

**POWER
PURCHASE AGREEMENT
BETWEEN
[insert name of Seller]
AND
The City of Seattle by and through its
CITY LIGHT DEPARTMENT
effective [insert date]**

TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS 1

ARTICLE 2 TERM; EFFECTIVE DATE; TERMINATION; SURVIVAL 14

 2.1. Term..... 14

 2.2. Effective Date..... 15

 2.3. Termination..... 15

 2.4. Survival..... 16

ARTICLE 3 PROJECT MILESTONES; DEVELOPMENT AND CONSTRUCTION TERMS; DELAY LIQUIDATED DAMAGES; CREDIT SUPPORT 17

 3.1. Project Milestones..... 17

 3.2. Development Term..... 17

 3.3. Construction Term..... 18

 3.4. Delivery Term..... 18

 3.5. Delay Liquidated Damages..... 19

 3.6. Failure to Reach Guaranteed Capacity..... 20

 3.7. Credit Support..... 20

 3.8. Standards..... 22

ARTICLE 4 SALE AND PURCHASE; PURCHASE PRICES 22

 4.1. Sale and Purchase of Product and Curtailed Energy..... 22

 4.2. Purchase Prices..... 23

 4.3. Transfer of Title..... 24

 4.4. Station Service Power..... 25

 4.5. Project and Delivery Expenses..... 25

 4.6. Documentation..... 25

ARTICLE 5 ANNUAL PRODUCT CAP; GUARANTEED PRODUCTION; GUARANTEED SEASONAL AVAILABILITY; WREGIS; PSEUDO-TIE; DATA ACCESS 25

 5.1. Annual Product Cap; Excess Product..... 25

 5.2. Guaranteed Production..... 26

 5.3. Guaranteed Seasonal Availability..... 26

 5.4. WREGIS..... 27

 5.5. Pseudo-Tie of Project..... 28

 5.6. Data Access..... 28

ARTICLE 6 OPERATION AND MAINTENANCE OF THE PROJECT 30

 6.1. Seller’s Core Obligation..... 30

6.2.	Access and Information.	30
6.3.	Permits; Compliance with Laws.	30
6.4.	Operating Procedures.	31
ARTICLE 7 SCHEDULING; DELIVERY; AND TRANSMISSION		31
7.1.	Seller’s Delivery-Related Obligations.	31
7.2.	Interconnection [and Shared Facilities].	33
7.3.	Transmission.	35
7.4.	Market Structure.	36
7.5.	Outages.	36
ARTICLE 8 METERING		39
8.1.	Meter Requirements.	39
8.2.	Back-Up Meters.	39
8.3.	Inspection and Testing of the Meters.	39
ARTICLE 9 BILLING AND PAYMENT.....		40
9.1.	Billing.	40
9.2.	Payment.....	41
9.3.	Electronic Invoicing.....	41
ARTICLE 10 TAXES, FEES, AND TAX CREDITS		42
10.1.	Obligation to Pay.	42
ARTICLE 11 REPRESENTATIONS AND WARRANTIES		42
11.1.	Representations and Warranties of Seller.	42
11.2.	Representations and Warranties of Seattle City Light.	43
ARTICLE 12 AUDIT.....		44
12.1.	Seattle City Light’s Right to Audit.	44
ARTICLE 13 FORCE MAJEURE EVENT.....		44
13.1.	Force Majeure Event Defined.	44
13.2.	Applicability of Force Majeure Event.	45
ARTICLE 14 TERMINATION AND DEFAULT		46
14.1.	Event of Default.	46
14.2.	Remedies for Default.	49
14.3.	Injunctive Relief.....	49
14.4.	Damages Payable in the Event of Termination.....	49
ARTICLE 15 INDEMNIFICATION; FINES; LIMITATION ON LIABILITY; INSURANCE.....		50
15.1.	Indemnification.	50

15.2.	Fines.....	51
15.3.	Limitations of Liability.....	52
15.4.	Insurance.....	52
ARTICLE 16 GENERAL.....		54
16.1.	Assignment.....	54
16.2.	Marks; Publicity; Required Disclosures.....	55
16.3.	Public Disclosure Required by Law.....	55
16.4.	No Partnership.....	55
16.5.	Communications and Notices.....	55
16.6.	Captions.....	56
16.7.	Governing Law and Venue.....	56
16.8.	Inflation Adjustment.....	57
16.9.	Change in Law.....	57
16.10.	Dispute Resolution.....	57
16.11.	No Third-Party Beneficiary.....	58
16.12.	Entire Agreement; Modification and Waiver; Severability.....	58
16.13.	Mobile-Sierra.....	58
16.14.	Forward Contract.....	59
16.15.	Legal Compliance.....	59
16.16.	Equitable Relief.....	59
16.17.	Other Agreements.....	59
16.18.	Survival.....	60
16.19.	Severability.....	60
16.20.	Counterparts.....	60
16.21.	No Gratuities.....	60
16.22.	Time of Essence.....	60
16.23.	Interpretation and Joint Drafting.....	60

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (the “**Agreement**”) is entered into as of [Insert Date] (the “**Effective Date**”), by and between [COMPANY NAME], a [TYPE OF ORGANIZATIONAL ENTITY AND STATE OF ORGANIZATION] (“**Seller**”) and The City of Seattle, a Washington municipal corporation, by and through its City Light Department (“**Seattle City Light**” or “**Buyer**”). Both Seller and Seattle City Light are sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Seller will construct and own, operate, and maintain a [describe generation] power plant to be located in [insert location county and state] as described in this Agreement;

WHEREAS, Seller desires to sell and Seattle City Light desires to purchase on the terms and conditions set forth in this Agreement, Delivered Electrical Output, all Environmental Attributes related to the generation of Electrical Output, and all Capacity Attributes of the Project;

NOW THEREFORE, in consideration of these premises and the mutual promises set forth below, Seller and Seattle City Light agree as follows:

ARTICLE 1 DEFINITIONS

Abandonment: Has the meaning assigned to such term in in Section 14.1(a)(x).

Adjusted Annual Product: For a Contract Year, means the sum of (i) the Delivered Electrical Output during such Contract Year, plus (ii) Curtailed Generation for such Contract Year.

Affiliate: Means, when used with reference to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the specified Person. For purposes of the foregoing, “control,” “controlled” and “under common control” with respect to any Person means the possession of the power to direct the management and policies of such Person or entity, whether through the ownership of voting securities, partnership interests, or other ownership interests, by contract or otherwise.

[**Affiliate Manager:** Has the meaning assigned to such term in Section 7.2(b).]

Agreement: Means this Power Purchase Agreement entered into between Seller and Seattle City Light, as amended by the Parties from time to time.

Annual Product: Means the total amount of expected Delivered Electrical Output during each Contract Year as set forth in Exhibit D.

Attaining Balancing Authority Area: Means the Seattle City Light Balancing Authority Area.

Automated Clearing House or ACH: Has the meaning assigned to such term in Section 9.2(a).

Authorized Curtailment: Has the meaning assigned to such term in Section 7.1(d).

Available Capacity: Has the meaning assigned to such term in Exhibit K.

Back-Up Meters: Means backup metering devices described in Exhibit H-2, as set forth in Section 8.2.

Balancing Authority: Means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports interconnection frequency in real time.

Balancing Authority Area: Means the collection of generation, transmission, and loads within the metered boundaries of the area in which the Balancing Authority maintains load resource balance within this area.

Billing Dispute: Has the meaning assigned to such term in Section 9.2(b).

CAISO: Means the California Independent System Operator Corporation.

Calculation Interval or “C.I.”: Has the meaning assigned to such term in Exhibit K, Section 1.

Capacity Attributes: Means any current or future defined characteristic, certificate, tag, credit, or attribute thereof, or accounting construct, including any of the same counted towards any current or future resource adequacy or reserve requirements, including those in respect of the Western Resource Adequacy Program (WRAP) or any successor, associated with the electric generation capability and capacity of the Project or the Project’s capability and ability to produce energy. Capacity Attributes do not include any ancillary services, Environmental Attributes, or tax incentives existing now or in the future associated with the construction, ownership, or operation of the Project.

Capacity Damages: Has the meaning assigned to such term in Section 3.7.

CGL: Means Commercial General Liability insurance.

Change in Law: Means (i) the enactment, adoption, promulgation, modification, replacement, successor or repeal or any change in application, after the Effective Date of any applicable Law; (ii) the imposition of any material conditions on the issuance or renewal of any applicable Permit after the Effective Date (notwithstanding the general requirements contained in any applicable permit at the time of application or issue to comply with future Laws, ordinances, codes, rules, regulations or similar legislation); or (iii) revocation of any tax credit, which establishes requirements or revokes beneficial Laws or rules affecting the value or availability of tax credits; owning, supplying, constructing installing, operating, or maintaining the Project; or other performance of the Parties’; obligations hereunder or which has a material adverse effect on the cost to either Party of performing such obligations.

Claims: Means any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including reasonable costs and attorneys' fees resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and including the Delivery Point, unless caused by the negligence of a Seattle City Light Party; (ii) Seller's development, permitting, construction, ownership, operation and/or maintenance of the Project; (iii) the failure of Seller or the Project to comply with applicable Law; (iv) any Taxes or penalty thereon for which Seller is responsible hereunder; or (v) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller; as set forth in Section 15.1(a).

Clean Energy Standard: Means the Washington Clean Energy Transformation Act, Chapter 19.405 of the Revised Code of Washington, as may be modified.

Commercial Operation: Means that (a) not less than the Nameplate Capacity Rating of the Project is fully operational and reliable, (b) the Project is interconnected, integrated and synchronized with the Transmission Owner's System in compliance with the terms of the Interconnection Agreement and this Agreement, all of which shall be Seller's responsibility to receive or obtain, and (c) all of the following conditions (i) have been satisfied, and (ii) remain simultaneously true and accurate as of the date and moment on which Seller gives Seattle City Light written notice that Commercial Operation has occurred with respect to the Project:

- 1) Seattle City Light shall have received a certificate in the form of Exhibit M-1 addressed to Seattle City Light from a representative of Seller familiar with the Project certifying that (a) construction of the Project has been completed in all material respects in accordance with the technical terms and conditions of the Agreement (with the exception of punch list items that do not materially and adversely affect the ability of the Project to operate as intended by the Agreement); (b) the Project is operational and interconnected at the Point of Interconnection, and capable of delivering Electrical Output reliably in amounts expected by this Agreement; (c) the Project has successfully completed all testing required by Prudent Utility Practices to be completed prior to commercial operation, including operating the Project for a period of not less than three (3) consecutive days and delivering Test Energy during such period; (d) the Project has demonstrated it has successfully installed the Nameplate Capacity Rating; (e) the Project is able to provide Delivered Electrical Output in the amount required by this agreement and in accordance with all other terms and conditions hereof; (f) the Project is in compliance with all Governmental Approvals necessary to develop, construct and operate the Project and all Governmental Approvals are in full force and effect; (g) Seller is in compliance with the terms and conditions of this Agreement in all material respects; and (h) Seller has obtained or entered into all Required Project Documents (as specified in Exhibit F) and all such Required Project Documents are in full force and effect and there are no defaults or events that, with the passing of time or the giving of notice, or both, would constitute a default thereunder.

- 2) Seattle City Light shall have received a certificate in the form of Exhibit M-2 addressed to Seattle City Light from a representative of Seller who is a registered professional engineer familiar with the Project stating that, (a) an Interconnection Agreement has been executed; (b) in accordance with the Interconnection Agreement, all required Interconnection Facilities have been constructed, (c) all required interconnection testing has been completed, (d) the Project is physically interconnected with the Transmission Owner's System in conformance with the Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement, (e) the Project is fully integrated and synchronized with the Transmission Owner's System and has been successfully operated at a generation level acceptable to the Transmission Owner, without experiencing any abnormal or unsafe operating conditions on any interconnected system, (f) Seller has been given permission by the Transmission Owner to operate the Project and its Interconnection Facilities; and (g) stating that the Interconnection Facilities have been completed in all material respects, except for punch list items that do not have a material adverse effect on the ability of the Project to operate for its intended purpose.
- 3) Seattle City Light shall have received copies of all Required Project Documents; provided however, that Seller may redact or omit confidential or commercial terms from non-public Required Project Documents.
- 4) Seller has demonstrated (a) the reliability of the Project's communication systems and (b) the Project is capable of receiving and reacting to signals from Seller's SCADA system.
- 5) Seller (with the reasonable participation of Seattle City Light) shall have completed all applicable steps in the WREGIS registration process, including the completion and submittal of the applicable registration forms and supporting documentation that can be provided prior to the Commercial Operation Date, which may include applicable interconnection agreements, informational surveys related to the Project, QRE service agreements, and other appropriate documentation required to begin the Project registration process with WREGIS and to enable Renewable Energy Credit transfers related to the Project within the WREGIS system. For the avoidance of doubt, as specified in Section 5.4(c), WREGIS registration for the Project shall be completed no later than sixty (60) days after the Commercial Operation Date.
- 6) Seller has paid Seattle City Light all Daily Delay Liquidated Damages owing under this Agreement, if any.
- 7) Seller has delivered the Delivery Credit Support to Seattle City Light.

Commercial Operation Date or COD: Means the date on which Seller has met all Commercial Operation criteria, with such date to be confirmed by Seattle City Light (which confirmation shall not be unreasonably withheld), for the commencement of the Delivery Term, provided that such date will be (i) no earlier than the day following the day on which Commercial

Operation for the Project has been achieved, provided that such date shall not occur before [insert date], and (ii) no later than the Guaranteed Commercial Operation Date.

Construction Start Date: Means the date on which Seller delivers to Seattle City Light a certificate substantially in the form attached as Exhibit L hereto and demonstrates, to Seattle City Light's reasonable satisfaction, achievement of each of the following: (i) execution of Seller's engineering, procurement and construction contract; (ii) Seller's issuance of notice to proceed under such contract; (iii) mobilization to site by Seller and/or its designees; and (iv) the physical movement of soil at the Site.

Construction Term: Has the meaning assigned to such term in Section 3.3(a).

Continuation Notice: Has the meaning assigned to such term in Section 3.5(e).

Continuing Force Majeure Event: Has the meaning assigned to such term in Section 13.1(c).

Contract Price: Means the price to be paid by Seattle City Light to Seller for the Product as specified in Exhibit C. The price for Test Energy is not included in the Contract Price. The price paid by Seattle City Light to Seller for Test Energy is specified in Section 4.2(a).

Contract Year: Means (i) the twelve (12) month period beginning on the Commercial Operation Date, and (ii) each succeeding period of twelve (12) consecutive months beginning on the anniversary of the Commercial Operation Date and ending on the day prior to the anniversary of the Commercial Operation Date.

Costs: Means, with respect to the non-defaulting Party only, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party as a result of the other Party's default, which costs could not have reasonably been avoided by the non-defaulting Party's reasonable mitigation efforts. Costs are defined here to have a positive value.

Credit Rating: Means a long-term credit rating (issuer or long-term senior unsecured debt) by Moody's or S&P or both Moody's and S&P.

Credit Support: Means collectively the Development Credit Support and Delivery Credit Support, as set forth in Section 3.7(c).

Cure Period: Has the meaning assigned to such term in Section 14.2.

Curtailed Energy: Has the meaning assigned to such term in Section 4.1(b).

Curtailed Generation: Means the amount of electric energy (in MWh) that the Project did not generate in a given Contract Year as a result of an Authorized Curtailment.

Default Trigger: Has the meaning assigned to such term in Section 14.1(a)(vii).

Delay Damages Rate: Means \$400.00 per MW per day.

Delay Liquidated Damages: Means the Guaranteed Start Delay Damages and the Commercial Operation Date Delay Liquidated Damages.

Delay Liquidated Damages Cap: Has the meaning assigned to such term in Section 3.5(e).

Delivered Electrical Output: Has the meaning assigned to such term in Section 7.1(b).

Delivery Credit Support: Has the meaning assigned to such term in Section 3.7(b).

Delivery Point: Means the locations described in Exhibit H-1.

Delivery Term: Has the meaning assigned to such term in Section 3.4.

Development Credit Support: Has the meaning assigned to such term in Section 3.7(a).

Development Term: Has the meaning assigned to such term in Section 3.2(a).

Early Termination Payment: Has the meaning assigned to such term in Section 2.3(f).

Effective Date: Means the Date on which this Agreement will become effective and enforceable, as set forth in Section 2.2.

EIM: Means the California Independent System Operator's Western Energy Imbalance Market.

Electrical Output: Means all electric energy generated by the Project.

Event of Default: Has the meaning assigned to such term in Section 14.1(a) and Section 14.1(b).

Environmental Attributes: Means any and all current or future credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Environmental Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (Sox), nitrogen oxides (Nox), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by Law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to these avoided emissions. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) investment tax credits or production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state, federal or local taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction

credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

Excess Product: Has the meaning assigned to such term in Section 5.1.

Exclusivity Period: Has the meaning assigned to such term in Section 2.3(g).

FERC: Means the Federal Energy Regulatory Commission, or its successor in function.

Financing Party: Means any institution (including any trustee or agent on behalf of such institution) providing debt, equity, or tax equity financing or refinancing to Seller for the acquisition, development, construction, ownership, operation, maintenance, or leasing of the Project, as set forth in Section 17.1(b).

First Offer: Has the meaning assigned to such term in Section 2.3(g).

Force Majeure Event: Has the meaning assigned to such term in Section 13.1.

Forced Outage: Means NERC Event Types UI, U2 and U3, set forth in Section 7.4(a) referencing NERC Reporting Instructions, and specifically excludes any Maintenance Outage or Planned Outage.

Gains: Means, with respect to a Party, an amount equal to the present value of the economic benefits to it, if any (exclusive of Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner. Gains are defined here to have a positive value.

Government Authority: Means any federal, state, local, territorial, tribal or municipal government and any department, commission, board, bureau, agency, instrumentality, judicial or administrative body thereof having jurisdiction (including any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power) over the Project, Seattle City Light or Seller, as the case may be. For the avoidance of doubt, "Government Authority" as defined in this Agreement includes NERC and WECC, or their successors in function.

Governmental Approvals: Means any authorization, consent, approval, license, ruling, permit, exemption, variance, order, judgment, decree, declarations of or regulation by any Government Authority relating to the acquisition, development, ownership, leasing, occupation, construction, start-up, testing, operation or maintenance of the Project or to the execution, delivery or performance of this Agreement, as specified in Exhibit F, and all amendments, modifications, supplements, general conditions and addenda hereto.

Green-e Energy: Means renewable energy that satisfies the requirements for eligibility for certification under Section II of the Center for Resource Solutions' Green-e Energy Renewable Energy Standard for Canada and the United States Version 4.4 as may be amended from time to time.

Greenhouse Gas: Has the meaning set forth in RCW 19.405.020(21), as amended from time to time.

Guaranteed Commercial Operation Date: Means [insert date].

Guaranteed Construction Start Date: Means [insert date].

Guaranteed Interconnection Capacity: Shall have the meaning set forth in Section 7.2(a).

Guaranteed Start Delay Damages: Shall have the meaning set forth in Section 3.5(a).

Guaranteed Production: Shall have the meaning set forth in Section 5.2(a).

Guaranteed Production Liquidated Damages: Shall have the meaning set forth in Section 5.2(c).

Guaranteed Production Shortfall: Shall have the meaning set forth in Section 5.2(b).

Guaranteed Seasonal Availability: Shall have the meaning set forth in Section 5.3(a).

Guaranteed Seasonal Shortfall Damages: Shall have the meaning set forth in Section 5.3(b).

Indemnified Party: Has the meaning assigned to such term in Section 15.1(c).

Indemnifying Party: Has the meaning assigned to such term in Section 15.1(c).

Index Price: Means the Mid-Columbia hourly energy index price as published by Intercontinental Exchange unless the Parties mutually agree to use of any successor index which may include renewable energy prices.

Initial Energy Delivery Date: Means the first date that the Project begins Delivered Electrical Output, including Test Energy.

Interconnection Agreement: Means the interconnection agreement which Seller will enter into with the Transmission Owner.

Interconnection Facilities: Means all the facilities installed for the purpose of interconnecting the Project to the Transmission Owner's system at the Delivery Point, including, but not limited to all transformers and associated equipment, relay and switching equipment, and safety equipment.

Intermittent Force Majeure Event: Has the meaning assigned to such term in Section 13.1(c).

Investment Grade: Means (i) with respect to any Person delivering a payment guaranty pursuant to Section 2.3(b)(2), that such Person has a Credit Rating of (a)(1) "Baa2" or higher from Moody's or (2) "BBB" or higher from S&P, if rated by only one of such ratings agencies, or (b) a Credit Rating of "Baa2" or higher by Moody's and "BBB" or higher if rated by both of such rating agencies, and (ii) with respect to a Qualified Issuer, that such Person has a Credit Rating of (a)(1) "A3" or higher from Moody's or (2) "A-" or higher from S&P, if rated by only one of such ratings

agencies, or a Credit Rating of “A3” or (b) higher by Moody’s and “A-” or higher if rated by both of such rating agencies.

kW: Means a kilowatt (alternating current).

Law: Means any statute, law, ordinance, rule, regulation, code (including all health, building, fire, safety, and other codes), order, constitution, treaty, judgment, decree, permit, or any judicial or administrative interpretation thereof having the effect of the foregoing imposed by a Government Authority, whether in effect now or at any time in the future.

Letter of Credit: Means an irrevocable standby letter of credit in substantially the form of Exhibit B attached hereto, as approved by the recipient thereof, issued by a Qualified Issuer.

Losses: Means, with respect to a Party, an amount equal to the present value of the economic losses to it, if any (exclusive of Costs), resulting from the termination of this agreement, determined in a commercially reasonable manner, which Losses could not have reasonably been avoided by the non-defaulting Party’s reasonable mitigation efforts. Losses are defined here to have a positive value.

Maintenance Outage: Means NERC Event Type MO and ME, as set forth in Section 7.4(c), referencing NERC Reporting Instructions, and includes any outage that is not a Forced Outage or a Planned Outage.

Meters: Has the meaning assigned to such term in Section 8.1.

Milestones: Means the key development activities required for the construction and operation of the Project, as described in Exhibit E.

Month: Means a calendar month.

Moody’s: Means Moody’s Investor’s Service, Inc. or its successor.

MW or MWac: Means a megawatt (alternating current).

MWh: Means a megawatt-hour.

Nameplate Capacity Rating: Means the aggregate nameplate capacity of the completed Project, expressed in MW as set forth in a notice from Seller to Seattle City Light. The Nameplate Capacity Rating of the Project shall be [insert] MW.

Native Balancing Authority Area: Means [Insert the BAA to which the Project will be/is directly interconnected to].

NERC: Means the North American Electric Reliability Corporation or its successor approved by FERC for the enforcement of mandatory electric reliability standards.

NERC e-Tags or NERC e-Tagging: Means the method of tracking schedules of energy, as such terms are defined and used by NERC.

OASIS: Means the Open Access Same Time Information System operated by Transmission Owner.

Offered Interests: Has the meaning assigned to such term in Section 16.1(a)

Operating Committee: Means the committee established under Section 6.4(b)

Operating Procedures: Has the meaning assigned to such term in Section 6.4(a).

[Other Facilities: Means any electric generating or energy storage facilities, other than the Project, that use or that are connected to any Shared Facilities, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at each such other generating or storage facility. Other Facilities will be identified in Exhibit A.]

Other Agreements: Means collectively any other agreements that may be in effect between Seattle City and Seller, as set forth in Section 17.19.

Party: Has the meaning assigned to such term in the preamble to this Agreement.

Performance Measurement Period: Means each period of two (2) consecutive Contract Years, commencing on the first anniversary of the COD such that the first Performance Measurement Period shall consist of the second and third Contract Years. For example, the second Performance Measurement Period shall consist of the fourth and fifth Contract Years.

Person: Means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization or Government Authority or any business entity whose existence may be authorized by Law or by a Government Authority.

Planned Outage: Means NERC Event Type PO and PE, as set forth in Section 7.4(b), referencing NERC Reporting Instructions, and includes any outage that is not a Forced Outage or a Maintenance Outage.

Point of Interconnection: The point at which the Interconnection Facilities interconnect to the Transmission Owner's system for delivery of Project output to Transmission Owner's System, and the point of change in ownership of Interconnection Facilities changes from the interconnection customer to the Transmission Owner, as may be indicated in the applicable Interconnection Agreement with Transmission Owner.

Product: Has the meaning assigned to such term in Section 4.1(a).

Project: Means the [generation] powerplant to be located in [insert location] as more fully described on Exhibit A (as amended from time to time by agreement of the Parties) that Seller will construct and own, operate, and maintain as provided for in this Agreement.

Prudent Industry Practices: Means any of the practices, methods, standards and acts (including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of the power generation industry in the United States) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should have reasonably

been known at the time a decision was made, could have been expected to accomplish the desired result consistent with good business practices, reliability, economy, safety and expedition, and applicable Governmental Approvals, Laws and the weather conditions at the Project site.

PPT: Means Pacific Prevailing Time as used by the WECC.

Pseudo-Tie: Means a functionality by which the output of a generating unit physically interconnected to the electric grid in a Native Balancing Authority Area is telemetered to, and deemed to be produced in, the Attaining Balancing Authority Area.

Pseudo-Tie Agreements: Means agreements and related documents that are entered into or delivered by the Native Balancing Authority Area and the Attaining Balancing Authority Area and Project, as applicable, to establish and maintain a Pseudo-Tie for the Project to the extent applicable in accordance with the terms of this Agreement.

Qualified Assignee: Has the meaning assigned to such term in Section 17.1(a).

Qualified Issuer: Means a U.S. commercial bank or a foreign bank with a U.S. branch, with (i) an Investment Grade Credit Rating and (ii) a combined capital surplus of \$10,000,000,000 or any other party for which Seattle City Light's written consent in its sole discretion is provided.

RCW: Means Revised Code of Washington, a compilation of all laws currently in force in the State of Washington.

Recurring Transfers: Has the meaning assigned to such term in Section 5.4(c).

Reliability Authority: Means WECC, NERC or any other reliability entity with jurisdiction over the Project.

Remedial Action Plan: Has the meaning assigned to such term in Section 3.1(c).

Renewable Portfolio Standard or RPS: Means the Energy Independence Act, Chapter 19.825 of the Revised Code of Washington, as may be modified or any successor.

Renewable Energy Credit or REC: Has the meaning set forth in RCW 19.285.030(20), as may be amended from time to time, which on the Effective Date "means a tradable certificate of proof of one megawatt-hour of an eligible renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the [Washington State Department of Commerce or its successor]."

Replacement Price: Means during a Performance Measurement Period in which a Guaranteed Production Shortfall has occurred, the sum of (i) for electric energy, the hourly Index Price during the applicable shortfall hours for such Performance Measurement Period, (ii) the cost of replacement Capacity, including any resource adequacy compliance costs and any Capacity procurement costs reasonably incurred to meet resource adequacy obligations, (iii) any costs Seattle City Light incurs related to replacement energy having GHG obligations under any Washington state laws, (iv) for a Renewable Energy Credit, the simple average of the value of

Renewable Energy Credits from a renewable generation facility located within Washington State and generated during such Performance Measurement Period, as determined based on values obtained from three (3) competitive broker quotes, provided that if the Parties are unable to obtain three (3) competitive broker quotes for Renewable Energy Credits from a renewable generation facility located within Washington State, then the Parties shall obtain two (2) competitive broker quotes for Renewable Energy Credits from a renewable generation facility located within [Washington, Oregon or Idaho] that has an online date no earlier than the Commercial Operation Date. Where such quote is in the form of bid and ask prices, the price that is to be used in the averaging is the midpoint between the bid and ask price, and (v) reasonable transaction and administrative costs.

Required Project Documents: Means the Governmental Approvals and agreements evidencing Seller's achievement of the Milestones, as described in Exhibit F.

Restricted Transaction: Has the meaning assigned to such term in Section 16.1(a).

S&P: Means Standard & Poor's Rating Group or its successor.

Schedule, Scheduled, or Scheduling: Unless context provides otherwise, means the acts of Seller or Seattle City Light, or each's designated representatives, notifying, requesting, and confirming the quantity of energy to be delivered at applicable intervals on any given day or days during the Contract Term.

Seattle City Light Curtailment Request: Has the meaning assigned to such term in Section 7.1(d).

Seattle City Light Parties: Has the meaning assigned to such term in Section 15.1(a).

Seattle City Light's WREGIS Account: Has the meaning assigned to such term in Section 5.4(c).

Security Interest: Has the meaning assigned to such term in Section 3.6(d).

Seller Parties: Has the meaning assigned to such term in Section 15.1(b).

Seller's WREGIS Account: Has the meaning assigned to such term in Section 5.4(c).

[Shared Facilities: Means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights (including any rights under the Interconnection Agreement or Transmission Service Agreements, to the extent applicable), and other assets and property (real or personal), in each case, as necessary to enable delivery of Electrical Output from the Project to or beyond the Point of Interconnection and that are (or may be) used in common with Other Facilities. In no case shall a meter be utilized as a Shared Facility.

Shared Facilities Agreement(s): Has the meaning assigned to such term in Section 7.2(b).

Shared Facilities Counterparty: Means any counterparty to a Shared Facilities Agreement with Seller.]

Start-Up Testing: Means testing of the Project to achieve “substantial completion” under financing, if any, and as required under the Governmental Approvals, the Interconnection Agreement, the construction contracts for the Project and the manufacturer warranties.

Station Service Power: Means electric energy used to operate the Project other than such electric energy generated by the Project, whether the Project is generating electric energy or not.

Summer Season: Means the period of time that commences on June 1 of a Year and terminates on September 15 of the same Year or as may be updated at Seattle City Light's sole discretion.

System Emergency: Means any system condition that (a) requires, as determined and declared by the Transmission Owner, automatic or immediate action to prevent or limit harm to or loss of life or property, to prevent loss of transmission facilities or generation supply, or to preserve system reliability, and (b) adversely affects the ability of any Party to perform under any term or condition in this Agreement, in whole or in part.

Taxes: Has the meaning assigned to such term in Article 10.

Term: Has the meaning assigned to such term in Section 2.1.

Termination Date: Means the Date on which this Agreement will be terminated, as set forth in Section 14.2.

Termination Notice: Has the meaning assigned to such term in Section 3.5(e).

Termination Payment: Has the meaning assigned to such term in Section 14.4(c).

Test Energy: Means any Delivered Electrical Output during periods prior to the Commercial Operation Date.

Test Energy Price: Means sixty-five percent (65%) of the Contract Price.

Total Calculation Intervals: Has the meaning assigned to such term in Exhibit K.

Transmission Owner: Means the entity or entities that own, operate, or control transmission facilities used to deliver Electrical Output from the Project.

Transmission Owner Requirements: Means all tariffs, operational manuals, agreements, rules and regulations established by the Transmission Owner, and the normal business practices, as they may be amended and modified from time to time, of the Transmission Owner, in all cases consistent with the Transmission Tariff and to the extent required by Law posted on Transmission Owner's OASIS.

Transmission Owner's System: Means the electric transmission substation and transmission or distribution facilities owned, operated, or maintained by the Transmission Owner, which shall include, after construction and installation of the Project, the circuit reinforcements, extensions, and associated terminal facility reinforcements or additions required to interconnect the Project, all as set forth in the Interconnection Agreement.

Transmission Services: Means short-term or long-term firm transmission services, including applicable ancillary services.

Transmission Service Provider: Means the entity providing transmission service to deliver energy from the project to the delivery point under the applicable tariff.

Transmission Tariff: Means the Transmission Owner's Open Access Transmission Tariff, as it may be amended, supplemented, or replaced (in whole or in part) from time to time.

Unavailable Calculation Interval: Has the meaning assigned to such term in Exhibit K, Section 1.

WECC: Means the Western Electricity Coordinating Council, or its successor.

WRAP: Means the resource adequacy program that Seattle City Light is participating in which could be the Western Power Pool's resource adequacy program, the "Western Resource Adequacy Program", as may be modified from time to time, or another resource adequacy program.

WREGIS: Means Western Renewable Energy Generation Information System or any successor renewable energy tracking system.

WREGIS Certificates: Has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the Renewable Portfolio Standard and Clean Energy Standard.

WREGIS Operating Rules: Means those operating rules and requirements adopted by WREGIS, as subsequently amended, supplemented, or replaced (in whole or in part) from time to time.

Winter Season: Means the period of time that commences on November 1 of a Year and terminates on March 15 of the immediately following Year or as may be updated at the Buyer's sole discretion.

ARTICLE 2

TERM; EFFECTIVE DATE; TERMINATION; SURVIVAL

2.1. Term.

The term of this Agreement begins on the Effective Date and will continue until the end of the Delivery Term (the "**Term**"), unless otherwise terminated in accordance with the provisions of this Agreement.

2.2. Effective Date.

(a) This Agreement will become effective (the “**Effective Date**”), upon the occurrence of all of the following events:

- (i) The Agreement is executed by a properly authorized representative of Seller,
- (ii) The Agreement is approved by a lawfully enacted ordinance of the City of Seattle, and
- (iii) The Agreement is executed by a properly authorized representative of Seattle City Light.

2.3. Termination.

(a) Continuing Force Majeure Event; Intermittent Force Majeure Event.

In the event a Continuing Force Majeure Event or an Intermittent Force Majeure Event has occurred at any time from the Effective Date through the end of the Delivery Term, either Party may terminate this Agreement during the occurrence of such Continuing Force Majeure Event or Intermittent Force Majeure Event upon thirty (30) days’ written notice to the other Party, without further obligation by either Party, except as to payment of any costs and liabilities incurred before the effective date of such termination. Termination pursuant to this Section shall not constitute an Event of Default, and neither party shall be entitled to recover damages solely as a result of such termination.

(b) Default.

A Party may terminate this Agreement in accordance with Article 14 (Termination and Default) except as to payment of any costs and liabilities incurred before the effective date of such termination.

(c) Material Violation of Applicable Law.

Seattle City Light may terminate this Agreement at any time prior to Commercial Operation Date due to material violations of applicable Law arising out of the development or construction of the Project except as to payment of any costs and liabilities incurred before the effective date of such termination.

(d) Failure to Achieve Commercial Operation Date.

Notwithstanding any of the provisions in this Agreement, including but not limited to Article 13, Seattle City Light may terminate this Agreement upon written notice to Seller if the Commercial Operation Date has not occurred within 30 days after the Guaranteed Commercial Operation Date.

(e) Other Events.

Notwithstanding any of the provisions in this Agreement, this Agreement shall terminate without further action by Seattle City Light if Seattle City Light exercises its option pursuant to Section 3.5(e) to provide the Termination Notice and one of the following occurs: (A) Seller fails to deliver the Continuation Notice within ten (10) days following receipt of the Termination Notice; (B) Seller has notified Seattle City Light that it has elected to stop paying Delay Liquidated Damages; or (C) Seller fails to pay Delay Liquidated Damages following delivery of the Continuation Notice. Nothing herein shall limit or otherwise affect Seattle City Light's right to terminate this Agreement pursuant to Section 14.2.

(f) Early Termination by Seller.

In the event the Seller decides to forgo development of the Project subsequent to the Effective Date of this Agreement, the Seller may terminate the Agreement prior to the Guaranteed Construction Start Date by providing notice to Seattle City Light of its intention to forgo development of the Project and terminate the Agreement and providing payment to Seattle City Light in the amount equal to \$100,000 per MW ("**Early Termination Payment**"). For the avoidance of doubt, any Early Termination Payment shall be in addition to, and not net of, any delay liquidated damages paid or payable by Seller.

(g) Early Termination Exclusivity.

In the event of a termination of the Agreement pursuant to Section 2.3(f), for a period of twelve (12) months from the date upon which such termination occurs ("**Exclusivity Period**"), Seller will not enter into any obligation or agreement to sell Electrical Output from the Project to any third party, unless Seller first offers, in writing, to sell to Seattle City Light such Electrical Output from the Project on the same material terms and conditions (excluding price, a proposal for which shall be communicated in such offer) as this Agreement ("**First Offer**"). Within thirty (30) days of Seattle City Light's receipt of such First Offer, Seattle City Light will notify Seller if Seattle City Light is interested in accepting such First Offer and/or negotiating the pricing terms therefor. If Seattle City Light so notifies Seller of its interest, the Parties shall then negotiate in good faith for at least ninety (90) days in an effort to reach a mutually acceptable transaction. If, notwithstanding such negotiations, the Parties fail to reach such agreement within such ninety (90) day period, the Seller shall be permitted for the next one hundred and eighty (180) days to enter into an agreement on substantially similar or more favorable (to Seller) terms and pricing than the last offer made by Seattle City Light to Seller pursuant to this Section 2.3(g). If Seller fails to enter into such an agreement within such one hundred and eighty (180)-day period, then the provisions of this Section 2.3(g) shall once again apply.

2.4. Survival.

Notwithstanding anything herein to the contrary, the rights and obligations of the Parties shall survive the termination of this Agreement until (a) obligations that accrued prior to

termination of the Agreement are satisfied and (b) to address any obligations or liabilities of a Party that accrued prior to and including the termination of the Agreement.

ARTICLE 3
PROJECT MILESTONES; DEVELOPMENT AND CONSTRUCTION TERMS; DELAY LIQUIDATED DAMAGES; CREDIT SUPPORT

3.1. Project Milestones.

- (a) Project Milestones are outlined in Exhibit E.
- (b) Within ten (10) days after completion of each Milestone, Seller shall provide Seattle City Light with notice along with accompanying documentation (including copies of applicable agreements, Governmental Approvals, and certificates) demonstrating the achievement of such Milestone.
- (c) If Seller misses the deadline date for any one Milestone by more than thirty (30) days or misses the deadline date for two (2) or more consecutive Milestones, Seller shall submit to Seattle City Light, within five (5) business days of such date, a **Remedial Action Plan** that describes in detail a reasonable course of action and plan (including accelerating the work, for example, by using additional shifts, overtime, additional crews or sequencing of the work, as applicable) to achieve the missed Milestones and all subsequent Milestones no later than the Guaranteed Commercial Operation Date; provided, that delivery of any Remedial Action Plan shall not relieve Seller of its obligation to meet any subsequent Milestones and the Guaranteed Commercial Operation Date. If Seller anticipates missing a Milestone, Seller will provide written or verbal notice and reason for Seller not meeting the Milestone, as well as provide any subsequent written updates Buyer may reasonably request. Providing such notice and updates to Buyer shall not relieve Seller of any of Seller's obligations with regard to Milestones, including without limitation its obligation to notify Seller of an actual missed Milestone and provide a Remedial Action Plan as specified above.

3.2. Development Term.

- (a) The "**Development Term**" will commence as of the Effective Date and will continue in effect until the Construction Start Date.
- (b) During the Development Term, Seller shall provide monthly updates to Seattle City Light regarding the progress of the development of the Project, including narrative statements detailing (i) progress towards achieving each Milestone, (ii) any significant developments or delays along with an action plan for making up delays, and (iii) Seller's update to Seller's best estimate of the Commercial Operation Date. Such updates shall be in the form of the progress report set forth in Exhibit G. The first update is due on the last day of the month following the Effective Date. Subsequent updates are due on the last day of each month thereafter.

3.3. Construction Term.

- (a) The “**Construction Term**” will commence as of the Construction Start Date and continue in effect until the Commercial Operation Date.
- (b) Seller will use commercially reasonable efforts to achieve the Construction Start Date on or before [insert date] and, in any case, not later than the Guaranteed Construction Start Date.
- (c) If Seller misses the Guaranteed Construction Start Date, Seller is required to pay Seattle City Light Guaranteed Start Delay Damages pursuant to Section 3.5(a).
- (d) During the Construction Term, Seller shall provide monthly updates to Seattle City Light regarding the progress of the construction of the Project, including (i) progress towards achieving each Milestone, (ii) any significant developments or delays along with an action plan for making up delays, (iii) documentation of predictable risks that may be incurred by Seattle City Light and (iv) Seller’s best estimate of the Commercial Operation Date. Such updates shall be in the form of a progress report set forth in Exhibit G. The first update is due on the last day of the month following the Construction Start Date. Subsequent updates are due on the last day of each month thereafter.
- (e) Seller will notify Seattle City Light of the energization, commissioning and testing of the Project at least thirty (30) days prior to the commencement of such energization, commissioning and testing. Seller shall provide to Seattle City Light, at no additional cost, escorted access to observe the energization, commissioning and testing of the Project for compliance with this Agreement; provided, however, that Seattle City Light shall comply with all of Seller’s applicable safety and health rules and requirements. Seattle City Light’s monitoring of the Project shall not be construed as an inspection or endorsement of the design thereof, nor as any express or implied warranties including performance, safety, durability or reliability of the Project.

3.4. Delivery Term.

- (a) The “**Delivery Term**” will commence on the Commercial Operation Date and continue until the end of the [insert years] Contract Year, unless otherwise terminated or extended in accordance with the terms of this Agreement.
- (b) Seller will use commercially reasonable efforts to achieve Commercial Operation on or before [insert date] and, in any case, not later than the Guaranteed Commercial Operation Date.
- (c) If Seller does not achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, Seller is required to pay Seattle City Light Commercial Operation Date Delay Liquidated Damages for failing to achieve the Guaranteed Commercial Operation Date as provided for in Section 3.5(c).

3.5. Delay Liquidated Damages.

(a) If Seller is required to pay to Buyer as liquidated damages for failing to achieve the Guaranteed Construction Start Date (“**Guaranteed Start Delay Damages**”) as provided for in Section 3.3(c), the Guaranteed Start Delay Damages will be calculated as follows:

$$NP \times DDR \times D$$

Where:

“NP” means the Nameplate Capacity Rating in MWac;

“DDR” means the Delay Damages Rate; and

“D” means the number of days beyond the Guaranteed Construction Start Date until Construction Start is achieved.

(b) If the Project achieves Commercial Operation by the Guaranteed Commercial Operation Date, Seattle City Light will refund (without interest) Seller’s payment of the Guaranteed Start Delay Damages already paid.

(c) If Seller is required to pay to Buyer as liquidated damages for failing to achieve the Guaranteed Commercial Operation Date (“**Commercial Operation Date Delay Liquidated Damages**”) as provided for in Section 3.4(c), the Commercial Operation Date Delay Liquidated Damages will be calculated as follows:

$$(NP - I) \times DDR \times D$$

Where:

“NP” means the Nameplate Capacity Rating in MWac;

“I” means the MWac of installed capacity that satisfy the Commercial Operation criteria;

“DDR” means the Delay Damages Rate; and

“D” means the number of days beyond the Guaranteed Commercial Operation Date until Commercial Operation is achieved.

(d) All Delay Liquidated Damages will be paid by Seller on the 1st day of the Month following the Month in which such amount accrued. Each Party agrees and acknowledges that actual damages for delayed Commercial Operations would be difficult or impossible to predict with certainty and that the liquidated damages set forth in this Section 3.5(d) are reasonable and appropriate approximations of such damages. If delay exceeds one hundred and eighty (180) days beyond the Guaranteed Commercial Operation Date, the Delay Damages Rate shall increase by 25%.

(e) Except as provided below Seller shall not be obligated to pay aggregate Delay Liquidated Damages in excess of 200% of the Development Credit Support amount (the “**Delay Liquidated Damages Cap**”). If Delay Liquidated Damages reach the Delay Liquidated Damages Cap, Seattle City Light may, at its option, terminate this Agreement upon ten (10) days written notice to Seller (the “**Termination Notice**”); provided, however, that, if within ten (10) days following receipt of the Termination Notice, Seller delivers a written notice to Seattle City Light that it has elected to continue paying Delay Liquidated Damages in excess of the Delay Liquidated Damages Cap (the “**Continuation Notice**”) and Seller is not otherwise in default under this Agreement, Seattle City Light at its discretion may permit Seller to continue performance, in which case Seller shall continue to pay Delay Liquidated Damages without cap until such time as Seller notifies Seattle City Light that Seller has elected to stop paying Delay Liquidated Damages or fails to pay Delay Liquidated Damages in accordance with this Section 3.5.

3.6. Failure to Reach Guaranteed Capacity.

If, at Guaranteed Commercial Operation Date, at least ninety-five percent (95%), but less than one hundred percent (100%) of the Nameplate Capacity Rating is fully operational and reliable, Seller shall have thirty (30) days after the Guaranteed Commercial Operation Date to install additional capacity such that the Nameplate Capacity Rating is increased, but not to exceed 100% of the Nameplate Capacity Rating, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit M-1 hereto specifying the new Nameplate Capacity Rating. In the event that the fully operational and reliable Nameplate Capacity Rating is still less than 100% of the Nameplate Capacity Rating as of such date, Seller shall pay “Capacity Damages” to Buyer, in an amount equal to Two Hundred Fifty Thousand Dollars (\$250,000) for each MW that the fully operational and reliable Nameplate Capacity Rating is less than 100% of the Nameplate Capacity Rating, and the Nameplate Capacity Rating and other applicable portions of the Agreement shall be reduced to an amount equal to the product of (a) the amount in effect prior to such adjustment, multiplied by (b) the ratio of the fully operational and reliable Nameplate Capacity Rating as of such date to the original Nameplate Capacity Rating. For the avoidance of doubt, any Capacity Damages shall be in addition to, and not net of, any Delay Liquidated Damages paid or payable by Seller.

3.7. Credit Support.

(a) Development Credit Support. No later than ten (10) days after the Effective Date, Seller shall deliver Development Credit Support to Seattle City Light in an amount equal to the product of one-hundred fifty dollars (\$150) per kW times the Nameplate Capacity Rating as security for the payment of amounts due to Seattle City Light pursuant to this Agreement, and to provide Seattle City Light with security that Seller will satisfy its obligations under this Agreement. Seller shall maintain such Development Credit Support through the date on which the Delivery Credit Support is posted pursuant to Section 3.7(b). Development Credit Support may be provided in any one or any combination of the following: (1) a Letter of Credit in substantially the form of Exhibit B, or (2) cash transferred via wire transfer to Seattle City Light based on instruction provided by Seattle City Light. Seller shall maintain the Development Credit Support in full force and effect

and Seller shall replenish the Development Credit Support in the event Seattle City Light collects or draws down any portion of the Development Credit Support for any reason permitted under this Agreement within five (5) Business Days after such draw, other than to satisfy a Termination Payment. If Development Credit Support is in the form of a Letter of Credit, and Seattle City Light draws on such Letter of Credit because it was not renewed or replaced with alternate Credit Support at least sixty (60) days before its expiration date, any amounts so drawn will be held by Seattle City Light as cash Development Credit Support pursuant to this Section 3.7(a).

(b) Delivery Credit Support. No later than the Commercial Operation Date, Seller shall establish Delivery Credit Support in the amount of the product of one-hundred dollars (\$100) per kW times the Nameplate Capacity Rating and maintain such Delivery Credit Support through the end of the Delivery Term (“**Delivery Credit Support**”) as security for the payment of amounts due to Seattle City Light pursuant to this Agreement, and to provide Seattle City Light with security that Seller will satisfy its obligations under this Agreement; provided that Seller may elect to apply the Development Credit Support posted pursuant to Section 3.7(a) toward the Delivery Credit Support posted pursuant to this Section 3.7(b). Delivery Credit Support may be provided in any one or any combination of the following: (1) a Letter of Credit in substantially the form of Exhibit B, or (2) cash deposited into an escrow established for the benefit of Seattle City Light, in form and substance reasonably satisfactory to Seattle City Light. Seller shall maintain the Delivery Credit Support in full force and effect and Seller shall replenish the Delivery Credit Support in the event Seattle City Light collects or draws down any portion of the Delivery Credit Support for any reason permitted under this Agreement within five (5) Business Days after such draw, other than to satisfy a Termination Payment. If Delivery Credit Support is in the form of a Letter of Credit, and Seattle City Light draws on such Letter of Credit because it was not renewed or replaced with alternate Delivery Credit Support at least thirty (30) days before its expiration date, any amounts so drawn will be held by Seattle City Light as cash Delivery Credit Support pursuant to this Section 3.7(b).

(c) Return of Credit Support. The Development Credit Support and Delivery Credit Support are collectively “**Credit Support.**” Within sixty (60) days after Seller posts the Delivery Credit Support pursuant to Section 3.7(b), Seattle City Light shall return any remaining Development Credit Support provided by Seller pursuant to Section 3.7(a), except to the extent such Development Credit Support is used to pay unpaid amounts owed by Seller to Seattle City Light pursuant to this Agreement or Seller elects to apply such Development Credit Support toward the Delivery Credit Support. Seattle City Light shall return any unused portion of Delivery Credit Support provided by Seller pursuant to this Section 3.7(c) once Seller has satisfied all amounts owed to Seattle City Light under this Agreement, except to the extent such Credit Support is used to pay unpaid amounts owed by Seller to Seattle City Light pursuant to this Agreement.

(d) First Priority Security Interest in Cash or Cash Equivalent Collateral. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Seattle City Light a present and continuing first-priority security interest (“**Security Interest**”) in, and lien on (and right to net against), and assignment of the Credit Support and any and all interest thereon or proceeds resulting therefrom or from the

liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Seattle City Light, and Seller agrees to take all action as Seattle City Light reasonably requires in order to perfect Seattle City Light's Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

(e) Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Seattle City Light is authorized to retain all or a portion of the Development Credit Support or Delivery Credit Support, Seattle City Light may do any one or more of the following:

- i. Exercise any of its rights and remedies with respect to the Development Credit Support and Delivery Credit Support, including any such rights and remedies under Law then in effect;
- ii. Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Seattle City Light as Development Credit Support or Delivery Credit Support; and
- iii. Liquidate all Development Credit Support or Delivery Credit Support (as applicable) then held by or for the benefit of Seattle City Light free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Seattle City Light shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller remains liable for any amounts owing to Seattle City Light after such application), subject to Seattle City Light's obligation to return any surplus proceeds remaining after these obligations are satisfied in full in accordance with Section 3.7(c).

3.8. Standards

Seller shall, at its sole cost and expense (i) design, construct, operate, and maintain the Project and its Interconnection Facilities in accordance with Prudent Industry Practices and in accordance with this Agreement, and (ii) take any further actions necessary to ensure the Project's compliance with the Transmission Owner's applicable Open Access Transmission Tariff.

ARTICLE 4 SALE AND PURCHASE; PURCHASE PRICES

4.1. Sale and Purchase of Product and Curtailed Energy.

(a) Subject to the limitations and conditions set forth in Sections 4.1(b) and 5.1, commencing on the Initial Energy Delivery Date and throughout the Delivery Term, subject to the terms and conditions of this Agreement, Seller shall deliver and sell to Seattle

City Light, and Seattle City Light shall accept and purchase from Seller, on an as-available basis,

- (i) all Delivered Electrical Output,
- (ii) all Environmental Attributes associated with all Electrical Output of the Project recorded on the Meter, and
- (iii) the Capacity Attributes associated with the Project (together, these three elements are defined as the “**Product**”).

(b) In addition to limitations and conditions set forth in Section 5.1, Seattle City Light has no obligation to purchase the Electrical Output when Electrical Output from the Project cannot be delivered to the Delivery Point or cannot be delivered to the Delivery Point utilizing the transmission services required by Section 7.3, except to the extent that the failure to deliver the Product is solely due to a Seattle City Light Curtailment Request. Seattle City Light has no obligation to purchase Electrical Output from the Project that cannot be delivered to the Delivery Point in the duration that any other Authorized Curtailment coincides with the duration of a Seattle City Light Curtailment Request (“**Curtailed Energy**”).

(c) Seller shall offer Curtailed Energy at the Contract Price and Seattle City Light, in its sole discretion, may elect to purchase some or all of the Curtailed Energy. If Seattle City Light elects not to purchase any portion of the Curtailed Energy offered pursuant to this Section 4.1(c), subject to its other obligations under this Agreement, Seller may sell such portion of the Electrical Output of the Curtailed Energy to one or more other purchasers selected by Seller in its sole discretion. Seller has no right to sell the Environmental Attributes or Capacity Attributes of the Curtailed Energy.

(d) Seller has no right to source any element of the Product from sources other than the Project, or the Transmission Owner in the form of ancillary services and transmission losses, for sale to Seattle City Light under this Agreement.

4.2. Purchase Prices.

(a) Subject to the limitations and conditions set forth in Section 4.1(c) and 5.1, between the Initial Energy Delivery Date and the Commercial Operation Date, Seattle City Light shall pay Seller the Test Energy Price for the Test Energy sold to and accepted by Seattle City Light in accordance with Section 4.1(a)(i); provided, however, that Seller’s right to receive payment for such Test Energy is subject to Seattle City Light’s right of offset against any amounts due and payable to Seattle City Light under this Agreement including, among other things, payment by Seller of any Delay Liquidated Damages (subject to the Delay Liquidated Damages Cap) owed to Seattle City Light under this Agreement.

(b) Subject to the limitations and conditions set forth in Section 4.1(c) and 5.1, between the Commercial Operation Date through the Delivery Term, Seattle City Light shall pay Seller the Contract Price for Delivered Electrical Output as provided for in accordance with Section 4.1(a)(i), including Electrical Output undelivered solely due to a Seattle City Light

Curtailed Request; provided, however, that Seller's right to receive payment for such Delivered Electrical Output is subject to Seattle City Light's right of offset against any amounts due and payable to Seattle City Light under this Agreement.

(c) Seattle City Light's obligation to pay for Test Energy as provided for in Section 4.2(a), and to pay for Delivered Electrical Output of the Project as provided for in Section 4.2(b) includes at no additional cost to Seattle City Light all Environmental Attributes and all Capacity Attributes of the Project including all Environmental Attributes and all Capacity Attributes of the Project associated with Curtailed Energy and Excess Product.

4.3. Transfer of Title.

(a) Delivery Point.

Seller has the responsibility, at its expense, to deliver the Product to Seattle City Light at the Delivery Point.

(b) Title; Risk of Loss; Exclusive Control.

- i. Electrical Output: Seller will be deemed to be in exclusive control of Electrical Output before the Delivery Point, and Seattle City Light will be deemed to be in exclusive control of the Electrical Output at and from the Delivery Point. Title and risk of loss related to the Electrical Output will transfer from Seller to Seattle City Light at the Delivery Point. Seller warrants that it will deliver the Electrical Output free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any Person.

In the event Seattle City Light elects to purchase Curtailed Energy in accordance with Section 4.1(c), Seller will be deemed to be in exclusive control of Curtailed Energy before the Meter, and Seattle City Light will be deemed to be in exclusive control of Curtailed Energy at and from the Meter. Title and risk of loss related to the Curtailed Energy will transfer from Seller to Seattle City Light at the Meter. In the event Seattle City Light elects to purchase Excess Product in accordance with Section 5.1, Seller will be deemed to be in exclusive control of such Excess Product before the Delivery Point, and Seattle City Light will be deemed to be in exclusive control of Excess Product at and from the Delivery Point. Seller warrants that it will deliver the Curtailed Energy and/or Excess Product free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any Person.

- ii. Environmental Attributes: Seller will be deemed to be in exclusive control of Environmental Attributes associated with all Electrical Output of the Project before the Meter, and Seattle City Light will be deemed to be in exclusive control of the Environmental Attributes associated with all Electrical Output of the Project at and from the Meter. Title and risk of loss related to the Environmental Attributes associated with all Electrical Output of the Project will transfer from Seller to Seattle City Light at the Meter. Seller warrants that it will deliver the Environmental Attributes associated with all Electrical Output of the

Project free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any Person.

- iii. Capacity Attributes: Seattle City Light will be deemed to be in exclusive control of the Capacity Attributes of the Project. Title and risk of loss related to the Capacity Attributes of the Project will transfer from Seller to Seattle City Light as they are created by or attributable to the Project. Seller warrants that the Capacity Attributes of the Project are free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any Person.

4.4. Station Service Power.

Seller will be solely responsible for obtaining and paying for all Station Service Power.

4.5. Project and Delivery Expenses.

Seller will be solely responsible for all costs and expenses relating to the interconnection and operation of the Project, and for the delivery of the Product to Seattle City Light until title transfers to Seattle City Light as provided for in Section 4.3(b).

4.6. Documentation.

By the Initial Energy Delivery Date and as may be requested by Seattle City Light throughout the Delivery Term, Seller shall provide Seattle City Light with documentation associated with the Product. Such documentation specifically includes, but not limited to, any documentation necessary to confirm Seattle City Light's purchase of the Capacity Attributes for use in any resource adequacy program, to comply with the RPS, to satisfy Green-e CRS listing, or for any other applicable resource adequacy or compliance program.

ARTICLE 5

ANNUAL PRODUCT CAP; GUARANTEED PRODUCTION; GUARANTEED SEASONAL AVAILABILITY; WREGIS; PSEUDO-TIE; DATA ACCESS

5.1. Annual Product Cap; Excess Product.

Seattle City Light will pay Seller for all Test Energy and all Delivered Electrical Output of as provided for in Section 4.2 for up to 115% of the Annual Product and will have no obligation to pay Seller for Test Energy and Delivered Electrical Output delivered in excess of 115% of the Annual Product ("**Excess Product**"). Seller shall offer Excess Product at the Contract Price and Seattle City Light, in its sole discretion, may elect to purchase some or all of the Excess Product. Seller shall deliver Excess Product to the Delivery Point at no additional charge to Seattle City Light.

If Seattle City Light elects not to purchase any portion of the Excess Product offered pursuant to this Section 5.1, subject to its other obligations under this Agreement, Seller may sell such portion of the Electrical Output of the Excess Product to one or more other

purchasers selected by Seller in its sole discretion. Seller has no right to sell the Environmental Attributes or Capacity Attributes of the Excess Product.

5.2. Guaranteed Production.

(a) For each Performance Measurement Period during the Delivery Term, the amount of the aggregate Adjusted Annual Product shall be at least 170% of the Annual Product for such Performance Measurement Period (the “**Guaranteed Production**”).

(b) Promptly, and in no case later than thirty (30) days following the completion of the initial Performance Measurement Period, and after each Contract Year thereafter, Seller shall calculate the aggregate Adjusted Annual Product for the immediately preceding Performance Measurement Period. The calculation of the Adjusted Annual Product provided to Seattle City Light pursuant to this Section 5.2 (Guaranteed Production) shall include an explanation in reasonable detail of the manner in which such Adjusted Annual Product was calculated, using historical Project data, meteorological data, output projections and other relevant data reasonably necessary to verify the accuracy of the calculations. If the aggregate Adjusted Annual Product is less than half of the Guaranteed Production in a given Performance Measurement Period (such shortfall, a “**Guaranteed Production Shortfall**”), Seller shall pay Guaranteed Production Liquidated Damages.

(c) After each Performance Measurement Period in which a Guaranteed Production Shortfall occurs, Seller shall pay to Seattle City Light, as liquidated damages (and not as a penalty), an amount equal to the Guaranteed Production Shortfall (in MWh) for such Performance Measurement Period, multiplied by the positive difference obtained by subtracting the Contract Price from the Replacement Price (“**Guaranteed Production Liquidated Damages**”). For each Performance Measurement Period, Seattle City Light shall invoice Seller and Seller shall make payment within ten (10) business days of receipt of such invoice. In the event Seller, in good faith, disputes the amount of any such invoice or part thereof, Section 9.2(b) shall prevail with respect to such disputed portion of the invoice. Examples of the calculations Guaranteed Production Shortfall and Guaranteed Production Liquidated Damages can be found in Exhibit J.

(d) Except as provided in Section 14.1(a)(viii), the payment of Guaranteed Production Liquidated Damages as contemplated by this Section 5.2 (Guaranteed Production) shall be Seattle City Light’s sole remedy for any failure by Seller to meet the Guaranteed Production for any Performance Measurement Period during the Delivery Term.

5.3. Guaranteed Seasonal Availability.

(a) In addition to the Guaranteed Production described above, Seller shall provide Seattle City Light with a guarantee that the Project’s Seasonal Availability shall be no less than ninety-five percent (95%) (the “**Guaranteed Seasonal Availability**”) for any (i) Summer Season, or (ii) Winter Season.

(b) The Project’s actual Seasonal Availability during Calculation Intervals in the Summer Season or Winter Season shall be calculated using the methodology set forth in Exhibit K, Section 1. Within thirty (30) days of the end the Summer Season or Winter

Season, Seller shall provide to Seattle City Light the Seasonal Availability capacity calculation provided in Exhibit K, Section 1.

(c) Seller shall pay to Seattle City Light liquidated damages if the Project fails to meet the Guaranteed Seasonal Availability in any Summer or Winter Season of any Contract Year after the Commercial Operation Date (the “**Guaranteed Seasonal Shortfall Damages**”). The liquidated damages for failure to meet the Guaranteed Seasonal Availability will be calculated using the methodology set forth in Exhibit K, Section 2.

(d) Except as provided in Section 14.1(a)(viii), the payment of Guaranteed Seasonal Shortfall Damages as contemplated by this Section 5.3 (Guaranteed Seasonal Availability) shall be Seattle City Light’s sole remedy for any failure by Seller to meet the Guaranteed Seasonal Availability during the Delivery Term.

5.4. WREGIS.

(a) Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Electrical Output delivered to the Meter are issued and transferred within 10 days of certificate creation to Seattle City Light for Seattle City Light’s sole benefit.

(b) Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Seattle City Light and Seattle City Light shall be given sole title to all such WREGIS Certificates.

(c) Seller shall register the Project with WREGIS by the Initial Energy Delivery Date and establish an account with WREGIS (“**Seller’s WREGIS Account**”) and submit a Tracking Attestation Form with the Center for Resource Solutions (CRS) to be CRS-listed, which Seller shall maintain through the Delivery Term. Seller may, at its sole expense and with agreement from Seattle City Light transfer to Seattle City Light using “**Recurring Transfers**” (as described in the WREGIS Operating Rules) the WREGIS Certificates associated with the Electrical Output for such month, from Seller’s WREGIS Account to the WREGIS account(s) of Seattle City Light or the account(s) of a designee that Seattle City Light identifies by written notice (“**Seattle City Light’s WREGIS Account**”).

(d) If Parties elect to use the Recurring Transfer, Seller shall cause Recurring Transfers to occur on a monthly basis in accordance with the procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Electrical Output generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(e) Seller shall be responsible for all expenses associated with registering the Project with WREGIS, establishing and maintaining Seller’s WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller’s WREGIS Account to Seattle City Light’s WREGIS Account. Seattle City Light shall be responsible for all expenses associated with establishing and maintaining Seattle City

Light's WREGIS Account, accepting WREGIS Certificates from Seller's WREGIS Account to Seattle City Light's WREGIS Account, or otherwise applicable to Seattle City Light's purchase or use of Environmental Attributes in connection with this Agreement.

(f) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with Electrical Output at the Meter for such calendar month.

5.5. Pseudo-Tie of Project.

(a) At the request of Seattle City Light, Seller shall use commercially reasonable efforts to arrange for the Pseudo-Tie Agreements and shall undertake commercially reasonable efforts to maintain and deliver all Delivered Electrical Output to Seattle City Light via a Pseudo-Tie, once established, throughout the Term. If, for any reasons other than the fault or negligence of Seller, Seller is unable to deliver Electrical Output to Seattle City Light using a Pseudo-Tie, Seller may deliver Electrical Output to Seattle City Light using dynamic or static schedules, or other mechanism as may be available, so long as Seller can satisfy its other obligations under this Agreement, including providing Environmental Attributes. Seattle City Light shall reasonably cooperate with Seller in the establishment and maintenance of the Pseudo-Tie and with alternative delivery arrangement as may reasonably be necessary.

(b) Upon establishing a Pseudo-Tie, Seattle City Light shall assume the responsibility for providing ancillary services, along with the costs of ancillary services. Seattle City Light shall assume responsibility for scheduling, reserving, and maintaining transmission service from the Project to the Delivery Point. The Parties shall negotiate a reduction in the purchase price to reflect the ancillary services and transmission service assumed by Seattle City Light, upon establishment of the Pseudo-Tie including provisions to incent accurate scheduling. The parties will mutually agree on scheduling and forecasting to enable the Pseudo-Tie.

5.6. Data Access.

(a) Project Data. Commencing on the first date on which startup and Test Energy is received from the Project, and continuing throughout the Delivery Term, Seller shall provide to Buyer the following data on a real-time basis:

- i. Project Data: Seller shall provide Seattle City Light real-time availability data for the Project via a remote terminal unit ("RTU"). Seller shall make available to Buyer, as a non-graphical display, the forecasted and actual output for the Project in increments not to exceed five (5) minute averages, and as a graphical display, the forecasted and actual output for the Project in increments not to exceed ten (10) minute averages via a web portal and secure client login, including secure file transfer protocol ("FTP"). Seller shall make available to Buyer real-time data of actual output, which shall be automatically telemetered to Buyer's supervisory control and data acquisition ("SCADA") system.
- ii. Weather Data: Read-only access to (1) meteorological measurements for: ambient air temperature, rainfall quantity (rate and running thirty (30) day total),

wind speed, wind direction, relative humidity, barometric pressure, solar irradiance, (2) forecasted wind speed and cloud cover, and (3) any other weather-related information collected by Seller.

- iii. Meter Data: Read-only access to the Meter.
- iv. Automatic Generation Control: Regarding this subsection, all data points shall be provided through a system that is capable of interfacing with both a primary RTU for Seattle City Light's automatic generation control and a secondary RTU for Seattle City Light's backup automatic generation control. The automatic generation control RTU shall have interface capability for a PI historian.

Seller shall have back-up plans in place consistent with Prudent Utility Practices that enable Seller to continue to provide real-time data to Buyer in the event that Seller's primary communications means become unavailable at any point in time. Seller shall store information for three (3) months after delivery to Seattle City Light.

[Depending on the specifics of the project and data access set-up, Seattle City Light reserves the right to require additional terms and conditions related to cybersecurity and data management]

(b) Annual Forecast of Expected Delivered Electrical Output and Electrical Output. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter at least one (1) month, but no more than three (3) months, before the first day of each Contract Year during the Delivery Term, Seller shall provide to Seattle City Light a non-binding forecast of expected Delivered Electrical Output and expected Electrical Output, by hour, for the following Contract Year in the form attached hereto as Exhibit N-1 or as reasonably requested by Seattle City Light.

(c) Monthly Forecast of Capacity, Delivered Electrical Output and Electrical Output. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected capacity of the Project and expected Delivered Electrical Output and expected Electrical Output, for each day of the following month in a forms attached hereto as Exhibits N-2 and N-3, respectively.

(d) Regulatory Reports. Commencing on the first date on which startup and Test Energy is received from the Project, and continuing throughout the Delivery Term, Seller shall provide to Seattle City Light NERC, WECC, and FERC compliance reports (including but not limited to self-reports, audit reports, and notices of potential violation) regarding the Project when they are issued. Seller shall also provide Seattle City Light all CAISO and any other market operator compliance reports (including but not limited to self-reports, audit reports, and notices of potential violation) regarding the Project when they are issued.

**ARTICLE 6
OPERATION AND MAINTENANCE OF THE PROJECT**

6.1. Seller's Core Obligation.

At Seller's sole cost and expense, Seller will cause the construction, operation and maintenance of the Project in accordance with Prudent Industry Practices and in accordance with this Agreement.

Seller shall not modify the Project in any way which changes the Nameplate Capacity Rating after the Effective Date without first providing a written notice to Seattle City Light and receiving Seattle City Light's written approval.

6.2. Access and Information.

(a) Seller will keep complete and accurate records and all other data that the Parties mutually agree will be reasonably required by Seattle City Light for the purpose of proper administration of this Agreement, including, without limitation, metering records, billing records kept in accordance with Section 9.2 (Payment), and such records regarding ownership, management, control, operation and maintenance of the Project as may be required by any applicable Law; such record keeping requirements shall be memorialized in the Operating Procedures. Seller will maintain such records for a minimum of six (6) years and for any additional length of time required by any applicable Law.

(b) Upon at least five (5) business days' prior notice and subject to the safety rules and regulations of Seller, Seller will provide Seattle City Light and its authorized agents, employees and inspectors with reasonable access to the Project: (i) for the purpose of witnessing testing of metering equipment in accordance with Section 8.3, (ii) to provide tours of the Project upon reasonable request, (iii) for the purpose of obtaining visual content in connection with Seattle City Light's reports and other disclosures on its sustainability and renewable energy policies and initiatives, and (iv) for other purposes reasonably required by Seattle City Light for the purpose of proper administration of this Agreement.

6.3. Permits; Compliance with Laws.

(a) Seller will, at its expense, acquire and maintain in effect, from any and all Government Agencies with jurisdiction over Seller and/or the Products, all Governmental Approvals, in each case necessary (i) for the construction, operation and maintenance of the Project in accordance with this Agreement, and (ii) for Seller to perform its obligations under this Agreement.

(b) Seller will, at all times, comply in all material respects with all Laws and Governmental Approvals applicable to it and/or to the Products, including all applicable environmental Laws in effect at any time during the Term.

(c) Seattle City Light will, at all times, comply in all material respects with all Laws and Governmental Approvals necessary for Seattle City Light to perform its obligations under this Agreement.

(d) Subject to the right to contest their applicability, both Parties will comply with all applicable Transmission Owner Requirements.

6.4. Operating Procedures.

(a) Seller and Seattle City Light will develop written operating procedures (“**Operating Procedures**”) before interconnection with the Transmission Owner’s system, which Operating Procedures will only be effective if made by mutual written agreement of the Parties. The Parties agree that such Operating Procedures will cover the protocol under which the Parties will perform their respective obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (1) the method of day-to-day communications, (2) key personnel lists for Seller and Seattle City Light, including authorized representatives and alternates, and (3) Project planned and forced outage notification procedures. Seller and Seattle City Light will use commercially reasonable efforts to complete such Operating Procedures no later than forty-five (45) days prior to the Initial Energy Delivery Date.

(b) As a means of securing effective cooperation and exchanges of information and of providing consultation on a prompt and orderly basis between the Parties in connection with various administrative, commercial, and technical issues which may arise during the performance of this Agreement, the Operating Procedures will also provide that the Parties establish an **Operating Committee**. Seller and Seattle City Light will both appoint an authorized representative and may appoint an alternate to act in its authorized representative’s absence. Seller and Seattle City Light must provide written notice of the appointments to the other Party. The authorized representatives and alternates shall be managers well experienced with regard to matters relating to the implementation of the Parties’ rights and obligations under this Agreement. The authorized representative and alternate appointments will remain in full force and effect until written notice of substitution is delivered to the other Party. The Operating Committee will meet as necessary at a mutually agreeable time and place upon prior written notice. The Operating Committee will represent the Parties in all matters arising in this Agreement that may be delegated to them by mutual agreement of the Parties but will not have the authority to modify or amend the terms of this Agreement.

**ARTICLE 7
SCHEDULING; DELIVERY; AND TRANSMISSION**

7.1. Seller’s Delivery-Related Obligations.

(a) Generation Forecast. Seller shall provide a good-faith estimate of the expected Electrical Output of the Project to Seattle City Light prior to the scheduling deadlines in Transmission Owner’s scheduling business practices posted on Transmission Owner’s OASIS and WECC’s protocols for day-ahead and hourly scheduling as described below:

- i. Day-Ahead Forecasting: On or before 4:30 a.m. PPT on each applicable WECC pre-scheduling day during the Term, Seller shall provide an estimate of the hourly Electrical Output for the next applicable day(s) to Seattle City. Unless

otherwise agreed to, Seller shall integrate their forecasting systems with Seattle City Light's system and the Transmission Service Provider as well as electronically deliver such estimate to Seattle City Light in the timeframe stated above.

- ii. Hourly Forecasting: During the day in which Electrical Output will be generated, Seller shall provide rolling 24-hour hourly forecasts to Seattle City Light ninety (90) minutes prior to the start of the delivery hour integrated into Seattle City Light's systems energy management system via application programming interface (API) with mutually agreed applicable electronic data transfer from seller's forecasting system. If Seller fails to provide an updated hour-ahead forecast within the specified timeframe, then the day-ahead forecast shall apply for such hour.

Seller's estimate shall be based upon the forecast provided by the Transmission Owner. All day-ahead and hourly forecasts provided under this Agreement by Seller to Seattle City Light shall be non-binding, good-faith forecasts only. Seller shall not be liable for inaccuracies in any day-ahead or hourly forecasts that are based on good faith estimates.

In the event Seattle City Light identifies a pattern of Seller under-scheduling of Electrical Output such that Seller is not satisfying its obligations as specified in Section 4.1 of the Agreement, then Seller and Seattle City Light must meet and in good faith develop a methodology to prevent under-scheduling. In the event the negotiations fail to achieve a resolution within 30 days, either Party may trigger the Dispute Resolution Provisions of Section 16.9 to resolve the dispute.

(b) Scheduling.

Unless a Pseudo-Tie is established to Seattle City Light's system per Section 5.5, Seller shall be responsible for scheduling and Seattle City Light shall be responsible for the generation of NERC e-Tags for the delivery of Electrical Output to Seller at the Delivery Point ("**Delivered Electrical Output**"). Seattle City Light shall be responsible for scheduling and the submission of NERC e-Tags for Curtailed Energy and/or Excess Product sold by Seattle City Light pursuant to Section 5.1.

Scheduling and the submission of NERC e-Tags shall be in accordance with the scheduling and NERC e-Tagging requirements of NERC, WECC, and Transmission Owner Requirements, and/or Balancing Area Authority(ies). The Party responsible for scheduling shall match the generation forecast data provided by the Transmission Owner when scheduling Electrical Output and adhere to Transmission Owner Requirements associated with generation forecast data.

The entity responsible for submission of NERC e-Tags shall generate NERC e-Tags on or before 4:30 a.m. PPT on each applicable WECC pre-scheduling day that matches the generation forecast provided in Section 7.1(a)(i) for the applicable WECC preschedule window. During the day on which Delivered Electrical Output will be generated, NERC e-

Tags will be updated hourly for a rolling 24-hour timescale that matches the Seller's forecast as per Section 7.1(a)(ii).

In the event Buyer participates in the day-ahead market, the Parties shall adjust this Section 7.1(a) as necessary to accommodate the requirements of the market operator.

(c) Notice of Project Unavailability. Seller will inform Seattle City Light of any Force Majeure Event (as provided for in Section 13.2 (Applicability of Force Majeure Event)), outages (generation and transmission), maintenance (generation and transmission), or other such inability to deliver Product as soon as is feasible, and will provide advance notice where any such inability to deliver is reasonably foreseeable. Seller will notify the Transmission Owner of any generation or Interconnection Facilities outage consistent with any outage notices required by the Interconnection Agreement.

(d) Authorized Curtailments. Seattle City Light acknowledges and agrees that, in accordance with Prudent Industry Practices, Seller may curtail deliveries of Electrical Output from the Project if:

- i. Transmission Owner has directed the curtailment of the Project;
- ii. Seller reasonably believes that such curtailment is necessary (i) to maintain, repair, replace, remove or inspect any portion of the Project or the Interconnection Facilities, (ii) in connection with an emergency condition likely to result in significant damage to the Project or the Interconnection Facilities or is deemed necessary by Seller to protect life or property, or (iii) in order to comply with Seller's obligations under the Interconnection Agreement (iv) or has been directed by a Reliability Authority; and
- iii. Seattle City Light Curtailment Request (an "**Authorized Curtailment**").

(e) Curtailment of Electrical Output at Seattle City Light's Request. Seller shall, promptly, but no later than one (1) hour following Seller's receipt of a written request by Seattle City Light (a "**Seattle City Light Curtailment Request**"), curtail the Electrical Output from the Project in the amount and for the duration set forth in the Seattle City Light Curtailment Request.

7.2. Interconnection [and Shared Facilities].

(a) Interconnection Capacity Obligation. Seller shall obtain and maintain throughout the Delivery Term any and all interconnection service rights and [firm] transmission service rights required to effect delivery of all Electrical Output to the Delivery Point. During the Delivery Term, the Interconnection Agreement shall provide for sufficient interconnection capacity to ensure that at all times there is interconnection capacity available or allocable solely to the Project that is no less than the Nameplate Capacity Rating ("**Guaranteed Interconnection Capacity**").

(b) *[If the Project expects to have Shared Facilities]:* The Parties acknowledge that the Project may deliver Electrical Output through Shared Facilities and that ownership and

use of any Shared Facilities may be subject to a co-tenancy or similar sharing agreement (collectively, “Shared Facilities Agreement(s)”) under which an Affiliate of Seller may act as manager on behalf of Seller (“**Affiliate Manager**”). In connection with the Interconnection Agreement and the Shared Facilities Agreements, if any, the following shall apply:

- (i) The Shared Facilities Agreements shall provide that:
 - (A) Seller is able to perform or satisfy Seller’s obligations hereunder, and the Shared Facilities Agreement shall not purport to limit, constrain, or supersede any such obligations;
 - (B) Seller shall maintain sufficient interconnection capacity and rights under or through the Interconnection Agreement and the Shared Facilities Agreements, if any, to interconnect the Project with the Transmission Owner system and fulfill its obligations under this Agreement, including under Section 7.2(a);
 - (C) the Project and any Other Facilities shall have separate revenue quality metering, and the Project shall not share its Meter;
 - (D) any instruction from the Native Balancing Authority Area or Transmission Owner to curtail energy deliveries in a manner that does not specify the curtailment levels applicable to the Project or any Other Facility(ies) shall be allocated between the Project and any Other Facility(ies) that have achieved commercial operation on a pro rata basis based upon their respective energy delivery forecasts for the applicable period, except (A) when such pro rata allocation would be in violation of the applicable curtailment instruction, or (B) to the extent that the need for the curtailment can be attributed to the Project or to any Other Facility.
- (ii) Except with respect to an assignment or collateral assignment of the Interconnection Agreement, Shared Facilities or Shared Facilities Agreement(s) to a Person to which this Agreement is assigned, Seller shall not assign or transfer Seller’s rights or obligations under the Interconnection Agreement or any Shared Facilities Agreement that would limit or otherwise adversely affect the Guaranteed Interconnection Capacity or that would otherwise impact Seller’s ability to satisfy its obligations under this Agreement, to any Person without the prior written consent of Buyer, which consent shall not be unreasonably withheld; provided that consent to an assignment of this Agreement to a Person shall also be deemed a consent to the assignment or other transfer by Seller of its interest in the Shared Facilities to such Person.
- (iv) Seller shall not, and shall not permit any Affiliate to, allocate to other Persons or Other Facilities a share of the total interconnection capacity under the Interconnection Agreements in excess of an amount equal to the total

interconnection capacity under the Interconnection Agreements, minus the Guaranteed Interconnection Capacity.

(c) As between Buyer and Seller under this Agreement, Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to Seller, any Shared Facilities Counterparty or the Affiliate Manager under the Shared Facilities Agreement, if any, and the Transmission Tariff, in connection with the interconnection of the Project to the Transmission Owner's electric system and transmission of electric energy from the Project to the Transmission Owner's electric system.

(d) Seller shall, as counterparty to the Interconnection Agreement, shall cause any Shared Facilities Counterparty, as applicable, to comply with the Transmission Tariff, including securing and maintaining in full force and effect all required Transmission Owner agreements, certifications and approvals.]

7.3. Transmission.

[For a fully delivered product on long-term firm transmission:]

(a) Seller is responsible for arranging and the cost of all Transmission Services required to fulfill Seller's obligation to deliver all Electrical Output of the Project to the Delivery Point. The Parties acknowledge that the purchase price of Product includes charges for such Transmission Services, which shall be paid by Seller.

(b) Seattle City Light is responsible for arranging and the cost of all Transmission Services from the Delivery Point.

(c) Seller shall deliver all Electrical Output of the Project to the Delivery Point using long-term firm transmission service. In the event Seller is unable, following reasonable commercial diligence, to secure firm transmission:

- i. Non-firm or short-term firm transmission service may be utilized by Seller to deliver Electrical Output of the Project to the Delivery Point. If Seller utilizes non-firm or short-term firm transmission for delivery of Electrical Output to the Delivery Point, Seattle City Light shall pay eighty-five percent (85%) of the Contract Price for the quantity of Delivered Electrical Output. If there is a curtailment due to Seller's use of non-firm transmission, then Seller shall pay Seattle City Light the difference between the quantity of megawatts of Electrical Output that would have been delivered and the Electrical Output that was delivered at Seattle's hourly EIM Load Aggregation Point (LAP) at the node ELAP_SCL-APND.
- ii. If Seller fails to secure transmission to deliver Electrical Output of the Project to the Delivery Point, Seller may thereafter sell Electrical Output to a non-Buyer party as permitted herein, and then Seattle City Light shall not pay the Contract Price; provided however, Seattle City Light shall still receive the Environmental and Capacity Attributes attributable to the Project's Electrical Output and Seller

shall share with Seattle City Light fifty percent (50%) of the profit from Seller's resale of such energy when energy prices are above zero. Energy resold by Seller shall not be specified source or imply that Environmental Attributes are included in the product.

(d) All Environmental Attributes shall be transferred from Seller to Buyer as attributable to the Electrical Output.

(e) Seller shall, at Seattle City Light's request, allow Seattle City Light to redirect the transmission service obtained by Seller to deliver Electric Output of the Project and allow Seattle City Light to transmit non-Project energy on the redirected transmission service. This shall occur at no incremental cost to Seattle City Light.

[For a product where the Delivery Point is set to provide Seattle City Light delivery at the busbar:]

(f) Seller is responsible for arranging and the cost of all interconnection service rights pursuant to Section 7.2(a) but shall not be required to arrange or purchase Transmission Services from the Delivery Point.]

(g) Seattle City Light is responsible for arranging and the cost of all Transmission Services from the Delivery Point. The Parties acknowledge that the purchase price of Product does not include charges for such Transmission Services.

(h) All Environmental Attributes shall be transferred from Seller to Buyer as attributable to the Electrical Output.

[For any other transmission arrangements: PPA language will be provided at the Shortlist stage]

7.4. Market Structure.

(a) The scheduling, delivery, and transmission of Electrical Output outlined in Article 7 reflect the market structure under which the Project will operate as of the Effective Date. To the extent there are market structure changes in the future that shift costs or burdens from Seller to Seattle City Light (or Seattle City Light to Seller), the Parties will use commercially reasonable efforts to amend this Agreement to maintain the prior allocation of costs and burdens. If the Parties are unable to mutually agree on any proposed amendment to this Agreement, either Party may submit such dispute to mediation pursuant to Section 17.12 (Dispute Resolution).

7.5. Outages.

(a) Forced Outages.

- i. In reference to NERC Reporting Instructions, Forced Outages include NERC Event Types U1, U2 and U3. NERC Event Type U1 is an immediate unplanned

(forced) outage that requires immediate removal of a unit for service, another outage state or a reserved shutdown state. This type of outage results from immediate mechanical, electrical or hydraulic control system trips and operator-initiated trips in response to unit alarms. NERC Event Type U2 is a delayed unplanned (forced) outage that does not require immediate removal from a unit from the in-service state but requires removal within six (6) hours. This type of outage can only occur while the unit is in service. NERC Event Type U3 is a postponed unplanned (forced) outage that can be postponed beyond six hours but requires that a unit be removed from an in-service state before the end of the next weekend. This type of outage can only occur while the unit is in service. Forced Outages do not include Maintenance Outages or Planned Outages.

- ii. Seller shall promptly provide to Seattle City Light an oral report, via telephone to a number specified by Seattle City Light (or other method approved by Seattle City Light), of any Forced Outage resulting in two (2) MW or more of the Nameplate Capacity Rating of the Project being unavailable. This report shall include the amount of the generation capacity of the Project that will not be available because of the Forced Outage and the expected return date of such generation capacity. Seller shall promptly update the report as necessary to advise Seattle City Light of changed circumstances. As soon as practicable, the oral report shall be confirmed in writing by notice to Seattle City Light. Seller shall use commercially reasonable measures consistent with Prudent Industry Practices to avoid Forced Outages and to minimize their duration, and restore delivery of Electrical Output as soon as possible.
- (b) Planned Outages.
- i. In reference to NERC Reporting Instructions, Planned Outages include NERC Event Types PO and PE. NERC Event Type PO is an outage scheduled well in advance of a predetermined duration that lasts for several weeks and only occurs once or twice a year. Boiler overhauls, turbine replacement or inspections are typical Planned Outages. NERC Event Type PE is an extension of a planned outage beyond its estimated completion date. Planned Outages exclude Forced Outages or Maintenance Outages.
 - ii. Except as otherwise provided herein, Seller shall use all commercially reasonable efforts to avoid scheduling a Planned Outage during daylight hours (sunup to sunset) during any portion of the month within the Winter Season or the Summer Season.
 - iii. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter at least one (1) month, but no more than three (3) months, before the first day of each Contract Year during the Delivery Term, Seller shall provide Seattle City Light with an annual forecast of Planned Outages for each Contract Year, and shall promptly update such schedule, or otherwise change it, only to the extent that Seller is reasonably required to change it in order to comply with Prudent Industry Practices.

- iv. Seller shall not schedule any maintenance of Interconnection Facilities during the Winter Season or the Summer Season, without the prior written approval of Seattle City Light, which approval shall not be unreasonably withheld or delayed.
 - v. Within thirty (30) days of request, Seller shall provide information relevant to Planned Outages prior to Seattle City Light's fulfillment of any relevant resource adequacy program obligations to provide demonstrations of capacity for Summer and Winter seasons.
- (c) Maintenance Outages.
- i. In reference to NERC Reporting Instructions, Maintenance Outages include NERC Event Types MO and ME. NERC Event Type MO is a Maintenance Outage which can be deferred beyond the end of the next weekend but requires that the unit be removed from service, another outage state before the next Planned Outage. NERC Event Type ME is an extension of a maintenance outage beyond its estimated completion date. Maintenance Outages exclude Forced Outages or Planned Outages.
 - ii. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller shall notify Seattle City Light in writing of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins (or such shorter period to which Seattle City Light may reasonably consent in light of then-existing conditions). Upon such notice, the Parties shall plan the Maintenance Outage to mutually accommodate the reasonable requirements of Seller and the service obligations of Seattle City Light; *provided, however*, that Seller shall take all reasonable measures consistent with Prudent Industry Practices to not schedule any Maintenance Outage during the daylight hours in a portion of a month within the Summer Season or the Winter Season.
 - iii. Notice of a proposed Maintenance Outage shall include the expected start date and time of the outage, the amount of generation capacity of the Project that will not be available, and the expected completion date and time of the outage. Seller shall give Seattle City Light notice of the Maintenance Outage as soon as practicable after Seller determines that the Maintenance Outage is necessary. Seattle City Light shall promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller shall use all commercially reasonable efforts to comply with any request to modify the schedule for a Maintenance Outage provided that such change has no substantial impact on Seller.
 - iv. Seller shall notify Seattle City Light of any changes in generation capacity available to Seattle City Light as a result of a Maintenance Outage or any changes in the Maintenance Outage completion date and time. As soon as practicable, any notifications given orally shall be confirmed in writing. Seller

shall take all reasonable measures consistent with Prudent Industry Practices to minimize the frequency and duration of Maintenance Outages.

(d) Effect of Outages on Estimated Output and Availability. If Planned Outages and Maintenance Outages cause a shortfall in Guaranteed Production or Guaranteed Seasonal Availability, Seller shall pay Guaranteed Production Liquidated Damages to Seattle City Light as provided in Section 5.2 (Guaranteed Production).

ARTICLE 8 METERING

8.1. Meter Requirements.

The revenue quality meters and metering equipment at the point where the Project interconnects to the transmission system of the Transmission Owner as described in Exhibit H-2 used to measure Electrical Output delivered to the Transmission Owner's System will be installed, owned, operated, maintained, controlled and repaired as required by the Interconnection Agreement (collectively, the "**Meter**"). The Project will have its own revenue quality Meter that serves the Project only, and such Meter will not serve any other purpose, project, resource, or any Other Facilities, whether owned by Seller or not owned by Seller. Seattle City Light will have no responsibility for the installation, ownership, operation, maintenance, control or repair of the Meters. Seattle City Light's access to Meter data is provided for in Section 5.6(a)(iii).

8.2. Back-Up Meters.

Either Party may elect to install and maintain, at its own expense, backup metering devices ("**Back-Up Meters**") as described in Exhibit H-2, provided, however, that the specifications, installation and testing of any such Back-Up Meters shall be fully consistent with the requirements for the Meters. Any curtailment of generation required solely due to the installation or testing of such Back-Up Meters shall not be an Authorized Curtailment. Upon written request, the installing Party shall conduct retests requested by the other Party. The actual cost of any retest shall be borne by the Party requesting the test, unless, upon such retest, Back-Up Meters are inaccurate by more than +/- 1%, in which event, the cost of the retest shall be borne by the installing Party. If requested in writing, the installing Party shall provide copies of any inspection, or testing reports to the requesting Party. Notwithstanding the foregoing, to the extent a Party or Transmission Owner conduct any Back-Up Meter tests from time to time, Parties will share promptly upon their receipt and review thereof the Back-Up Meter test results, with any applicable comments or concerns, if any, with other Party.

8.3. Inspection and Testing of the Meters.

(a) The Meters will be inspected, tested and adjusted from time to time as required by the Interconnection Agreement. Seller will provide Seattle City Light with at least forty-five (45) business days' advance notice of, and permit a representative of Seattle City Light to witness and verify, such inspections, tests, and adjustments.

(b) To the extent permitted in the Interconnection Agreement, Seller shall perform additional inspections and tests of the Meters to the extent requested by Seattle City Light. The actual expense of any additional inspection or testing requested by Seattle City Light will be borne by Seattle City Light, unless, upon such inspection or testing, the Meters are found to register inaccurately by more than +/- 1%, in which event the expense of the requested additional inspection or testing will be borne by Seller. Notwithstanding the foregoing, to the extent Seller or Transmission Owner conduct any Meter tests from time to time, Parties will share promptly upon their receipt and review thereof the Meter test results, with any applicable comments or concerns, if any, with the other Party.

(c) If, as a result of any test performed in accordance with Section 8.3 of any of the Meters is found to be registering outside the applicable accuracy standard in effect at the time of the test, the Parties shall use Back-Up Meters, if installed, to determine the amount of such inaccuracy. If Back-Up Meters are not installed, or Back-Up Meters are also found to be inaccurate by more than +/-1%, such Meter registering outside the applicable accuracy standard shall be restored to the accuracy standard and payments pursuant to this Agreement shall be corrected in accordance with this Section 8.3(c). If the payments by Seattle City Light to Seller must be corrected, as required in this Section 8.3(c), the account between Seller and Seattle City Light shall be corrected for a period equal to one-half of the elapsed time since the most recent test, up to a maximum correction period of twelve (12) Months, by applying the percentage of inaccuracy so found; provided, if the meter became defective or inaccurate at a reasonably ascertainable time since the most recent test, the correction shall extend back to such time. Should metering equipment at any time fail to register, the energy delivered shall be determined from the best available data. If additional WREGIS certificates are created as a result of a modification by the Transmission Owner to the meters, all such WREGIS certificates shall be transferred to Seattle City Light's WREGIS Account in accordance with this Agreement.

(d) The Meters and Back-Up Meters shall be kept under seal, and such seals may only be broken when the meters are to be tested, adjusted, modified, or relocated in accordance with this Agreement or applicable requirements. When there is any break to a seal, the party identifying the break shall notify the other party as soon as possible.

ARTICLE 9 BILLING AND PAYMENT

9.1. Billing.

(a) Except as otherwise provided in Section 5.2 (Guaranteed Production), Seller shall be responsible for billing between the Parties. Seller shall provide to Seattle City Light by the tenth (10th) day of each Month an original invoice for the Product delivered during the previous Month, calculated pursuant to Section 4.2 (Purchase Prices). Seller shall deliver invoices to Seattle City Light's Accounts Payable department at the Accounts Payable address specified in advance by Seattle City Light and will send a copy of each such invoice via electronic mail (or by electronic invoice as set forth in Section 9.3 (Electronic Invoicing) to Buyer (or to such other addresses as requested by Seattle City Light's authorized representative).

(b) If Seattle City Light requires a purchase request number to be included on Seller's invoice for payment, then within ten (10) business days of the Initial Energy Delivery Date, Seattle City Light shall provide Seller with Seattle City Light's purchase request number for this Agreement. By January 15th of each year during the Delivery Term, Seattle City Light shall notify Seller if such purchase request number has changed for this Agreement.

9.2. Payment.

(a) Seattle City Light's payment under this Agreement will be due on the first business day that is thirty (30) days following the date of the invoice and must be made by electronic fund transfer to Seller's account. Seattle City Light shall specify the means of payment and reserves the right to use Automated Clearing House ("ACH") network electronic fund transfers for payments to Seller under this Agreement. Seller agrees to the ACH payment process should Seattle City Light elect to utilize it and shall bear its own costs related to ACH payments.

(b) If Seattle City Light, in good faith, disputes the amount of any invoice or any part thereof delivered pursuant to Section 9.1 ("**Billing Dispute**"), Seattle City Light shall (i) pay when due to Seller such amount as Seattle City Light acknowledges is correct, plus (ii) promptly, but in any case not later than thirty (30) days following Seattle City Light receipt of such invoice, notify Seller in writing of the nature of the Billing Dispute. Seattle City Light will identify in its inquiry: (i) the amount disputed; (ii) the service to which the dispute applies; and (iii) the reason for withholding payment. Seattle City Light may withhold payment of the disputed amount, and such payment will not be considered past due during Seller's investigation. Seller will make commercially reasonable efforts to completely resolve the Billing Dispute within thirty (30) days following the date on which Seller received Seattle City Light's initial billing inquiry. If the Parties are unable to resolve the Billing Dispute within the 30-day period described above, it will be resolved pursuant to the dispute resolution provisions in Section 17.10 (Dispute Resolution) below. While the Parties work to resolve the dispute, this Agreement will remain in full force and effect, unless otherwise terminated pursuant to the terms hereof. Seattle City Light may continue to withhold payment of the disputed amount, and such payment will not be considered past due during the dispute resolution process. Upon the resolution of the disputed amounts, Seattle City Light and Seller agree to settle the outstanding balance determined to be due within five (5) business days following such resolution.

9.3. Electronic Invoicing.

Seattle City Light may require electronic invoicing. If it does so, Seller shall use commercially reasonable efforts to comply with Seattle City Light's written instructions for electronic submission of invoices and shall bear any related reasonable expenses. To the extent Seller is unable use electronic invoicing, the Parties shall continue to use manual invoicing. Seattle City Light may utilize one or more third parties to facilitate electronic invoicing.

**ARTICLE 10
TAXES, FEES, AND TAX CREDITS**

10.1. Obligation to Pay.

Seller will pay or cause to be paid all taxes, fees, levies, assessments, penalties, licenses, or charges of any Government Authority (collectively, “Taxes”) on or with respect to the Product imposed at or before the Delivery Point. Seattle City Light will pay or cause to be paid all Taxes on or with respect to the Product imposed after the Delivery Point. In the event Seller is required to remit or pay Taxes that are Seattle City Light’s responsibility under this Agreement, Seattle City Light shall promptly reimburse Seller for such Taxes. If Seattle City Light is required to remit or pay Taxes that are Seller’s responsibility under this Agreement, then Seller shall promptly reimburse Seattle City Light for such Taxes. Seller will receive and retain any federal, state or local existing or future tax credits or other tax benefits available to the owner or operator of the Project, including without limitation all federal income tax credits under the Internal Revenue Code.

**ARTICLE 11
REPRESENTATIONS AND WARRANTIES**

11.1. Representations and Warranties of Seller.

Seller represents and warrants to Seattle City Light as of the Effective Date and through the Term as follows:

(a) Seller is a [insert type of entity] duly organized, validly existing and in good standing under the Laws of the state of [insert] and is qualified and in good standing in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of Seller, and Seller has all requisite power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Agreement.

(b) The execution, delivery, and performance of its obligations under this Agreement by Seller have been duly authorized by all necessary action, and do not:

- i. require any consent or approval of Seller’s members or managers which has not been obtained, and each such consent and approval that has been obtained is in full force and effect,
- ii. violate any provision of any Law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award having applicability to Seller or any provision of the organizational documents of Seller, the violation of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this Agreement,
- iii. result in a breach of or constitute a default under any provision of the organizational documents of Seller, or

- iv. result in a breach of or constitute a default under any agreement relating to the management or affairs of Seller or any indenture or loan or credit agreement or any other agreement, lease, or instrument to which Seller is a party or by which Seller or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have an adverse effect on the ability of Seller to perform its obligations under this Agreement.
- (c) This Agreement constitutes a legal, valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws relating to or affecting the rights of creditors generally and except as the enforceability of this Agreement is subject to the application of (i) general principles of equity (regardless of whether considered in a proceeding in equity or at law), including, without limitation, the possible unavailability of specific performance, injunctive relief or any other equitable remedy and (ii) concepts of materiality, reasonableness, good faith and fair dealing.
- (d) There is no pending or, to the best of Seller's knowledge, threatened action or proceeding affecting Seller or the Project before any court, Government Authority or arbitrator that could reasonably be expected to have a material adverse effect on the financial condition or operations of Seller or the ability of Seller to perform its obligations hereunder, or that purports to affect the legality, validity or enforceability of this Agreement.
- (e) Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- (f) That throughout the Delivery Term of this Agreement all Electrical Output of the Project at the Meter contains zero Greenhouse Gas emissions.
- (g) That the Environmental Attributes associated with Electrical Output of the Project sold to Seattle City Light have never been unbundled from the Project and transferred to another party except to the extent allowed under this Agreement.
- (h) That the Capacity Attributes associated with the Project sold to Seattle City Light have never been unbundled from the Project and transferred to another party except to the extent allowed under this Agreement.

11.2. Representations and Warranties of Seattle City Light.

Seattle City Light represents and warrants to Seller as of the Effective Date as follows:

- (a) Seattle City Light is a municipal public utility validly existing under the Laws of Washington and a department of The City of Seattle, a Washington municipal corporation, duly organized, validly existing and in good standing under the Laws of the State of Washington, and has the full legal right, power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Agreement.

(b) The execution, delivery, and performance of its obligations under this Agreement by Seattle City Light have been duly authorized, and do not and shall not require any additional consent or approval of The City of Seattle or Seattle City Light's officers, and each such consent and approval that has been obtained is in full force and effect at the time of its execution by Seattle City Light.

ARTICLE 12 AUDIT

12.1. Seattle City Light's Right to Audit.

Seattle City Light shall have the right, at its own expense, at any reasonable time during the term of this Agreement and for a period of six (6) years after expiration or termination hereof, to audit Seller's records pertaining to Seller's obligations under this Agreement by requesting copies of such records. Seller shall maintain all such records for at least six (6) years after the expiration or termination of this Agreement. Any such audit shall not relieve Seller of its obligations or liability hereunder or constitute Seattle City Light's consent or approval to any actions undertaken or methods, systems and/or procedures used by Seller. If any such audit discloses any overcharges, Seller shall, on demand, pay Seattle City Light the amount of any such overcharges and reimburse Seattle City Light for Seattle City Light's reasonable costs and expenses actually incurred in connection with the audit.

ARTICLE 13 FORCE MAJEURE EVENT

13.1. Force Majeure Event Defined.

(a) As used in this Agreement, "**Force Majeure Event**" means any of the following enumerated events that occurs subsequent to the Effective Date and that prevents the claiming Party from performing its material obligations under this Agreement, but only to the extent (a) such event is not attributable to the Party, (b) such event is directly and solely caused by factors beyond the Party's reasonable control, (c) the Party has taken, both before and after the occurrence of such event, all commercially reasonable and prudent technical, operational, and commercial measures to prevent, avoid, mitigate, or overcome such event and/or its consequences, but has been unable to do so. Subject to the foregoing, a Force Majeure Event may include, without limitation, acts of God (such as earthquakes, floods, hurricanes, tornadoes and wildfires) and other casualty events; sabotage; terrorism; war; riots or public disorder; and strikes or other significant and prolonged labor disputes that are not limited to the claiming Party.

(b) Without limiting the generality of Section 13.1(a), the term Force Majeure Event does not include: (i) causes or events affecting the performance of third-party contractors or suppliers of goods or services except to the extent caused by an event that otherwise is a Force Majeure Event under subsection (a) of this Section 13.1, (ii) the unavailability of equipment, or the mechanical or equipment breakdown or inability to operate, including serial defects, (iii) changes in market conditions that affect the price of energy or capacity, including without limitation the existence at any time of negative energy pricing at or near

the Delivery Point or any negative energy pricing with respect to any Electrical Output that Seattle City Light resells or attempts to resell, (iv) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (v) Seller's failure to timely apply for or to obtain Governmental Approvals that Seller knows or should know on the Effective Date are required for the construction or operation of the Project; (vi) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project except to the extent such inability is caused by a Force Majeure Event; (vii) any labor strikes, slowdowns, work stoppages, or other labor disruptions that are limited or specific to the claiming Party, (viii) any equipment failure except to the extent such equipment failure is caused by a Force Majeure Event; (ix) failure of Seller to abide by Prudent Industry Practices, (x) changes in market conditions that affect demand or price of power and/or Environmental Attributes and Renewable Energy Credits, (xi) Transmission Owner directed curtailment, or (xii) economic hardship.

(c) A "**Continuing Force Majeure Event**" is a Force Majeure Event that continues for more than three hundred and sixty-five (365) consecutive days. An "**Intermittent Force Majeure Event**" is a Force Majeure Event that continues for eighteen (18) Months in the aggregate within any rolling ten (10) year period of this Agreement, whether or not such period is uninterrupted.

13.2. Applicability of Force Majeure Event.

(a) As a condition precedent to the assertion or continuation of any Force Majeure Event, the claiming Party shall:

- i. As soon as it is reasonably known to the claiming Party, but in any event no later than two (2) business days after the Force Majeure Event first prevents performance, the claiming Party will give the other Party written notice of the Force Majeure Event. As soon as practicable but in no event later than one week after the commencement of the Force Majeure Event, the claiming party must provide a written explanation detailing (A) the specific facts, circumstances, and causes giving rise to the Force Majeure Event, (B) the date and time of commencement, (C) the specific material obligations affected and the manner in which such obligations are prevented; (D) mitigation measures; (E) a good faith estimate of the expected duration of the Force Majeure Event; (F) and the timeline for resumption of full performance;
- ii. provide periodic written status and progress reports no less frequently than monthly (and more frequently upon reasonable request of the non-claiming Party), describing actions taken to remediate the Force Majeure Event and any changes to the expected duration;
- iii. promptly notify the other Party of any material developments affecting the Force Majeure Event or its expected duration; and

- iv. pursue all commercially reasonable efforts to mitigate and overcome the Force Majeure Event and resume full performance at the earliest practicable time.
 - v. Failure to comply with the foregoing requirements shall result in the loss of the right to claim Force Majeure protection for the period during which such failure occurs.
- (b) Except for the obligation to pay money that is due and owing, neither Party will be in breach or liable for any failure in its performance under this Agreement to the extent such performance is prevented due to a Force Majeure Event.
- (c) The failure in performance will be of no greater scope and of no longer duration than is caused and made reasonably necessary by the Force Majeure Event itself;
- (d) As soon as the performance of the Party claiming the Force Majeure Event is no longer being prevented, that Party will immediately give the other Party written notice to that effect and resume performance of their full obligations under this Agreement.

ARTICLE 14 TERMINATION AND DEFAULT

14.1. Event of Default.

- (a) The occurrence of any one of the following will constitute an “**Event of Default**” with respect to Seller:
- i. Seller fails to make payments for good faith undisputed amounts due under this Agreement to Seattle City Light within five (5) business days after receiving notice from Seattle City Light that such payment is unpaid and due.
 - ii. Seller fails to comply with any material provision of this Agreement (other than the obligation to pay money when due or other obligations that are separately addressed in this Section 14.1(a)), and such failure continues uncured for thirty (30) days after notice thereof by Seattle City Light, provided that if such failure is not capable of being cured within such period of thirty (30) days with the exercise of reasonable diligence, then such cure period will be extended for an additional reasonable period of time, not to exceed an additional sixty (60) days, so long as Seller is exercising reasonable diligence to cure such failure.
 - iii. Seller (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, or has any such petition filed or commenced against it, (b) makes an assignment or any general arrangement for the benefit of creditors, or (c) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

- iv. A proceeding or case is commenced, without the application or consent of Seller, in any court of competent jurisdiction, seeking: (a) its liquidation, reorganization of its debts, dissolution or winding-up, or the composition or readjustment of its debts; (b) the appointment of a receiver, custodian, liquidator or the like of Seller or of all or any substantial part of its assets; or (c) similar relief in respect of Seller under any Law relating to bankruptcy, insolvency, reorganization of its debts, winding-up, composition or adjustment of debts, and such proceeding or case is not dismissed within sixty (60) days.
- v. Any representation made by Seller in this Agreement is false in any material respect when made and Seller fails to remedy such false representation within thirty (30) days after Seller becomes aware that such representation is false (or, if earlier, notice thereof by Seattle City Light).
- vi. The bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar proceeding with respect to any entity providing any of Seller's Credit Support, unless such Credit Support is replaced by another acceptable form of Credit Support within ten (10) business days.
- vii. Seller fails to deliver and maintain Seller's Credit Support in the amounts and on the dates required by Section 3.8, and such failure continues uncured for ten (10) business days.
- viii. With respect to any outstanding Letter of Credit provided for the benefit of Seattle City Light that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Seattle City Light either (1) cash, or (2) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within five (5) Business Days after Seller receives Notice of the occurrence of any of the following events:
 - (1) the issuer of the outstanding Letter of Credit shall fail to be a Qualified Issuer;
 - (2) the issuer of such Letter of Credit becomes Bankrupt;
 - (3) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;
 - (4) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;
 - (5) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(6) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(7) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

- ix. Within a given Performance Measurement Period, the sum of the Adjusted Annual Product of each of the two Contract Years comprising the Performance Measurement Period is less than seventy percent (70%) of the applicable Annual Product (the “**Default Trigger**”). The Default Trigger for each Performance Measurement Period during the Term is specified in Exhibit D. An example application of the Default Trigger is included in Exhibit J.
 - x. Any voluntary cessation prior to the Guaranteed Commercial Operation Date by Seller of all or substantially all development or construction activities of the Project for a period of more than sixty (60) consecutive days (“**Abandonment**”).
 - xi. the failure by Seller to achieve the Construction Start Date within one hundred twenty (120) days after the Guaranteed Construction Start Date, or the failure by Seller to achieve Commercial Operation within ninety (90) days after the Guaranteed Commercial Operation Date.
 - xii. Product or any portion thereof is sold or delivered to any entity other than Seattle City Light, unless such sale or delivery is specifically permitted by Section 5.1 (Annual Product Cap).
 - xiii. Seller makes a public statement or otherwise takes an action that any Government Authority determines is a retirement, double counting, double sale, double use, or double claim of the Environmental Attributes or RECs generated by the Project, if Seller does not permanently cease such sale and compensate Seattle City Light for the damages arising from breach within ten (10) days after Seattle City Light gives Seller notice of default.
 - xiv. With the exception of electric energy supplied by the Transmission Owner as an ancillary service, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement electric energy that was not generated by the Project.
 - xv. Seller’s unauthorized assignment of this Agreement.
- (b) The occurrence of any one of the following will constitute an “**Event of Default**” with respect to Seattle City Light:
- i. Seattle City Light fails to make payments for good faith undisputed amounts due under this Agreement to Seller within twenty (20) business days after receiving notice from Seller that such payment is unpaid and due.

- ii. Seattle City Light fails to comply with any material provision of this Agreement (other than the obligation to pay money when due or other obligations that are separately addressed in this Section 14.1(b)), and such failure continues uncured for thirty (30) days after notice thereof by Seller, provided that if such failure is not capable of being cured within such period of thirty (30) days with the exercise of reasonable diligence, then such cure period will be extended for an additional reasonable period of time, not to exceed an additional sixty (60) days, so long as Seattle City Light is exercising reasonable diligence to cure such failure.
- iii. Any representation made by Seattle City Light in this Agreement is false in any material respect when made and Seattle City Light fails to remedy such false representation within thirty (30) days after Seattle City Light becomes aware that such representation is false (or, if earlier, notice thereof by Seller).
- iv. Seattle City Light's unauthorized assignment of this Agreement.

14.2. Remedies for Default.

If an Event of Default occurs with respect to a defaulting Party, the non-defaulting Party may, for so long as the Event of Default is continuing, deliver a written notice that establishes a date (which date will be no earlier than ten (10) days after the Non-Defaulting Party delivers notice) on which this Agreement will be terminated (a "**Termination Date**") unless such Event of Default is cured prior to the Termination Date ("**Cure Period**"). If the Event of Default has not been cured by the end of the Cure Period, the Agreement will terminate and the non-defaulting Party may pursue any other remedies available under this Agreement or now or hereafter existing at law or in equity, except to the extent such remedies are expressly limited by this Agreement.

14.3. Injunctive Relief.

Each Party shall be entitled to seek the restraint by injunction of any actual or threatened breach of any material obligation of the other Party under this Agreement. The Parties in any action for restraint by injunction agree that they shall each request that all expenses incurred in such proceeding, including, but not limited to, reasonable counsel fees, be apportioned in the final decision based upon the respective merits of the positions of the Parties.

14.4. Damages Payable in the Event of Termination.

Notwithstanding the foregoing, the Parties acknowledge and agree that if this Agreement is terminated due to an Event of Default by either Party, in addition to any other remedies available to the non-defaulting Party under this Agreement and any remedies at law or equity that are not specifically excluded by this Agreement, the non-defaulting Party shall be entitled to damages from the defaulting Party, calculated as follows:

- (a) In the event of an Event of Default arising from Seller's failure to post the additional Credit Support as required pursuant to Section 3.6 (a), the damages payable by Seller to

Seattle City Light under this Agreement shall be equal to the initial Development Credit Support.

(b) For any other Event of Default of Seller arising under this Agreement prior to the Commercial Operation Date, the damages payable to Seattle City Light under this Agreement shall be equal to the Development Credit Support then held by Seattle City Light.

(c) For all other terminations, the non-defaulting Party shall calculate a **Termination Payment** equal to (i) the greater of zero and the amount equal to the non-defaulting Party Losses minus the non-defaulting Party Gains, (ii) plus Costs, (iii) plus all other amounts (if any) due the non-defaulting party, (iv) minus all other amounts (if any) due to the defaulting party, (v) minus (at the option of the non-defaulting Party) any cash or other form of security then available to the non-defaulting Party. If the Termination Payment is greater than zero, then it is due to the non-defaulting Party. If the non-defaulting Party's calculation of the Termination Payment results in a negative amount, the Termination Payment should be deemed to be zero dollars (\$0.00) and no payment will be due to the defaulting Party.

ARTICLE 15

INDEMNIFICATION; FINES; LIMITATION ON LIABILITY; INSURANCE

15.1. Indemnification.

(a) Indemnity by Seller. Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its elected officials, officers, employees, agents, and representatives (“**Seattle City Light Parties**”) against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including reasonable costs and attorneys’ fees (“**Claims**”) resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and including the Delivery Point, unless caused by the negligence of a Seattle City Light Party; (ii) Seller’s development, permitting, construction, ownership, operation and/or maintenance of the Project; (iii) the failure of Seller or the Project to comply with applicable Law; (iv) any Taxes or penalty thereon for which Seller is responsible hereunder; or (v) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Seattle City Light, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or negligence of Seattle City Light, its Affiliates, and its and their directors, officers, employees, agents, and representatives. Seller expressly waives by mutual negotiation, all immunity and limitation of liability under any industrial insurance act, including Title 51 RCW, other Workers’ Compensation Act, Disability Benefit Act, or other Employee Benefit Act of any jurisdiction, which would otherwise be applicable in the case of such claim.

(b) Indemnity by Buyer. Seattle City Light shall release, indemnify, defend, and hold harmless Seller, its Affiliates, and its and their directors, officers, employees, agents, and

representatives (“**Seller Parties**”) against and from any and all Claims resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product received by Seattle City Light under this Agreement after the Delivery Point, unless caused by the negligence of a Seller Party, or (ii) any Taxes or penalties thereon for which Buyer is responsible hereunder, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

(c) Notices. Each Party (“**Indemnified Party**”) shall promptly notify the other Party (the “**Indemnifying Party**”) in writing about the claim or action for which it seeks indemnification, and provide the Indemnifying Party with reasonable information and assistance (at the Indemnifying Party’s expense) to enable the Indemnifying Party to defend such claim or action. The Indemnifying Party shall not settle any indemnified claim or disclose the terms of any such settlement, without the Indemnified Party’s prior written consent, which may not be unreasonably withheld.

(d) Survival. Notwithstanding anything herein to the contrary, the obligations of the Parties under this Section 15.1 shall survive the termination of this Agreement with respect to any matters arising prior to such termination.

15.2. Fines.

(a) Except as set forth in sub-paragraphs (b) and (c) below, any fines, penalties or other costs incurred by either Party or such Party’s agents, employees or subcontractors for non-compliance by such Party, its agents, employees or subcontractors with the requirements of any Laws or Governmental Approvals will not be reimbursed by the other Party but will be the sole responsibility of such non-complying Party.

(b) If such fines, penalties or other costs are assessed against Seattle City Light by any Government Authority or court of competent jurisdiction due to the non-compliance by Seller with any Laws or Governmental Approvals, Seller will indemnify and hold harmless Seattle City Light against any and all losses, liabilities, damages and claims suffered or incurred because of the failure of Seller to comply therewith, subject to refund in the event that Seller or Seattle City Light prevails in any contest described below. Seller will also reimburse Seattle City Light for any and all legal or other expenses (including reasonable attorneys’ fees) reasonably incurred by Seattle City Light in connection with such losses, liabilities, damages and claims.

(c) If such fines, penalties or other costs are assessed against Seller by any Government Authority or court of competent jurisdiction due to the non-compliance by Seattle City Light with any Laws or Governmental Approvals, Seattle City Light will indemnify and hold harmless Seller against any and all losses, liabilities, damages and claims suffered or incurred because of the failure of Seattle City Light to comply therewith, subject to refund in the event that Seattle City Light or Seller prevails in any contest described below. Seattle City Light will also reimburse Seller for any and all legal or other expenses (including

reasonable attorneys' fees) reasonably incurred by Seller in connection with such losses, liabilities, damages and claims.

(d) In the case of Section 15.2(b) and Section 15.2(c), either Party will, upon written notice to the other Party, have the right to reasonably contest on its own behalf, as required, or to require the other Party to reasonably contest, the assessment of such fines, penalties or costs and the Party requesting such contest will be responsible for any reasonable costs and expenses (including the reasonable costs and expenses of the other Party) relating to such contest.

15.3. Limitations of Liability.

(a) Each Party acknowledges and agrees that in no event will any partner, shareholder, member, manager, owner, elected official, officer, director, employee or affiliate of either Party be personally liable to the other Party for any payments, obligations, or performance due under this Agreement or any breach or failure of performance of either Party and the sole recourse for payment or performance of the obligations under this Agreement will be against Seller or Seattle City Light and each of their respective assets and not against any other Person, except for such liability as expressly assumed by an assignee pursuant to an assignment of this Agreement in accordance with the terms hereof or such liability assumed pursuant to any Credit Support.

(b) EXCLUDING EACH PARTY'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS (AS DEFINED IN SECTION 15.1) MADE BY THIRD PARTIES, UNDER NO CIRCUMSTANCE WILL EITHER PARTY HEREUNDER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES INCURRED OR SUFFERED BY THE OTHER PARTY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING WITHOUT LIMITATION, LOST REVENUE, LOST PROFITS, LOSS OF INCOME OR LOSS OF BUSINESS ADVANTAGE), WHETHER OR NOT FORESEEABLE, EVEN IF SUCH PARTY, OR AN AUTHORIZED REPRESENTATIVE OF SUCH PARTY, HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(c) The provisions of this Section 15.3 will survive the termination of this Agreement.

15.4. Insurance.

(a) Required Insurance. Without limiting any liabilities or any other obligations assumed by Seller under this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage as required under this Agreement. During the Delivery Term of this Agreement, Seller will maintain the following:

- i. All Risk property insurance covering physical loss or damage to the Project, including fire and extended coverage, and other customary perils, written on a replacement cost basis and containing endorsement, deductibles and sub-limits consistent with Prudent Industry Practices;

- ii. Commercial general liability insurance, with coverage written on an occurrence basis, providing coverage for bodily injury, property damage, personal and advertising injury, products/completed operations, and contractual liability, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate;
- iii. Workers' compensation insurance, in accordance with statutory requirements and, if Seller has any employees, employer's liability insurance in an amount not less than \$1,000,000;
- iv. Motor vehicle liability insurance covering owned, non-owned, leased, hired or borrowed vehicles of Seller, if any, against bodily injury or property damage, with a limit of liability of not less than \$1,000,000;
- v. Excess/umbrella liability insurance written on an occurrence basis and providing coverage on a follow form basis in excess of the limits provided by the primary underlying Commercial General Liability, Employer's Liability and Motor Vehicle Liability policies, with limits of not less than \$10,000,000 per occurrence and in the annual aggregate; and
- vi. Information Technology –Cyber liability (network security liability and privacy liability) insurance coverage with minimum limit \$1,000,000 per occurrence and in the aggregate.

Coverage shall include, but not be limited to, coverage for any actual or alleged breach of duty, neglect, error, act, mistake, omission, or failure arising out of internet and network activities including coverage for, but not limited to, the following events: an attack that has the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access or unauthorized use of computer system; computer crime or information theft; denial of service; extortion; introduction, implantation, or spread of a computer virus; loss of service; identity theft; infringement; electronic data loss and restoration; unauthorized access or use, including the gaining of access to vendor's computer systems by an unauthorized person or persons or an authorized person in an unauthorized manner. Coverage shall include notification and other expenses incurred in remedying a privacy breach and costs to investigate and restore data.

(b) Cancellation or Non-Renewal of Insurance. In the event of cancellation or non-renewal of coverage, Seller shall promptly replace coverage so that no lapse in insurance occurs. Seller will provide Seattle City Light certificates of such insurance at any time during this Agreement upon Seattle City Light's request.

(c) Additional Insured. Seller shall include the "City of Seattle, its officers, elected officials, employees, agents, and volunteers" as additional insureds under CGL and Automobile Liability insurance for primary and non-contributory limits of liability per the ISO CG 20 26 11 85 designated additional insured endorsement or its equivalent.

(d) No Limitation of Liability. The limits of insurance coverage specified herein are minimum limits of insurance coverage only and shall not be deemed to limit the liability of Seller's insurer except as respects the stated limit of liability of each policy. Where required to be an additional insured, the City of Seattle shall be so for the full limits of insurance coverage held by Seller, whether such limits are primary, excess, contingent or otherwise. Any limitations of insurance liability shall have no effect on Seller's obligation to indemnify the City.

(e) Changes in Insurance Requirements. The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to Seller. Should Seller, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.

ARTICLE 16 GENERAL

16.1. Assignment.

(a) Except as set forth in Section 17.1(b), this Agreement may not be assigned by Seller without the prior written consent of Seattle City Light, which shall not be unreasonably withheld, conditioned, or delayed; provided that Seattle City Light shall have no obligation to agree to any assignment by Seller to any entity with less experience, lower credit, and lower financing capacity than Seller as of the Effective Date. At a minimum, any proposed assignee of Seller must be able to meet the credit support requirements of Section 3.8 (Credit Support) and must, individually or through its affiliates, have at least five (5) years' experience and expertise in the development and operation of power plants or shall have retained a reputable third party with that experience or internal personnel with experience comparable to that of the reputable third party ("**Qualified Assignee**"). This Agreement may not be assigned by Seattle City Light without the prior written consent of Seller, which shall not be unreasonably withheld, conditioned, or delayed.

(b) As used in this Section 17.1(b), "**Financing Party**" means any institution (including any trustee or agent on behalf of such institution) providing debt, equity, or tax equity financing or refinancing to Seller for the acquisition, development, construction, ownership, operation, maintenance, or leasing of the Project. Seller shall be permitted, without the prior consent of Seattle City Light and without relieving itself from liability hereunder, to (i) assign this Agreement as collateral for any financing of the Project, or (ii) assign all of its rights and obligations under this Agreement: (A) in connection with a tax equity sale or a structured tax financing involving an equity investor that is a partner or member of an LLC providing tax equity associated with the tax attributes of the Project, or (B) to an Affiliate of Seller, which is a Qualified Assignee. Upon Seller's request, Seattle City Light shall execute a consent and/or estoppel in such form as may be reasonably requested by a Financing Party and in favor of such Financing Party.

16.2. Marks; Publicity; Required Disclosures.

Neither Party will use (or permit its Affiliates or subcontractors to use) the other Party's trademarks, service marks, trade names, logo or other commercial or product designations for any purpose without the prior consent of the other Party.

16.3. Public Disclosure Required by Law.

The State of Washington's Public Records Act requires that public records must be promptly disclosed by the Buyer as a public agency upon request unless that RCW or another Washington State statute specifically exempts records from disclosure. Exemptions are narrow and explicit and are listed in Washington State Law (Reference RCW 42.56 and RCW 19.108). If the Buyer receives a public disclosure request for any records or parts of records, including not limited to records that Seller has specifically identified as being confidential or protected from disclosure, Buyer will notify Seller in writing of the request and will postpone disclosure. While it is not a legal obligation, Buyer, as a courtesy, will allow Seller up to ten business days to obtain and serve Buyer with a court injunction to prevent the Buyer from releasing the records (reference RCW 42.56.540). If Seller fails to obtain a Court order and serve the Buyer within the ten days, the Buyer may release the documents. Notwithstanding the above, Buyer may disclose information about the source of the Product and any other information required for Buyer to report its compliance with Buyer's sustainability and renewable energy policies and as otherwise required by applicable Law.

16.4. No Partnership.

Nothing in the Agreement shall be construed to create an association, trust, partnership, fiduciary relationship, or joint venture or impose a trust or partnership duty, obligation or liability or agency relationship on or with regard to either Seller or Seattle City Light. Each Party shall be liable for its own obligations under this Agreement. Any undertaking by one Party to the other Party under any provision of this Agreement shall not constitute the dedication of the electrical system or any portion thereof of either Party to the public or to the other Party, its customers, or any other person or entity.

16.5. Communications and Notices.

Any notice of a routine character in connection with the delivery of electric energy or the operation of the Project may be given in such a manner as may be mutually agreeable between the Parties' authorized representatives. Any formal notice, demand, request, or communication required or authorized by this Agreement (including, but not limited to, any notice of default or non-performance) shall be delivered in writing either by hand, overnight courier, or mailed by certified mail, return receipt requested, with postage prepaid, to the following addresses (and shall be deemed to be received (a) when delivered by hand, (b) two days after sent by overnight courier, and (c) five days after sent by certified mail), or as may be changed upon written notice to the other Party, with an additional copy sent via electronic email:

To Seattle City Light:

Seattle City Light
Attn: Wholesale Power Contracts, Legal Affairs Advisor
700 Fifth Avenue, Floor 32
Seattle, Washington 98104

Mailing Address:
P.O. Box 34023
Seattle, WA 98124-4032

With a copy to::
Seattle City Attorney's Office
Attn: Contracts and Utilities Office Section Director
701 Fifth Avenue, Suite 2050
Seattle, Washington 98104

To Seller:

[insert]
[Insert address]

With a copy to Seller's Legal Department at the following address:
[Insert address]

Notwithstanding the foregoing, any notice relating to (i) settlements and invoices, (ii) credits and collections, and (iii) scheduling matters shall be delivered to the Parties at their applicable address set forth on Exhibit I.

16.6. Captions.

All titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of this Agreement.

16.7. Governing Law and Venue.

This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the Laws of the state of Washington, without regard to principles of conflicts of law. Subject to Section 16.10 (Dispute Resolution) below, any controversy or claim arising from or relating to the agreement will be settled in accordance with the express terms of the agreement by a court located in King County, Washington and each party hereto waives any objection to personal jurisdiction or venue located in such county.

16.8. Inflation Adjustment.

(a) Calculation. Beginning on January 1 following the Effective Date and each subsequent January 1 through the Term (the “**Adjustment Date**”), the dollar amount of the following terms Credit Support, Delay Damages Rate, Qualified Issuer, required insurance amounts provided for in Section 15.4(a) (the “**Dollars Subject to CPI**”) in effect on the Adjustment Date shall be adjusted by the CPI Amount (defined in Section 16.8(b)). When the Dollars Subject to CPI are adjusted by the CPI Amount, the Dollars Subject to CPI shall be adjusted as follows:

First, convert the CPI Amount from a percentage to a decimal (e.g., 3% equals 0.03);

Second, add the CPI Amount to one; and

Third, multiply each of the Dollars Subject to CPI in effect on the Adjustment Date (as previously adjusted) by the result of the prior step.

(b) Consumer Price Index Definition. The “**Consumer Price Index**” and “**CPI**” each mean the Consumer Price Index, All Urban Consumers, All Items, for the Seattle-Tacoma-Bremerton, WA metropolitan area, published by the United States Department of Labor, Bureau of Labor Statistics. The CPI published most recently before each Adjustment Date shall be used and specifically the percentage change from the prior year (the “**CPI Amount**”). In the event the percent change from the prior year is negative, the CPI Amount shall be equal to zero (0).

(c) Party Performing Calculations and Timing. Seller shall perform the CPI calculations required by this Section 16.8, and provide Seattle City Light with two (2) weeks to comment on the calculations prior to their becoming effective on each January 1 throughout the Term.

16.9. Change in Law.

Except as otherwise provided for in this Agreement, if there is a Change in Law that materially changes the bargained for exchange or intent of this Agreement, which neither Party should have reasonably anticipated as of the Effective Date, then the Parties shall work in good faith to modify this Agreement and the impacted provisions in order to maintain the originally bargained-for intent of the Parties.

16.10. Dispute Resolution.

(a) In the event a dispute arises between Seattle City Light and Seller regarding the application or interpretation of, or in any way relating to this Agreement, Seattle City Light and Seller shall use reasonable efforts to reach a reasonable and equitable resolution of the matter within (i) ten (10) days in the event of a dispute regarding payments or requests for Credit Support, or (ii) thirty (30) days in all other cases. In the event such efforts do not result in the resolution of the dispute, either Party may by written notice request the other

Party to designate a member of its management with settlement authority to meet at a mutually agreed location to resolve the dispute which may include videoconferencing, teleconferencing, or in-person. The designated individuals shall meet within (i) five (5) business days following the notice date in the event of a dispute regarding payments or requests for Credit Support, or (ii) twenty (20) days following the notice date in all other cases, unless a later date is specified in the notice, to resolve the dispute.

(b) If the procedures referenced in the preceding paragraph do not result in resolution of the dispute within five (5) business days after commencement of the referenced Party representatives' meeting (and in any event within the time which legal or equitable proceedings based on such claim, dispute, or controversy would not be barred by the applicable statute of limitations), then the Parties shall be free to pursue any right or remedy available to them under applicable Law.

(c) Unless otherwise agreed in writing, each Party will diligently continue to perform its obligations under this Agreement during the pendency of any dispute resolution proceedings so long as all undisputed amounts payable hereunder have been paid. Except as may be required by Law or regulation, no Party to a dispute may disclose the existence, content or results of any settlement discussions without the prior written consent of the Parties.

16.11. No Third-Party Beneficiary.

No provisions of this Agreement shall in any way inure to the benefit of any customer, or any other third party so as to constitute any such person as a third-party beneficiary under this Agreement, or of any one or more of the terms of this Agreement or otherwise give rise to any cause of action in any person not a Party hereto.

16.12. Entire Agreement; Modification and Waiver; Severability.

This Agreement and the other agreements referred to herein, constitute the entire agreement between the Parties relating to the transaction described in this Agreement and supersede any and all prior oral or written understandings. No addition to or modification of any provision of this Agreement shall be binding upon either Party, and neither Party shall be deemed to have waived any provision of this Agreement or any remedy available to it unless such addition, modification or waiver is in writing and signed by a duly authorized representative of such Party.

16.13. Mobile-Sierra.

Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to the FERC pursuant to the provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party, or the FERC acting *sua sponte* shall be the "public

interest” standard of review set forth in *United States Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008).

16.14. Forward Contract.

The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

16.15. Legal Compliance.

In performing its obligations under this Agreement, each Party shall at all times comply with all Laws pertaining to such Party’s activities under this Agreement, as construed from time to time by any Government Authority. Seller agrees that it will fully comply with all applicable Laws in performing its obligations under this Agreement, including without limitation all those pertaining to import and export of technical data, data privacy, employment, labor and equal opportunity, tax, customs, export control, environmental, health and safety and all licensing, permitting and certification requirements. Seller shall ensure that Seller personnel fully comply with the United States Foreign Corrupt Practices Act (“FCPA”) and all anti-corruption Laws in all countries in which the Services are performed, and all rules, regulations, orders, or directives promulgated thereunder. Seller and Seller personnel shall not attempt to influence any third party or government official through bribes, payoffs, political contributions or kickbacks and shall not maintain slush funds or make payments or give anything of value in any manner that would imply that such illegal payments are made. To the extent that goods will be transported into the United States, Seller represents that either (a) it is C-TPAT-certified by U.S. Customs & Border Protection, and will maintain that certification throughout the term of this Agreement, or (b) it will comply with the C-TPAT (Customs-Trade Partnership Against Terrorism) security procedures that may be found on the Customs website at www.cbp.gov <<http://www.cbp.gov>> (or such other website that the C-TPAT security procedures may be moved to by the U.S. Government).

16.16. Equitable Relief.

Any remedies at law or equity not specifically excluded by this Agreement shall be available to both Parties. The Parties expressly acknowledge and agree that a breach of any of the provisions of this Agreement may result in irreparable harm to the non-breaching Party, and in such case, the non-breaching Party shall have the right to seek to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, in any event without prejudice to any other rights and remedies that such Party may have.

16.17. Other Agreements.

If there are or may be other agreements in effect between Seattle City Light and Seller (collectively, the “**Other Agreements**”), this Agreement and the Other Agreements are and will be separate and individual obligations of the respective parties thereto. The terms

of one agreement will in no event be deemed to be the terms of any Other Agreement, nor will the terms of one agreement be used to interpret the terms of any Other Agreement. No default or breach under, or expiration or termination of this Agreement will constitute a default or breach under, or cause any expiration or termination of, any Other Agreement, and vice versa.

16.18. Survival.

All terms and provisions of this Agreement, including any and all exhibits, addenda and amendments hereto, which by their nature are intended to survive any termination or expiration of this Agreement, shall so survive.

16.19. Severability.

If a court of competent jurisdiction finds any provision of this Agreement unlawful or unenforceable, that provision will be enforced to the maximum extent permissible (and the Parties will negotiate in good faith to revise such provision) so as to affect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.

16.20. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

16.21. No Gratuities.

As per Seattle Municipal Code Section 4.16.070(D), Seller shall not offer or give any Seattle City Light employee or agent any gratuity, payment or other personal benefit or inducement with a view toward securing business from Seattle City Light or influencing the terms, conditions or performance of this Agreement or any statement of work or purchase order.

16.22. Time of Essence.

Time is expressly agreed to be the essence of this Agreement and each, every and all of the terms, conditions and provisions herein.

16.23. Interpretation and Joint Drafting.

The Parties expressly agree that this Agreement was jointly drafted and that each Party had the opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. The language in all parts of this Agreement shall be in all cases construed according to its fair meaning and not strictly for or against any Party. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation, In the event any claim is made by any Party relating to any conflict, omission or ambiguity in this Agreement, no presumption or burden of proof or persuasion shall be implied by virtue of the fact that this Agreement was prepared by or at the request of a particular Party or counsel for any particular Party.

[INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

[Insert Seller]

By: _____

Name:

Title:

THE CITY OF SEATTLE BY AND
THROUGH ITS CITY LIGHT
DEPARTMENT

By: _____

Name:

Title:

Exhibit A

Project Description

[Insert general description of the project – capacity, number and size of turbines/panels/battery cells, collector system, and generator interconnection lines. The Nameplate Capacity Rating must be the same as set forth in the definition of Nameplate Capacity Rating.]

Insert location of the project.

Describe the site upon which the Project is located.

Insert project name and address

Insert latitude and longitude location of the Project.

Insert site map.

Insert legal description of the site boundaries.

If applicable, describe the portion of the project that will be utilized to deliver power to Seattle City Light and identify Other Facilities.]

Exhibit B

Form of Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

NUMBER (LOC NUMBER)

| LETTER OF CREDIT AMOUNT | ISSUE DATE | EXPIRY DATE

| USD _____ .00 | _/ _/ _ | _/ _/ _

Beneficiary

The City of Seattle - City Light Department
DBA Seattle City Light
700 5th Avenue, Suite 3200
P.O. Box 34023
Seattle, WA 98124-4023

Applicant

(NEED TO FILL THIS IN)

ATTN: RISK OVERSIGHT DIVISION

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN FAVOR OF THE CITY OF SEATTLE, CITY LIGHT DEPARTMENT (THE "BENEFICIARY") DBA SEATTLE CITY LIGHT BY ORDER AND FOR THE ACCOUNT OF THE ABOVE

MENTIONED APPLICANT (THE "APPLICANT") IN THE AGGREGATE AMOUNT OF USD _____ .00 (___ MILLION AND 00/100 UNITED STATES DOLLARS) AVAILABLE FOR PAYMENT AT SIGHT AT OUR COUNTERS UPON PRESENTATION OF THE FOLLOWING:

1.A DRAFT, IN THE FORM ATTACHED HERETO AS ANNEX 1, DRAWN AT SIGHT ON (**NAME OF BANK**), AND DULY ENDORSED ON ITS REVERSE SIDE BY THE BENEFICIARY, SPECIFICALLY REFERENCING THIS LETTER OF CREDIT NUMBER.

2. THE ORIGINAL LETTER OF CREDIT PLUS ANY AND ALL AMENDMENTS ATTACHED THERETO, EXCEPT AS OTHERWISE PROVIDED HEREIN.

3.a) A STATEMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BENEFICIARY STATING APPLICANT HAS NOT PERFORMED PURSUANT TO THE TERMS AND CONDITIONS OF THAT CERTAIN WSPP AGREEMENT SIGNED BY THE APPLICANT AND BENEFICIARY AND A CONFIRMATION (AS DEFINED IN THE WSPP AGREEMENT), AND WE THEREFORE DEMAND PAYMENT IN THE AMOUNT OF (**INSERT AMOUNT**) AS SAME IS DUE AND OWING THEREOF.

OR

3.b) A COPY OF INVOICE(S) MARKED "UNPAID" ADDRESSED FROM BENEFICIARY TO APPLICANT AND A STATEMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BENEFICIARY STATING THAT (1) APPLICANT HAS FAILED TO PAY WHEN DUE THE ATTACHED INVOICE SENT FROM SEATTLE CITY LIGHT TO THE APPLICANT PURSUANT TO THE TERMS AND CONDITIONS OF THAT CERTAIN WSPP AGREEMENT SIGNED BY THE APPLICANT AND BENEFICIARY AND A CONFIRMATION (AS DEFINED IN THE WSPP AGREEMENT) AND (2) THE AMOUNT OF (**INSERT AMOUNT**) AS SHOWN ON THE ACCOMPANYING DRAFT DRAWN UNDER (**NAME OF BANK**) LETTER OF CREDIT NUMBER (**NUMBER**) REPRESENTS THE AMOUNT THE BENEFICIARY IS ENTITLED TO DRAW ON THE LETTER OF CREDIT AS A RESULT OF THE OCCURRENCE OF SUCH FAILURE TO PAY BY APPLICANT.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT WRITTEN AMENDMENT FOR ONE YEAR PERIODS FROM THE EXPIRY DATE WRITTEN ABOVE OR ANY FUTURE EXPIRY DATE UNLESS AT LEAST NINETY (90) DAYS PRIOR TO SUCH EXPIRATION DATE, WE SEND NOTICE TO YOU AS BENEFICIARY AT THE ABOVE STATED ADDRESS BY OVERNIGHT COURIER THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT BEYOND THE EXPIRY DATE WRITTEN ABOVE OR ANY EXTENDED EXPIRY DATE.

HOWEVER, THIS STANDBY LETTER OF CREDIT SHALL NOT BE EXTENDED BEYOND (**INSERT DATE**), WHICH WILL BE CONSIDERED THE FINAL EXPIRATION DATE. ANY REFERENCE TO A FINAL EXPIRATION DATE DOES NOT IMPLY THAT (**NAME OF BANK**) IS OBLIGATED TO EXTEND THIS LETTER OF CREDIT BEYOND THE INITIAL EXPIRY DATE OR ANY EXTENDED DATE THEREOF.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED.

ALL COSTS RELATED TO DRAWINGS UNDER THIS LETTER OF CREDIT NUMBER (**NUMBER**) SHALL BE CHARGED TO THE ACCOUNT OF THE APPLICANT.

IF REQUESTED BY YOU, PAYMENT OF YOUR CONFORMING DRAWING (S) UNDER THIS LETTER OF CREDIT WILL BE MADE IN IMMEDIATELY AVAILABLE FUNDS OF (NAME OF BANK), BY WIRE TRANSFER TO YOUR ACCOUNT WITH A BANK DESIGNATED BY YOU.

WE HEREBY AGREE WITH YOU THAT DRAFT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED IF PRESENTED AT OUR OFFICE LOCATED AT (**BANK ADDRESS, CITY, AND STATE, INCLUDING ZIP CODE**), ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT ON OR BEFORE 5 P.M. LOCAL TIME IN (NAME OF CITY AND STATE) PRIOR TO OR ON THE ABOVE STATED EXPIRY DATE, OR ANY EXTENDED DATE THEREOF IF APPLICABLE. A DRAWING UNDER THIS LETTER OF CREDIT WILL BY HONORED BY US ON OR BEFORE 5 P.M. LOCAL TIME IN (**CITY AND STATE**) ON THE NEXT BUSINESS DAY AFTER PRESENTATION. "BUSINESS DAY" MEANS ANY DAY OTHER THAN SATURDAY, SUNDAY OR A DAY ON WHICH BANKS IN (**CITY AND STATE**) ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE.

PRESENTATION OF THE ORIGINAL LETTER OF CREDIT AND AMENDMENTS, AS WELL AS ALL OTHER DRAW DOCUMENTS, MAY BE MADE BY FACSIMILE TO (**TELEPHONE NUMBER**). IF PRESENTATION IS MADE BY FACSIMILE, PROMPT PHONE NOTIFICATION MUST BE GIVEN TO (**TELEPHONE NUMBER**).

FACSIMILE PRESENTATION SHALL BE DEEMED THE ORIGINAL PRESENTATION. IN THE EVENT OF A FULL OR FINAL DRAWING THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER AT TIME OF FACSIMILE PRESENTATION.

CONTINUED ON NEXT PAGE WHICH FORMS AN INTEGRAL PART LETTER OF THIS LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. (**NUMBER**)

PAGE NO. 2 / /

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 98 (ISP 98) AND ENGAGES US IN ACCORDANCE WITH THE TERMS THEREOF.

SINCERELY,

AUTHORIZED SIGNATURE

(**NAME OF BANK**)

BY: (**INITIALES**)

THE ORIGINAL OF THIS LETTER OF CREDIT CONTAINS AN EMBOSSED SEAL OVER THE AUTHORIZED SIGNATURE.

PLEASE DIRECT ANY CORRESPONDENCE INCLUDING DRAWING OR INQUIRY
QUOTING OUR REFERENCE NUMBER TO:

(**BANK NAME AND ADDRESS**)

OUR CUSTOMER CARE PHONE NUMBER FOR QUERIES IS (TELEPHONE NUMBER)

OUR FAX NUMBER IS (TELEPHONE NUMBER)

CONTINUED ON NEXT PAGE WHICH FORMS AN INTEGRAL PART LETTER OF THIS LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. (**NUMBER**)
PAGE NO. 3 / /

ANNEX 1

FORM OF SIGHT DRAFT

(INSERT DATE OF SIGHT DRAFT, WHICH MUST BE DATE OF PRESENTMENT)

TO: (**BANK NAME**)
(**Address**)

FOR THE VALUE RECEIVED, PAY TO THE ORDER OF THE CITY OF SEATTLE,
CITY LIGHT DEPARTMENT BY WIRE TRANSFER OF U.S. CURRENCY IN
IMMEDIATELY AVAILABLE FUNDS TO THE FOLLOWING ACCOUNT:

Account: (**Insert Account number**)
ABA: (**Insert ABA number**)
Tax ID (**Insert Tax ID number**)

AT:
(**Insert name and address of Beneficiary's bank**)

THE FOLLOWING AMOUNT:

**[INSERT NUMBER OF DOLLARS IN WRITING] UNITED STATES DOLLARS
(US\$ [INSERT NUMBER OF DOLLARS IN FIGURES])**

DRAWN UNDER (**BANK NAME**) LETTER OF CREDIT NO. (**NUMBER**) DATED
 / / .

**THE CITY OF SEATTLE
CITY LIGHT DEPARTMENT**

BY: _____

TITLE: _____

Exhibit C

Contract Price

[Insert the price for Delivered Electrical Output between the Commercial Operation Date through the Delivery Term, used in Section 4.2(b).]

Exhibit D

Annual Product

Guaranteed Production Percentage	170%
Default Trigger Percentage	70%

Contract Year	Annual Product	Guaranteed Production for each Performance Measurement Period	Default Trigger for each Performance Measurement Period
1			
2			
3			

Exhibit E

Milestone Schedule

	Milestone Date	Milestone Description	Buyer Remedy
1.	As of the Effective Date	Development Term commences	
2.	No later than 30 days following the Effective Date	Seller shall deliver the Development Credit Support to Seattle City Light.	Damages payable by Seller to Seattle City Light under this Agreement shall be equal to the initial Development Credit Support.
3.	No later than [X] days following the Effective Date	Seller shall have secured all requisite financing for the development and construction of the Project, including, as applicable, Seller's financial obligations with respect to interconnection of the Project to the transmission system and construction of the Interconnection Facilities and Seller constructed network upgrades as provided for in the Interconnection Agreement.	Remedial Action Plan
4.	No later than [X] days following the Effective Date	Seller shall have executed a Generator Interconnection Agreement and delivered a copy to Seattle City Light.	Remedial Action Plan
5.	[Date]	Seller has obtained all Permits and acquired all real property rights necessary to construct the Project.	Remedial Action Plan
6.	[Date]	Seller shall have signed and executed the construction contract(s) necessary to construct Project.	Remedial Action Plan
7.	[Date]	Seller has commenced Construction and evidence thereof has been delivered to Seattle City Light.	Remedial Action Plan if prior to Guaranteed Start Date or Guaranteed Start Delay Damages if after Guaranteed Start Date
8.	[Date]	Transformers, electric metering devices, and equipment necessary to construct the Project and Interconnection Facilities have been delivered to the site of the Project.	Remedial Action Plan
9.	As required under applicable interconnection procedures and the Generator Interconnection Agreement	Seller shall have completed construction of all interconnection facilities.	Remedial Action Plan

10.	[Date]	Seller or an Affiliate of Seller shall have substantially completed construction of the Project.	Remedial Action Plan
11.	[Date]	Project is fully functional and capable of delivering electricity.	Remedial Action Plan
12.	[Date]	Seller has successfully completed energizing, commissioning, and testing obligations in compliance with the Agreement and applicable health and safety requirements.	Remedial Action Plan
13.	On or before the Guaranteed Commercial Operation Date	The Commercial Operation Date has been achieved.	Commercial Operation Date Delay Liquidated Damages
14.	No later than 60 days after the Commercial Operation Date	Verification of WREGIS Registration (pre-COD Seller shall provide sufficient evidence to Buyer that it has prepared and registered all required documents and have taken all necessary steps for final WREGIS approval, including the Notice of Substantial Completion or COD notice to WREGIS, as appropriate. Post-COD Seller shall provide sufficient evidence to Buyer that substantial completion of the Project and Interconnection Facilities is verified, and it has provided WREGIS with the notice of COD and are only waiting for WREGIS to approve the unit so that Environmental Attributes can be created.	
15.	No later than 60 days after the Commercial Operation Date	Verification of EIM Registration (pre-COD Seller shall provide sufficient evidence to Buyer that it has prepared and registered all required documents and have taken all necessary steps for final CAISO approval, including the Notice of Substantial Completion or COD notice to CAISO, as appropriate.	

**Exhibit F
Required Project Documents and Governmental Approvals**

[[Add specific information related to the Project]]

Obtained Required Project Documents	<ol style="list-style-type: none">1. Permits: Conditional Use Permits from [insert county] for the construction and operation of the Project.2. Land Rights: Lease Agreements for the rights-of-way, land, access, and interconnection of the Project
To Be Obtained (Prior to Commercial Operation) Required Project Documents	<ol style="list-style-type: none">3. Licenses, Permits and Authorizations<ul style="list-style-type: none">Evidence of qualifying facility certification under the Public Utility Regulatory Policies ActAccess road easementElectrical PermitBuilding PermitInterconnection approvalUtility easementCrossing Agreement4. Construction, Operations and Maintenance<ul style="list-style-type: none">Contract for the sale of power generation equipment and related services between engineering, procurement, and construction contractor and SellerRetail Electric Service AgreementProof of InsuranceConstruction Services AgreementWarranty, Service and Maintenance Agreement5. Generator Interconnection Agreement

Exhibit G

Form of Progress Report

Each Progress Report must include the following items:

1. Executive summary.
2. Project and Interconnection Facilities description.
3. Site plan of the Project and Interconnection Facilities.
4. Description of any planned changes to the Project, Interconnection Facilities, or the Site.
5. Gantt chart schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.
7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.
9. List of issues that could potentially affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Project and Interconnection Facilities performance including performance projections for the next twelve (12) months.
11. Progress and schedule of all agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Project, the interconnection into the Transmission System and all other interconnection utility services.
13. Workforce Development or Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.
14. Any other documentation reasonably requested by Buyer.

Exhibit H-1

Delivery Point

Delivery Point means the locations described in the table below.

Point of Delivery	Sink (as applicable)
BPAT.SCL	SEATTLECNTGS
BPAT.SCL	SEATTLECNTGSB

The Parties shall update the above table in the event the Bonneville Power Administration and Seattle City Light modify or replace any of the information contained in the table. The Parties may modify the table, by mutual agreement, add additional Points of Delivery.

Exhibit H-2

Metering

[Insert one line diagram of project through metering point. If there are Other Facilities, identify the Meter for the Project and the meters for the Other Facilities]

Exhibit I

Additional Party Contact Information

NOTICES

<p>[SELLER'S NAME] ("Seller")</p>	<p>THE CITY OF SEATTLE, a Washington municipal corporation, by and through its City Light Department ("Buyer")</p>
<p>All Notices:</p> <p>Street: City: Attn: Phone: Email:</p>	<p>All Notices:</p> <p>Street: 700 5th Avenue, P.O. Box 34023 City: Seattle Attn: Wholesale Contracts Phone: 206-386-4535 Email: SCLPowerAccounts@Seattle.gov</p>
<p>Emergency Contact:</p> <p>Attn: Phone: E-mail:</p>	<p>Emergency Contact:</p> <p>Attn: Phone: E-mail:</p>
<p>Reference Numbers:</p> <p>Duns: Federal Tax ID Number:</p>	<p>Reference Numbers:</p> <p>Duns: 009483629 Federal Tax ID Number:91-6001275</p>
<p>Invoices:</p> <p>Attn: Phone: E-mail:</p>	<p>Invoices:</p> <p>Attn: Wholesale Contracts Phone:206-386-4535 E-mail: SCLPowerAccounts@Seattle.gov</p>
<p>Scheduling:</p> <p>Attn: Phone: Email:</p>	<p>Scheduling:</p> <p>Attn: SCL Preschedule Phone: 206-615-0963 Email: sclpwrsched@Seattle.gov</p>
<p>Confirmations:</p> <p>Attn: Phone: Email:</p>	<p>Confirmations:</p> <p>Attn: Settlements Phone: 206-684-7886 Email: settlements@Seattle.gov</p>
<p>Payments:</p> <p>Attn: Phone: E-mail:</p>	<p>Payments:</p> <p>Attn: SCL Power Accounts Phone:206-684-3460 E-mail: SCLPowerAccounts@Seattle.gov</p>
<p>Wire Transfer:</p> <p>BNK: ABA: ACCT:</p>	<p>Wire Transfer:</p> <p>BNK: Wells Fargo Bank ABA: 121000248 ACCT: 4758359921</p>

Exhibit J

Guaranteed Production Shortfall and Guaranteed Product Liquidated Damages Examples

1. Example of calculation of Guaranteed Production Shortfall:

For Annual Performance Period of Years 2 and 3, the Guaranteed Production specified in Exhibit D is [] MWh. The Guaranteed Production was calculated by adding the Annual Products for Years 2 ([] MWh) and 3 ([] MWh) together, which equals [] MWh. The Guaranteed Production is calculated as [] MWh x (170% / 200%) = [] MWh.

If Adjusted Annual Product over the Year 2 and 3 Performance Measurement Period is greater than or equal to [] MWh, there is no Guaranteed Production Shortfall.

If Adjusted Annual Product over the Year 2 and 3 Performance Measurement Period is less than [] MWh, there is a Guaranteed Production Shortfall.

For example, if the Adjusted Annual Product over the Year 2 and 3 Performance Measurement Period was [] MWh, there is a Guaranteed Production Shortfall of 1,000 MWh. [] MWh minus [] MWh equals 1,000 MWh.

2. Example of calculation of Guaranteed Production Liquidated Damages:

Guaranteed Production Liquidated Damages for the 1,000 MWh shortfall in example 1 above, is calculated as follows:

$$(GPS) \times (RP - CP)$$

Where:

“GPS” means the Guaranteed Production Shortfall in MWh;

“RP” means the Replacement Price in \$/MWh; and

“CP” means the Contract Price in \$/MWh.

Assume a Replacement Price of \$100/MWh. The Contract Price is \$[] per MWh. The Guaranteed Production Liquidated Damages is 1,000 MWh x (\$100/MWh - \$[]/MWh) = \$[].

3. Example of failure to meet Section 14.1(a)(vii) standard:

For Annual Performance Period of Years 2 and 3, the Default Trigger specified in Exhibit D is [] MWh. That was calculated by summing the Annual Products for Years 2 ([] MWh) and 3 ([] MWh) which equals [] MWh. The Default Trigger is calculated as [] MWh x (70% / 200%) = [] MWh.

If Adjusted Annual Product over the Year 2 and 3 Performance Measurement Period is greater than or equal to [] MWh, then there is not an Event of Default.

If Adjusted Annual Product over the Year 2 and 3 Performance Measurement Period is less than [] MWh, then there is an Event of Default.

For example, if the Adjusted Annual Product over the Year 2 and 3 Performance Measurement Period was [] MWh, there would be an Event of Default. [] MWh is less than [] MWh by 1,000 MWh.

Exhibit K

Guaranteed Seasonal Availability and Shortfall Damages Calculation Methodology

1. Seasonal Availability.

(a) For each Summer Season and Winter Season after the Commercial Operation Date, Seller shall calculate the “**Seasonal Availability**” using the formula set forth below:

$$\text{Seasonal Availability (\%)} = 1 - \frac{\text{Seasonal Unavailable Calculation Intervals}}{\text{Total Calculation Intervals}}$$

where:

CALCULATION INTERVAL or “**C.I.**” = each successive fifteen-minute interval during the applicable Season.

SEASONAL UNAVAILABLE CALCULATION INTERVALS = the sum of all Unavailable Calculation Intervals for the applicable Month

UNAVAILABLE CALCULATION INTERVAL = For each Calculation Interval, the Unavailable Calculation Interval is defined using the formula set forth below. If the Calculation Interval includes a Forced Outage, the Unavailable Calculation Interval value shall be equal to zero. Except as otherwise expressly provided in this Agreement, the calculations of Seasonal Availability shall be based solely on the availability “**A**” (as defined below) of the Project to generate and deliver energy to the Point of Interconnection, as applicable (excluding for reasons at the high-voltage side of the Interconnection Facilities or beyond). Any Calculation Interval not already defined to have an Unavailable Calculation Interval value of zero in which the Project fails to maintain required communications connectivity with Buyer shall result in an Unavailable Calculation Interval of one (1) for that Calculation Interval.

$$\text{Unavailable Calculation Interval} = 1 - \left[\left(\frac{A}{\text{Nameplate Capacity Rating}} \right) \right]$$

where:

“**A**” is the “**AVAILABLE CAPACITY**”, which shall be calculated as the sum of the available capacity of each of the system inverters, in MW AC, from all system inverters capable of generating energy for delivery to the Point of Interconnection, in such Calculation Interval (based on normal operating conditions pursuant to the manufacturer’s guidelines), provided that “**A**” shall never exceed the Nameplate Capacity Rating.

“TOTAL CALCULATION INTERVALS” = the total number of Calculation Intervals in the applicable season.

2. **Guaranteed Seasonal Shortfall Damages**. The **Guaranteed Seasonal Shortfall Damages** shall be calculated as follows.

If the Seasonal Availability is less than the Guaranteed Seasonal Availability, then:

Guaranteed Seasonal Shortfall Damages = (Guaranteed Seasonal Availability – Seasonal Availability) * Nameplate Capacity Rating * Guaranteed Seasonal Shortfall Damage Rate

where:

Guaranteed Seasonal Shortfall Damage Rate = \$1,250 / MWac

Exhibit L

Construction Start Date Certificate

The undersigned, a duly authorized representative of [Insert Seller], hereby provides this Certificate pursuant to that certain Power Purchase Agreement dated as of [insert Effective Date] (“**Agreement**”) by and between Seattle City Light (“**Buyer**”) and [Insert Seller] (“**Seller**”), in order to determine achievement of the Construction Start Date of the Project.

Seller hereby certifies and represents to Buyer the following:

1. Seller has executed an engineering, procurement and construction contract.
2. Seller has engaged all contractors, and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Project and Interconnection Facilities may begin and proceed to completion without foreseeable interruption of material duration.
3. Seller has issued a notice to proceed under such contract that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements).
4. Seller and/or its designees has mobilized to the construction site.
5. There is physical construction at the Project site and Interconnection Facilities site including physical movement of soil, excavation for foundations or the installation or erection of improvements).
6. The Construction Start Date occurred on [insert Date] (the Construction Start Date”)
7. The precise site on which the Project is located: _____.

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as this _____ day of _____, 20__.

[Insert Seller]

By:

Printed Name:

Title:

Exhibit M-1

Project Commercial Operation Certificate

CERTIFICATE OF INDEPENDENT ENGINEER

The undersigned, a duly authorized representative of [Insert Seller], in its capacity as independent engineer ("Independent Engineer") hereby provides this Independent Engineer's certificate ("Certificate") pursuant to that certain Power Purchase Agreement dated as of [insert Effective Date] ("Agreement") by and between Seattle City Light ("Buyer") and [Insert Seller] ("Seller"), in order to determine achievement of Commercial Operation of the Project.

The Independent Engineer has visited the Project [insert number] times throughout the course of construction in support of construction monitoring activities, most recently on [insert date]. On the basis of these site visits, which included review of the progress of construction of the Project, review of quality control documentation and interviews with contractors, equipment suppliers and Project personnel, and on the understanding and assumption that we have been provided true, correct and complete information from the Seller and Seller's representatives, Independent Engineer hereby certifies (provided that, with respect to the conditions contained herein, such conditions apply only to the technical aspects of the statements in such paragraphs and for clarity, do not include any conditions regarding legal opinions, permitting requirements, or work outside of the Independent Engineer scope) that:

1. Construction of the Project has been completed in all material respects in accordance with the technical terms and conditions of the Agreement (with the exception of punch list items that do not materially and adversely affect the ability of the Project to operate as intended by the Agreement).
2. Project is operational and interconnected at the Point of Interconnection, and capable of delivering Electrical Output reliably in amounts expected by this Agreement.
3. The Project has successfully completed all testing required by Prudent Utility Practices to be completed prior to commercial operation, including operating the Project for a period of not less than three (3) consecutive days and delivering Test Energy during such period.
4. The Project has demonstrated it has successfully installed the Nameplate Capacity Rating.
5. The Project is able to generate electric power reliably in amounts expected by this agreement and in accordance with all other terms and conditions of the Agreement.
6. The Project is in compliance with all Governmental Approvals necessary to develop, construct and operate the Project and all Governmental Approvals are in full force and effect.

7. Seller is in compliance with the terms and conditions of this Agreement in all material respects.

8. Seller has obtained or entered into all Required Project Documents (as specified in Exhibit F) and all such Required Project Documents are in full force and effect and there are no defaults or events that, with the passing of time or the giving of notice, or both, would constitute a default thereunder.

The undersigned is a Licensed Professional Engineer in the State of [insert].

Signed,

Name:

Title:

Date:

Exhibit M-2

Interconnection Commercial Operation Certificate

The undersigned, a duly authorized representative of [Insert Seller], in its capacity as independent engineer ("Independent Engineer") hereby provides this Independent Engineer's certificate ("Certificate") pursuant to that certain Power Purchase Agreement dated as of [insert Effective Date]] ("Agreement") by and between Seattle City Light ("Buyer") and [Insert Seller] ("Seller"), in order to determine achievement of Interconnection of the Project.

The Independent Engineer has visited the Project, [insert number] times throughout the course of construction in support of construction monitoring activities, most recently on [insert date]. On the basis of these site visits, which included review of the progress of construction of the Project, review of quality control documentation and interviews with contractors, equipment suppliers and Project personnel, and on the understanding and assumption that we have been provided true, correct and complete information from the Seller and Seller's representatives, Independent Engineer hereby certifies (provided that, with respect to the conditions contained herein, such conditions apply only to the technical aspects of the statements in such paragraphs and for clarity, do not include any conditions regarding legal opinions, permitting requirements, or work outside of the Independent Engineer scope) that:

1. An Interconnection Agreement has been executed.
2. In accordance with the Interconnection Agreement all required Interconnection Facilities have been constructed and technical aspects of the Interconnection Facilities have been completed in all material respects in accordance with the requirements of the Interconnection Agreement, except for punch list items that do not have a material adverse effect on the ability of the Project to operate for its intended purpose.
3. All required interconnection testing has been completed.
4. The Project is physically interconnected with the Transmission Owner's System in conformance with the Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement.
5. The Project is fully integrated and synchronized with the Transmission Owner's System and has been successfully operated at a generation level acceptable to the Transmission Owner, without experiencing any abnormal or unsafe operating conditions on any interconnected system.
6. Project has been completed in all material respects, except for punch list items that do not have a material adverse effect on the ability of the Project to operate for its intended purpose.

The undersigned is a Licensed Professional Engineer in the State of [insert].

Signed,

Name:

Title:

Date:

EXHIBIT N – 1

Annual Energy Forecast

The following table is provided for informational purposes only.

Please provide the expected metered energy in Pacific Prevailing Time. For the Daylight Savings Day in March, the HE3 volume should be 0 MWh. For the Daylight Savings Day in November, the HE2 volume should represent two hours of generation.

Date	Datetime (Hour Beginning)	Hour Ending	Expected Electrical Output (MWh)	Expected Delivered Electrical Output (MWh)
1/1/20__	1/1/20__ 0:00	1		
1/1/20__	1/1/20__ 1:00	2		
1/1/20__	1/1/20__ 2:00	3		
1/1/20__	1/1/20__ 3:00	4		
1/1/20__	1/1/20__ 4:00	5		
1/1/20__	1/1/20__ 5:00	6		
[insert additional rows]		
12/31/20	12/31/20 18:00	19		
12/31/20	12/31/20 19:00	20		
12/31/20	12/31/20 20:00	21		
12/31/20	12/31/20 21:00	22		
12/31/20	12/31/20 22:00	23		
12/31/20	12/31/20 23:00	24		

EXHIBIT N – 2

Monthly Expected Capacity

The following table is provided for informational purposes only.

Please adjust the table for the appropriate number of days in the month for each month of the year.

Monthly Forecast of Expected Capacity (MW)

	1:00*	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day of the month]																								
Day 26																								
Day 27																								
Day 28																								
Day 29**																								
Day 30**																								
Day 31**																								

*All times are designated as “Hour-Ending []”.

**Include these rows if needed for each month.

EXHIBIT N – 3

Monthly Expected Electrical Output

The following table is provided for informational purposes only.

Please adjust the table for the appropriate number of days in the month for each month of the year.

Monthly Forecast of Expected Electrical Output (MW)

	1:00 *	2:0 0	3:0 0	4:0 0	5:0 0	6:0 0	7:0 0	8:0 0	9:0 0	10:0 0	11:0 0	12:0 0	13:0 0	14:0 0	15:0 0	16:0 0	17:0 0	18:0 0	19:0 0	20:0 0	21:0 0	22:0 0	23:0 0	24:0 0
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day of the month]																								
Day 26																								
Day 27																								
Day 28																								
Day 29* *																								
Day 30* *																								
Day 31* *																								

*All times are designated as “Hour-Ending []”.

**Include these rows if needed for each month.

The following table is provided for informational purposes only.

Please adjust the table for the appropriate number of days in the month for each month of the year.

Monthly Forecast of Expected Delivered Electrical Output (MW)

	1:00 *	2:0 0	3:0 0	4:0 0	5:0 0	6:0 0	7:0 0	8:0 0	9:0 0	10:0 0	11:0 0	12:0 0	13:0 0	14:0 0	15:0 0	16:0 0	17:0 0	18:0 0	19:0 0	20:0 0	21:0 0	22:0 0	23:0 0	24:0 0
Day 1																								
Day 2																								
Day 3																								
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[insert additional rows for each day of the month]																								
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Day 29* *																								
Day 30* *																								
Day 31* *																								

*All times are designated as “Hour-Ending []”.

**Include these rows if needed for each month.