipment Procurement

[]

3.3 Construction

[]

3.4 Permitting

[]

3.5 Interconnect

[]





Camino Solar + BESS Project

4.0 Progress Schedule

[]

5.0 Startup Activities

5.1 List of Current Startup Activities

[]

6.0 Photos

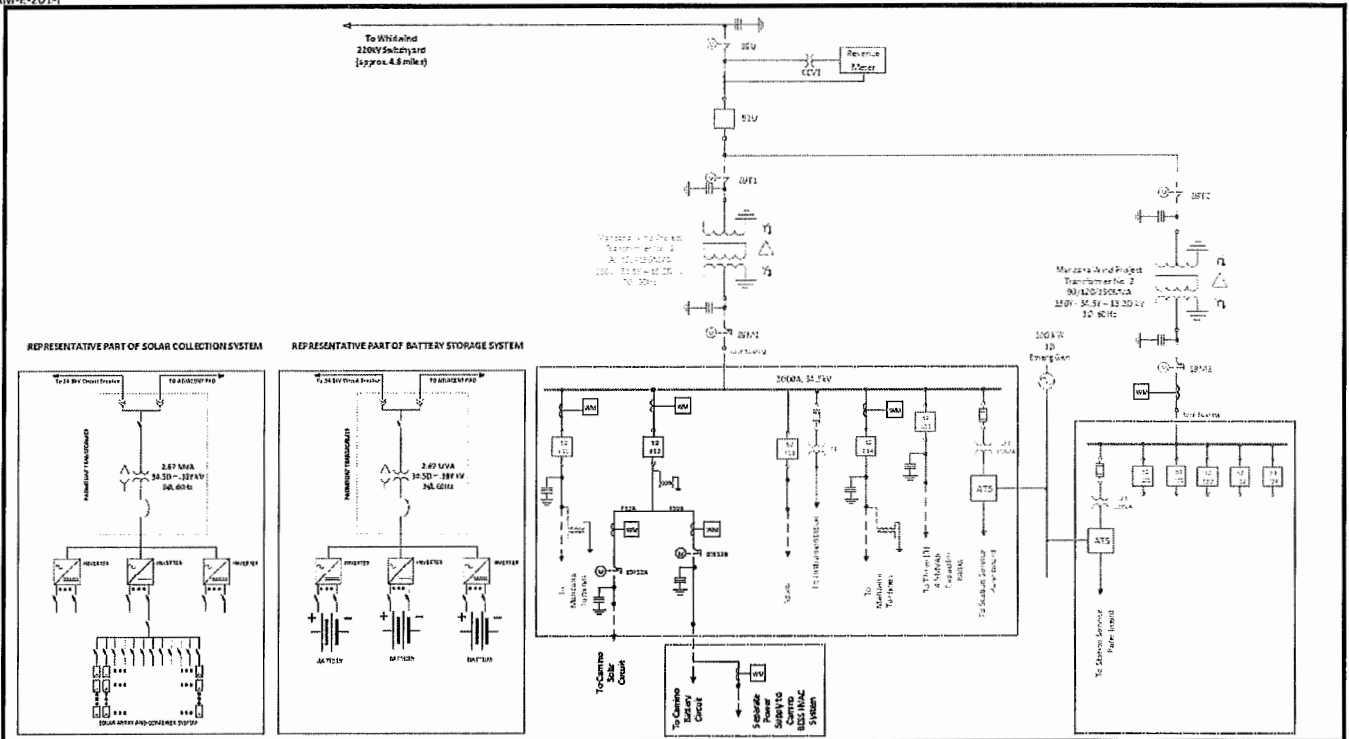


APPENDIX O

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

METERING DIAGRAM

CAM-E-201-I



Details	Revision	DATE	BY
REVISED NUMBER OF SOLAR MODULES	D	03/15/2018	DPH
ADDED METERING POINTS	E	08/29/2018	B.K
EDITED METERING POINTS	F	11/16/2018	B.K
INCREASED BESS/INVERTER COUNT	G	01/03/19	AND
COMBINED PV AND BATTERY FEEDERS	H	08/11/19	B.K
ADDED BESS HVAC POWER SUPPLY	I	08/28/19	JW



Camino Solar Project
ONE LINE DIAGRAM

SCALE: NONE
Don Hammond
April 17, 2017
CAM-E-201-I

11/15/2019, AUGUST 29, 2019

APPENDIX P

TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC

REAL-TIME PARK POTENTIAL ENERGY

The following calculation method will be used by Seller to calculate Real-Time Park-Potential Energy (RTPPE), in the event that the value from the SCADA system is not used.

$$\begin{aligned} T_M &= G * [e^{(a+b*WS)}] + T_A \\ T_C &= T_M + 3 * (G/G_{STC}) \\ f_{temp} &= 1 + \delta * (T_C - T_{C_STC}) \\ f_{irrad} &= (G/G_{STC}) \\ f_{met} &= f_{temp} * f_{irrad} \\ PG_{mod} &= \text{lesser of i) } DNC * f_{met} * AF \text{ or ii) } Inv_{MAX} * AF \\ P &= \text{lesser of i) } PG_{mod} * f_{DC-AC} \text{ or ii) } AC_{MAX} \\ TAR &= \text{Tracking Adjustment Ratio value determine based on calculation below} \end{aligned}$$

“*Real-Time Park Potential Energy*” or “*RTPPE*” means an amount equal to *TAR* multiplied by *P*.

where

(i) the Tracking Adjustment Ratio (TAR) factor shall be calculated and updated each month of the Delivery Term using the previous two months of calculated RTPPE amounts versus PV Metered Output. During the first 60 days in the first Contract Year, the TAR shall be assumed to be equal to 1.0. Thereafter, the formula for TAR shall be defined to be:

$$TAR = \frac{\sum_i \sum_j MOE_{ij}}{\sum_i \sum_j P_{ij}}$$

(ii) MOE represents the PV Metered Output for hour *i* between HE07 to HE20 of day *j* during the previous two months and *P* is defined as above (and within the same HE07 to HE20 diurnal time interval). Hours where Facility output has been reduced due to a Buyer curtailment, a reduction in set point or other external limitation shall be excluded from the calculation of TAR. Seller shall make all hourly data used in the RTPPE calculations available to Buyer no less

frequently than at the beginning of each month, so that Buyer can independently calculate and verify the applicable TAR factor for each month of the Delivery Term; and

(iii)

T_M	= module temperature
a	= module glazing coefficient per Sandia Publication, Table 1
b	= forced convection glazing coefficient per Sandia Publication, Table 1
WS	= site wind speed (m/s) as measured at Facility meteorological towers
T_A	= site ambient temperature (deg C) as measured at Facility meteorological towers
T_c	= cell temperature (deg C)
T_{C_STC}	= Standard Test Conditions cell temperature (deg C) per IEC 61215 = 25 deg C
G	= site plane of array irradiance (W/m^2) as measured by Facility photovoltaic reference cells
G_{STC}	= Standard Test Conditions irradiance (W/m^2) per IEC 61215 = 1,000 W/m^2
δ	= module maximum power temperature coefficient (%/deg C) per panel OEM specifications
f_{temp}	= temperature adjustment factor
f_{irrad}	= irradiance adjustment factor
f_{met}	= meteorological adjustment factor
PG_{mod}	= potential generation for output of all Facility modules (kW)
DNC	= DC nameplate output capacity for all Facility modules (kW)
AF	= Availability Factor, which, for the purposes of applicable calculations means a percentage calculated in real-time as (i) the sum of nameplate amounts (kW) of all inverters electrically connected to, and capable of delivering energy through, the interconnection facilities, divided by (ii) the sum of nameplate amounts (kW) of all Facility inverters. To the extent that the maximum output (kW) of modules connected to a given inverter are less than the nameplate amount (kW) of that inverter, then the inverter nameplate shall be reduced to the maximum output (kW) of those modules.
Inv_{MAX}	= DC nameplate input capacity for all Facility inverters (kW)
f_{DC-AC}	= loss factor converting DC to AC per inverter OEM specifications
AC_{MAX}	= Facility AC name plate capacity (kW)
P	= Facility AC potential generation (kW)

For reference, above inputs “a” and “b” from applicable portions of Table 1 of the Sandia Publication are as follows:

Module Type	Mount	a	b
Glass/cell/glass	Open rack	-3.47	-.0594
Glass/cell/polymer sheet	Open rack	-3.56	-.0750
Polymer/thin-film/steel	Open rack	-3.58	-.113

Above calculation methods and constants may be updated from time to time based on operational history and/or changes to industry practice as agreed by both Parties, and such agreement shall not be unreasonably withheld. Seller may use alternate methods to the above to the extent results reasonably tie with actual PV Metered Output during periods that are not curtailed, provided that the then-current month's *TAR* factor calculation is based upon the same method used in the determination of current month's *P*.

APPENDIX Q

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

LEGAL OPINIONS

1. Based solely upon our review of the Opinion Party's articles of organization and the Good Standing Certificates, the Opinion Party is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, is qualified to do business in, and is in good standing under the laws of, the State of California, and has all requisite limited liability company power and authority to execute, deliver, and perform its obligations under the Agreement.

2. The execution and delivery by the Opinion Party of the Agreement, and the performance by the Opinion Party of its obligations thereunder, have been duly authorized by all necessary limited liability company action on the part of the Opinion Party. The Opinion Party has duly executed and delivered the Agreement.

3. The Agreement constitutes the legally valid and binding obligation of the Opinion Party, enforceable against the Opinion Party in accordance with its terms, in each case except (a) as may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer, or other similar laws relating to or affecting the rights of creditors generally and (b) as the enforceability of the Agreement is subject to the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law), including without limitation (i) the possible unavailability of specific performance, injunctive relief or any other equitable remedy, and (ii) concepts of materiality, reasonableness, good faith and fair dealing.

4. Neither the Opinion Party's execution and delivery of the Agreement, nor the performance by the Opinion Party of its obligations thereunder, violates (a) any law or regulation of the United States of America, the State of California, or the State of Delaware applicable to the Opinion Party, (b) any provision of the Opinion Party's articles of organization and limited liability company agreement, or (c) any judgment, order, writ, injunction or decree, in each case, that is binding on the Opinion Party.

5. No authorization, consent, or other approval of, or registration, declaration, or other filing (a) with any governmental authority of the United States of America, the State of California, or the State of Delaware is required on the part of the Opinion Party for the execution and delivery by the Opinion Party of the Agreement, or (b) under any law or regulation of the United States, the State of California, or the State of Delaware is required on the part of the Opinion Party for the

performance by the Opinion Party of its obligations under the Agreement, other than those routine authorizations, consents, approvals, registrations, and filings which may be required in the future for the Opinion Party to conduct its business, maintain its existence, and remain in good standing in the State of Delaware.

6. The Opinion Party has the limited liability company power to (a) execute, deliver, and perform its obligations under the Agreement, (b) own, lease, and operate its properties, and (c) carry on its business.

SCHEDULE 12.2(h)

**TO THE
POWER PURCHASE AGREEMENT
BETWEEN
THE CITY OF RIVERSIDE
AND
CAMINO SOLAR, LLC**

**SPECIFIED UPSTREAM EQUITY OWNERS AND
ORGANIZATIONAL AND OWNERSHIP STRUCTURE OF SELLER
AND UPSTREAM EQUITY OWNERS**

This Schedule 12.2(h) may be updated from time to time by agreement of Buyer and Seller to account for a Change in Control that has been consented to by Buyer, or notified to Buyer, as applicable, in accordance with this Agreement.

Section 1. Specified Upstream Equity Owner.

Avangrid Renewables, LLC

Section 2. Organizational and Ownership Structure of Seller and Upstream Equity Owners.

See attached.

Section 3. Principals of each LLC:

Avangrid Renewables, LLC is the principal of Camino Solar, LLC

Organizational and Ownership Structure of Seller and Upstream Equity Owners

