

Board of Directors Meeting Agenda

Date: July 18, 2024

Time: 6:00 p.m.

Location: SMUD Headquarters Building, Auditorium
6201 S Street, Sacramento, California

AGENDA

SACRAMENTO MUNICIPAL UTILITY DISTRICT BOARD OF DIRECTORS MEETING SMUD HEADQUARTERS BUILDING AUDITORIUM – 6201 S STREET SACRAMENTO, CALIFORNIA

Remote Telephonic Location:

113 Washington Ave.
Santa Fe, NM 87501

July 18, 2024 – 6:00 p.m.

Virtual Viewing or Attendance:

Live video streams (view-only) and indexed archives of meetings are available at:
http://smud.granicus.com/ViewPublisher.php?view_id=16

Zoom Webinar Link: [Join SMUD Board of Directors Meeting Here](#)

Webinar/Meeting ID: 160 987 0199

Passcode: 448425

Phone Dial-in Number: 1-669-254-5252 or 1-833-568-8864 (Toll Free)

Verbal Public Comment:

Members of the public may provide verbal public comment by:

- Completing a sign-up form at the table outside of the meeting room and giving it to SMUD Security.
- Using the “Raise Hand” feature in Zoom (or pressing *9 while dialed into the telephone/toll-free number) during the meeting at the time public comment is called. Microphones will be enabled for virtual or telephonic attendees when the commenter’s name is announced.

Written Public Comment:

Members of the public may provide written public comment on a specific agenda item or on items not on the agenda (general public comment) by submitting comments via email to PublicComment@smud.org or by mailing or bringing physical copies to the meeting. Email is not monitored during the meeting. Comments will not be read into the record but will be provided to the Board and placed into the record of the meeting if received within two hours after the meeting ends.

Call to Order.

a. Roll Call.

1. Approval of the Agenda.

Comments from the public are welcome when these agenda items are called.

Consent Calendar:

2. Approve Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of June 16, 2024, through July 15, 2024.
3. Approval of the minutes of the meeting of June 20, 2024.

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Discussion Calendar:

4. Ratify the Chief Executive Officer and General Manager's execution of a contract between **Software AG USA, Inc.** and SMUD for a technology platform and Enterprise Service Bus (ESB) services for a five-year period for a contract not-to-exceed amount of \$8.7 million.

Presenter: Oliver Daniels

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Informational Item:

5. Provide the Board with the financial results from the five-month period ended May 31, 2024, and a summary of SMUD's current Power Supply Costs.

Presenter: Lisa Limcaco

* * * * *

Public Comment:

6. Items not on the agenda.

Board and CEO Reports:

7. Directors' Reports.
8. President's Report.
9. CEO's Report.
 - a. Board Video

Summary of Board Direction

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Board Committee Meetings and Special Meetings of the Board of Directors are held at the SMUD Headquarters Building, 6201 S Street, Sacramento

August 6, 2024	Strategic Development Committee and Special SMUD Board of Directors Meeting	Auditorium*	6:00 p.m.
August 7, 2024	Policy Committee and Special SMUD Board of Directors Meeting	Auditorium	6:00 p.m.
August 13, 2024	Finance and Audit Committee and Special SMUD Board of Directors Meeting	Auditorium	6:00 p.m.
August 14, 2024	Energy Resources & Customer Services Committee and Special SMUD Board of Directors Meeting	Auditorium	6:00 p.m.

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Regular Meetings of the Board of Directors are held at the SMUD Headquarters Building, 6201 S Street, Sacramento

August 15, 2024	Auditorium*	6:00 p.m.
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**The Auditorium is located in the lobby of the SMUD Headquarters Building, 6201 S Street, Sacramento, California.*

Members of the public shall have up to three (3) minutes to provide public comment on items on the agenda or items not on the agenda, but within the jurisdiction of SMUD. The total time allotted to any individual speaker shall not exceed nine (9) minutes.

Members of the public wishing to inspect public documents related to agenda items may click on the Information Packet link for this meeting on the smud.org website or may call 1-916-732-7143 to arrange for inspection of the documents at the SMUD Headquarters Building, 6201 S Street, Sacramento, California.

ADA Accessibility Procedures: Upon request, SMUD will generally provide appropriate aids and services leading to effective communication for qualified persons with disabilities so that they can participate equally in this meeting. If you need a reasonable auxiliary aid or service for effective communication to participate, please email Toni.Stelling@smud.org, or contact by phone at 1-916-732-7143, no later than 48 hours before this meeting.

DRAFT

RESOLUTION NO. _____

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby approves Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of June 16, 2024, through July 15, 2024.

The Board of Directors of the Sacramento Municipal Utility District met in regular session simultaneously in the Auditorium of the SMUD Headquarters Building at 6201 S Street, Sacramento, and via virtual meeting (online) at 5:01 p.m.

Roll Call:

Presiding: President Herber

Present: Directors Rose, Fishman, Kerth, Tamayo, and Sanborn

Absent: Director Bui-Thompson

Present also were Paul Lau, Chief Executive Officer and General Manager; Steven G. Lins, Deputy General Counsel & Director of Government Affairs and Assistant Secretary, other members of SMUD's executive management; and SMUD employees and visitors.

Director Tamayo shared the 2030 Climate Action Tip.

President Herber called for approval of the agenda. Vice President Fishman moved for approval of the agenda, Director Kerth seconded, and the agenda was approved by a vote of 6-0, with Director Bui-Thompson absent.

Vice President Fishman, Vice Chair, presented the report on the Strategic Development Committee meeting held on June 11, 2024.

Director Tamayo, Chair, presented the report on the Policy Committee meeting held on June 12, 2024.

Director Kerth, Chair, presented the report for the Finance & Audit Committee meeting held on June 18, 2024.

Director Rose, Chair, presented the report for the Energy Resources & Customer Services Committee meeting held on June 18, 2024.

President Herber then called for public comment for items on the agenda, but none was forthcoming.

President Herber then addressed the consent calendar consisting of Items 3 through 14. Director Sanborn moved for approval of the consent

calendar, Vice President Fishman seconded, and Resolution Nos. 24-06-01 through 24-06-13 were approved by a vote of 6-0, with Director Bui-Thompson absent.

RESOLUTION NO. 24-06-01

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby approves revised Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of April 16, 2024, through May 15, 2024.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

RESOLUTION NO. 24-06-02

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby approves Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of May 16, 2024, through June 15, 2024.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

RESOLUTION NO. 24-06-03

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board approves the revisions to **Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement**, substantially in the form as set forth in **Attachment A**.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-8
Title: Delegation to the CEO with Respect to Procurement

The procurement of goods and services is an integral part of SMUD operations. SMUD's procurement activities shall take place in accordance with the following principles:

- a) **Competition:** SMUD's procurement activities shall be competitive whenever practical.
- b) **Direct Procurement:** Direct procurement may be utilized when it is in SMUD's best interest. Direct procurement is the purchase of goods or services without competition when multiple sources of supply are available.
- c) **Sole Source Procurement:** Sole source procurement shall be performed only in the case of emergency or when a competitive process would be an idle act.
- d) **Inclusiveness:** SMUD's procurement practices shall promote inclusiveness of the entire contractor community in its contracting opportunities.
- e) **Economic Development:** SMUD's procurement practices shall promote the economic development of the community we serve.
- f) **Environmental Procurement:** SMUD shall minimize the impact on the environment through its procurement practices. In making procurement decisions, staff shall consider the environmental impacts in assessing total cost and benefits.
- g) **Responsible Bidder:** SMUD shall only do business with reputable and responsible contractors. A Responsible Bidder demonstrates trustworthiness, quality, capacity, financial capability, fair labor practices, and experience to satisfactorily perform SMUD work through the bidding and evaluation process. In addition, SMUD will determine Responsible Bidders by considering a contractor's social, environmental ethical, and safety accountability where applicable.
- h) **Contractor Code of Conduct:** SMUD shall set minimum expectations or standards for all contractors to follow in the course of doing business with SMUD (in some cases by submitting data and reporting annually) including but not limited to, labor and human rights, environmental, social, governance (ESG), health and safety accountability, ethics and compliance, and diversity, equity, inclusion, and belonging practices.
- i) **Best Value Procurement:** SMUD may procure goods and services by the best value at the lowest cost methodology, where cost and other factors are used to obtain the maximum value while ensuring a fair and equitable process.
- j) **Leveraged Procurement Agreement (LPA):** SMUD may procure goods and services where another lead public agency or organization competitively procures the same goods or services under applicable state and federal laws to streamline procurement processes and leverage collective buying power of multiple agencies to achieve cost savings and

other benefits to SMUD. Leveraged procurement agreements are generally referred to by other public agencies as “Cooperative Purchasing Agreements.”

- k) **Strategic Alliances:** SMUD may enter into strategic alliance contracts for the procurement of goods or services. A Strategic Alliance is a competitively bid multi-year contract for goods and/or services in which the Contractor and SMUD work collaboratively over the life of the contract to improve quality, and to explore design and process improvements to reduce the cost of production, service delivery, and the total cost of ownership. These benefits are shared both by SMUD and the Contractor.
- l) **Supply Chain Risk:** SMUD’s procurement activities shall identify, manage, and mitigate supply chain risks through a coordinated effort across the enterprise.
- m) **Protest Policy:** SMUD shall ensure that contractors are afforded the opportunity to have their grievances heard through a fair protest process.
- n) **Delegation of Authority to the CEO:** The Chief Executive Officer and General Manager (CEO) is delegated authority to perform and approve the procurement activities in accordance with the below matrix. This delegation includes the authority to amend contracts for time extensions or other changes that create no additional cost to SMUD.

<u>Category</u>	<u>Amount*</u>
Competitive Awards:	
Operational Inventory	\$11 million
Non-inventory Materials	\$11 million
Construction and Maintenance Services	\$11 million
Information Technology	\$11 million
Professional and Consulting Services	\$3 million
Rents and Leases	\$1 million
Sole Source:	
All types except Maintenance/Licensing Fees	\$1.5 million
Maintenance/Licensing Fees	\$3 million or original approved amount
Direct Procurement:	
Materials/Supplies/Services	\$50k**
Government Entities	\$1 million
Nonprofit Entities (services/goods)	\$1 million
Emergency Procurements:	
All types	\$2 million
Nonprofit Entities:	
Memberships/Project Participation Agreement	\$3 million
Contingencies:	
Board Awarded Contracts	Up to 10% of Contract Award

***The amounts for all categories except Direct Procurement Materials/Supplies/Services shall be adjusted automatically on an annual basis beginning Jan 1, 2024, consistent with the U.S. Bureau of Labor Statistics (BLS) published national consumer price index (CPI) per the Federal Reserve Bank of Minneapolis Average Annual CPI calculator.**

****The amount shall be adjusted automatically on an annual basis pursuant to the implicit price deflator as set forth in California Public Utilities Code section 12751, using the base year of 1997.**

Monitoring Method: CEO Report

Frequency: Quarterly

Versioning:

August 21, 2003	Resolution No. 03-08-07	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
June 3, 2004	Resolution No. 04-06-04	Date of Revision.
October 16, 2008	Resolution No. 08-10-09	Date of Revision.
October 1, 2009	Resolution No. 09-10-05	Date of Revision.
August 4, 2011	Resolution No. 11-08-04	Date of Revision.
November 17, 2011	Resolution No. 11-11-06	Date of Revision.
March 15, 2012	Resolution No. 12-03-13	Date of Revision.
August 21, 2014	Resolution No. 14-08-03	Date of Revision.
December 15, 2016	Resolution No. 16-12-18	Date of Revision.
July 16, 2020	Resolution No. 20-07-05	Date of Revision.
March 18, 2021	Resolution No. 21-03-04	Date of Revision.
June 15, 2023	Resolution No. 23-06-04	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-03	Date of Revision. [Current Policy]

RESOLUTION NO. 24-06-04

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board accepts the monitoring report for **Strategic Direction SD-4, Reliability**, substantially in the form set forth in **Attachment B** hereto and made a part hereof.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

SACRAMENTO MUNICIPAL UTILITY DISTRICT

OFFICE MEMORANDUM

TO: Board of Directors

DATE: May 23, 2024

FROM: Claire Rogers *CR 5/23/24*

**SUBJECT: Audit Report No. 28007745
Board Monitoring Report; SD-4: Reliability**

Internal Audit Services (IAS) received the SD-4 *Reliability* 2023 Annual Board Monitoring Report and performed the following:

- Selected a sample of statements and assertions in the report for review.
- Interviewed report contributors and verified the methodology used to prepare the statements in our sample.
- Validated the reasonableness of the statements in our sample based on the data or other support provided to us.

During the review, nothing came to IAS' attention that would suggest the items sampled within the SD Board Monitoring report did not fairly represent the source data available at the time of the review.

CC:

Paul Lau

Board Monitoring Report 2023

SD-4 Reliability



1) Background

Strategic Direction SD-4 Reliability states that:

Meeting customer energy requirements is a core value of SMUD.

Therefore:

- a) SMUD will assure all customer energy requirements are met. This will be accomplished through the use of: (i) its generation resources and purchase power portfolio 100 percent of the time; and (ii) its transmission assets to assure an overall availability of at least 99.99 percent.

- b) SMUD will achieve distribution system reliability by:

Limiting the average frequency of outage per customer per year to:

With major event: 0.99 – 1.33

Excluding major event: 0.85 – 1.14

Limiting the average duration of outages per customer per year to:

With major event: 67.5 – 93.3 minutes

Excluding major event: 49.7 – 68.7 minutes

Ensuring that no individual circuits exceed these targets for more than two consecutive years. For circuits that exceed these targets for two consecutive years, a remedial action plan will be issued and completed within eighteen months.

- c) SMUD will maintain the electric system in good repair and make the necessary upgrades to maintain load serving capability and meet regulatory standards.

2) Executive summary

Improving reliability is essential to meeting customer energy requirements and drives customer loyalty.

SMUD was in compliance for both generation and transmission availability. SMUD met all energy supply requirements 100% of the time through its generation resources and purchased power. At a peak load of 3,092 megawatts (MW) (which occurred on

August 16), 53% of the generation was provided by internal resources and 47% was provided by purchased power. The transmission availability was at 100% for the year.

SMUD was in compliance for System Average Interruption Frequency Index (SAIFI) (excluding major events). Reliability targets were exceeded for System Average Interruption Duration Index (SAIDI) excluding major events (75.6 minutes), as well as SAIFI (1.42) and SAIDI (318.2 minutes) including major events. The 2023 distribution system reliability performance is summarized in Table 1 below.

Table 1: 2023 Distribution System Reliability Performance

	Including Major Events		Excluding Major Events	
	SD-4 Limit	2023 Results	SD-4 Limit	2023 Results
SAIFI	1.33	1.42	1.14	1.01
SAIDI (minutes)	93.3	318.2	68.7	75.6

Major events are defined as events caused by earthquake, fire, or storms of sufficient intensity which result in a state of emergency being declared by the government. Absent the declaration of a state of emergency, any other natural disaster may be excluded only if it affects more than 15% of the system facilities or 10% of the customers, whichever is less.

There are 763 distribution circuits of which 98.7%, or 753 circuits, met the SD-4 reliability criteria. Twenty projects (primarily cable replacement) were issued to improve reliability, of which eleven have been completed. The remaining nine projects are on schedule to be completed within the eighteen-month requirement. These projects include cable replacement, avian mitigation, tripsaver installations and other work.

3) Additional supporting information

Generation

Hydro Generation Facilities

The availability rate for SMUD’s hydro generation system in 2023 was 86.41% and for the June 1st through September 30th period, hydro generation availability was 88.11%. SMUD’s Upper American River Project (UARP) hydro system generated 2,375 gigawatt hours (GWh). The budgeted generation was 1,635 GWh.

The lower hydro availability rate was due to an unscheduled outage at Camino resulting from a transformer failure (T1). This outage began in June and extended through the end of the year. The failed transformer was replaced in March 2024.

Gas Pipeline Operations

SMUD's gas pipeline had a 100% availability rating in 2023 and provided a constant flow of gas to SMUD's thermal generation facilities. All necessary maintenance activities were successfully completed in accordance with our operations and maintenance plans and procedures.

Thermal Generation Facilities

The overall availability rate for SMUD's thermal generation facilities in 2023 was 80.83% and for the June 1st through September 30th period, thermal plant availability was 96.55%. SMUD's thermal generation facilities generated a net total of 4,442 GWh against the budgeted generation of 5,156 GWh.

Transmission and Distribution

SMUD has approximately 488 miles of transmission lines and 10,882 miles of distribution lines including 69 kilovolt (kV). Approximately 40% of the distribution lines are installed overhead and 60% are installed underground. The transmission system is predominately overhead except for 19 miles of underground lines located in the Carmichael and downtown areas.

Staff monitors circuit reliability regularly to assess circuits that could potentially exceed the reliability limits. Outage causes, trends, and reliability impacts are analyzed to identify corrective actions that will bring the reliability of these circuits within the acceptable range.

4) Challenges

On the evening of December 31, 2022, the first of nine atmospheric river storms hit northern California. The impact of these storms started in 2022 and carried over into 2023 causing significant damage to the grid, affecting approximately 264,000 customers, a SAIDI contribution of 242.6 minutes, and a SAIFI contribution of 0.41 in 2023. The unexpected storms brought over 60 miles per hour (mph) wind gusts, with 48 mph sustained winds, coupled with almost two inches of rain. With the ground saturated by heavy rains combined with high winds, over 1000¹ trees over several days were uprooted all over the Sacramento region with many trees falling onto SMUD's overhead lines. These types of tree related outages take longer to resolve since the trees must be removed from the tangled powerlines prior to the start of rebuilding the lines.

¹ <https://www.caprдио.org/articles/2023/01/12/why-did-so-many-trees-fall-in-sacramento-what-to-know-about-damage-to-citys-tree-canopy-amid-storms/#:~:text=%E2%80%9Cive%20been%20here%202022,fallen%20since%20New%20Years'%20Eve.>

Drivers for Reliability Performance

The main drivers for the distribution system performance excluding major events, along with the mitigation measures for each, are summarized below.

Non-Preventable Tree Outages

The leading cause of outages in 2023 was non-preventable tree outages. Overall, there was a 143% increase in the number of non-preventable tree outages, with a 609% increase in SAIDI minutes and a 285% increase in SAIFI, when comparing with 2022. This dramatic increase in non-preventable tree outages was caused by the numerous storm days in the first quarter of 2023 that did not qualify as major event days.

To further improve on the impact of non-preventable tree outages on the grid, SMUD's vegetation management department continues to be proactive in our maintenance activities. This will improve the reduction of non-preventable tree outages.

Equipment Failures

Equipment failures are associated with a wide variety of distribution line components, such as fuses, poles, wire hardware, broken connectors, broken jumpers, failed transformers, broken cutouts and more. Outages due to failed equipment continue to be evaluated to locate and address any systemic deficiencies.

Failed equipment was the second leading cause of outages in 2023. When compared to 2022, outages due to equipment failures increased by 17%, SAIDI minutes increased by 37% and SAIFI decreased by 12%. This decrease in SAIFI was caused by a reduction in the number of customers experiencing equipment related outages from 107,206 customers in 2022 to 95,915 customers in 2023.

Multiple inspection and maintenance programs are in place to identify and correct deficiencies before they result in failure. We have annual line patrols to detect obvious deficiencies. In addition, we perform detailed line inspections (DLI) every five years. During a DLI, the inspector examines every attachment on the pole and documents deficiencies found. The deficiencies are prioritized and repaired based upon pre-determined schedules.

Underground Cable Failures

In 2023, underground cable failures were the third leading driver to quantity of outage events. The number of outages due to cable failures decreased by 12% compared to 2022. Additionally, SAIDI and SAIFI values decreased by 1% and 7% respectively. Improved performance in this area is primarily driven by targeted selection of cables.

Furthermore, there has been a 15% reduction in number of single-phase circuit failures in 2023 compared to 2022, which has led to the reduction of overall cable outages. Additionally, cable injection work in 2024, will target 69kV circuits, which impact a large number of customers. Injection is expected to improve reliability of those lines for up to 25 additional years.

5) Recommendation

It is recommended that the Board accept the Monitoring Report for SD-4 Reliability.

6) Appendices

Appendix 1: Generation Supplementary Information

Hydro Generation Facilities

Major hydro generation maintenance and construction activities include:

- Ice House spillway chute wall drainage remediation project.
- Big Hill Emergency backup generator.
- Robb's Peak emergency generator and transfer switch.
- Loon Lake scroll case bleed valve replacement.
- Buck Island gate operator upgrade.
- White Rock penstock reconductoring.
- Camino 1 controls upgrade.
- Jaybird transformer temperature relay redesign.
- Robbs forebay hydraulic skid replacement.
- Camino transformers Transformer 1 & Transformer 2 Dissolved Gas Analysis/Bushing monitor installation.
- Loon Lake fire protection.
- Camino 1 Runner Repair.

Gas Pipeline Operations (GPO)

Capital improvements and major maintenance activities include:

- Clay Station Road Inspection Dig - Line 800C
- Franklin Blvd. Inspection Dig – Line 800C
- Quantitative Risk Assessment Model Contract Award
- Pipeline Hazardous Materials Safety Administration (PHMSA) Integrity Management Program Audit
- Performed In-Line Inspection (ILI) on Line 800C to check for pipe subsidence due to heavy rains and flooding event.
- Pipeline Corrosion Assessment

- Completed installation of wireless gateway transmitters for new Edge Remote Terminal Units (RTU) at (Winters Intertie, Main Line Valve 1, Main Line Valve 2).
- Replaced Valve 205 and Valve 805 Actuators
- Completed GPO station assessment report for low stress piping at Carson Ice and Campbell Soup Metering and Regulating Stations.

Thermal Generation Facilities

Major thermal generation maintenance and construction activities completed include:

- Carson Power Plant:
 - Started Seam Turbine major overhaul.
- Procter & Gamble Power Plant:
 - Completed chiller 1A replacement.
 - Completed Combustion Turbine Engine 185-117 Overhaul.
- Campbell Power Plant & McClellan Power Plant:
 - Completed Combustion Turbine Major overhaul.
 - Completed Carbon Dioxide (CO2) Fire Systems Upgrades.
 - Completed Steam Turbine & Combustion Turbine Generator Inspections.
- Cosumnes Power Plant:
 - Completed Steam Turbine Generator Stator Repair.
 - Completed Combustion Turbine #2 Major overhaul.
 - Completed Combustion Turbine #2 Generator Major Inspection.

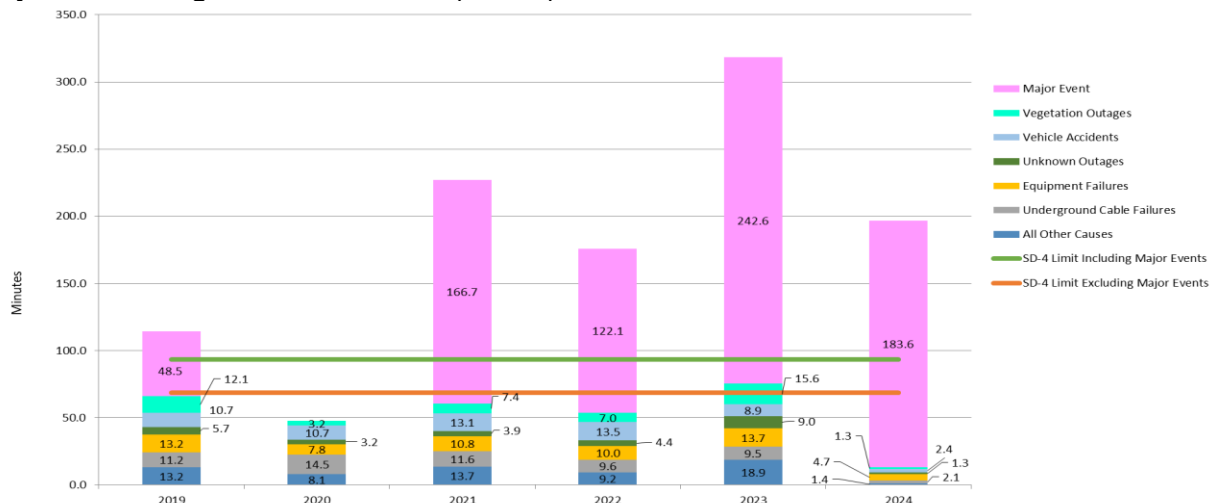
Appendix 2: Graphs

The graphs below provide a five-year comparison of the impacts of outage causes to the average frequency (SAIFI) and duration (SAIDI) of outages. 2024 SAIDI and SAIFI are year-to-date through Apr. 30, 2024.

Graph 1: Multi-Year Comparison System Average Frequency Index (SAIFI)



Graph 2: Multi-Year Comparison
System Average Duration Index (SAIDI)



Appendix 3: Reliability Comparison

Table 3 below provides a comparison between SMUD’s average distribution system performance compared to that of Pacific Gas and Electric’s (PG&E)’s distribution system. PG&E defines its distribution system as operating voltages less than 60kV and uses the Institute of Electrical and Electronics Engineers (IEEE) 1366 standards to define major event days, while SMUD includes the 69kV operating voltage as part of the distribution system and uses an alternate method to determine major event days. The information regarding PG&E’s system average performance was obtained from the 2022 reliability report posted on the California Public Utilities Commission (CPUC) website. PG&E’s 2023 Reliability Report is not posted on the CPUC website yet.

Table 3: Distribution System Reliability Comparison (excluding major events)

Year	SAIDI (minutes)		SAIFI	
	SMUD	PG&E	SMUD	PG&E
2019	66.0	103.1	1.04	0.88
2020	47.6	111.2	0.90	0.93
2021	60.4	160	1.04	1.03
2022	53.7	184.5	0.93	1.28
2023	75.6	N/A	1.01	N/A
Notes: 1. Listed SAIFI and SAIDI numbers are based on outages greater than 5 minutes (CPUC criteria).				

Appendix 4: Year-to-Date 2024 Reliability Update

Table 4: 2024 Year-to-Date Distribution System Reliability Performance

	Excluding Major Events			Including Major Events		
	SD-4 Limit	Jan.1 – Apr. 30, 2024	2024 Year End Projection	SD-4 Limit	Jan.1 – Apr. 30, 2024	2024 Year End Projection
SAIFI	1.14	0.21	0.81	1.33	0.90	1.65
SAIDI (minutes)	68.7	13.2	48.8	93.3	196.7	275.8

SMUD service territory was yet again hit hard by major rain and wind events in February causing year end projected SAIDI and SAIFI values to exceed SD-4 limits.

RESOLUTION NO. 24-06-05

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board approves the revisions to **Board-Staff Linkage BL-1, Board-CEO Relationship**, substantially in the form as set forth in **Attachment C**.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-1
Title: Board-CEO Relationship

The Board of Directors governs the Sacramento Municipal Utility District and is the policy-making body of SMUD. The Board operates under the provisions of the Municipal Utility District Act of the State of California (the MUD Act) and all other applicable statutes and laws.

- a) The Board of Directors is responsible for the following:
 - i) Identify and define the purpose, values and vision of SMUD, along with the results that are acceptable and not acceptable for SMUD to achieve, and communicate them in the form of policy.
 - ii) Make certain operational decisions as are designated by law.
 - iii) Hire, evaluate, and terminate the Chief Executive Officer and General Manager (CEO).
 - iv) Serve as a conduit of community input to the CEO.
- b) The CEO is responsible for the following:
 - i) Manage all operations and business affairs of SMUD.
 - ii) Achieve the results established by the Board within the appropriate and ethical standards of business conduct set by the Board.
 - iii) Prepare and submit to the Board for approval each year a budget to achieve the Board's strategic directives.
 - iv) Enforce SMUD ordinances, administer the civil service system (including hiring and terminating of all officers and employees except the Chief Legal Officer and General Counsel and the Board Special Assistant), attend meetings of the Board and report on the general affairs of SMUD, and keep the Board advised as to the needs of SMUD.
 - v) Establish and enforce a code of ethics applicable to all employees, which provides clear guidelines for ethical standards and conduct.
 - vi) Implement and maintain an integrated enterprise risk management process that identifies, assesses, prudently manages and mitigates a variety of risks facing SMUD.
 - vii) Ensure the smooth continuous operation of SMUD in the event of the planned or unplanned absence of the CEO.
 - viii) Interact with the public and other utilities and government agencies, pursuant to policies adopted by the Board. The CEO shall assure, in cooperation and consultation with the Board, that SMUD is appropriately represented in the community it serves.
 - ix) Perform other responsibilities as may be delegated by the Board either by resolution or through the CEO's contract of employment.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
May 6, 2004	Resolution No. 04-05-05	Date of Revision.
December 6, 2007	Resolution No. 07-12-02	Date of Revision.
December 20, 2007	Resolution No. 07-12-13	Date of Revision.
October 16, 2008	Resolution No. 08-10-09	Date of Revision.
January 21, 2010	Resolution No. 10-01-07	Date of Revision.
February 18, 2010	Resolution No. 10-02-11	Date of Revision.
January 20, 2011	Resolution No. 11-01-09	Date of Revision.
July 16, 2015	Resolution No. 15-07-02	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-05	Date of Revision. [Current Policy]

RESOLUTION NO. 24-06-06

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board approves the revisions to **Board-Staff Linkage BL-5, Unity of Control**, substantially in the form as set forth in **Attachment D**.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-5
Title: Unity of Control

Only decisions of the Board acting as a body are binding on the Chief Executive Officer and General Manager (CEO), the Chief Legal Officer and General Counsel, and the Internal Auditor.

Specifically:

- a) Decisions or instructions of individual Board members, officers, or committees are not binding on the CEO, Chief Legal Officer and General Counsel or Internal Auditor except in instances when the Board has specifically authorized such exercise of authority.
- b) In the case of Board members or committees requesting information or assistance without Board authorization, the CEO, Chief Legal Officer and General Counsel or Internal Auditor must refuse such requests that require, in their opinion, a material amount of staff time or funds.
- c) Board members may communicate directly with SMUD employees or contractors. However, the Board as a body and the Board members will never give direction to persons who report directly or indirectly to the CEO, with the exception of the Chief Legal Officer and General Counsel, Internal Auditor and Special Assistant. If individual Board members are dissatisfied with the response they receive, they may seek a resolution by the Board.
- d) Board members may provide feedback about staff, but Board members will refrain from evaluating, either formally or informally, any staff.
- e) The Board as a body will refrain from evaluating, either formally or informally, any staff other than the CEO, the Chief Legal Officer and General Counsel, the Internal Auditor, and the Special Assistant.
- f) Board members will refrain from attending any staff meetings unless explicitly invited by the CEO, the Chief Legal Officer and General Counsel, or the Internal Auditor.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
June 15, 2006	Resolution No. 06-06-05	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-06	Date of Revision. [Current Policy]

RESOLUTION NO. 24-06-07

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board approves the revisions to **Board-Staff Linkage BL-6, Evaluating the CEO's Performance**, substantially in the form as set forth in **Attachment E.**

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-6
Title: Evaluating the CEO's Performance

The CEO's job performance shall be evaluated by comparing the organization's results, operations and their personal performance to the policies established by the Board.

Specifically:

- a) The Board shall evaluate the CEO's performance on an annual basis in December.
- b) The evaluation will be based on a review of the organization's performance and the CEO's performance against the Board's Strategic Direction policies and Board-Staff Linkage policies.
- c) The Board will use data to determine the degree to which Board policies are being met.
- d) In December, the CEO will propose performance criteria for the following year that represent their reasonable interpretation of achieving the results defined by the Board.
- e) Additional performance discussions and check-ins with the CEO should occur at mid-year.
- f) All policies that instruct the CEO shall be monitored at a frequency and by a method chosen by the Board.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
November 3, 2005	Resolution No. 05-11-03	Date of Revision.
December 18, 2008	Resolution No. 08-12-16	Date of Revision.
November 19, 2009	Resolution No. 09-11-07	Date of Revision.
December 10, 2020	Resolution No. 20-12-06	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-07	Date of Revision. [Current Policy]

RESOLUTION NO. 24-06-08

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board approves the revisions to **Governance Process GP-15, Board Travel and Training Reimbursement**, substantially in the form as set forth in **Attachment F**.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

SMUD BOARD POLICY



Category: Governance Process
Policy No.: GP-15
Title: Board Travel and Training Reimbursement

Board members shall have the opportunity to attend conferences, meetings, training, and various activities that are appropriate to their work as Directors and provide value to SMUD.

As part of this policy:

- a) Each Board member shall have an annual budget for travel and training, which shall be adjusted annually for inflation based on the Travel Price Index (July-June) and rounded to the nearest hundred dollars. The training budget shall include funds for attendance at community functions and baseline dues in organizations that further Board members' professional development, when accompanied by written justification.
- b) The Board shall approve its travel and training budget as part of the annual budget process. Budgeted travel and training funds shall expire at the end of each calendar year with no rollover option.
- c) The Board travel and training budget shall be managed by the Special Assistant to the Board as part of the Board Office budget.
- d) Requests for travel, training and events in excess of \$1,000 shall be accompanied by a written justification of the benefits to SMUD and consistency with Board policy and submitted to the Board Special Assistant.
- e) Written travel and training justifications required by sections a) and d) of this policy, along with a status report on the Board's travel and training budget and individual directors' expenditures, shall be distributed to all Board members monthly for the purposes of transparency and oversight.
- f) Board members shall submit all relevant travel and training receipts to Board Office staff within two weeks for reconciliation.
- g) Board members shall publicly report the results of their travel and training at a Board meeting.
- h) New Board members shall receive an orientation in the Board's travel and training policy.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

November 13, 2008	Resolution No. 08-11-07	Date of Adoption. (Effective Date = January 1, 2009)
August 20, 2009	Resolution No. 09-08-15	Date of Revision.
October 6, 2011	Resolution No. 11-10-02	Date of Revision.
December 1, 2016	Resolution No. 16-12-03	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
February 15, 2024	Resolution No. 24-02-04	Date of Revision.
June 20, 2024	Resolution No. 24-06-08	Date of Revision. [Current Policy]

RESOLUTION NO. 24-06-09

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

Section 1. This Board approves the revisions to the **Energy Risk Management and Energy Trading Standards**, substantially in the form set forth in **Attachment G** hereto and made a part hereof.

Section 2. Resolution No. 21-06-05 is superseded in its entirety.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

Attachment G to Resolution No. 24-06-09

ENERGY RISK MANAGEMENT AND ENERGY TRADING STANDARDS SACRAMENTO MUNICIPAL UTILITY DISTRICT

PURPOSE

The wholesale energy markets are exposed to numerous risks including, but not limited to, market price risk, supply risk, credit risk and regulatory risk. The purpose of the Energy Risk Management and Energy Trading Standards (the “Standards”) is to establish protocols for prudent risk mitigation and management.

SCOPE

The Standards apply to:

- The operation of SMUD-owned or controlled generation, transmission, natural gas and other fuel reserves and pipeline assets;
- Contracts for and related to the purchase and sale of wholesale electricity, electric capacity and storage, natural gas and clean and emissions-free fuel, and environmental products;
- Contracts for and related to transmission, natural gas and clean or emissions-free fuel transportation, and storage; and
- Contracts for and related to financially hedging or mitigating risks associated with wholesale electricity, electric capacity and natural gas and other fuel prices, supplies and markets.

PRIORITIES

The Chief Executive Officer/General Manager (CEO/GM) implement the Standards in accordance with Board policies and with the following priorities, listed in order of importance:

Priority 1. Manage resource mix to comply with Board Strategic Direction (SD-4) Reliability.

Priority 2. Minimize net commodity energy purchase costs while operating within the targets established in Board Strategic Direction (SD-3) Access to Credit Markets.

Priority 3. Optimize SMUD-owned or controlled assets, including but not limited to, generation, transmission, fuel reserves, pipeline assets, fuel storage and contract resources to create additional value for SMUD and its customers, while complying with Board policies and all applicable laws and regulations.

Priority 4. Provide our customers and community with a sustainable power supply in accordance with Board Strategic Direction (SD-9) Resource Planning.

DIVERSIFICATION AND PORTFOLIO MIX

SMUD will maintain a diverse portfolio of generation, transmission, fuel-related assets and contracts to reasonably mitigate risk and to support its clean energy goals. Risks associated with wholesale contracts will be mitigated through diversified terms and conditions, contract periods and durations, delivery points, counter-parties, and product types.

PORTFOLIO RISK MANAGEMENT PROCEDURES

The CEO/GM will develop and maintain written procedures to implement the Standards and will ensure that appropriate internal controls and limits are in place to ensure compliance with Board policies, the Standards and applicable laws and regulations. Consistent with Board policies and the Standards, the CEO/GM will analyze and implement risk mitigation measures, as appropriate. For illustrative purposes, examples of identified risks and risk mitigation tools are as follows:

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Market Price Risk	The risk that the absolute price of a given commodity (power, gas) will fluctuate, thereby exposing the District to potential financial losses.	<ul style="list-style-type: none"> • Market and volatility analysis • Forward price curve development • Net position and financial exposure analysis • Mark-to-market analysis • Net income-at-risk analysis • Diversification of product purchases • Dollar-average over time by programmatic purchases
Weather/Volumetric Risk	The potential adverse economic impact of anticipated changes in supply and/or demand. For example, the risk of having less than average generation from SMUD’s hydro project due to a drier than normal year, or less than anticipated retail sales due to a cooler than normal summer.	<ul style="list-style-type: none"> • Frequent snow surveys • Runoff forecast update • Diversification of volumetric hedging programs • Temperature vs. load analysis • Frequent hydro spill risk assessment • Maintain Hydro Stabilization Fund • Diversification of product purchases

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Credit/Counter-party Risk	The potential financial loss resulting from a counter-party's failure to honor its obligations, including the obligation to settle on a timely basis. For example, a bankrupt counter-party may force SMUD to cover the contracted obligation from the market at a higher price than originally contracted.	<ul style="list-style-type: none"> • Credit Analysis • Credit Limits • Minimum rating levels • Diversification of counter-parties • Guarantees and financial assurances • Netting Agreements
Supply/Delivery Risk	The risk of loss due to non-delivery of power and/or fuel; which could decrease SMUD's system reliability and/or increase financial exposure.	<ul style="list-style-type: none"> • Diversification of delivery points • Retain delivery point flexibility/optionality when practicable • Transmission and pipeline capacity outage duration risk analysis • Natural gas and other fuel storage
Unplanned Outage Risk	The risk of under-supply due to unexpected plant outages, which may increase SMUD's system reliability and/or financial exposure.	<ul style="list-style-type: none"> • Historical plant performance risk analysis • Plant Outage Insurance • Planning and Operating Reserve Analysis • 24-hour trading desk to balance system needs on real-time basis

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Operational/Human Risk	The risk of human error or fraud, or the risk that the system of controls will fail to adequately record, monitor, and account for transactions or positions.	<ul style="list-style-type: none"> • Develop written trading rules and limits • Establish procedures and standards • Establish system of controls for transaction approval, scheduling and payment • Minimize manual hand-off and multiple input of transaction information • Standardize software applications as appropriate • Implement cross-functional training • Implement structured area expertise training • Conduct periodic audits
Regulatory Risk	Market structure and operational risks associated with shifting state and federal regulatory policies, rules and regulations.	<ul style="list-style-type: none"> • Analysis of regulatory, regional and industry trends • Participation in regulatory forums
Extreme Event Risk	The potential financial risk and or reliability risk created by extreme events such as the 2000-2001 energy crisis and the summer 2020 western heat wave.	<ul style="list-style-type: none"> • Portfolio stress testing • Scenario/sensitivity analysis • Maintain Rate Stabilization Fund
Legislative Risk	Risks associated with actions by international, federal and state legislative bodies.	<ul style="list-style-type: none"> • Legislative analysis and monitor industry wide initiatives • Advocacy of issues consistent with Board established policies.

PROHIBITED TRANSACTIONS

SMUD will not engage in the following prohibited transactions:

- Any transaction that is not related to serving load and/or reducing financial exposure;
- Sale of any **uncovered** financial “Put” and/or “Call” options on electric energy, gas, electric transmission or gas pipeline capacity;
- Sale of any other **uncovered** Financial Options;
- Unless adequate credit support is provided, transactions with any counter-party of: (i) longer than one year in duration, with a credit rating less than investment grade; or (ii) one year or less in duration, with a credit rating less than the Standard and Poors equivalent of BB, except for the following transactions with counter-parties having a credit rating equivalent to Standard and Poors B: (a) purchases which are within the next seven days; and (b) sales which are within the current calendar month that do not present at anytime, payment risk to SMUD (i.e., no associated receivable after exercising netting rights which apply offsetting purchases; this transaction restriction does not apply to sales of ancillary services to the California Independent System Operator;
- Any deceptive transactions, including but not limited to transactions that: (i) are intended to manipulate the market; (ii) circumvent market rules; (iii) manipulate market prices; or (iv) inflate volumes traded or available in any region or market; or
- Any transactions prohibited by federal and/or state laws and regulations.

AUTHORIZED TRANSACTIONS

Any transaction or contract entered into by the CEO/GM that is consistent with the Standards and the Delegation of Authority will be deemed authorized and approved by the Board at the time of execution by the CEO/GM or his/her designee.

DELEGATION OF AUTHORITY

Consistent with the Board policies and the Standards, the CEO/GM or his/her designee is delegated the following authority:

Section 1. Transactional Authority. To negotiate and execute on behalf of SMUD the types of contracts and transactions listed below, provided that: (i) such agreement(s) do not have a term greater than three (3) years, as measured from the commencement of performance by either party (e.g., the first date of delivery of

electricity, transmission capacity, fuel, or pipeline capacity); (ii) the commencement of performance is no longer than three (3) years from the date of execution; and (iii) the prices paid under such agreements are at or below prevailing market rates for similar products at the time the contract is made.

- * Purchases, sales and exchanges of electricity, electric capacity and storage, natural gas and clean and emissions-free fuel commodity.
- * Purchases and sales of transmission capacity.
- * Purchase and sales of ancillary services including, but not limited to, spinning reserve, non-spinning reserve, and regulation.
- * Purchase of put and/or call options for electricity and natural gas commodity.
- * Purchase and sale of natural gas and other fuel pipeline capacity.
- * Purchase and sale of natural gas and other fuel storage capacity.
- * Sales of covered call and put options.
- * Purchase and sale of Renewable Energy Credits evidencing the renewable attribute associated with Renewable Energy.
- * Contracts for financial fixed-for-floating or floating-for-fixed price swaps, options and other financially settled energy derivative transactions for purposes of hedging and/or mitigating the price risk of: (i) an underlying physical position in electricity, natural gas or other energy used for the production of District electricity matching a retail load obligation; or (ii) embedded in the pricing formula of a Power Purchase and Sale Agreement; or (iii) for purposes of hedging against the potential financial impact of unpredictable weather conditions, such as heat storms in the District's service territory and/or below average precipitation in the District's Upper American River Project.
- * Purchases and sale of carbon allowances, offsets, and other GHG related products, including both physical and financial transactions.
- * Purchase and sale of low carbon fuel standard credits.

Section 2. Long-term Fuel and Power Transactional Authority. To negotiate and execute on behalf of SMUD long-term natural gas, clean and emissions-free fuel, and power supply agreements to purchase discounted tax-exempt fuel and power subject to the following parameters: (i) total purchases from all suppliers shall not exceed 80,000 average dekatherms per day for fuel and 500,000 MWh annually for power; (ii) supplier diversification under this authority shall be maintained by requiring no single supplier

provides more than 30,000 average dekatherms per day for fuel or 200,000 MWh annually for power; (iii) contract durations shall not exceed thirty years; (iv) prices paid to suppliers must have expected market discounts at least 75 percent as great as otherwise achievable from a SMUD-sponsored pre-paid transaction; and (v) suppliers must have a proven track record in successfully executing similar transactions.

Section 3. Ancillary Services Transactional Authority. Notwithstanding the credit support restrictions set forth in “Prohibited Transactions,” to make sales of ancillary services to the California Independent System Operator.

Section 4. Enabling Agreement Authority. To negotiate and execute on behalf of SMUD enabling agreements, irrespective of term, including but not limited to the agreements sponsored by the Western Systems Power Pool (“WSPP”), Edison Electric Institute (“EII”), North America Energy Standards Board (“NAESB”), Gas Industry Standards Board (“GISB”), International Swap Dealers Association (“ISDA”) and other prevailing industry form agreements for purposes of facilitating the negotiation of future transactions specified in Section 1, above. An Enabling Agreement does not commit SMUD to any specific transaction; rather it is an agreement setting forth standard terms and conditions (other than terms and conditions for transaction specific agreements, such as, price, quantity, term and delivery point), which will apply to future transactions entered into under the respective Enabling Agreement. All transactions entered into under any Enabling Agreement will be subject to the limits set forth in Section 1, above.

Section 5. Tariff Related Agreement Authority. To negotiate and execute on behalf of SMUD transmission, facilities, distribution, generator and scheduling agreements, irrespective of term, pursuant to approved tariffs.

Section 6. Transmission Planning Agreement Authority. To negotiate and execute on behalf of SMUD agreements intended to facilitate regional transmission planning, irrespective of term; provided the agreement does not commit SMUD to the development, support for or funding of any particular transmission project or projects.

Section 7. GHG Market-Based Compliance Program Related Authority. To transact in, and to negotiate and execute on behalf of SMUD all agreements necessary to participate in, the auctions administered by the California Air Resources Board or successor entity as part of California’s greenhouse gas market-based compliance program.

Section 8. Advance Funding Authority. To negotiate and execute on behalf of SMUD revisions to Exhibit C of the Agreement for the Funding of Operation and Maintenance for the Central Valley Project Power Facilities for the purposes of establishing SMUD’s advance funding contribution to the Western Area Power Administration (Western) in an amount no greater than the estimated annual power deliveries from Western.

Section 9. Purchase, Sale, or Exchange of Air Emission Reduction Credits (ERCs). To negotiate and execute on behalf of SMUD agreements for the:

- i) Purchase of ERCs (a) that are needed or anticipated to be needed for SMUD operations; (b) that are priced at or below fair market value and (c) that do not exceed \$10 million.
- ii) Sale of ERCs that are (a) are surplus to SMUD's actual or anticipated needs; (b) are for use within the SMUD service territory; (c) are priced at or above fair market value; and (d) do not exceed \$100,000.
- iii) Exchange of ERCs that (a) provide present or future operational flexibility; (b) are of equal or superior quality and value; and (c) do not exceed a fair market value of \$100,000.

REPORTING

The CEO/GM will report to the Board of Directors as follows:

Annually - Submit a five (5) year commodity budget forecast report.

Quarterly - Submit a report to include: (i) a current year commodity budget update; and (ii) a current and next year commodity financial exposure update.

Quarterly – Report on any new multi-year contracts entered into under the Delegation of Authority for wholesale energy, fuel and environmental attribute transactions and contracts.

RESOLUTION NO. 24-06-10

WHEREAS, in October 2023, SMUD was awarded a \$50 million **Department of Energy (DOE) Grid Resilience and Innovation Partnerships (GRIP)** grant for its **Connected Clean PowerCity®** project; and

WHEREAS, **Connected Clean PowerCity®** will enhance SMUD's infrastructure to interact with technology and customers at the grid's edge, establishing improved visibility, management and control; and

WHEREAS, as part of the project, we will deploy up to 200,000 Itron Riva meters with up to eight Distributed Intelligence apps per meter to support various use cases; and

WHEREAS, by Resolution No. 23-12-05, adopted on December 14, 2023, this Board authorized sole source Contract No. 4600001818 with **Itron** for a one-year term in the amount of \$15 million, plus applicable taxes and fees, for the initial purchase of meters due to global supply chain lead time constraints of 12-plus months; and

WHEREAS, by Resolution No. 24-02-09, adopted on February 15, 2024, this Board authorized a sole source **Master Services Agreement** with **Itron** to purchase hardware, software, and professional services to enhance the **Advanced Metering Infrastructure (AMI)** platform in an amount not to exceed \$42,500,000; and

WHEREAS, condition of the **GRIP** grant requires installation of 5,000 meters per month in September and October 2024 and 19,000 per month from November 2024 through August 2025; and

WHEREAS, for the meter installation services, in February 2024, SMUD issued Request for Proposals No. Doc4413278410 (RFP) to solicit qualified firms to install 200,000 SMUD-furnished **Itron** Riva meters; and

WHEREAS, one proposal, submitted by **Utility Partners of America**, in response to the RFP was evaluated and found to be responsive; and

WHEREAS, SMUD initiated and continues to negotiate with **Utility Partners of America**; and

WHEREAS, staff requests approval to award a contract to **Utility Partners of America** upon successful completion of negotiations; **NOW**, **THEREFORE**,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:

Section 1. As a result of such examination, **Utility Partners of America** is hereby determined and declared to the highest evaluated responsive proposer to provide meter replacement services.

Section 2. That the Chief Executive Officer and General Manager, or his designee, is authorized, on behalf of SMUD, to negotiate and award a contract to **Utility Partners of America** for meter replacement services for a period of one year, with two optional one-year extensions, for a total not-to-exceed amount of \$21,442,000.

Section 3. The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amount and applicable contingencies.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

RESOLUTION NO. 24-06-11

WHEREAS, Contract No. 4600001270 with **Frase Enterprises, Inc.** was awarded on a competitive basis in May 2019 for supply of network transformers for the period May 15, 2019, to May 14, 2023, for a not-to-exceed amount of \$1,000,000 (**Frase Contract**); and

WHEREAS, Contract Change No. 1 to the **Frase Contract** increased the contract not-to-exceed amount by \$2.5 million, from \$1 million to \$3.5 million, and added a new transformer stock code line item; and

WHEREAS, Contract Change No. 2 to the **Frase Contract** extended the expiration date from May 14, 2023, to May 14, 2024, and increased the not-to-exceed amount by \$4.5 million, from \$3.5 million to \$8 million; and

WHEREAS, Contract Change No. 3 to the **Frase Contract** extended the expiration date from May 14, 2024, to November 14, 2024, and increased the not-to-exceed amount by \$3 million, from \$8 million to \$11 million; and

WHEREAS, Contract Change No. 4 to the **Frase Contract** assigned the **Frase Contract** to **Kortick Manufacturing, LLC**, creating new Contract No. 4600001773 (**Kortick Contract**); and

WHEREAS, the **Kortick Contract** replaced the **Frase Contract**; and

WHEREAS, since the original contract award in 2019, SMUD has identified a significant increase in upcoming demand for network transformers with plans to replace approximately 50 network transformers each year through 2028; and

WHEREAS, increasing the contract amount and extending the expiration date of the **Kortick Contract** will allow SMUD to order necessary inventory now to ensure sufficient lead time to maintain the transformer replacement schedule for 2025, to ensure continuity until replacement contracts for network transformers are awarded; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

Section 1. That this Board approves Contract Change No. 1 to Contract No. 4600001773 with **Kortick Manufacturing, LLC** for network transformers to extend the contract expiration date from November 14, 2024, to February 28, 2026, and increase the contract not-to-exceed amount by \$10 million, from \$11 million to \$21 million.

Section 2. The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amount and applicable contingencies.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

RESOLUTION NO. 24-06-12

WHEREAS, in February 2024, SMUD issued Request for Proposal No. Doc4407380073 (RFP) to solicit qualified firms to provide design, manufacturing, disassembly, removal of existing generator windings/core, install replacement windings/core, and testing of the rehabilitated Camino Unit #1 Generator; and

WHEREAS, four proposals submitted in response to the RFP were evaluated; **NOW, THEREFORE**,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:

Section 1. As a result of such examination, **Andritz Hydro Corp** is hereby determined and declared to be the highest evaluated responsive proposer to provide design, manufacturing, disassembly, removal of existing generator windings/core, install replacement windings/core, and testing of the rehabilitated Camino Unit #1 Generator.

Section 2. The Chief Executive Officer and General Manager, or his designee, is authorized, on behalf of SMUD, to negotiate and award a contract to **Andritz Hydro Corp** for the Camino Generator 1 Rehabilitation for a period of two years for an amount not to exceed \$11,903,140.

Section 3. The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to the terms and conditions of the contracts that, in his prudent judgment: (a) further the primary purpose of the contracts; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amounts and applicable contingencies.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

RESOLUTION NO. 24-06-13

WHEREAS, in August 2023, SMUD received a competitive offer from **NextEra Energy Resources, LLC (NextEra)** for the **Grace Orchard Energy Center Solar Project (Grace Solar Project)** for 70 MW of solar photovoltaic power (Solar PV); and

WHEREAS, SMUD performed an evaluation of the market and determined that the **Grace Solar Project** provided superior value versus the available alternatives; and

WHEREAS, SMUD and **Grace Orchard Energy Center, LLC** (parent company is **NextEra**) negotiated a mutually beneficial **Power Purchase Agreement (PPA)** under which SMUD will purchase 70 MW of energy and environmental attributes, including Portfolio Content Category 1 Renewable Energy Credits (PCC1 RECs), for a term of 20 years, at an annual approximate cost of \$11 million; and

WHEREAS, the **Grace Solar Project** scheduled commercial operation date is December 1, 2027, and the Point of Interconnection is with the **California Independent System Operator Corporation (CAISO)** grid at the **Southern California Edison (SCE) Colorado River 230kV Substation** located in Riverside County; and

WHEREAS, the price and other terms proposed in the **PPA** are commercially reasonable and benefit SMUD's ratepayers; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

Section 1. The Chief Executive Officer and General Manager, or his delegate, is authorized to negotiate and execute the **Grace Orchard Energy Center Solar Project (Grace Solar Project) Power Purchase Agreement (PPA)** for a 20-year term, substantially in the form of **Attachment H**, and all other agreements necessary to facilitate the **Grace Solar Project** for 70 MW of solar photovoltaic power (Solar PV).

Section 2. The Chief Executive Officer and General Manager, or his delegate, is authorized to make future changes to the terms and conditions of

the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amounts and applicable contingencies.

Approved: June 20, 2024

INTRODUCED: DIRECTOR SANBORN				
SECONDED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON				X
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

POWER PURCHASE AGREEMENT

BETWEEN

GRACE ORCHARD ENERGY CENTER, LLC
as Seller

and

SACRAMENTO MUNICIPAL UTILITY DISTRICT,
as Buyer

dated

as of

[], 2024

1.	DEFINITIONS AND RULES OF INTERPRETATION	1
2.	PROJECT, PURCHASE AND SALE OF PRODUCTS	25
3.	BILLING AND INVOICING.....	35
4.	CERTIFICATION AS AN ELIGIBLE RENEWABLE ENERGY RESOURCE	38
5.	CONVEYANCE OF CAPACITY ATTRIBUTES	42
6.	INTERCONNECTION.....	43
7.	MAINTENANCE	44
8.	PERMITTING, STANDARD OF CARE, OPERATIONS, CURTAILMENT.....	46
9.	SCHEDULING AND FORECASTING; OUTAGES; ACCESS RIGHTS	47
10.	EVENTS OF DEFAULT, TERMINATION AND REMEDIES	52
11.	CREDITWORTHINESS.....	60
12.	FORCE MAJEURE	62
13.	INDEMNITY	65
14.	LIMITATION OF DAMAGES.....	66
15.	REPRESENTATION AND WARRANTIES; COVENANTS.....	67
16.	NOTICES.....	68
17.	SET OFF	68
18.	MARKET-BASED RATE AUTHORIZATION AND EWG STATUS	68
19.	MOBILE-SIERRA.....	69
20.	ASSIGNMENT	69
21.	APPLICABLE LAW	73
22.	DISPUTE RESOLUTION	73
23.	SEVERABILITY	73
24.	COUNTERPARTS.....	74
25.	GENERAL.....	74
26.	WAIVER OF SOVEREIGN IMMUNITY	74
27.	FURTHER ASSURANCES.....	74
28.	FORWARD CONTRACT; INAPPLICABILITY/WAIVER OF BANKRUPTCY CODE SECTION 366.....	75
29.	CHANGE IN ELECTRIC MARKET DESIGN	75
30.	CONFIDENTIAL INFORMATION.....	76
31.	EXHIBITS	80

**POWER PURCHASE AGREEMENT
BETWEEN
SACRAMENTO MUNICIPAL UTILITY DISTRICT
AND
GRACE ORCHARD ENERGY CENTER, LLC**

This POWER PURCHASE AGREEMENT (the “Agreement”) for an Eligible Renewable Energy Resource is made and entered into this _____ day of _____, 2024, (“Effective Date”), by and between the Sacramento Municipal Utility District (“Buyer” or “SMUD”), and Grace Orchard Energy Center, LLC, a Delaware limited liability company (“Seller”). Buyer and Seller are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties”.

- A. Seller is developing, and desires to interconnect and operate, an approximately 500 MW project known as the Grace Orchard Complex that is proposed to be built in two phases—a planned 210 MW initial phase and a planned 290 MW second phase;
- B. Seller desires to sell to Buyer the Energy and associated Environmental Attributes from a 70 MW portion of the second phase of the Grace Orchard Complex (such 70 MW portion, which will be separately metered, is the “Project” for all purposes of this Agreement) for the Delivery Term, subject to the terms and conditions set forth herein;
- C. Buyer desires to purchase from Seller all Energy and associated Environmental Attributes from the Project for the Delivery Term, subject to the terms and conditions set forth herein; and
- D. Buyer also desires to purchase from Seller all Capacity Attributes available from the Project and has requested that Seller seek deliverability for the Project via the California Independent System Operator Corporation (as further defined below, the “CAISO”) process for allocating transmission plan deliverability (as defined below, “TP Deliverability”), and Seller has agreed to seek TP Deliverability for the Project, subject to the terms and conditions set forth herein.

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

1. DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions of Terms

AASMTC AD/CVD Case: The filing of, and any proceedings, rulemakings, orders, determinations, tariffs, or duties related to, any of the Petitions for the Imposition of Antidumping and Countervailing Duties, filed on or around April 24, 2024 by the American Alliance for Solar Manufacturing Trade Committee, concerning Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and Vietnam, in any of the DOC dockets A-555-003, A-557-830, A-549-851, A-552-841, C-555-004, C-557-831, C-549-852, or C-552-842.

AD/CVD: Antidumping and/or countervailing duty.

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

Adjusted AEP (AAEP): The Annual Energy Production adjusted for energy that was not delivered to Buyer due to Force Majeure, any Buyer Curtailment (measured as Buyer Curtailed Production), Buyer's failure to perform in a manner that directly affects the generation of Products by the Project, and/or Dispatch Down Periods according to the following formula:

$$\text{Adjusted Annual Energy Production (AAEP)} = \text{AEP} + \text{Deemed Energy Production}$$

Adjusted EAEP (AEAEP): The Expected Annual Energy Production adjusted for Actual Annual Solar Insolation according to the following formula:

$$\text{Adjusted Expected Annual Energy Production (AEAEP)} = \text{EAEP} \times (\text{Actual Annual Solar Insolation} / \text{Typical Annual Solar Insolation})$$

Adjusted MAEP (AMAEP): The Minimum Annual Energy Production adjusted for Actual Annual Solar Insolation according to the formula set forth in the definition of Minimum Annual Energy Production (MAEP). Any variance in the Actual Annual Solar Insolation shall adjust the MAEP (up or down) according to the following formula:

$$\text{Adjusted Minimum Annual Energy Production (AMAEP)} = \text{MAEP} \times (\text{Actual Annual Solar Insolation} / \text{Typical Annual Solar Insolation}).$$

Additional Payment: Has the meaning set forth in the definition of After-Tax Basis.

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

Affiliate: With respect to any Person, each other Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Person. Notwithstanding the foregoing, the Parties hereby agree and acknowledge that with respect to Seller, Affiliate as used herein includes any investment funds or publicly-traded vehicles for the ownership of operating power generation, storage, or transmission assets (such as a “yield co”) controlled by NEE, NEP, NEOP, NEECH, or any of their respective direct or indirect subsidiaries.

After-Tax Basis: With respect to any payment received, or deemed to have been received, by any Person, the amount of such payment (the “Base Payment”), supplemented by a further payment (the “Additional Payment”) to such Person so that the sum of the Base Payment plus the Additional Payment will be equal to the Base Payment, after deduction of the amount of all taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the payment, the Base Payment and the Additional Payment). Such calculations shall be made on the assumption that the recipient is subject to Federal income taxation at the statutory rate applicable to corporations under subchapter C of the Internal Revenue Code of 1986, as amended, and subject to the highest state and local income tax rate then in effect for corporations in the states in which the Person is subject to taxation during the applicable fiscal year, and shall take into account the deductibility, if applicable (for Federal income tax purposes), of state and local income taxes.

Agreement: Has the meaning set forth in the preamble hereto.

Ancillary Services: Those ancillary services as defined in the CAISO Tariff that the Project is capable of providing without modification to the Project or incurrence by Seller of additional non-administrative costs, excluding Black Start as defined in the CAISO Tariff.

Annual Energy Production (AEP): For any particular Contract Year, is equal to the total Energy generated by the Project and delivered to Buyer at the Delivery Point.

Applicable Instructions: Has the meaning set forth in Section 9.1.2.1.

Auxin Anti-Circumvention Proceeding: The DOC's anti-circumvention investigation and proceeding concerning Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China, Petition filed February 8, 2022 by Auxin Solar, Inc. in four separate DOC dockets: A-570-979 Malaysia; Thailand; Cambodia; and Vietnam.

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

Base Payment: Has the meaning set forth in the definition of After-Tax Basis.

Billing Month: The period beginning on the first day and extending through the last day of each calendar month during the Delivery Term of this Agreement.

Business Day: Any Monday through Friday, inclusive, but excluding (a) Federal Reserve Bank holidays in California, and (b) days that are NERC Holidays. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. local time for the Party sending a notice, or payment, or performing a specified action.

Buyer: Has the meaning set forth in the preamble hereto.

Buyer Curtailed Production: The amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be equal to (a) the VER Forecast expressed in MWh, applicable to the Buyer Curtailment Period, (b) if there is no VER Forecast available or the VER Forecast does not represent an accurate forecast of generation from the Project, the result of the equation reasonably calculated and provided by Seller to reflect the potential generation of the Project as a function of available Capacity, solar insolation, ambient temperature and wind speed, and using relevant Project availability, weather, historical and other pertinent data for the period of time during the Buyer Curtailment Period, in either case less the amount of Energy delivered to the Delivery Point during such Buyer Curtailment Period; provided, that if the applicable difference is negative, the Buyer Curtailed Production shall equal zero (0).

Buyer Curtailment: Any instruction, direction or order to produce less Energy than forecasted or available, arising out of: (a) an Economic Bid or other bid or Schedule submitted in accordance with this Agreement or Buyer's instructions hereunder with respect to the Project or the Products, recognizing that Seller or Seller's designee as Scheduling Coordinator will submit such Economic Bids and other bids and Schedules in accordance with this Agreement; or (b) Seller or Seller's designee as Scheduling Coordinator reduces, or causes to be reduced (to the extent such reduction is caused by any Economic Bid or Applicable Instruction) Energy from the Project by an amount, and for a period of time, that results in the Project producing less than the full amount of the applicable VER Forecast for that same period of time, and such Dispatch Instruction is consistent with the Economic Bid or Applicable Instructions. For avoidance of doubt, Buyer Curtailment does not include any instruction, direction, or order to produce less Energy than forecasted or available for reasons related to a Force Majeure, Forced Outage, Planned Outage or Dispatch Down Instruction.

Buyer Curtailment Period: Any period of reduction of the Project's output or its generation of Products arising out of a Buyer Curtailment. Buyer Curtailment Periods include ramp up and ramp down periods.

CAISO: The California Independent System Operator Corporation or any successor entity performing similar functions.

CAISO Revenue Meter: A CAISO-approved revenue quality meter or meters, metering scheme, CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy delivered to the Delivery Point.

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

California Renewables Portfolio Standard or RPS: The standard, codified in Public Utilities Code (PUC) Sections 399.11 through 399.31, and Public Resources Code (PRC) Sections 25740 through 25751, as may be amended from time to time.

Capacity: The instantaneous ability of a generator to produce Energy (real power) at a specified output. Capacity is measured in MW or kW.

Capacity Attributes: Any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the Contract Capacity of the Project to produce Energy or Ancillary Services, including any accounting construct so that any Resource Adequacy attributes of the Project (in such amounts as may be available from the Project based on then current Resource Adequacy counting rules) may be counted toward a Resource Adequacy requirement or any other measure adopted by an entity invested with the authority under federal or state law to require Buyer to procure, or to procure at Buyer's expense, Resource Adequacy or other such products.

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

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

Certificate of Compliance: Has the meaning set forth in the CAISO Tariff.

Change of Control: Any circumstance in which Seller ceases to be Controlled by the Ultimate Parent; provided that in calculating voting and ownership percentages for all purposes of the definition of Control:

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

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

Claiming Party: Has the meaning set forth in Section 12.4.

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

Commercial Operation Date (COD): The date, as specified in the Commercial Operation Date Confirmation Letter, on which the Project conforms to the requirements for Commercial Operation in Section 2.3.3.

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

Compliance Expenditures: All incremental costs and expenses incurred by Seller to comply with a change in Law after the Execution Date pursuant to Section 4.9.

Compliance Expenditure Cap: Has the meaning set forth in Section 4.9.1.

Confidential Information: Has the meaning set forth in Section 30.1.

Contract Capacity: 70 MW.

Contract Price: The price (\$/MWh) paid by Buyer to Seller for all Products, which price is set forth in Exhibit B.

Contract Year: A period of twelve (12) consecutive months. The first Contract Year shall commence on either (a) the Commercial Operation Date if the Commercial Operation Date occurs on the first day of the month, or (b) the first day of the calendar month following the Commercial Operation Date if the Commercial Operation Date occurs on any day other than the first day of the month. Each subsequent Contract Year shall commence on the day that is twelve (12) months later than the first day of the preceding Contract Year.

Control: Control and correlative terms, including Controlled by and under common Control with, as used with respect to any Person, means that another Person has:

- (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such first Person;
- (b) the direct or indirect ownership of at least fifty percent (50%) of the equity or other ownership interest in such first Person; or
- (c) the right to direct the policies or operations of such first Person.

Costs: Has the meaning set forth in Section 10.3(c).

CPUC: The California Public Utilities Commission or its regulatory successor agency.

Credit Rating: With respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Fitch or Moody's. If ratings by Fitch, S&P and Moody's are not equivalent, the two (2) highest ratings shall apply.

Cure Plan: Has the meaning set forth in Section 10.1.2.4.

Cure Plan Year: The Contract Year addressed by the Cure Plan following the Performance Measurement Period in which Seller has failed to perform under Section 10.1.2.4.

Curtail: Curtail, including any other capitalized form of the word such as Curtailment, Curtailing, Curtailed, and Curtailable, means any partial or total reduction of deliveries of Product pursuant to Buyer's economic curtailment right under Section 8.5.

Damage Payment: The dollar amount that equals the amount of the Project Development Security required to be posted initially under this Agreement, less (i) any amounts paid by Seller to Buyer under this Agreement, including any Delay Damages, and (ii) any amounts that Buyer has drawn from the Project Development Security.

Deemed Energy Production: For the relevant period of time, the amount of Energy that could have been generated by the Project and delivered to Buyer but for each of (a) Force Majeure, (b) any Buyer Curtailment or other Curtailment of the Project directed by Buyer, calculated as Buyer Curtailed Production, (c) Buyer's failure to perform in a manner that directly affects the generation of Products by the Project, or (d) Dispatch Down Periods.

Defaulting Party: Has the meaning set forth in Section 10.1.1.

Delay Damages: Has the meaning set forth in Section 2.3.6.1.

Delivery Point: The point of first interconnection of the Project with the CAISO grid at the Southern California Edison Company (SCE) Colorado River 230 kV Substation, or such other specific location or locations as may be mutually agreed by Buyer and Seller in writing, where Seller can deliver Energy included in the Product to Buyer.

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

Delivery Term Security: Has the meaning set forth in Section 11.2.

Disclosing Party: Has the meaning set forth in Section 30.2.

Discounted Energy: Has the meaning set forth in in Section 2.4.4.

Dispatch Down Instructions: Seller shall be required to reduce generation upon any direction, instruction or order requiring the Project to curtail or reduce generation that is given by:

- (d) the CAISO or RC West (whether directly or through the Scheduling Coordinator, Host Electric Utility, or any Transmission Provider) for System Emergencies or warnings of a System Emergency, or imminent

condition or situation, which jeopardizes the CAISO's electric system integrity or the integrity of other systems to which the CAISO is connected, or

- (e) the Host Electric Utility, or any Transmission Provider for reasons to prevent equipment damage, loss of load, abnormal voltage conditions, or any warning, forecast or anticipation of conditions or situations that jeopardize the Host Electric Utility or Transmission Provider's system integrity or due to scheduled or unscheduled maintenance or construction on the Host Electric Utility or Transmission Provider's transmission or distribution facilities that prevent the Buyer from receiving or the Seller from delivering Energy at the Delivery Point; provided, however, that Dispatch Down Instructions shall not include any Buyer Curtailments.

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

DOC: The U.S. Department of Commerce.

Early Termination Date: Has the meaning set forth in Section 10.2.

Economic Bids: Has the meaning set forth in Section 9.1.2.1.

Effective Date: Has the meaning set forth in the preamble hereto.

EIM: The Western Energy Imbalance Market.

Eligible Intermittent Resource Protocol: The Eligible Intermittent Resource Protocol, as may be amended or supplemented from time to time, set forth in the CAISO Tariff.

Eligible Renewable Energy Resource (ERR): An Eligible Renewable Energy Resource as defined in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25471, as either code may be amended or supplemented from time to time, as defined in the CEC Renewables Portfolio Standard Eligibility Guidebook, as may be amended or supplemented from time to time.

Energy: Electric energy from the Project, of the character commonly known as three-phase alternating current, with a nominal frequency of sixty (60) Hertz, a nominal voltage equivalent to that of the Transmission System, delivered by Seller to the Delivery Point, and measured in MWh.

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

Environmental Attributes: All Environmental Attributes, as that term is defined in D.08-08-028 of the California Public Utilities Commission, as may be amended, and all renewable energy credits as that term is defined under section 399.12 of the California Public Utilities Code, as may be amended, all Renewable and Environmental Attributes as defined by WREGIS, as well as any all Green Attributes, credits, carbon benefits, carbon emission reductions, carbon offsets or allowances, howsoever entitled, attributed to the Energy produced at the Project and delivered to the Delivery Point recognized under Assembly Bill 32 Global Warming Solutions Act of 2006, as may be amended; provided, however, that Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) Renewable Energy Incentives including Tax Benefits including PTCs or ITCs associated with the development, construction, operation or ownership of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating or air quality permits..

Event of Default: Has the meaning set forth in Section 10.1.1.

Excused Delay: Has the meaning set forth in Section 2.3.6.2.

Expected Annual Energy Production (EAEP): The Energy that the Project can be expected to produce during a typical year of operation, factoring in typical weather patterns, expected fuel availability, etc. which amount for each Contract Year is set forth in Exhibit C, as Exhibit C may be updated within two percent (2%) of the original values by Seller after the Effective Date to reflect the final Project design.

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

Fitch: Fitch Ratings Ltd., or its successor.

Forced Outage: An unplanned outage of one or more of the Project's components that results in a reduction of the ability of the Project to produce Energy due to an unanticipated failure, and specifically excluding any outage due to Force Majeure or Planned Outage.

Force Majeure: Has the meaning set forth in Section 12.2.

Force Majeure Notice: Has the meaning set forth in Section 12.1.

Generator PNode: The PNode (as defined by the CAISO Tariff) which is the location of a generator's injection of power into the CAISO-controlled grid where the locational marginal pricing for that generator is determined.

Generator PNode Price: The Locational Marginal Price (as defined by the CAISO Tariff) for the Generator PNode.

Governmental Authority: The federal government of the United States, the government of any foreign nation, and any domestic or foreign federal, state, county, municipal or local government or regulatory department, body, political subdivision, commission, agency, instrumentality, ministry, court, judicial or administrative body, taxing authority, or other authority thereof (including any corporation or other entity owned or controlled by any of the foregoing) having jurisdiction over any Party, the Project, the site of the Project, the PV Equipment (including the manufacture, export, or import thereof), or the rights or obligations of any Party under this Agreement, whether acting under actual or assumed authority, provided, however, that Buyer shall not be considered a Governmental Authority hereunder. Notwithstanding the foregoing definition, the CAISO shall be considered a Governmental Authority for purposes of this Agreement.

Green Attributes: Any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) 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 (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) Renewable Energy Incentives including Tax Benefits including PTCs or ITCs associated with the development, construction, operation or ownership of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating or air quality permits.

Guaranteed Commercial Operation Date or Guaranteed COD: Has the meaning set forth in Section 2.3.2.

Host Electric Utility: Southern California Edison Company (SCE).

Imbalance Energy: The difference between Energy scheduled into CAISO markets and Energy actually delivered to the Delivery Point as determined by metered output of the Project.

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

Interest Rate: For any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal, or any successor thereto, under "Money Rates" on such day (or if not published on such day, then on the most recent preceding day on which The Wall Street Journal was published), or (b) the maximum rate permitted by applicable law.

Installed Capacity: Has the meaning set forth in Exhibit S.

Interconnection Agreement: Has the meaning set forth in the CAISO Tariff.

ITC: The investment tax credit established pursuant to Section 48, 48E or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Term or any successor provision.

J. Aron: Has the meaning set forth in Section 20.3.

kW: Kilowatt(s) of alternating current.

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

Lender: Any Person (i) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Project, whether that financing or refinancing takes the form of private debt, equity, public debt or any other form, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations, and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Project.

Letter of Credit: A Seller Letter of Credit.

Licensed Professional Engineer: An independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

Limited Assignee: Has the meaning set forth in Section 20.3.

Locational Marginal Price or LMP: Has the meaning set forth in the CAISO Tariff.

Loss: Has the meaning set forth in Section 10.3(a).

Maintenance Schedule: Has the meaning set forth in Section 7.2.1.

Meter Service Agreement: Has the meaning set forth in the CAISO Tariff.

Minimum Annual Energy Production (MAEP): The amount equal to eighty-five percent (85%) of the Expected Annual Energy Production (EAEP) for each Contract Year as set forth in Exhibit C, as Exhibit C may be updated by Seller within two percent (2%) of the original values after the Effective Date to reflect the final Project design.

Month: A calendar month or partial calendar month, as applicable, recognizing that the Commercial Operation Date and the start of the Delivery Term may occur on a day that is not the first of the month and the first Contract Year may start on the first day of the first calendar month after the Commercial Operation Date.

Monthly Energy Charge: Has the meaning given it in Section 2.4.1.2.

Moody's: Moody's Investors Service, Inc., or its successor.

MW: Megawatt(s) of alternating current.

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

NEE: NextEra Energy, Inc.

NEECH: NextEra Energy Capital Holdings, Inc.

Negative LMP: In any Settlement Period or Settlement Interval, the LMP at the Project's PNode is less than zero dollars (\$0).

NEOP: NextEra Energy Operating Partners, LP

NEP: NextEra Energy Partners, LP

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

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

Network Upgrades: Has the meaning set forth in the CAISO Tariff.

New PV Trade Measure Event: Any of the following events during the period while the applicable ruling request, inquiry, rulemaking, or other filing or proceeding remains

pending or subject to appeal before the DOC or other applicable Governmental Authority:

- (a) Filing of any anti-circumvention ruling request alleging that manufacturers or importers are circumventing any AD/CVD orders on PV Equipment;
- (b) Initiation of any anti-circumvention inquiry into whether manufacturers or importers are circumventing any AD/CVD orders on PV Equipment or issuance in any such inquiry of any finding or ruling that manufacturers or importers are circumventing any AD/CVD orders on PV Equipment; or
- (c) Filing or initiation of any rulemakings, adjudications, or other proceedings or actions to increase, extend, or expand application of, or impose any new, tariffs, duties (including but not limited to AD/CVD), or other trade measures, or issuance of any related determinations, orders, tariffs, duties, or trade measures, on PV Equipment.

For the avoidance of doubt, the Parties acknowledge that any of the following shall trigger the occurrence of a New PV Trade Measure Event with respect to the Auxin Anti-Circumvention Proceeding: (i) any legislative, judicial, or administrative challenge to, or withdrawal (in whole or in part) of, (A) that certain Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia, by the President of the United States, dated June 6, 2022, or supporting Presidential Determination Pursuant to Section 303 of the Defense Production Act, or (B) any implementation thereof by the DOC or other Governmental Authority, including through any rulemaking; or (ii) any legislative, judicial, or administrative challenge that seeks to expand the scope of the DOC's final affirmative circumvention determinations, as published on August 23, 2023 in 88 Fed. Reg. 57,419, to cover companies or activities excluded in such final affirmative determinations, or to narrow the scope of, or vacate or reverse, any negative circumvention determinations or guidance on avoiding circumvention in such published issuance. The Parties further acknowledge that the AASMTC AD/CVD Case constitutes a New PV Trade Measure Event.

New Resource Implementation: The CAISO's process and requirements that enables resource interconnection to the CAISO grid and participation in the CAISO market(s).

Non-Claiming Party: Has the meaning set forth in Section 12.4.

Non-Defaulting Party: Has the meaning set forth in Section 10.2.

Operating Procedures: Has the meaning set forth in Section 4.8.

Participating Generator Agreement: Has the meaning set forth in the CAISO Tariff.

Participating Intermittent Resource (PIR): Has the meaning set forth in the CAISO Tariff.

Participating Transmission Operator (PTO): Has the meaning set forth in the CAISO Tariff.

Party and Parties: Have the meanings set forth in the preamble hereto.

PCC1 REC Price: Has the meaning set forth in Section 2.4.4.

Permitted Transfer: Any assignment, transfer, or change in control in which the entity that is the Seller at the conclusion of such assignment, transfer, or change in control is a Permitted Transferee.

Permitted Transferee: An entity that has, or is controlled by another Person that has, (a) a tangible net worth of not less than one hundred fifty million (\$150,000,000), or a senior unsecured long-term credit rating of BBB- or better from S&P or Baa3 or better from Moody's, and (b) at least three (3) years of experience in the ownership and operations of power generation facilities similar to the Project, or has retained a third-party with such experience to assist in performing Seller's obligations hereunder.

Person: Any legal or natural person, including any individual, corporation, partnership, limited liability company, joint stock company, association, joint venture, trust, governmental or international body or agency, or other entity.

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

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

Portfolio Content Category 1 (PCC-1): Renewable energy comprised of Energy and Environmental Attributes meeting the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook, Ninth Edition (Revised) issued January 2017 (RPS Eligibility Guidebook) and the CEC's POU Regulations (Section 3203(a)), for PCC-1, as may be amended or supplemented from time to time. Product delivered to Buyer hereunder must count 'as PCC-1 under the foregoing definition.

POU Regulations: The CEC's Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (California Code of Regulations, Title 20, Division 2, Chapter 13, Sections 3200 – 3208; and Chapter 2, Article 4, Section 1240), as may be amended or supplemented from time to time.

Present Value Rate: Present Value Rate means the yield reported in the Wall Street Journal for intraday trading in United States government securities having a maturity that matches the average remaining Delivery Term.

Products: All Energy generated by the Project and all Environmental Attributes associated with such Energy (in each case not to exceed the quantity of Energy and associated Environmental Attributes available from the Contract Capacity), all Capacity, all Ancillary Services (if applicable), and, only if included in the Products pursuant to Section 2.1, all Capacity Attributes available from the Project.

Production: With respect to any time period, the sum of (a) the total Energy produced by the Project in such time period, plus (b) any Buyer Curtailed Production applicable to such time period.

Project: A separately metered 70 MW portion of the second phase of the larger Grace Orchard Complex as described in Exhibit A from which the Products delivered or scheduled hereunder shall be generated.

Project Allocation Amount: Has the meaning set forth in Section 2.1.

Project Development Security: Has the meaning set forth in Section 11.1.

Prudent Industry Practice: Those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Project, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional

judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with prudent business practices, reliability, and safety. Seller acknowledges that the use of Prudent Industry Practice by Seller does not exempt Seller from any obligations set forth in this Agreement.

Prudent Industry Practice includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding paragraph that comply in all material respects with manufacturers' warranties, restrictions in this Agreement, the CAISO interconnection requirements and the requirements of Governmental Authorities, including WECC and NERC.

Prudent Industry Practice is not required to be the optimum practice, method or act to the exclusion of all others.

PTC: The production tax credit established pursuant to Section 45 or 45Y or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Term or any successor provision.

PTC Amount: The amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned, under Internal Revenue Code (Title 26 of the U.S. Code, Sections 45 and 45Y), in respect of Energy produced by the Project at the time, grossed up on an After-Tax Basis at the then-highest marginal combined federal and state corporate tax rate, but failed to earn as a result of Buyer Curtailment, or any other action or omission by Buyer (or its agents) including an Event of Default by Buyer which causes Seller to be unable to deliver Energy to the Delivery Point, with the applicable MWh figure to be calculated by reference to the amount of Buyer Curtailed Production. Such PTC Amount shall apply starting on the Commercial Operation Date and continuing only for the first ten (10) Contract Years of the Delivery Term, shall not exceed \$45/MWh from Commercial Operation through the end of Contract Year 1, and shall increase annually with inflation.

PV Equipment: Solar photovoltaic cells, modules, onboard sensors, control components, inverters, or any of their components.

Qualified Issuer: Has the meaning set forth in Section 11.2.

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

Receiving Party: Has the meaning set forth in Section 30.2.

Refund Payment: Has the meaning set forth in in Section 2.4.4.

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

Renewable Energy Incentives: (a) all federal, state, or local Tax credits or other Tax benefits associated with the production of electricity from, or the construction, operation or the ownership of, the Project or any part thereof (including the Tax Benefits and other credits under Sections 38, 45, 45Y, 46, 48, and 48E of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Project, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute.

Replacement Green Attributes: Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product and of the same timeframe for retirement as the Renewable Energy Credits that would have been generated by the Facility during the relevant period.

Replacement Product: Has the meaning set forth in Section 2.4.4.

Resource Adequacy (RA): A requirement by the CPUC or other applicable Governmental Authority, or a policy approved by a local regulatory authority, that is

binding upon Buyer and that requires Buyer to procure a certain amount of electric generating Capacity.

Resource Adequacy Capacity: Has the meaning set forth in the CAISO Tariff.

Resource Adequacy Requirements: A standard established and administered by an applicable regulatory authority (such as the CPUC and/or the CAISO), whereby entities serving load demonstrate that in advance of any period they have acquired the capacity needed to serve forecast customer load plus a mandated reserve margin during that period, and where generating unit-specific capacity is identified and the physical generating unit is made available for dispatch.

Resource ID: Has the meaning set forth in the CAISO Tariff.

RPS Certification: A certification by the CEC, obtained by the Seller once Commercial Operation has been achieved, that the Project is eligible for the purposes of the California Renewables Portfolio Standard, and that all Energy produced by the Project and delivered to the Delivery Point qualifies as generation from an ERR (subject, for the avoidance of doubt, to any reductions required by the CEC for Station Service Load and applicable losses).

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

S&P: The Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

Schedule: Has the meaning set forth in the CAISO Tariff, and "Scheduled" has a corollary meaning.

Scheduled Commercial Operation Date or Scheduled COD: December 1, 2027, as such date may be extended under Section 2.3.6.

Scheduled Maintenance: Maintenance which is performed, or scheduled to be performed, on the Project or any major component thereof, that is necessary to carry out maintenance of such Project consistent with Prudent Industry Practices, which

results in a partial derate or full outage of such Project, and which has been scheduled in accordance with Section 7.2. Scheduled Maintenance is not a Forced Outage.

Scheduling: The act of producing, or relating to the production of, a schedule for the delivery, production or use of Energy and/or ancillary services that is in compliance with NERC Scheduling (NERC tagging) requirements (if applicable), and all requirements under the CAISO Tariff.

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

Security Interest: Has the meaning set forth in Section 11.3.

Self-Schedule: Has the meaning set forth in the CAISO Tariff.

Seller: Has the meaning set forth in the preamble hereto.

Seller Letter of Credit: Has the meaning set forth in Section 11.1.

Serial Defect: Malfunctions or defects occurring in twenty percent (20%) or more of the same part or component of the Project.

Settlement Interval: Has the meaning set forth in the CAISO Tariff.

Settlement Period: Has the meaning set forth in the CAISO Tariff.

Shared Facilities: The gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Project (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with Affiliates of Seller and/or other third parties or by Seller for electric generation or storage facilities owned by Seller other than the Project.

Solar Irradiance Data: Data used for measuring solar insolation comprising global horizontal irradiance (GHI, W/m^2), diffuse horizontal irradiance (DHI, W/m^2), and direct normal irradiance (DNI, W/m^2), and as otherwise agreed upon by the Parties.

Station Service Load: The electrical loads associated with the operation and maintenance of the Project that may at times be supplied from the Project.

Supporting Resource: A “Generating Resource” that is a “Supporting Resource” as those terms are defined in the CAISO’s *SIBR—Scheduling Coordinator Users Guide* dated January 26, 2024, available as of the Effective Date at https://www.caiso.com/Documents/SIBR_SCUserGuide_80.pdf.

Surety Bond: A surety bond from a Surety Bond Provider provided for the benefit of Buyer substantially in the form attached as Exhibit K-2.

Surety Bond Provider: An insurance company or companies rated not lower than A-/IX by the A.M. Best Company.

System Emergency: Has the meaning set forth in the CAISO Tariff.

Tax or Taxes: All U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

Tax Benefits: The PTC, ITC, and any other state, local and/or federal tax benefit or incentive, including energy credits determined under Sections 38, 45, 45Y, 46, 48 and 48E of the Internal Revenue Code of 1986, as amended, investment tax credits, production tax credits, depreciation, amortization, deduction, expense, exemption, preferential rate, and/or other tax benefit or incentive associated with the production, sale, or storage of renewable energy and/or the operation, construction, investments in or ownership of, the Project (including any cash payment or grant).

Term: The period of time from the Effective Date through the last day of the Delivery Term.

Termination Payment: Has the meaning set forth in in Section 10.3.

Test Energy: All Energy produced by the Project before the Commercial Operation Date.

TP Deliverability: Has the meaning set forth in the CAISO Tariff.

Transformer Failure: A failure of any final step-up transformer used by the Project.

Transmission Provider: Any entity or entities transmitting the Product on behalf of Seller or Buyer to or from the Delivery Point hereunder; provided, however, that Transmission Provider shall not include Buyer or Seller.

Transmission System: The high voltage wires, transformers and related equipment owned or controlled by a particular electric utility or grid operator, and generally used to move bulk quantities of power between different electric utilities or from large electric generators to a utility's distribution system; as opposed to being used to make final delivery of electric power to retail customers.

Typical Annual Solar Insolation: The typical annual global horizontal irradiance at the Project site set forth in Exhibit D.

Ultimate Parent: NEE, NEP, NEOP, NEECH, or any combination of the foregoing.

Unexcused Cause: Has the meaning set forth in in Section 12.2.

Uninstructed Imbalance Energy: Has the meaning set forth in the CAISO Tariff.

VER Forecast: The amount of energy forecasted for the Project determined in accordance with the VER Forecasting Program.

VER Forecasting Program: The rules, protocols, procedures and standards for Participating Intermittent Resources under the CAISO's Eligible Intermittent Resource Protocol, as may be amended from time to time, as set forth in the CAISO Tariff.

WECC: The Western Electricity Coordinating Council, the regional entity responsible for coordinating and promoting Bulk Electric System reliability in the western United States and western Canada, or any successor organization.

WREGIS: The Western Renewable Energy Generation Information System, sponsored by WECC and utilized by the CEC for tracking the generation and transfer of RECs, or any successor renewable energy tracking system sponsored by WECC and utilized by the CEC for implementing California's RPS, including tracking the generation and transfer of RECs.

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 California Renewables Portfolio Standard.

WREGIS Compliance Procedures: Has the meaning set forth in Section 4.8.

WREGIS Operating Rules: Those operating rules and requirements adopted by WREGIS as of June 4, 2007, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

WREGIS Shortfall: Has the meaning set forth in in Section 2.4.4.

WRO Restraint: Any withhold release order or other import restraint issued or made applicable to the PV Equipment after the Effective Date of this Agreement, or changes to how such orders and restraints existing as of the Effective Date of this Agreement are administered, by U.S. Customs and Border Protection or other applicable Governmental Authority, including under the Uyghur Forced Labor Prevention Act, that prevents or delays the import or release of any PV Equipment into the United States and such order or restraint, despite the use by Seller of commercially reasonable efforts to avoid procurement or sourcing of PV Equipment that was reasonably foreseeable to become subject to such order or restraint, prevents or delays the delivery of such PV Equipment into the United States for delivery to Seller for incorporation into the Project.

1.2 Rules of Interpretation

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

- (a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;
- (c) the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (d) a reference to an Article, Section, subsection, paragraph, clause, Party, or Exhibit is a reference to that Section, subsection, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;
- (e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of

this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

- (f) a reference to a Person includes that Person's successors and permitted assigns;
- (g) the terms "include" and "including" mean "include without limitation" or "including without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;
- (h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;
- (i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;
- (j) references to any amount of money shall mean a reference to the amount in United States Dollars;
- (k) the expression "and/or" when used as a conjunction shall connote "any or all of";
- (l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Industry Practice shall have such meaning in this Agreement, or (ii) do not have well known and generally accepted meaning in Prudent Industry Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and
- (m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

2. PROJECT, PURCHASE AND SALE OF PRODUCTS

2.1 Project and Deliverability

This Agreement governs Seller's sale and delivery, and Buyer's purchase and receipt, of Products from the Project. Seller agrees to request from the CAISO an allocation of TP

Deliverability for the Project, which may be submitted as part of a request by Seller or its Affiliates for TP Deliverability for some or all of the capacity of the larger Grace Orchard Complex. Seller shall not be obligated to request an allocation of TP Deliverability for the Project more than one time, and such one-time request may be made before or after the Effective Date as long as Seller provides documentation to Buyer that reasonably substantiates the submission of the request. Buyer and Seller acknowledge and agree that a certain amount (potentially as much as approximately 450 MW) of capacity at the Grace Orchard Complex is committed under offtake agreements executed before the Effective Date that may also require deliverability, and that such previously committed capacity therefore will have priority over the Project in apportioning any allocation of TP Deliverability for the Grace Orchard Complex. If Seller receives an allocation of TP Deliverability that can be apportioned to the Project based on its relative priority as acknowledged in the foregoing sentence, then Seller shall apportion such amount to the Project and notify Buyer of the amount of TP Deliverability that has been apportioned to the Project (the "Project Allocation Amount"). If Seller has not received an allocation of TP Deliverability for the Project by June 1, 2025, then Seller shall not have any further obligation to seek an allocation of TP Deliverability for the Project and the Products shall consist only of Energy and associated Environmental Attributes (not to exceed the Energy and associated Environmental Attributes available from the Contract Capacity), and Ancillary Services to the extent available from the Project without additional cost to Seller, and shall not include Capacity Attributes.

2.2 Products Purchased

2.2.1 Obligation to Deliver

During the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, all Products supplied by the Project.

- (a) Energy shall be supplied only from the Project, and shall be supplied from the Project whenever available. Seller agrees to sell to Buyer the Energy in kilowatt-hours, net of Integral Station Service Load and transformation and transmission losses to the Delivery Point.
- (b) Any Capacity Attributes available from the Project and included in the Products pursuant to Section 2.1 shall be supplied only from the Project, and shall be supplied from the Project in the quantities available under applicable counting rules for resource adequacy, up to the applicable

Project Allocation Amount, if any. If the Project does not receive any Project Allocation Amount, then Capacity Attributes shall not be included in the Products.

- (c) All Products delivered by Seller to Buyer hereunder shall be a sale made at wholesale.

2.2.2 No Product Substitution

Except as provided in Section 2.4.4, in no event shall Seller have the right to procure any Energy, Environmental Attributes, or Capacity Attributes from sources other than the Project for sale or delivery of Products to Buyer under this Agreement or to substitute any Energy, Environmental Attributes, or Capacity Attributes from sources other than the Project for delivery to Buyer hereunder.

2.2.3 Energy Produced Prior to COD

Prior to COD Buyer shall not purchase Products hereunder, and Seller shall have the right to sell such Products to a third party or into the CAISO's markets and to retain resulting revenues for Seller's own account.

2.2.4 Buyer Production Curtailment

Buyer shall pay Seller for all Buyer Curtailed Production in accordance with Section 2.4 and Section 8.5.

2.2.5 Meter Data Access

Buyer shall have the right, but not the obligation, to read the Project's meter data on a daily basis. Energy from the Project will be delivered through one or more dedicated CAISO Revenue Meters used only for the Project (and not for other portions of the Grace Orchard Complex). Seller shall be responsible for installing and operating all metering equipment installed to accommodate the Project. Seller shall bear all costs relating to all metering equipment installed to accommodate the Project. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from the CAISO the CAISO meter data applicable to the Project and all inspection, testing and calibration data and reports. Seller shall grant Buyer the right to retrieve the meter reads from the CAISO Market Results Interface –

Settlements (MRI-S) web and/or directly from the CAISO Revenue Meter at the Project site.

2.3 Delivery Term, Delivery Point, and Commercial Operation

2.3.1 Delivery Term

The “Delivery Term” shall begin with the COD and shall end on the hour ending at midnight PPT on the last day of the twentieth (20th) Contract Year.

2.3.2 Guaranteed COD

The “Guaranteed Commercial Operation Date” or “Guaranteed COD”, the latest date for Commercial Operation of the Project, is six (6) months following the Scheduled COD, as the Scheduled COD may be extended pursuant to Section 2.3.6. As of the Effective Date, the Scheduled COD is December 1, 2027 and the Guaranteed COD is June 1, 2028.

2.3.3 Requirements for Commercial Operation

The Commercial Operation Date shall occur on the latest date on which all five (5) of the following conditions have been satisfied:

2.3.3.1 Seller has delivered to Buyer a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit R, and a certificate from a Licensed Professional Engineer substantially in the form of Exhibit S setting forth the Installed Capacity on the Commercial Operation Date;

2.3.3.2 An Interconnection Agreement for the Project with the Participating Transmission Operator (PTO) shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

2.3.3.3 A Participating Generator Agreement and a Meter Service Agreement for the Project with CAISO shall have been executed and delivered and be in full force and effect, and a copy of each has been delivered to Buyer;

2.3.3.4 Seller shall have installed and demonstrated accurate operation of all necessary facilities, including metering, communications, telemetry and meteorological equipment as required under the CAISO Tariff; and

2.3.3.5 If available from the CAISO at the time of the planned COD, Seller shall deliver to Buyer a copy of the signed Certificate of Compliance from CAISO.

2.3.4 Notice of Commercial Operation

Seller shall provide Buyer with written notice of Commercial Operation when the Project has satisfactorily completed the requirements for Commercial Operation. The written notice shall include a description detailing the satisfaction of the requirements in Section 2.3.3.

2.3.5 Commercial Operation Date Confirmation Letter

The Commercial Operation Date shall occur upon satisfaction of the requirements for Commercial Operation. Buyer shall execute and then provide to Seller for execution, the "Commercial Operation Date Confirmation Letter" in substantially the form attached as Exhibit E to this Agreement; provided, however, that the dates of such execution shall not delay or affect the occurrence of the Commercial Operation Date.

2.3.6 Delays in Achievement of Commercial Operation

2.3.6.1 Unless caused by any Excused Delay as addressed in Section 2.3.6.2, if the Project fails to achieve Commercial Operation of at least ninety-five percent (95%) of the Contract Capacity on or before the Scheduled COD, then Seller shall pay "Delay Damages" to Buyer equal to three hundred fifty dollars per MW of Contract Capacity per day (\$350/MW/day) for each MW or portion thereof by which the installed Capacity of the Project that has achieved Commercial Operation is less than ninety-five percent (95%) of the Contract Capacity of the Project, to be adjusted daily as additional parts of the Project achieve Commercial Operation, until either Commercial Operation of the full Contract Capacity of the Project is achieved or Seller pays the Capacity Damages for any remaining shortfall in accordance with Section 2.3.8; provided that the Delay Damages shall not exceed the amount of the Project Development Security provided by Seller pursuant to Section 11.1.

2.3.6.2 If the Project fails to achieve Commercial Operation of at least ninety-five percent (95%) of the Contract Capacity on or before the Scheduled COD due to any one or more of the causes or circumstances identified in subsections (a) through (c) below (each, an "Excused Delay"), then Seller shall not owe any Delay Damages to Buyer for the duration of the Excused Delay, and the Scheduled COD shall be extended automatically on a day-for-day basis for each day of Excused Delay:

- (a) Force Majeure;
- (b) A delay by the Host Electric Utility or a Transmission Provider beyond the date that is four (4) months before the original Scheduled COD (before

any extensions under this Section 2.3.6.2) in completion of (i) interconnection facilities required for the Project to deliver Energy to the Delivery Point, or (ii) if the Product includes Capacity Attributes pursuant to Section 2.1, any Network Upgrades required for delivery of such Capacity Attributes; or

- (c) Buyer has not made all necessary arrangements to receive Energy generated by the Project for delivery at the Delivery Point.

2.3.6.3 Seller shall notify Buyer promptly after becoming aware of an Excused Delay that will extend the Scheduled COD under Section 2.3.6.2. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described in such notice did not result from Seller's actions or failure to take commercially reasonable actions to avoid or mitigate the delay. Notwithstanding anything to the contrary herein, no extension shall be given for an Excused Delay if, and to the extent that the delay is the result of Seller's failure to take commercially reasonable actions to meet its requirements and deadlines. Excused Delays will extend the Scheduled COD and Guaranteed COD simultaneously on a day-for-day basis.

2.3.7 Notice of Delivery Point

Seller shall provide written notice to Buyer as to which Delivery Point it elects no later than the date on which Seller commences construction of the Project. For purposes of this Section 2.3.7, Seller will be deemed to have commenced construction upon mobilization of resources and beginning of construction work at the Project site.

2.3.8 Failure to Reach Contract Capacity

If, on the Commercial Operation Date, the installed Capacity of the Project is less than one hundred percent (100%) of the Contract Capacity, Seller shall have one hundred fifty (150) days after the Commercial Operation Date to install additional Capacity such that the installed Capacity is equal to (but not greater than) the Contract Capacity, and Seller shall provide to Buyer a new Commercial Operation Date Confirmation Letter in substantially the form attached as Exhibit E specifying the new installed Capacity. If Seller fails to construct the Contract Capacity by such date, Seller shall pay "Capacity Damages" to Buyer, in an amount equal to the product of (i) \$200,000/MW, and (ii) each MW (or portion thereof) that the Contract Capacity exceeds the installed Capacity, and the Contract Capacity and other applicable portions of the Agreement, including the

values in Exhibit C, shall be adjusted accordingly to align with the total installed Capacity of the Project.

2.4 Payments and Charges

2.4.1 Monthly Energy Charge

2.4.1.1 Buyer shall pay Seller the Monthly Energy Charge for each MWh of Production, plus, for each MWh of Buyer Curtailed Production during the applicable invoice calculation period, an additional amount equal to the PTC Amount calculated by Seller for the relevant period.

2.4.1.2 On a monthly basis, beginning with deliveries of Energy on and after COD, Buyer shall pay Seller (a) the “Monthly Energy Charge”, calculated as the aggregate sum over the Month of the product of (i) the Contract Price, and (ii) the Production for each hour during the Month, plus (b) for each MWh of Buyer Curtailed Production during the Month, an additional amount equal to the PTC Amount calculated by Seller for such Buyer Curtailed Production during the Month.

2.4.1.3 Seller is responsible for all losses from the Project to the Delivery Point, including transformer losses, which will be calculated in accordance with CAISO's requirements for accounting for losses.

2.4.2 CAISO and Related Charges

Except as otherwise set forth in this Agreement, Buyer shall be responsible for CAISO costs (including penalties, Imbalance Energy costs, and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with Dispatch Instructions and other CAISO dispatches, bid cost recovery, or other credits in respect of the Product that is Scheduled or delivered from the Project. Seller shall be responsible for (a) all CAISO penalties resulting from any failure by Seller or its Scheduling Coordinator to comply with the CAISO Tariff or the outage notification requirements set forth in this Agreement, (b) any administrative charges, penalties, or fees assessed by the CAISO to the Project solely in its capacity as a generator in the CAISO market (including the Forecast Fee(s) and Grid Management Charge(s)), (c) any CAISO charges, penalties, or fees related to Seller's failure to comply with a Buyer Curtailment or Dispatch Down Instruction, and (d) negative pricing consequences as specified in Section 9.1.2.3. Any costs, charges and penalties assessed by the CAISO and

any CAISO revenues related to Uninstructed Imbalance Energy shall be split equally between the Buyer and Seller.

The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of the Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, and any such sanctions or penalties are imposed upon the Project or to Seller or its designee as Scheduling Coordinator due to failure by Seller to comply with the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility.

Subject to the foregoing, Seller shall pass through to Buyer all applicable CAISO costs and revenues associated with the Project, which shall be reflected as a credit or charge (as applicable) on the monthly invoices provided to Buyer in accordance with the invoicing and payment provisions of Section 3, including the netting provisions of Section 3.1.3.

2.4.3 Timing of Imbalance Energy and CAISO Charges

The Parties acknowledge that due to the CAISO settlement timelines, the above-referenced CAISO charges, penalties or fees in Section 2.4.2 will not be passed through to Buyer in the same month that they are incurred. Instead, Seller shall pass-through such charges, penalties, or fees after receipt of the settlement invoices from the CAISO.

2.4.4 Adjustment for Non-Delivery of RECs

In the event that (a) SMUD fails to receive WREGIS Certificates associated with the amount of Energy delivered to the Delivery Point (other than any WREGIS Certificates that are not provided due to any compliance or conformance issues resulting from Buyer's assignment to a Limited Assignee pursuant to Section 20.3) within one hundred ten (110) days after the end of the Month that the Energy was generated and delivered to SMUD at the Delivery Point, and (b) the cause of such failure is due to Seller's actions or inactions that fail to comply with Seller's obligations under this Agreement (subject to the exclusions

referenced above, a “WREGIS Shortfall”), then Seller shall either (i) deliver to Buyer at no cost to Buyer, and Buyer shall accept delivery of, a quantity of Energy and PCC1 RECs equal to the WREGIS Shortfall (“Replacement Product”), or (ii) pay to Buyer a “Refund Payment” equal to the greater of (A) the PCC1 REC Price, and (B) the Contract Price, multiplied by the quantity of Energy previously delivered at the Delivery Point for which there is a WREGIS Shortfall (“Discounted Energy”). The “PCC1 REC Price” means the market value of PCC1 RECs of the same year that the WREGIS Shortfall is identified, determined by the average of three (3) broker quotes for such PCC1 RECs. SMUD will provide notice to Seller of any WREGIS Shortfall, including SMUD’s calculation and supporting evidence for such WREGIS Shortfall and PCC1 REC Price (including the three (3) broker quotes used to determine such PCC1 REC Price). Seller shall have the right to elect to provide Replacement Product, or pay a Refund Payment for Discounted Energy, in its sole discretion. If Seller elects to provide Replacement Product, Seller shall provide written notification to Buyer of the time, physical location, and generating resource from which Seller will provide the Replacement Product to Buyer; provided, that the Parties agree that the Energy from such generating resource shall be resold into a California balancing authority at the time of delivery. Any disputes with respect to the cause of a WREGIS Shortfall or the calculation of the Replacement Product, Discounted Energy or Refund Payment will be resolved pursuant to the provisions of Section 22. Seller shall deliver the Replacement Product or pay the Refund Payment to SMUD, or, if Seller elects to pay the Refund Payment, SMUD may offset and credit the Refund Payment against SMUD’s payment to Seller in the next regular settlement. If Seller cures a WREGIS Shortfall after Seller has delivered Replacement Product or paid Buyer (directly or through an offset or credit against a monthly settlement), then SMUD shall pay Seller the lower of the Contract Price or the PCC1 REC Price (as calculated above) for the Replacement Product, or refund to Seller all or part of the Refund Payment associated with such cure, as applicable, in the next invoice after such WREGIS Shortfall is cured.

2.4.5 Annual Production Guarantee, Project Performance Adjustment

Seller shall follow Prudent Industry Practices in operating and maintaining the Project and shall make any needed and commercially reasonable repairs

identified through compliance with the foregoing requirements in a reasonably timely manner so as to maximize the Project's availability for generation of electricity.

Within thirty (30) calendar days after the end of each Contract Year, Seller shall submit records of annual Project curtailment data (including Dispatch Down Periods, Buyer Curtailed Production, and other Deemed Delivered Energy) and any record of Force Majeure or Buyer's failure to perform in a manner that directly affects the generation of Products by the Project, which Buyer shall reconcile with its own records of annual Project curtailment data (including Dispatch Down Periods, Buyer Curtailed Production, Deemed Delivered Energy, Force Majeure, and any such Buyer failure), in order to calculate AAEP.

If, at the end of any Contract Year, the AAEP for such Contract Year is less than eighty-five percent (85%) of the AEAEP for such Contract Year, then Seller shall pay Buyer liquidated damages calculated as set forth below, which, except as set forth in Section 10.1.2.4, shall be Buyer's sole and exclusive remedy in connection with Seller's failure to achieve in any Contract Year an AAEP that is equal to or greater than eighty five- percent (85%) of the AEAEP for such Contract Year.

Liquidated damages shall equal: $[(A - B) * (C - D)]$, where:

A = Eighty-five percent (85%) of the AEAEP for such Contract Year, in MWh;

B = the AAEP for such Contract Year, in MWh;

C = The replacement price for the Contract Year, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price in the Contract Year, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the market value of Replacement Green Attributes, based on the average of three (3) broker quotes; and

D = the Contract Price, in \$/MWh

Notwithstanding anything to the contrary herein, no payment shall be due from Seller under this Section 2.4.5 if (i) the calculation of (A - B) or (C - D) yields a

negative number, or (ii) the result of the calculation of $[(A - B) * (C - D)]$ results in a dollar amount that exceeds 100% percent of the Monthly Energy Charges paid by Buyer to Seller for the Contract Year for which the calculation is performed.

2.4.6 System Losses

All Products specified herein are amounts as provided at the Delivery Point, and Seller is responsible for all losses to the Delivery Point.

2.4.7 Title and Risk of Loss

Title to and risk of loss related to the Products produced from the Project shall transfer from Seller to Buyer at the Delivery Point, except that title to RECs shall transfer when the associated WREGIS Certificates are transferred to Buyer's WREGIS account. Seller warrants that it shall deliver to Buyer all Products from the Project free and clear of all liens, security interests, claims and encumbrances, or any interest therein or thereto by any person.

2.5 Energy Market Participation

The Parties acknowledge and agree that as of the date hereof, SMUD is participating in the EIM and/or other energy markets. Notwithstanding anything herein to the contrary, SMUD's joining or continued participation in such markets shall not require Seller to perform any additional measures or incur any additional or increased cost other than administrative expenses, liability or obligation, in each case other than what Seller is already otherwise expressly obligated under this Agreement to perform or incur, unless compensated by SMUD. If in the future, market rules or policies change, then the Parties shall meet and confer to discuss the new market rules and whether updates to the scheduling, settlements, or other procedures are required and to preserve the economic "benefit of the bargain" to both Parties to this Agreement.

3. BILLING AND INVOICING

3.1 Settlement Statements

3.1.1 Amounts Owed by Buyer

Seller shall make good faith efforts to deliver a settlement statement to Buyer for Product within fifteen (15) Business Days after the end of the prior Month of the Delivery Term. Each settlement statement shall reflect (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Project for the previous Month, and (b) the Monthly Energy Charge for the previous Month calculated in accordance with Section 2.4.1 and the PTC Amount (if any) owed by Buyer for the previous Month, (c) any amounts owing between the Parties pursuant to Section 2.4.2, (d) any amounts owing to Seller pursuant to Section 2.4.3, (e) amounts owing between the Parties pursuant to Section 2.4.4, and (f) any other fees, charges or other amounts due and owing to Seller pursuant to this Agreement. Buyer shall pay Seller according to the provisions of Section 3.2.

3.1.2 Amounts Owed to Buyer

The monthly settlement statements delivered by Seller shall set forth, as applicable, any fees, charges or other amounts due and owing to Buyer pursuant to this Agreement.

3.1.3 Set-offs and Deductions

Either Party may offset the payment due to the other Party under this Agreement against the amounts owing from such other Party to the offsetting Party pursuant to this Agreement.

3.1.4 Form of Settlement Statements

Seller shall include in each monthly settlement statement sufficient detail to allow Buyer to verify the amounts. Seller shall send the settlement statements under this Agreement by email.

3.2 Method of Payment

3.2.1 Payment to Seller

Buyer shall pay to Seller by wire transfer of immediately available funds (or electronically through the Automated Clearinghouse (ACH) to a specified account designated by Seller in a written notice to Buyer, the amount set forth as due in

the monthly settlement statement. Such payment shall be made on (a) the last Business Day of the Month immediately following the Month to which Seller's monthly settlement statement relates (or the next succeeding Business Day), or (b) the tenth (10th) day after receipt by Buyer of Seller's monthly settlement statement (or the next succeeding Business Day), if such tenth day is not a Business Day, whichever is later.

3.2.2 Payment to Buyer

In the event that the amount owed to Buyer by Seller for any Month exceeds the amount owed by Buyer to Seller, Seller shall pay to Buyer, by wire transfer of immediately available funds to a specified account, or by other means agreed to by the Parties, the amount set forth as due in the monthly settlement statement. Such payment shall be made on (a) the twentieth (20th) day of the Month immediately following the calendar Month to which Seller's settlement statement relates (or the next succeeding Business Day), or (b) the tenth (10th) day after receipt by Buyer of Seller's monthly settlement statement (or the next succeeding Business Day, if such tenth day is not a Business Day), whichever is later.

3.3 Billing Disputes

A Party may, in good faith, dispute the correctness of any invoice or adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twenty-four (24) months of the end of the Contract Year of which the subject invoice was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the Party issuing such invoice. Any billing dispute or billing adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. If it is determined that an adjustment to the invoice is appropriate, then such payment shall be required to be made within two (2) Business Days of such determination along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Overpayments by a Party shall, at the option of the Party making such overpayment, be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or

deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 3.3 within twenty-four (24) months of the end of the Contract Year of which the subject invoice was rendered or any specific adjustment to the invoice is made.

4. CERTIFICATION AS AN ELIGIBLE RENEWABLE ENERGY RESOURCE

4.1 RPS Certification

Buyer requires that all Energy sold under this Agreement shall meet the RPS requirements. At its own expense, Seller shall obtain RPS Pre-Certification and RPS Certification of the Project with the CEC. Seller shall file an application with the CEC for RPS Certification as soon as possible but in no event later than thirty (30) days after receipt of the Exhibit E, Commercial Operation Date Confirmation Letter from Buyer, and shall provide the CEC all information necessary to verify the RPS Certification filing. Seller shall obtain RPS Certification as soon as reasonably possible after COD and thereafter shall maintain RPS Certification throughout the Delivery Term.

Seller shall ensure that throughout the Term, Energy and Environmental Attributes from the Project meet the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook for PCC-1 and the criteria of California Public Utilities Code 399.16(b)(1). The Parties agree that the sale and delivery of Energy and RECs from the Project under this Agreement is a sale of bundled Energy and RECs according to the applicable CEC RPS Eligibility Guidebook.

4.2 Environmental Attribute Delivery Obligation

Seller shall sell and deliver, and Buyer shall receive and purchase from Seller, all rights, title, and interest in all Environmental Attributes associated with Energy produced by the Project and delivered to Buyer at the Delivery Point whether now existing or that hereafter come into existence during the Term; provided that, pursuant to Section 2.4.4, Buyer shall pay Seller the Refund Payment for any Discounted Energy as calculated therein. Seller agrees to sell to Buyer all such Environmental Attributes to the fullest extent allowable by applicable Law, and convey the same to Buyer in accordance with the procedures in Exhibit H. Seller warrants that all Environmental Attributes provided to Buyer shall be free and clear of all liens, security interests, claims and encumbrances.

4.3 WREGIS Registration

Documentation of Environmental Attributes associated with the Energy produced under this Agreement shall be tracked through WREGIS. Seller shall register the Project in WREGIS and transfer RECs from its WREGIS account into Buyer's WREGIS account, in accordance with Exhibit H. Seller shall be responsible for all WREGIS costs and fees associated with the issuance/creation of WREGIS RECs in Seller's account for the Project and for transfers out of its account to Buyer, and Buyer shall be responsible for any fees associated with the transfer of Project WREGIS RECs into its WREGIS account and/or retirement of such WREGIS RECs in Buyer's WREGIS account.

In addition to the Energy, RECs are required to be provided monthly for all Energy produced from the Project (not including an amount of Energy equal to the Project's Station Service Load and any losses prior to the Delivery Point), evidencing that Buyer has exclusive rights to the Environmental Attributes.

4.4 Additional Evidence of Environmental Attribute Conveyance

At Buyer's request, Seller shall provide additional reasonable evidence to Buyer or to third parties of Buyer's right, title, and interest in Environmental Attributes and information with respect to Environmental Attributes.

4.5 Modification of Environmental Attribute Reporting and Conveyance Procedure

The Parties shall revise Exhibit H as appropriate, and issue a new Exhibit H which shall then become part of the Agreement, in order to reflect changes necessary in the Environmental Attribute conveyance procedure for Seller to be able to receive WREGIS Certificates and transfer them to Buyer, and for Buyer to be able to receive and report the Environmental Attributes purchased under the Agreement as belonging to Buyer, in the event that:

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

4.6 Reporting of Ownership of Environmental Attributes

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

4.7 Greenhouse Gas (GHG) Emissions

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

4.8 Operating Procedures; WREGIS

The Parties shall cooperate to develop detailed operating procedures (the “Operating Procedures”) for the performance of the Parties’ respective obligations under this Agreement related to operation of the Project on or prior to three (3) months before the start of the Delivery Term.

The Operating Procedures shall include, but shall not be limited to: (a) procedures concerning the method of day-to-day communications; (b) key personnel lists for each of Seller and Buyer, (c) compliance procedures to ensure WREGIS tracking of the Environmental Attributes associated with the Product (“WREGIS Compliance Procedures”), which shall incorporate and be consistent with the procedures described in Exhibit H.

WREGIS Compliance Procedures shall provide that Seller shall take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all RECs corresponding to all delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard or other applicable laws or regulations and transferred in a timely manner to Buyer for Buyer’s sole benefit.

The Parties shall review and, if appropriate, update the WREGIS Compliance Procedures to reflect any changes in WREGIS requirements at least annually.

4.9 Change in Law and Compliance Expenditure Cap

4.9.1 Compliance Expenditure Cap

The Parties agree that expenditures to comply with the requirements of Sections 4.1 through 4.8 and Sections 5.1 through 5.3 are “Compliance Expenditures” and that the Compliance Expenditures that Seller shall be required to bear during the Term of this Agreement shall be capped at a total of one hundred twenty-five thousand dollars (\$125,000) per Contract Year and one million two hundred fifty thousand dollars (\$1,250,000) in the aggregate over the Term (“Compliance Expenditure Cap”).

4.9.2 Change in Law

If a change in Law occurs after the Effective Date that affects Seller’s compliance with its obligations under any of Sections 4.1 through 4.8 and Sections 5.1 through 5.3, Seller shall not be in breach of such obligations if Seller has used commercially reasonable efforts to comply with such change in Law as it pertains to such obligations. For purposes of this Section 4.9, the term “commercially reasonable efforts” shall not require additional out-of-pocket expenditures in the aggregate in excess of the Compliance Expenditure Cap in complying with the changes in Law described in this Section 4.9 unless Buyer and Seller have agreed in writing for Buyer to reimburse Seller for or to pay directly such excess expenditures.

4.9.3 Excess Compliance Expenditures

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

4.9.3.2 If Seller determines that Compliance Expenditures in excess of the Compliance Expenditure Cap will have to be incurred, then Seller shall notify Buyer and provide documentation and calculations to support the expected

excess Compliance Expenditures. Buyer may then: (1) approve the expected excess Compliance Expenditures and notify Seller of such approval, and Seller shall comply upon receipt of notice of Buyer's approval and Buyer's payment to Seller for the expected excess Compliance Expenditures; or (2) elect not to pay Seller for the expected excess Compliance Expenditures and notify Seller of such decision, in which case this Agreement shall continue in full force and effect and Seller shall continue to be excused from performing or meeting any obligation that causes, or would cause, the incurrence of such Compliance Expenditures in excess of the Compliance Expenditure Cap, and Buyer shall pay Seller the Contract Price in full notwithstanding any such non-performance or non-compliance. Buyer is not required to reimburse Seller for any Compliance Expenditures unless and until Buyer agrees to the expected Compliance Expenditures in excess of the Compliance Expenditure Cap and, if Buyer elects not to reimburse Seller for any such Compliance Expenditures, then Seller shall be excused from performing or meeting any obligation in this Agreement that requires Seller's payment or incurrence of such unreimbursed Compliance Expenditures in excess of the Compliance Expenditure Cap. For avoidance of doubt, if a Change in Law makes it infeasible for Seller to comply with its obligations under this Section 4.9, and it is not possible to overcome the Change in Law through the expenditure of money, then (i) Seller shall be excused from the corresponding Compliance Actions under this Agreement, and (ii) Buyer shall continue to pay Seller under this Agreement without any reduction in revenues that otherwise would result from the Change in Law.

5. CONVEYANCE OF CAPACITY ATTRIBUTES

5.1 Conveyance of Capacity Attributes

If Capacity Attributes are included in the Products pursuant to Section 2.1, then Seller shall provide to Buyer any attestation that Buyer reasonably requires in order for Buyer to show evidence that it has procured the Capacity Attributes associated with the Project in accordance with the procedure in Exhibit F. At Buyer's request, Seller shall execute such documents and instruments as may be reasonably required to affect recognition and transfer of the Capacity Attributes.

5.2 Reporting of Ownership of Capacity Attributes

If Capacity Attributes are included in the Products pursuant to Section 2.1, then Seller shall not report to any person or entity that the Capacity Attributes sold and conveyed hereunder to Buyer belong to anyone other than Buyer, and Buyer may report under any such program that such Capacity Attributes purchased hereunder belong to it.

5.3 Modification of Capacity Attribute Conveyance Procedure

If Capacity Attributes are included in the Products pursuant to Section 2.1, then Buyer may propose revisions to Exhibit F as appropriate, give written notice to Seller regarding the revision, and, if Seller agrees to such proposed revisions, issue a new Exhibit F which shall then become part of the Agreement, in order to reflect changes necessary in the Capacity Attribute conveyance procedure for Buyer to be able to receive and report any Capacity Attributes purchased under the Agreement as belonging to Buyer.

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

6. INTERCONNECTION

6.1 Interconnection Agreement and Interconnection Costs

Seller shall be responsible for: it or its Affiliate negotiating and executing an Interconnection Agreement prior to commencing first deliveries of energy to Buyer; maintaining such Interconnection Agreement throughout the balance of the Term; and bearing any and all necessary costs under such Interconnection Agreement.

6.2 Transmission

Seller shall arrange and be responsible for transmission service for delivery of the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service for delivery of the Product at and from the Delivery Point.

6.3 Solar Irradiance Data

Solar Irradiance Data with respect to the Project must be available to Buyer upon request. For the purpose of forecasting solar energy production, Buyer has the right to share solar data with Buyer's contractors. Seller shall be responsible for retaining Vaisala, or other mutually agreeable third party, to collect and provide Solar Irradiance Data to Buyer. In addition, Seller shall provide real-time Solar Irradiance Data from a meteorological ground monitoring station at the site. On an annual basis, within thirty (30) calendar days of the end of each Contract Year, Seller shall be responsible for submission of an annual report of Actual Annual Solar Insolation data for Buyer's review and use in calculating adjustments to the Expected Annual Energy Production and Minimum Annual Energy Production for the Project.

In the event that Seller desires to replace Vaisala, or other agreed upon service provider, Seller and Buyer shall meet and confer and agree upon a substitute provider of Solar Irradiance Data. Pending such agreement, Seller may directly provide such data to Buyer.

6.4 Shared Facilities

The Parties acknowledge and agree that certain of the Shared Facilities and interconnection facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities or co-tenancy agreements to be entered into among Seller, the Participating Transmission Owner, Seller's Affiliates, or other third parties pursuant to which certain Shared Facilities and interconnection facilities may be subject to joint ownership and shared maintenance and operation arrangements; provided that such agreements (i) shall permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including by obtaining sufficient rights to interconnection capacity to allow delivery of Energy in the amount of the Contract Capacity (with the interconnection capacity for the Facility in an amount no greater than the Contract Capacity), (ii) provide for separate metering of the Project, (iii) provide that any other generating or energy storage facilities not included in the Project but using Shared Facilities shall not be included within the Project's Resource ID, and (iv) provide that any curtailment of the Shared Facilities that is ordered by Transmission Provider that Seller and its Affiliates have discretion to allocate across generating or energy storage facilities using the Shared Facilities shall not be allocated to the Project in an amount that is higher than Buyer's pro rata portion of the total Capacity of all generating or energy storage facilities using the Shared Facilities.

7. MAINTENANCE

7.1 In General

Seller covenants to Buyer that Seller shall maintain the Project in accordance with Prudent Industry Practices. Seller covenants to Buyer that Seller shall perform Scheduled Maintenance between the hours from 10:00 p.m. PPT on any day to 6:00 a.m. PPT on the following day, or on a Saturday or Sunday, where economically and technologically feasible. Seller shall use commercially reasonable efforts to avoid performing Scheduled Maintenance during the months of May through September.

7.2 Scheduled Maintenance

7.2.1 Maintenance Schedule

Seller shall notify Buyer in writing no later than thirty (30) calendar days before the Commercial Operation Date, and thereafter on or before thirty (30) calendar days before the commencement of each Contract Year, of the planned maintenance schedule ("Maintenance Schedule") for the Project for the subsequent Contract Year, setting forth therein the Scheduled Maintenance to be performed during each Month of the subsequent Contract Year; it being understood, however, that the Maintenance Schedule may be changed from that submitted to Buyer on each such date and/or additional Scheduled Maintenance outage hours may be scheduled as reasonably necessary and consistent with Prudent Industry Practices. Seller shall provide Buyer with written notice of any change to the Maintenance Schedule promptly following the time that such determination has been made.

7.2.2 Additional Maintenance

In the event Seller or any third party performs any Scheduled Maintenance of the Project in addition to that set forth in the Maintenance Schedule provided to Buyer under Section 7.2.1, Seller shall provide written advance notice to Buyer of all such additional Scheduled Maintenance in accordance with the following notice provisions: (i) for any full or partial outage of less than two (2) calendar days expected duration, at least forty-eight (48) hours' notice to Buyer; (ii) for any full or partial outage of two (2) to five (5) calendar days expected duration, at least seven (7) calendar days' notice; and (iii) for any full or partial outage of more than five (5) days expected duration, at least ninety (90) calendar days' notice; unless, in each case, Buyer has given its prior written permission for shorter notice or the work to be performed during such Scheduled Maintenance must occur earlier in accordance with Prudent Industry Practices.

7.2.3 Forced Outages

Seller or any third party shall have the right, but not the obligation, to perform any additional maintenance of all or any portion of a Project during any time in which a Forced Outage has occurred with respect to all of such Project, or that portion of such Project to which additional maintenance is performed; provided, however, that:

- (a) Seller shall have no obligation to provide any additional notice to Buyer prior to performing such maintenance; and

- (b) such additional maintenance shall not extend the time for which Seller's obligation to deliver Energy is Curtailed under Section 8.5 beyond that which would have occurred if no such additional maintenance had been performed during such Forced Outage.

7.3 Modification of Project

Seller may make technological, equipment and other updates or modifications to the Project from time to time, so long as (a) the Contract Capacity, determined on an AC basis, does not exceed 70 MW, (b) the Delivery Point is not changed, and (c) the Energy, Capacity, Capacity Attributes, and Environmental Attributes produced by the Project comply with the requirements of this Agreement. No such updates or modifications shall excuse or otherwise modify Seller's obligations under this Agreement.

8. PERMITTING, STANDARD OF CARE, OPERATIONS, CURTAILMENT

8.1 Permitting

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

8.2 Standard of Care

Seller shall pay the costs of and be responsible for designing, installing, operating, and maintaining the Project in accordance with all applicable laws and regulations, and shall comply with all applicable WECC, RC West, FERC and NERC requirements, and with Prudent Industry Practice, including applicable interconnection and telemetering requirements set forth in the Interconnection Agreement.

Seller shall ensure that: (a) operation and maintenance of the Project is conducted in a safe manner in accordance with the Interconnection Agreement and Prudent Industry Practice; and (b) any governmental authorizations and permits required for the construction and operation thereof are maintained. Seller shall ensure that any necessary and commercially reasonable repairs are made with the intent of optimizing the availability of Energy and Environmental Attributes to Buyer.

Seller acknowledges receipt of SMUD's Principles of Renewable Energy Development as expressed in Exhibit Q. Seller shall use commercially reasonable efforts to abide by the project-specific obligations identified in the Communities Benefits Plan as further described in Exhibit Q, attached and incorporated herein, to the extent applicable to and feasible for the Project as reasonably determined by Seller.

8.3 Operation of the Project

The Project shall be operated in accordance with Prudent Industry Practice. Seller has an obligation to maximize availability of the Project in accordance with Prudent Industry Practice. Seller may interrupt or reduce deliveries only due to Force Majeure, Buyer Curtailment pursuant to Section 8.5, curtailment by the CAISO or any interconnection or transmission service provider, Planned Outages, Forced Outages, work performed under a Maintenance Schedule or otherwise in accordance with Section 7, and Buyer's failure to perform in any manner that directly affects the generation of Products by the Project. Seller shall take all reasonable measures in accordance with Prudent Industry Practice to minimize the frequency and actual duration of Planned Outages. All Planned Outages shall be scheduled in advance.

8.4 Buyer Performance Excuse

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

8.5 Buyer Economic Curtailment Rights

Seller acknowledges that Buyer shall retain the ability to curtail the output of the Project through full or partial curtailment, by specifying the terms of the Economic Bids in accordance with Section 9.1 below, subject to Buyer's obligation to pay Seller for all Buyer Curtailed Production in accordance with the terms hereof.

9. SCHEDULING AND FORECASTING; OUTAGES; ACCESS RIGHTS

9.1 Scheduling Coordination Service

9.1.1 Seller or Seller's Designee

For all periods hereunder, Seller or Seller's designee shall be the Scheduling Coordinator for scheduling the Project and Products (and any Ancillary Services, if

applicable and available at no additional cost to Seller) into the CAISO at the Delivery Point.

9.1.2 Applicable Instructions and Economic Bids

9.1.2.1 No later than ninety (90) days prior to the expected COD of the Project (as communicated by Seller to Buyer, and as may be extended in accordance with this Agreement), the Parties shall cooperate to agree upon instructions for bidding and submitting Schedules for the Project (“Applicable Instructions”). As part of the Applicable Instructions, Buyer may specify the terms of the bids to be submitted by Seller in the CAISO market (“Economic Bids”).

9.1.2.2 Seller or its designee as Scheduling Coordinator shall submit Schedules and Economic Bids in accordance with the Applicable Instructions and this Section 9.1, including any updates to such Schedules and Economic Bids, to the CAISO based on the most current forecast of Energy consistent with the VER Forecast. Seller or its designated Scheduling Coordinator shall submit Schedules and Economic Bids to the CAISO in accordance with the Applicable Instructions, this Agreement, and the applicable CAISO Tariff on a day-ahead, hour-ahead, fifteen-minute market, real time basis, or other applicable period.

9.1.2.3 Buyer may, at its sole discretion, change its Economic Bid price from time to time by written notification to Seller, provided that any updated Economic Bid continues to comply with this Section 9.1.2, and Seller shall accommodate such changes within two (2) Business Days of receipt of such written notification. If all or part of Buyer’s Economic Bid does not clear in the applicable CAISO market, then Seller will promptly curtail Project output to the amount of the Economic Bid that did clear in the applicable CAISO market. Buyer shall pay Seller for the resulting Buyer Curtailed Production pursuant to Section 2.2.4. Seller assumes all financial risk for discrepancies, if any, between Economic Bid instructions provided by Buyer in conformance with this Agreement, and the prices and quantities actually submitted by Seller or Seller’s designated Scheduling Coordinator. If Seller or its Scheduling Coordinator incorrectly submits an Economic Bid, then Seller shall be responsible for any negative pricing consequences related to the Energy that would not have cleared in the applicable CAISO market if Seller had accurately submitted such Economic Bid.

9.1.2.1 To the extent permissible under the CAISO Tariff, Seller shall follow Buyer's instructions to appropriately bid and/or schedule the Project's (i.e., Buyer's share of the Grace Orchard Complex's) generation into the CAISO as a Supporting Resource and shall not cause any limitation on Buyer's ability to use any Capacity Attributes for resource adequacy (or similar) purposes or the Contract Capacity as a Supporting Resource. In addition, Seller shall not take any action to restrict or otherwise limit such bidding/scheduling capability associated with the Contract Capacity serving as a Supporting Resource or any Capacity Attributes; provided, however, that Seller shall not be obligated under this Section 9.1.2.1 to comply with instructions or refrain from taking actions that would (i) require modification to the Project or incurrence by Seller of additional non-administrative costs, or (ii) result in material adverse impacts to Seller or the Project, or curtailments of the Project's generation that are not compensated by Buyer hereunder as Buyer Curtailed Production.

9.1.3 Other Responsibilities

In its role as the Party responsible for acting as or retaining a Scheduling Coordinator to schedule the Project, Seller shall perform or comply with the following, as applicable.

- (a) Seller shall be responsible for all settlement functions with the CAISO related to the Project including the validation of settlements consistent with the ISO Tariff.
- (b) Seller may be required to dispute CAISO settlements in respect of the Project per section (a). If after Seller has performed their due diligence Buyer disagrees and directs Seller to dispute a CAISO settlement, Buyer agrees to pay Seller's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Buyer with respect to the Project.
- (c) Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Project consistent with this Agreement. Seller shall not change such data without providing Buyer with notice.

- (d) Seller shall comply with NERC reliability standards.

9.1.4 Cooperation

Each Party shall use commercially reasonable efforts as necessary to facilitate the other Party's efforts to meet its obligations under applicable CAISO, Host Utility, other Transmission Provider, FERC, CEC, or other Governmental Authority requirements. To the extent that Capacity Attributes are included in the Products pursuant to Section 2.1, Seller shall use commercially reasonable efforts to support Buyer's efforts to (i) obtain capability rights for such Capacity Attributes, (ii) obtain any other rights that Buyer is required to obtain, or (iii) take any other actions that Buyer is required to take in order for Buyer to make use of the Capacity Attributes of the Project, in each case as may be required under applicable Law.

9.1.5 CAISO New Resource Implementation Process.

Seller shall provide to Buyer a project schedule and timeline for planned completion of the CAISO's New Resource Implementation process at least 60 days prior to the first planned synchronization test. Seller as Scheduling Coordinator shall provide Buyer with access to a web based system through which Buyer may verify Seller has submitted to the CAISO all notices and updates required under the CAISO Tariff regarding the Project's status, including all outage requests, Forced Outages, Forced Outage reports, clearance requests, or must offer waiver forms. Seller as Scheduling Coordinator shall provide Seller with up to ten (10) combined total (or more, if agreed by Seller) read-only certificates for both portal and API access to all CAISO applications that allow certificate access for a Generating Unit Resource ID, including ADS, MRI-S and OMS.

9.2 Forecasting

Seller shall cause the Project to become a Participating Intermittent Resource including executing all necessary documents to become a Participating Intermittent Resource. Seller shall be responsible for all CAISO forecasting fees and related charges associated with the Project becoming a Participating Intermittent Resource and participating in the VER Forecasting Program. Seller and Buyer shall comply with the VER Forecasting Program, and all additional protocols issued by the CAISO relating to Participating Intermittent Resources, including the VER Forecasting Program, for the Delivery Term, and shall elect to use the forecast of the Project's output provided by CAISO for submitting Schedules and Economic Bids in the CAISO markets, unless

otherwise agreed to in writing. Seller, in its role as the Party responsible for acting as or obtaining a Scheduling Coordinator, expects to receive notification from CAISO approximately thirty (30) days after COD that the Participating Intermittent Resource has been certified. If CAISO notification has not been received by forty (40) days after COD, Seller will take all necessary steps to ensure that CAISO certifies the project as a Participating Intermittent Resource. From the time the Project begins producing Test Energy until such time that the resource VER forecast is visible in the VER Forecasting Program, Seller shall provide a fifteen (15)-minute forecast of the Project's Energy output to Buyer. In the event that the VER Forecasting Program or the CAISO Tariff and/or any protocols relating thereto are changed, amended, modified replaced or terminated, and Seller's costs to comply increase, Seller and Buyer agree to comply with such revisions and, to the extent practical, to implement such revisions in a manner that maintains the relative economic positions of the parties as of the date of this Agreement. Seller shall perform according to the Scheduling Procedures, attached as Exhibit J to the Agreement, which may be amended by the Parties' agreement from time to time.

9.3 Planned Outages

For the purposes of this Agreement a maintenance outage shall constitute a Planned Outage; provided that this Section 9.3 does not modify or restrict Seller's rights under Section 7.2. Planned Outages may only be taken upon thirty (30) calendar days' written notice to Buyer; provided, however, if there are short maintenance outages that can be completed between 10:00 p.m. and 6:00 a.m. or on Saturday or Sunday in accordance with Prudent Industry Practice, such outages may be conducted upon three (3) calendar days written notice to Buyer. Seller shall avoid Planned Outages during the months of May through September, to the extent practicable. Seller shall provide Planned Outage and short maintenance outage notifications in accordance with the Outage Notification Procedure detailed in Exhibit G.

9.4 Forced Outages

Seller shall notify Buyer of any Forced Outage of the Project that reduces the Project Capacity by more than five percent (5%) for more than twenty-four (24) hours' duration or that is expected to reduce the available Capacity by more than five percent (5%) during any WECC defined on-peak period during the months of May through

September. Seller shall provide Forced Outage notifications as described above in accordance with the Outage Notification Procedure detailed in Exhibit G.

9.5 Modification of Outage Notification Procedure

The Parties may modify Exhibit G to reflect mutually agreed -upon changes necessary in the Outage Notification Procedure, and issue a new Exhibit G reflecting such mutually agreed upon changes which shall then become part of the Agreement.

9.6 Access Rights

Buyer, its authorized agents, employees and inspectors, shall have the right to inspect the Project on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to Buyer by law. During any on-site inspections, Buyer shall comply, and shall cause its representatives to comply, with Seller's or the Project operator's safety and security requirements and protocols. Seller shall keep Buyer informed of current procedures for communicating with Seller's or the Project operator's safety and security departments or personnel. Buyer shall be responsible for having provided commercially reasonable insurance for any such Buyer-related personnel, and shall not interfere with work on or operation of the Facility.

9.7 Control Facilities

Seller shall ensure accurate operation of all necessary facilities, including metering, communications, telemetry and meteorological equipment as required under the CAISO Tariff. Seller shall test such facilities, and implement such protocols and practices, and thereafter maintain such facilities, as necessary (a) for Seller or the Project operator to respond and follow instructions, including an electronic signal conveying real time instructions, to operate the Project as directed by the Buyer in accordance with this Agreement and the CAISO Tariff and/or the CAISO, and (b) for Buyer and/or the CAISO to control the quantity of Energy generated by the Project in order to respond to curtailments.

10. EVENTS OF DEFAULT, TERMINATION AND REMEDIES

10.1 Events of Default

10.1.1 Events of Default by Either Party

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

- 10.1.1.1 the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) Business Days after written notice from the other Party;
- 10.1.1.2 any representation or warranty made by such Party herein is false or misleading in any material respect when made, and such representation or warranty is not made true and correct within thirty (30) calendar days after written notice from the other Party;
- 10.1.1.3 the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for (i) any failure to deliver WREGIS Certificates, the exclusive remedy for which is set forth in Section 2.4.4, and (b) any failure to meet the AEAEP, the exclusive remedy for which is set forth in Section 2.4.5) if such failure shall not be cured within thirty (30) calendar days after written notice from the other Party; provided, however, that if (i) such failure cannot be cured within such thirty (30) calendar day period, (ii) such failure is susceptible of cure within ninety (90) calendar days, (iii) the Defaulting Party is proceeding with diligence and in good faith to cure such failure, and (iv) the Defaulting Party shall have delivered notice to the other Party describing the details of clauses (i), (ii) and (iii) above and periodic updates regarding its efforts to cure such failure, then such thirty (30) calendar day cure period shall be extended to such date, not to exceed a total of ninety (90) calendar days, as shall be necessary to cure such failure;
- 10.1.1.4 such Party becomes Bankrupt;
- 10.1.1.5 such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a Party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or
- 10.1.1.6 the failure by such Party to satisfy the collateral requirements pursuant to Section 11, within ten (10) Business Days after notice from the other Party; or
- 10.1.1.7 with respect to any outstanding Letter of Credit provided for the benefit of the other Party that is not then required under this Agreement to be canceled or returned, the failure by such Party to provide for the benefit of such other Party either cash or a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, or, in the case of the

Delivery Term Security required to be provided by Seller, a Surety Bond meeting the requirements of this Agreement, in each case, in the amount required hereunder within ten (10) Business Days after such Party receives notice from the other Party of the occurrence of any of the following events:

- (a) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or Fitch or A3 by Moody's;
- (b) the issuer of such Letter of Credit becomes Bankrupt;
- (c) 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;
- (d) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;
- (e) 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; or
- (f) such Letter of Credit fails or ceases to be in full force and effect at any time.

10.1.1.8 such Party 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

10.1.2 Additional Event of Default by Seller

With respect to Seller, the occurrence of any of the following also shall be an Event of Default:

10.1.2.1 The Project fails to achieve Commercial Operation of at least ninety five percent (95%) of the Contract Capacity on or prior to the Guaranteed Commercial Operation Date, as that date may be extended by Seller through an extension of the Scheduled COD in accordance with the terms and conditions of this Agreement, including Section 2.3.6;

10.1.2.2 If, after the Commercial Operation Date, Seller has not sold or delivered any Energy from the Project to Buyer for a period of three hundred and sixty-five (365) consecutive days;

10.1.2.3 Seller fails to obtain RPS Certification for the Project within six (6) months after COD, except if failure to obtain RPS Certification within this six (6) month

period is not due to Seller's action or inaction, in which case (i) Seller shall have a day-for-day delay right to obtain RPS Certification up to an additional six (6) months for a total of no more than twelve (12) months after COD as long as such day-for-day delay is not due to Seller's action or inaction, and (ii) Seller shall present to Buyer a reasonable plan of action laying out those steps that Seller shall take in order to obtain such RPS Certification as quickly as possible;

10.1.2.4 If, in any two consecutive Contract Years, the Adjusted AEP in each such Contract Year is less than eighty-five percent (85%) of the Adjusted MAEP for such Contract Year, which Adjusted MAEP shall include an annual degradation rate of one half of one percent ($MAEP \times .005$) beginning on the first day of the second full Contract Year of this Agreement, and annually thereafter (as set forth in Exhibit C); and as adjusted for the Actual Annual Solar Insolation, subject to the following provisions:

- (a) Any Notice of termination for an Event of Default under this Section 10.1.2.4 shall be given in writing a minimum of sixty (60) calendar days prior to the effectiveness of such termination and within one hundred twenty (120) calendar days following the end of the second of the applicable two Contract Years that triggered such Event of Default; provided, however, that Buyer's ability to exercise such termination right in respect of any two consecutive Contract Years shall be deferred for up to one year (or deferred up to two years if caused by a Transformer Failure or Serial Defect) if Seller has demonstrated to Buyer, and is actively implementing in good faith, a "Cure Plan" for any such failure as described below;
- (b) A Cure Plan may include, but is not limited to, the addition of solar modules to the system at Seller's sole expense;
- (c) A Cure Plan that reasonably shows the Project's ability to achieve an Adjusted AEP of eighty-five percent (85%) of the Adjusted MAEP in the next two consecutive Contract Year period (i.e. the two Contract Years after the Contract Year in which the Cure Plan is implemented, or, if the Event of Default was caused by a Transformer Failure or Serial Defect, the two Contract Years after the two Contract Year period in which the Cure Plan is implemented) must be submitted to Buyer in writing within fifteen (15) calendar days of Seller's receipt of Buyer's Notice of Termination, and Buyer shall then have fifteen (15) calendar days after receipt of the Cure Plan to inform Seller in writing of any reasonable objections to the Cure Plan;
- (d) Buyer's non-objection to, or requested modifications to, Seller's Cure Plan does not waive Buyer's termination rights in the event that the Cure Plan is not ultimately effective to cause the Adjusted MAEP for the two

succeeding Contract Year period after the Contract Year in which the Cure Plan is implemented (or, if the Event of Default was caused by a Transformer Failure or Serial Defect, the two succeeding Contract Year period after the two Contract Year period in which the Cure Plan is implemented) to equal or exceed eighty-five percent (85%) of the applicable Adjusted MAEP (decreased as set forth in Section 10.1.2.4 above);

- (e) Any disagreements regarding the Cure Plan will be resolved in accordance with the dispute resolution provisions in Section 22 hereof; and
- (f) For avoidance of doubt, Buyer's termination rights under Section 10.1.2.4 relating to performance during the two consecutive Contract Year period are not waived during the period when the Cure Plan is being developed and implemented, and if Seller does not meet an Adjusted AEP of at least eighty-five percent (85%) of the Adjusted MAEP in the next two consecutive Contract Year period (i.e. the two Contract Years after the Contract Year in which the Cure Plan is implemented, or, if the Event of Default was caused by a Transformer Failure or Serial Defect, the two Contract Years after the two Contract Year period in which the Cure Plan is implemented), then Buyer may terminate this Agreement under Section 10.2 with no further Cure Plan period and no further deferment of time of termination;

10.1.2.5 Subject to Section 4.9, Seller's failure after the Commercial Operation Date to maintain RPS Certification for the Project, if such failure is not cured within thirty (30) Days after written notice from Buyer; provided that during any period where Seller has not maintained RPS Certification for the Project, whether before or after written notice, Buyer shall not be obligated to purchase any Energy or other Products from Seller hereunder, but Seller may sell such Energy and other Products to third parties; or

10.1.2.6 With respect to any Surety Bond provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Surety Bond from a different Surety Bond Provider, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Qualified Issuer, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives notice of the occurrence of any of the following events:

- (a) if any representation or warranty made by the Surety Bond Provider in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after notice thereof;

- (b) the failure of the Surety Bond Provider to make any payment required in connection with this Agreement;
- (c) the Surety Bond Provider becomes Bankrupt;
- (d) the failure of the Surety Bond to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or
- (e) the Surety Bond Provider shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Surety Bond.

10.2 Declaration of an Event of Default

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

10.3 Termination Payment Calculation

If an Event of Default occurs, ultimately resulting in termination of the Agreement, a “Termination Payment” shall be determined in accordance with this Section 10.3.

The “Termination Payment” payable by the Defaulting Party to the Non-Defaulting Party shall equal: (i) Non-Defaulting Party’s Loss as calculated under paragraph (a) below and discounted to present value as set forth under paragraph (b) below; plus (ii) Non-Defaulting Party’s Cost as calculated under paragraph (c) below; which will then be

aggregated with any amounts owed to the Non-Defaulting Party as of the Early Termination Date and any set-offs to which Defaulting Party is entitled as set forth under paragraph (d) below. Notwithstanding the foregoing, if the sum of the amounts calculated under paragraphs (a), (b), and (c) below would be less than zero (i.e., if the calculation of the Non-Defaulting Party's Loss plus its Costs yields a negative number under the calculation below), then the result of that calculation shall be deemed to be zero.

- (a) The Parties intend that Non-Defaulting Party's "Loss" shall be the economic loss (exclusive of Costs), if any, resulting from the termination of the Agreement, determined in a commercially reasonable manner as calculated in accordance with this Section 10.3. The Loss, if any, suffered by Non-Defaulting Party shall be determined by comparing the value of the remaining term, applying the Expected Annual Energy Production (EAEP) and the Contract Price for each year of the remaining term under the Agreement had it not been terminated to the equivalent quantity and each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of CA RPS PCC 1 bundled renewable energy and RECs for the affected period of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either Party fails to provide two quotes then the average of the other Party's two quotes shall determine the replacement price. For clarity, if Buyer is the Non-Defaulting Party, the Non-Defaulting Party's Loss equals the amount by which the market price of replacement Energy and Environmental Attributes exceeds the Contract Price therefor, and if the Seller is the Non-Defaulting Party, the Non-Defaulting Party's Loss equals (A) the amount by which the Contract Price hereunder exceeds the market price of such Energy and Environmental Attributes, plus (B) the value of lost Production Tax Credits that Seller would have earned on such Energy and Environmental Attributes for the relevant years of the remaining term applying the Expected Annual Energy Production (EAEP) for each year of the remaining term, under Internal Revenue Code (Title 26 of the U.S. Code, Section 45 and Section 45Y), less any expenses saved by Seller due to Buyer's default, which includes, but is not limited to, any cost of production of the Energy and Environmental Attributes not incurred by Seller. To ascertain the market price of a replacement contract, Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in ERR contracts, and other bona fide third party offers, all adjusted for the length of the remaining term and differences in transmission. It is expressly agreed that the Non-Defaulting Party shall not be required to enter into replacement transactions in order to determine the Termination Payment.

- (b) The Loss calculated under paragraph (a) above shall be discounted to present value using the Present Value Rate as of the time of termination (to take into account the period between the time notice of termination was effective and when such amount would have otherwise been due pursuant to this Agreement).
- (c) The Non-Defaulting Party's "Costs" shall be calculated as the sum of the brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating and replacing the Agreement, including reasonable transmission costs associated with any replacement contract, and reasonable attorneys' fees, if any, incurred in connection with Non-Defaulting Party enforcing its rights with regard to the Agreement. Non-Defaulting shall use reasonable efforts to mitigate or eliminate Costs.
- (d) The Non-Defaulting Party shall add any amounts owed by the Defaulting Party to the Non-Defaulting Party as of the Early Termination Date to, and shall set-off any amounts owing by the Non-Defaulting Party as of the Early Termination Date, against the Termination Payment so that all such amounts are aggregated and/or netted to a single amount. The net amount due shall be paid within thirty (30) Business Days following the effective date of termination, or, if the Parties disagree regarding the calculation of the Termination Payment, the date that the Parties agree on the Termination Payment pursuant to Section 10.4 below.
- (e) In no event, however, shall the calculation of Loss or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.
- (f) Notwithstanding any other provision of this Agreement, (i) Seller's aggregate liability under this Agreement prior to the Commercial Operation Date, including arising out of a termination of this Agreement, shall not exceed an amount equal to the Damage Payment, and (ii) if an Event of Default by Seller has occurred prior to the Commercial Operation Date, and Buyer has not provided any reply regarding such Event of Default within ninety (90) days after the occurrence of such Event of Default by Seller, then, provided such Event of Default is then continuing, Seller shall have the right to terminate this Agreement and pay the Damage Payment then owing hereunder to Buyer.
- (g) Payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for the Event of Default and declaration of an Early Termination Date related thereto, and *further provided*, promptly upon Buyer's receipt of the Damage Payment or Termination Payment, as applicable, Buyer shall return to Seller the Development Security or the Performance Security to the extent either of them, as applicable, did not comprise (i.e., was not used as) the Damage

Payment or the Termination Payment, as applicable, and neither Party shall have any further obligation or liability to the other Party hereunder.

10.4 Disputes

If the Defaulting Party reasonably disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be resolved in accordance with Section 22 of this Agreement.

11. CREDITWORTHINESS

11.1 Project Development Security

Within ten (10) Business Days of execution of this Agreement by both Parties, Seller shall provide Buyer with one of the following: (a) cash (subject to an escrow agreement reasonably acceptable to each Party); (b) a letter of credit from a Qualified Issuer substantially in the form set forth in Exhibit K-1 ("Seller Letter of Credit") in each case in the amount of forty-five dollars (\$45) per kW of Contract Capacity (the "Project Development Security"), which shall be returned to Seller upon the COD. Seller shall have no obligation to replenish the Project Development Security after any draw thereon, no lien or other security shall be required, and Buyer's recourse against Seller shall be limited to the Project Development Security provided.

11.2 Delivery Term Security

Within ten (10) days following COD for (a) or (b) below, or within fifteen (15) days following COD for (c) below, Seller shall provide Buyer with one of the following: (a) cash ; (b) a Seller Letter of Credit; or (c) a Surety Bond from a Surety Bond Provider, in each case in the amount of seventy-five dollars (\$75) per kW of Contract Capacity, which amount shall be reduced after the tenth (10th) Contract Year (and for the remainder of the Delivery Term) to thirty-seven dollars and fifty cents (\$37.50) per kW of Contract Capacity (the "Delivery Term Security"). Upon receipt of the Delivery Term Security, Buyer shall return to Seller the Project Development Security provided pursuant to Section 11.1. Seller shall maintain the applicable Delivery Term Security for the duration of the Term; provided, however, that notwithstanding anything to the contrary in this Section 11.2 or elsewhere in this Agreement, Seller's replenishment obligation with respect to the Delivery Term Security shall be limited such that the total amount of any replenishments of the Delivery Term Security shall not exceed one (1) time the amount of the original Delivery Term Security. If Seller provides a Letter of

Credit, Seller shall renew or provide a new Letter of Credit or cash or a Surety Bond at least thirty (30) calendar days before the current Letter of Credit expiration date. A Letter of Credit must be in substantially the form set forth in Exhibit K-1 or any other form that is reasonably acceptable to Buyer.

No lien or other security shall be required and Buyer's recourse against Seller shall be limited to the Delivery Term Security provided.

"Qualified Issuer" means a major U.S. commercial bank or the U.S. branch of a foreign bank that, at the time of delivery of a Letter of Credit, (i) has assets of at least ten billion dollars (\$10,000,000,000), (ii) has a senior unsecured long-term credit rating of A- or better by Standard and Poor's and A3 or better by Moody's, and (iii) is reasonably acceptable to SMUD; provided, however, that (A) Buyer shall confirm or deny such acceptance within five (5) Business Days after receipt of Seller's notice regarding its proposed Qualified Issuer and if no response is received by Seller within such five (5) Business Day period, then Buyer shall be deemed to have accepted such Qualified Issuer, (B) notwithstanding anything to the contrary here, Seller shall have ten (10) Business Days from receipt of Buyer's acceptance or deemed acceptance of a Qualified Issuer to post the Seller Letter of Credit, (C) if Buyer denies acceptance of a proposed Qualified Issuer, then the timelines for Seller to provide a Seller Letter of Credit shall restart for all purposes hereunder, and (D) Buyer may not deny acceptance of a proposed Qualified Issuer more than two (2) times.

11.3 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 Buyer a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right to net against), and assignment of, as applicable, the Project Development Security and Delivery Term Security, to the extent provided in the form of cash, and any other cash collateral and cash equivalent collateral posted pursuant to Sections 11.1, 11.2, and 11.3, 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 Buyer, and Seller agrees to take all action as reasonably requires in order to perfect the 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. Upon or any time after the occurrence and continuation 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 Buyer is authorized to retain all or a portion of the Project Development Security and, Delivery Term Security as applicable, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 11.3):

- (a) Exercise any of its rights and remedies with respect to the Project Development Security or Delivery Term Security as applicable, including any such rights and remedies under Law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Project Development Security or Delivery Term Security, as applicable; and
- (c) Liquidate all Project Development Security or Delivery Term Security (as applicable) then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer 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 Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after these obligations are satisfied in full.

11.4 Letters of Credit

If the Project Development Security or Delivery Term Security is a Letter of Credit and the issuer of such Letter of Credit (a) fails to maintain the minimum Credit Rating set forth in the definition of Qualified Issuer, or (b) fails to honor the secured Party's properly documented request to draw on such Letter of Credit by such issuer, then the posting Party shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Seller Letter of Credit or Buyer Letter of Credit, as applicable.

If the Seller or issuer of such Letter of Credit indicates its intent not to renew such Letter of Credit, and the Letter of Credit will expire prior to the end of the Term, the Seller will provide a replacement security prior to the expiration of such Letter of Credit.

12. FORCE MAJEURE

12.1 Effect of Force Majeure

A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement (other than the obligations of a Party to make payment of amounts due under this Agreement) when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate; provided the Party has given a written detailed description of the full particulars of the Force Majeure that are then known to the other Party reasonably promptly after becoming aware thereof, or reasonably promptly after the date that such Party should have become aware of, the Force Majeure) (the "Force Majeure Notice"), which Force Majeure Notice shall include information with respect to the nature, cause and date and time of commencement of the Force Majeure, and the anticipated scope and duration of the delay. Failure of the claiming Party to provide written notice as required in the preceding sentence constitutes a waiver of a Force Majeure claim for all periods prior to other Party's receipt of such written notice. The Party providing the Force Majeure Notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. In no event shall either Party be obligated to compensate the other Party or any other Person for any losses, expenses or liabilities that such other Party or such other Person may sustain as a consequence of any Force Majeure.

12.2 Meaning of Force Majeure

The term "Force Majeure" means any act or event, including any act of God or the elements, strike or labor disturbance, act of the public enemy or criminal activity, sabotage, war, terrorism, blockade, insurrection, riot, civil disturbance, fire, storm or flood, lightning, hurricane, tornado, ice storm, hail, earthquake, volcanic eruption, extreme or unusual weather events, explosion not caused by the affected Party, epidemic or pandemic and the efforts of any Governmental Authority to combat such events including quarantine, change in law or any order, restraint, directive, regulation or restriction imposed by Governmental Authority or any military or lawfully established civilian authorities, landslide, mudslide, New PV Trade Measure Event, WRO Restraint, a delay in the issuance of any permits needed for the Project, including any rights-of-way by the United States Department of the Interior, Bureau of Land Management for any Shared Facilities to be used by the Project, or any similar event or occurrence (i) which prevents one Party from performing any of its obligations under this Agreement or

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

12.3 Buyer Excuse

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

12.4 Termination Due to Force Majeure Event

If based on a Force Majeure Notice provided by a Party (the “Claiming Party”), the other Party (the “Non-Claiming Party”) reasonably concludes that a Force Majeure or its impact on the Claiming Party affecting more than seventy-five percent (75%) of the Project will continue (i) for a period of three hundred and sixty-five (365) or more consecutive days, then the other Party (the “Non-Claiming Party”) shall have the right to terminate this Agreement effective upon notice to the Claiming Party provided, however, that if the Claiming Party provides documentation to the Non-Claiming Party reasonably demonstrating that the foregoing more than seventy-five percent (75%) for three hundred sixty-five (365) days or more consecutive days standard is satisfied, and if the Non-Claiming Party does not provide any response to the Claiming Party within ninety (90) days after receipt of such documentation, then the Claiming Party shall have the right to terminate this Agreement upon written notice to the Non-Claiming Party. Upon any termination pursuant to this Section 12.4, neither Party shall owe any damages, Damage Payment, or Termination Payment under this Agreement in respect of such termination or the Force Majeure, and Buyer shall return the Project Development Security or Delivery Term Security, as applicable, to Seller. Any termination of this Agreement in the circumstances described in this section shall be without prejudice to the rights and remedies of either Party for defaults occurring prior to such termination, if any.

13. INDEMNITY

13.1 Indemnity by Seller

Seller shall defend, release, indemnify and hold harmless Buyer, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney’s fees, resulting from, or arising out of or in any way connected with claims by third parties associated with the acts or omissions of Seller, its directors, officers, employees, agents and representatives relating to this Agreement; excepting only such

loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Buyer, its agents, employees, directors or officers.

13.2 Indemnity by Buyer

Buyer shall defend, release, indemnify and hold harmless Seller, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees resulting from, or arising out of or in any way connected with claims by third parties associated with acts or omissions of Buyer, its directors, officers, employees, agents, and representatives, relating to this Agreement; excepting only such loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Seller, its agents, employees, directors or officers.

14. LIMITATION OF DAMAGES

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY; SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. EXCEPT WITH REGARD TO INDEMNIFICATION OF THIRD PARTY CLAIMS IN ACCORDANCE WITH SECTION 13, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE (EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, OR INCLUDED IN A LIQUIDATED DAMAGES CALCULATION SPECIFIED HEREIN). THE AFTER-TAX VALUE OF ANY LOST TAX BENEFITS AND THE COSTS OF RECAPTURE OF ANY TAX BENEFITS OR CREDITS, IF ANY, ARE CONSIDERED DIRECT DAMAGES. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 13 (INDEMNITY), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE

NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

15. REPRESENTATION AND WARRANTIES; COVENANTS

15.1 Representations and Warranties

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

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) The execution, delivery and (subject to potential management, board, or board committee approvals as and when required for the applicable performance obligations) performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (c) This Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;
- (d) It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its actual knowledge, threatened against it which would result in it being or becoming bankrupt;
- (e) There are not pending or to its actual knowledge threatened legal proceedings against it or any of its Affiliates that could materially adversely affect its ability to perform its obligations under this Agreement; and
- (f) It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

15.2 General Covenants

Each Party covenants that throughout the Term:

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

- (b) It shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and
- (c) It shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

16. NOTICES

Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail). Whenever this Agreement requires or permits delivery of a “notice” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by email shall be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All written notices shall be directed as shown in Exhibit I. Either Party may request a change to Exhibit I as necessary to keep the Exhibit I information current.

17. SET OFF

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

18. MARKET-BASED RATE AUTHORIZATION AND EWG STATUS

At least five (5) calendar days before the date on which Seller first sells and delivers any electricity to Buyer, Seller shall have delivered to Buyer (a) a copy of the Seller’s notice of self-certification of Exempt Wholesale Generator status filed with FERC, and (b) final orders by FERC authorizing Seller to sell electricity at wholesale at market-based rates under the Federal Power Act (the “Market-Based Rate Authorization”). Seller shall

maintain and shall be in compliance with the Market-Based Rate Authorization for the term of this Agreement.

19. MOBILE-SIERRA

Notwithstanding any other provision of this Agreement, neither Party may seek to revise the rates, terms or conditions of service of this Agreement, prospectively or retroactively, through application or complaint to FERC under any of the Federal Power Act, absent written consent of the other Party. Nor, absent the prior written consent of the other Party, may a Party, directly or indirectly, support any third party seeking to revise the rates, terms or conditions of service of this Agreement under any provision of the Federal Power Act. Because the rates, terms and conditions of this Agreement are fixed for the duration of the Agreement and are the product of arms' length bargaining, absent prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or the FERC acting *sua sponte* shall be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

20. ASSIGNMENT

20.1 No Assignment Without Consent

Except as specified below in this Article 20, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Each Party shall reimburse the other Party for its out-of-pocket costs and expenses, including reasonable attorneys' fees in excess of five thousand dollars (\$5,000), incurred in connection with any such assignment, or requested assignment, including in connection with obtaining required consents.

20.2 Permitted Assignments and Changes in Control

20.2.1 Permitted Assignments

20.2.1.1 Notwithstanding Section 20.1, consent shall not be required for:

- (a) Any transfer, sale, pledge, encumbrance, or assignment of this Agreement or the accounts, revenues, or proceeds hereof by Seller to Lenders.

- (b) Any assignment or transfer of this Agreement by Seller to an Affiliate of Seller, provided that such Affiliate's creditworthiness is equal to or better than that of Seller, as reasonably demonstrated by Seller in a written notice to Buyer notifying Buyer of such assignment or transfer and Buyer concurs and such concurrence shall not be unreasonably withheld;
- (c) Any assignment or transfer of this Agreement by Seller to a Person succeeding to all or substantially all of the assets of Seller, provided that such Person's creditworthiness is equal to or greater than that of Seller, as reasonably determined by Buyer; or
- (d) Any assignment or transfer of this Agreement by Seller to any assignee (including any Affiliate of Seller) that is a Permitted Transferee.

20.2.2 Change of Control

Any direct or indirect Change of Control of Seller (whether voluntary or by operation of law) is deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld; provided, however, that a Change of Control of Seller shall not require Buyer's consent if (i) the Seller after such Change of Control is Controlled by any Lender, (ii) the entity that is the Seller at the conclusion of the Change of Control is a Permitted Transferee, or (iii) such Change of Control is, or is a result of, a direct or indirect Change of Control of NEOP or NEP. For avoidance of doubt, a Change of Control shall not be deemed to have occurred as a result of a Permitted Transfer, and no consent is required under this Agreement with respect to a Permitted Transfer.

20.3 Buyer Limited Assignment

Buyer may request that Seller enter negotiations to permit Buyer's limited assignment in connection with a municipal prepayment transaction of all or a portion of Buyer's rights to receive certain Products (which shall not be for a retail sale, and which shall not include the right to schedule or dispatch the Project or any portion of the Product, or any right to act as Scheduling Coordinator for the Project or to offer any portion of the Product into the CAISO markets) and Buyer's obligations to make payments for such Product under this Agreement to J. Aron and Company, LLC ("J. Aron") or other third party at any time (together with J. Aron, each a "Limited Assignee") upon not less than thirty (30) days' notice by delivering a written request for such assignment. The limited assignment shall not introduce, or purport to convey or otherwise allege, any right of

Buyer or Limited Assignee to make any prepayment to Seller under the Agreement or to file or impose any lien on the Project, or otherwise modify any provision of this Agreement, and shall be expressly subject to the Limited Assignee's timely payment of amounts due under this Agreement with respect to the assigned Product. Buyer shall pay Seller for any payments not timely made by Limited Assignee, and Buyer shall remain obligated to perform all of its obligations under this Agreement notwithstanding the limited assignment, including any credit-related requirements, and payment for all amounts due and owing under this Agreement, including the total gross amount due to Seller under each invoice. Any failure by the Limited Assignee to make payments to Seller when due hereunder shall be a Buyer Event of Default if not cured within the applicable cure period specified in this Agreement. Subject to the foregoing, following any request by Buyer, (a) Seller, Buyer and the Limited Assignee shall negotiate in good faith the execution of a limited assignment agreement based on the form attached hereto as Exhibit O, (b) if requested by Seller, Seller and Buyer shall negotiate in good faith an indemnity and/or a legal opinion, to be provided by Buyer for the benefit of Seller, in form and substance satisfactory to Seller and its Lenders (if any), including that Seller shall not be required to agree to any terms or conditions which are reasonably expected to have an adverse effect on Seller or its Lenders, and (c) Limited Assignee shall provide such credit support or performance assurance for its obligations as Seller may reasonably require. Notwithstanding anything to the contrary in connection with such limited assignment, if (1) the assignment, transfer or conveyance of the assigned Product pursuant to such limited assignment, or (2) Seller's performance of any obligation under the assignment agreement, fails to meet any requirements of this Agreement, then Seller shall not be deemed to be in breach of any obligation in this Agreement, including without limitation any representation or warranty herein. Limited Assignee and Buyer shall comply with all reasonable requests received by Seller or any Lender in connection with such limited assignment, including providing any reasonably requested acknowledgments with respect to any Collateral Assignment Agreement.

20.4 Lender Accommodations

20.4.1 Consents and Estoppel Certificates

To facilitate Seller's efforts to obtain financing to construct and operate the Project, Buyer will, as soon as reasonably practicable after a reasonable request, cooperate reasonably with Seller and any Lender to provide such consents to

assignments, estoppels, certifications, representations, information or other documents as may be reasonably requested by Seller or such Lender in connection with any financing of the Project, including in connection with any pledge of the membership interests in Seller or its upstream Affiliates to a Lender as collateral for a financing involving the Project. Upon written request of Seller, Buyer agrees to execute a Consent to Collateral Assignment among Buyer, Seller, Seller's Affiliate, and any Lenders substantially in the form attached as Exhibit L, with such additional changes thereto as such assignee parties may reasonably request and as to which the Buyer shall not unreasonably withhold or delay its agreement. Buyer also agrees to execute customary estoppel certificates for the benefit of Seller and/or any Lenders as reasonably requested from time to time substantially in the form attached as Exhibit P, with such additional changes thereto as such Lender parties may reasonably request and as to which the Buyer shall not unreasonably withhold or delay its agreement.

20.4.2 Portfolio Financing

Seller may, without the prior written consent of Buyer, finance all or any portion of the Project, interconnection facilities, or Shared Facilities utilizing debt financing, equity financing (including tax equity), lease financing, or any other form of financing or any combination thereof, including pursuant to a portfolio financing of multiple energy generation, storage, and transmission facilities and other assets of Seller or Seller's Affiliates (which may include cross-collateralization or similar arrangements).

20.4.3 Lender Cure Rights

Buyer agrees that: (i) Buyer will provide the Lenders with notice of any Event of Default by Seller; (ii) for a period of thirty (30) days following the expiration of any cure period for a monetary Event of Default by Seller and ninety (90) days following the expiration of any cure period for a non-monetary Event of Default by Seller, such Lenders, or their designees, will have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure the Event of Default and such act performed by the Lenders, or their designees will be as effective to prevent or cure an Event of Default as if done by Seller; and (iii) Buyer will not terminate this Agreement if any Lenders have provided notice to Buyer that they must foreclose on the

Facility prior to preventing or curing any Event of Default by Seller giving rise to such termination. In the event of a conflict between this Section 20.4.3 and an executed Consent to Collateral Assignment, the terms of the executed Consent to Collateral Assignment shall govern.

21. APPLICABLE LAW

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

22. DISPUTE RESOLUTION

22.1 Trial; Venue

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

22.2 Dispute Resolution

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

23. SEVERABILITY

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

24. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission shall be deemed as effective as delivery of an originally executed counterpart.

25. GENERAL

No amendment to, modification of, or waiver under this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The headings used herein are for convenience and reference purposes only. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Project or any business related to the Project. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement, and to the extent set forth herein, any Lender and/or indemnified party). This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

26. WAIVER OF SOVEREIGN IMMUNITY

SMUD will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. SMUD warrants and covenants, to the extent of its legal authority, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to the enforcement of its obligations under this Agreement.

27. FURTHER ASSURANCES

Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than

those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

28. FORWARD CONTRACT; INAPPLICABILITY/WAIVER OF BANKRUPTCY CODE SECTION 366

Each Party acknowledges, intends, and to the extent applicable agrees that (i) this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” and at least one of the Parties is a “forward contract merchant” within the meaning of the United States Bankruptcy Code; (ii) all payments made or to be made by a Party pursuant to this Agreement, including the application by a Party of Performance Security or Buyer Credit Support to any amounts due and owing to such Party, constitute “settlement payments” within the meaning of the United States Bankruptcy Code; and (iii) its rights under Section 11.2 of this Agreement constitute a “contractual right to liquidate, terminate or accelerate” or offset under a forward contract within the meaning of §§556, 561 of the Bankruptcy Code.

Each Party acknowledges and agrees that, upon a Party becoming Bankrupt, the other Party shall be entitled to exercise its rights and remedies under this Agreement in accordance with the safe harbor provisions of the Bankruptcy Code set forth in, inter alia, Sections 362(b)(6), 362(b)(17), 362(b)(27), 546(e), 548(d)(2), 556, and 561 thereof.

Each Party acknowledge and agrees that, for all purposes of this Agreement, that the provisions of 11 U.S.C. § 366 in any bankruptcy case or proceeding wherein such Party is a debtor are inapplicable, or if found to be applicable each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy case or proceeding wherein such Party is a debtor. In any such bankruptcy case or proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or any other provision of 11 U.S.C. § 101-1532.

29. CHANGE IN ELECTRIC MARKET DESIGN

If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and

obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

30. CONFIDENTIAL INFORMATION

30.1 Definition of Confidential Information

The following constitutes “Confidential Information,” whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: information that either Seller or Buyer stamps or otherwise identifies as “confidential” or “proprietary” before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

30.2 Duty to Maintain Confidentiality

Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the “Receiving Party”) if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce this Agreement. If the Receiving Party becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule) to disclose any Confidential Information of

the disclosing Party (the “Disclosing Party”), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party is not required to defend against such request and shall be permitted to disclose such Confidential Information of the Disclosing Party, with no liability for any damages that arise from such disclosure. Each Party hereto acknowledges and agrees that information and documentation provided in connection with this Agreement may be subject to the California Public Records Act (Government Code Section 6250 et seq.)

30.3 Irreparable Injury; Remedies.

Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

30.4 Disclosure to Lenders, Etc.

Notwithstanding anything to the contrary in this Section 30, Confidential Information may be disclosed by Seller to any actual or potential Lender or any of its Affiliates, and Seller’s actual or potential agents, consultants, contractors, or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Section 30 to the same extent as if it were a Party.

30.5 Press Releases

Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

SACRAMENTO MUNICIPAL

GRACE ORCHARD ENERGY
CENTER, LLC

UTILITY DISTRICT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

31. EXHIBITS

Exhibit A – Description and Location of Project

Exhibit B – Contract Price

Exhibit C – Project Performance Benchmarks

Exhibit D – Average Annual Solar Irradiance by Month and Year

Exhibit E – Commercial Operation Date Confirmation Letter

Exhibit F – Capacity Attribute Reporting and Conveyance Procedure

Exhibit G – Outage Notification Procedure

Exhibit H – Environmental Attribute Reporting and Conveyance Procedure

Exhibit I – Notices

Exhibit J – Scheduling Procedures

Exhibit K-1 – Form of Seller Letter of Credit

Exhibit K-2 – Form of Surety Bond

Exhibit L – Form of Consent to Collateral Assignment

Exhibit M – Project Milestone Schedule

Exhibit N – Metering Diagram

Exhibit O – Form of Limited Assignment Agreement

Exhibit P – Form of Estoppel Certificate

Exhibit Q – SMUD Principles of Renewable Energy Development

Exhibit R – Form of Commercial Operation Date Certificate

Exhibit S – Form of Installed Capacity Certificate

Exhibit T – Performance Test

Exhibit A

DESCRIPTION AND LOCATION OF PROJECT

- A.1 The Project is a 70 MW portion of the second phase of the larger Grace Orchard Complex and will employ a ground-mounted solar tracking technology.
- A.2 The Project is located in Riverside County, California.
- A.3 The Project's primary fuel is solar.
- A.4 The Contract Capacity is 70 MWac at the Delivery Point.
- A.5 The Delivery Point is the point of interconnection of the Project with the CAISO grid at the Southern California Edison Company (SCE) Colorado River 230 kV Substation.

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

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit B

CONTRACT PRICE

Contract Price for all Products:

\$ [REDACTED] /MWh flat for all Energy, with no escalator during the Delivery Term, for the Contract Quantity of 70 MWac at the Delivery Point.

Exhibit C
PROJECT PERFORMANCE BENCHMARKS

Not later than 365 days prior to the Commercial Operation Date, Seller may provide written notice to Buyer with updates to the Expected Annual Energy Production (EAEP) and Minimum Annual Energy Production (MAEP) values in the table below that reflect the final Project design. Upon delivery of such notice, this Exhibit C shall be deemed to have been amended to reflect such updated values and such updated values thereafter shall be included in this Exhibit C in lieu of the values set forth below. Additionally, no later than (a) three (3) months prior to the Commercial Operation Date, and (b) on or before July 1 for each calendar year thereafter for every subsequent Contract Year during the Delivery Term, Seller shall provide to SMUD a non-binding, illustrative schedule of the Project's hourly expected energy production for each day in each month of the following calendar year in a form reasonably acceptable to SMUD.

Contract Year	Expected Annual Energy Production (EAEP) MWh*	Minimum Annual Energy Production (MAEP) MWh*
1	205717	174860
2	204688	173985
3	203665	173116
4	202647	172250
5	201634	171388
6	200626	170531
7	199622	169679
8	198624	168830
9	197631	167986
10	196643	167146
11	195660	166310
12	194681	165479
13	193708	164653
14	192739	163828
15	191776	163010
16	190817	162194
17	189864	161384
18	188915	160577
19	187970	159774
20	187030	158976

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

Exhibit D

**AVERAGE SOLAR IRRADIANCE BY MONTH AND YEAR
For Typical Weather Year Energy Calculation**

Month	Solar Irradiance (kWh/m2)
January	3.506
February	4.549
March	6.045
April	7.371
May	8.322
June	8.613
July	7.77
August	7.189
September	6.302
October	5.129
November	3.865
December	3.145
Annual Average (i.e., "Typical Annual Solar Insolation")	5.984

Data Source: Data Source: Vaisala Global Solar Dataset Typical GHI Year (Latitude: 33.610247, Longitude: -114.706133)

Exhibit E
COMMERCIAL OPERATION DATE CONFIRMATION LETTER

In accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between the Sacramento Municipal Utility District (“Buyer”) and Grace Orchard Energy Center, LLC (“Seller”), this letter serves to document the parties further agreement that the conditions precedent to the occurrence of the Commercial Operation Date have been satisfied, as of this ___ day of _____,

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

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

Grace Orchard Energy Center, LLC

Sacramento Municipal Utility District

By: _____

By: _____

Name:

Name: Jon Olson

Title:

Title: Director, Energy Trading &
Contracts

Date: _____

Date: _____

Exhibit F
CAPACITY ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURE

F.1 Additional Definitions for the Conveyance of Capacity Attributes, if included in the Products pursuant to Section 2.1:

None.

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

F.3 If applicable, Seller shall complete any CAISO specific process for qualifying the Project as providing RA Capacity.

Changes in Capacity Attribute Conveyance Procedure. Subject to Section 5.3, the Parties shall revise this Exhibit F as appropriate, and issue a new Exhibit F, which shall then become part of the Agreement in the event that the method for reporting and conveying Capacity Attributes changes from the process described herein.

Exhibit G
OUTAGE NOTIFICATION PROCEDURE

G.1 Additional Definitions for the Outage Notification Procedure:

None.

G.2 Planned Outage Notifications. Seller shall notify Buyer at least 72 hours in advance of Planned Outages that result in a reduction in the effective output of the Project during period over which the Planned Outage is scheduled. Notification should be by email to the addresses shown in the Outages section of the Notices, Exhibit I.

G.3 Notification of PV Array Cleaning. If Seller has scheduled cleaning for PV arrays, Seller shall notify Buyer at least 72 hours in advance of scheduled cleaning, and should include details of the cleaning plan. Seller shall also follow-up with Buyer after cleaning of the Project in order to verify the actual cleaning dates and times. Notification should be made by email to the addresses shown in the Outages section of the Notices, Exhibit I.

G.4 Forced Outage Notifications. Within 24 hours of a Forced Outage of the Project that impacts the ability of the Project to produce Energy, Seller shall notify Buyer of the Forced Outage, including the Capacity of the Project that is impacted, and the expected duration of the Forced Outage. Within 24 hours of the return of the Project to service following the Forced Outage Seller shall notify Buyer of the return to service details. Notification shall be made by email to the addresses shown in the Outages section of the Notices, Exhibit I.

G.5 Changes in Outage Notification Procedure. Upon mutual consent of both Parties, Buyer shall revise this Exhibit G as appropriate, give written notice to Seller regarding the revision, and issue a new Exhibit G, which shall then become part of the Agreement to reflect changes in the Outage Notification Procedure.

G.6 Outage Communication to CAISO: Seller will be responsible for the communication to the CAISO and meeting all requirements and timelines for generation outage scheduling and reporting, per the CAISO Tariff and relevant CAISO Business Practice Manual (BPM), including submittal of outage and

derate tickets in the CAISO Outage Management System (OMS), or successor outage reporting methods as required under the CAISO Tariff and BPM.

Exhibit H
ENVIRONMENTAL ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURE

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

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

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

H.3 WREGIS Registration. Seller shall register the Project in its WREGIS account. Seller shall be responsible for any costs associated with its WREGIS account and for issuance or creation of WREGIS Certificates for the Project.

H.4 Qualified Reporting Entity. Seller shall assume the responsibility for obtaining a Qualified Reporting Entity for Project, and shall be responsible for providing metered Project output data to WREGIS.

H.5 Transferring of Environmental Attributes. Seller shall transfer the WREGIS Certificates using Certificate Transfers from Seller’s WREGIS account to the WREGIS account of Buyer. Seller shall be responsible for any WREGIS certificate transfer fee out of Seller’s WREGIS account. Buyer shall receive the transferred Project WREGIS Certificates into its account, and shall be responsible for WREGIS transfer fees associated with the receipt of the WREGIS Certificates.

H.6 WREGIS Certificate

H.6.1 WREGIS Certificates for the Project shall be created on a calendar month basis in accordance with the certification procedure established by the WREGIS Operating Rules in an amount equal to the Energy generated by the Project and delivered to the Delivery Point in the same calendar month (subject, for the avoidance of doubt, to any reductions required by the CEC for Station Service

Load and applicable losses). Seller shall then transfer all WREGIS certificates associated with Energy sold to Buyer in that same calendar month.

H.6.2 WREGIS Certificates shall only be created for whole MWh amounts of energy generated. Any fractional MWh amounts (*i.e.*, kWh) shall be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate and all such accumulated MWh of Environmental Attributes shall then be available to Buyer.

H.6.3 Should a WREGIS Certificate Modification be required to reflect any errors or omissions regarding the Environmental Attributes from the Project Seller shall manage the submission of the WREGIS Certificate Modification.

H.6.4 Due to the expected delay in the creation of WREGIS Certificates relative to the timing of invoice payments under Section 3.2, Buyer shall make an invoice payment for a given month in accordance with Section 3.2 before the WREGIS Certificates for such month shall be created in Seller's WREGIS account and transferred by Seller in to Buyer's WREGIS account. Notwithstanding this delay, Buyer shall have all right and title to all associated WREGIS Certificates upon payment to Seller in accordance with Section 3.2.

H.7 Changes in Environmental Attributes Reporting and Conveyance Procedure.

The Parties shall revise this Exhibit H as appropriate, and issue a new Exhibit H which shall then become part of the Agreement, in order to reflect changes necessary in the Environmental Attribute conveyance procedure for Buyer to be able to receive and report the Environmental Attributes purchased under this Agreement as belonging to Buyer.

**Exhibit I
NOTICES**

All notices shall be directed as follows:

I.1 For Contract Administration

To Buyer:

Sacramento Municipal Utility District
Power Contracts Administration

6301 S Street
Sacramento, CA 95817-1899

Or,

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

Phone: (916) 732-6244
Email: PowerContractsAdmin@smud.org

To Seller:

All Notices:

Grace Orchard Energy Center, LLC

Street: 700 Universe Blvd.

City: Juno Beach, FL 33408

Attn: Business Management

Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)

Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com
and Emre.Ergas@nexteraenergy.com

I.2 For Billing and Settlements

To Buyer:

Energy Settlements

Phone: (916) 732-6751

Email: EnergySettlements@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Attn: Business Management

Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)

E-mail: NEER-REVENUE-TEAM.SharedMailbox@nexteraenergy.com

and DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com

I.3 For Scheduling

To Buyer:

Day Ahead Trading Desk

Phone: (916) 732-5669

Email: dayaheadtrading@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Scheduling: Attn: Day-Ahead – Christin Neff; Real-Time – PMI RT desk

Phone: Day-Ahead - 561-304-6053; Real-Time – 561-625-7100

Email: dl-nepm-dayaheaddesk-wecc@nexteraenergy.com

and nepm.realtimedesk@nexteraenergy.com

I.4 For Planned Outages

To Buyer:

Day Ahead Trading Desk

Phone: (916) 732-5669

Email: rft1@smud.org, rft2@smud.org, dayaheadtrading@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Street: 700 Universe Blvd.
City: Juno Beach, FL 33408
Attn: Business Management
Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)
Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com
and Emre.Ergas@nexteraenergy.com

I.5 For Forced Outages

To Buyer:

Real Time Scheduling Desks

Phone: (916) 732-5177

Email: rtt1@smud.org, rtt2@smud.org, dayaheadtrading@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Street: 700 Universe Blvd.

City: Juno Beach, FL 33408

Attn: Business Management

Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)

Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com
and Emre.Ergas@nexteraenergy.com

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

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit J SCHEDULING PROCEDURES

Background

The Project is a solar resource, where Seller or its designee will be the Scheduling Coordinator. The Project will be bid and scheduled into CAISO's markets in accordance with the Applicable Instructions. This document defines joint operating procedures for three distinct phases of operations.

SCID: [TBD]

Resource ID: [TBD]

Resource Type: Solar, Certified as VER (Variable Energy Resource) in CAISO

Pmax: 70 MW

Joint Procedures

Phase 1: Sync to Commercial Operation Date (estimated 30-60 days)

Seller will submit the outage ticket in WebOMS, in accordance with CAISO Procedure 5320: Resource Trial Operations and Test Energy Process and provide notification to SMUD (per Contact List below).

Seller will provide an hourly granularity generation forecast, based on the testing schedule, to SMUD in advance of day ahead scheduling, per the WECC scheduling calendar and will update if either unit capability or forecasted output deviates by more than 10 MW for rolling 7 calendar day period as a minimum, once per day.

Schedule will be provided by Seller via Secure File Transfer Protocol (SFTP) site and email (per Contact List below), using the Excel template provided by SMUD. File will include at least 5 calendar day rolling forecast.

As material changes arise, Seller will directly contact SMUD to update the generation schedule, per the Contact List below.

Seller will submit the Test Energy schedule outage through WebOMS per CAISO Procedure 5320: Resource Trial Operations and Test Energy Process and notify SMUD.

Seller will continue to submit outages per PPA Exhibit G: Outage Notification Procedure.

Seller's Scheduling Coordinator will not submit economic bids during this period.

Phase 2: Commercial Operation Date to visibility in CMRI (at least 30 days)

Seller will provide generation forecast in accordance with CAISO requirements for EIRs, based on site meteorologic data directly to CAISO.

Hourly granularity generation forecast will be provided to SMUD while VER is not available, as a minimum, once per day for a period of 7 calendar days equivalent to Seller submitted generation forecast to CAISO.

Seller's Scheduling Coordinator will submit a schedule as Scheduling Coordinator and no economic bids will be submitted during this period.

Seller will submit outages per PPA Exhibit G: Outage Notification Procedure.

Phase 3: Resource visible in CMRI, long term operations

Seller will use CAISO VER Forecast for scheduling and submission of Economic Bids in accordance with the Applicable Instructions developed pursuant to Section 9.1.2 of the Agreement. Seller's Scheduling Coordinator will submit Schedules and Economic Bids in accordance with such Applicable Instructions.

Seller will submit outages per PPA Exhibit G: Outage Notification Procedure.

Contact List

SMUD:

Day Ahead Trading Desk

Phone: (916) 732-5669

Email: dayaheadtrading@smud.org

Real Time Trading Desk

Phone: (916) 732-5177

Email: rtt1@smud.org, rtt2@smud.org

Resource Optimization

Email: ResourceOptimization@smud.org

Commodity Settlements

Email: EnergySettlements@smud.org

Joshua Gordon, Contract Administrator

Phone: 916-732-7252

Email: Joshua.gordon@smud.org

[Company name]:

[O&M Contact person][24 Hour Phone #][Company Phone][Contact Email]

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

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit K-1
FORM OF SELLER LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXXX]

Date:

Bank Ref.:

Amount: US\$[XXXXXXXXXX]

Expiry Date:

Beneficiary:

Attn: _____

Ladies and Gentlemen:

By the order of _____ (“Applicant”), we, [insert bank name and address] (“Issuer”) hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXXX] (the “Letter of Credit”) in favor of [SMUD], a California municipal utility district (“Beneficiary”), for an amount not to exceed the aggregate sum of U.S. \$[XXXXXXXX] (United States Dollars [XXXXXX] and 00/100), pursuant to that certain Power Purchase Agreement dated as of _____ and as amended (the “Agreement”) between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall expire on [Insert Date] which is one year after the issue date of this Letter of Credit, or any expiration date extended in accordance with the terms hereof (the “Expiration Date”).

Funds under this Letter of Credit are available to Beneficiary by presentation on or before the Expiration Date of a dated statement purportedly signed by your duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein, referencing our Letter of Credit No. [XXXXXXXX] (“Drawing Certificate”).

The Drawing Certificate may be presented by (a) physical delivery, (b) as a PDF attachment to an e-mail to [bank email address] or (c) facsimile to [bank fax number [XXX-XXX-XXXX]] confirmed by [e-mail to [bank email address]] Transmittal by facsimile or email shall be deemed delivered when received.

The original of this Letter of Credit (and all amendments, if any) is not required to be presented in connection with any presentment of a Drawing Certificate by Beneficiary hereunder in order to receive payment.

We hereby agree with the Beneficiary that all documents presented under and in compliance with the terms of this Letter of Credit, that such drafts will be duly honored upon presentation to the Issuer on or before the Expiration Date. All payments made under this Letter of Credit shall be made with Issuer's own immediately available funds by means of wire transfer in immediately available United States dollars to Beneficiary's account as indicated by Beneficiary in its Drawing Certificate or in a communication accompanying its Drawing Certificate.

Partial and multiple draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance.

It is a condition of this Letter of Credit that the Expiration Date shall be deemed automatically extended without an amendment for a one year period beginning on the present Expiration Date hereof and upon each anniversary for such date, unless at least sixty (60) days prior to any such Expiration Date we have sent to you written notice by overnight courier service that we elect not to extend this Letter of Credit, in which case it will expire on the date specified in such notice. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Irrevocable

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

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

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

Notwithstanding Rule 5.01(a) of the ISP98, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from the Beneficiary, to examine the documents and determine whether to take up or provide notice of dishonor and to inform the Beneficiary hereof accordingly.

Notwithstanding Rule 3.14(a) of the ISP98, if on the last business day for presentation, the place for presentation of this Letter of Credit is for any reason closed and presentation is not timely made because of that closure, then the expiry date of this Letter of Credit will be automatically extended without amendment to the thirtieth (30th) following day after the place for presentation reopens for business.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available. Matters not covered by the UCP shall be governed and construed in accordance with the laws of the State of New York.

[Bank Name]

[Insert officer name]

[Insert officer title]

Exhibit A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

The undersigned, a duly authorized representative of [SMUD], a California municipal utility district, as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").
2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred or other occasion provided for in the Agreement where Beneficiary is authorized to draw on the letter of credit has occurred.

OR

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of Beneficiary and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to Beneficiary by wire transfer in immediately available funds to the following account:

[Specify account information]

Name and Title of Authorized Representative

Date _____]

Exhibit K-2
FORM OF SURETY BOND

BOND NUMBER: _____

FINANCIAL AND PERFORMANCE GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____, a _____ limited liability company (hereinafter called the Principal), and _____ with its principal office at _____ located in the Continental United States, a corporation duly organized under the laws of the State of _____ (hereinafter called the Surety) as Surety, are held and firmly bound unto _____, a _____ (hereinafter called the Obligee), as Obligee, in the sum of _____ Dollars (\$_____) for the payment of which sum well and truly to be made, we the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

This Financial and Performance Guarantee Bond (the "Bond") is being issued in connection with a Power Purchase and Sale Agreement between Principal and Obligee dated _____ (referred to as the "Agreement").

Now therefore, the condition of this obligation is such that if the Principal shall well and truly keep all the terms and conditions as outlined in the Agreement, then this obligation shall be null and void; otherwise to remain in full force and effect, until terminated or expired as set forth below.

Provided, however, this Bond is executed by the Surety and accepted by the Obligee subject to the following conditions:

1. No assignment of this Bond shall be effective without the written consent of the Surety.
2. This Bond shall be effective for a period of one (1) year with an effective date of _____ and shall have an expiration date of _____, except that if the Surety has not provided written notice to the Obligee at least sixty (60) days prior to such expiration date that this Bond will terminate on such expiration date, this Bond shall automatically renew for an additional one-year period. Any notice by the Surety to the Obligor shall be sent by registered mail to the address below.

[insert address]

3. Such expiration shall not affect any liability incurred or accrued under this Bond prior to the effective date of such expiration. It is understood and agreed that the Obligee may recover the full amount of the Bond (less any previous amounts paid to the Obligee under the Bond) if Surety notifies Obligee that the Surety will not renew the Bond and, within thirty (30) days prior to the effective date of nonrenewal, the Obligee has not received replacement Performance Security (as defined in the Agreement).

4. Provided, however, it shall be a condition precedent to any right of recovery herein that, in the event of any breach of any payment or performance obligation of Principal under the Agreement, a written notice of such breach shall be given by the Obligee to the Surety and the

Surety will pay the amount set forth in the Obligees' notice within ten (10) Business Days (as defined below) after the Surety's receipt of such notice, subject to Section 7 below. "Business Days" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California.

5. This Bond is a primary obligation of the Surety, and such obligation shall not be affected by:

- a. any modification, amplification, amendment, supplement, renewal or waiver of the Agreement or any of the terms or conditions of the Agreement;
- b. any postponement or extension of the date on which any payment must be made by the Obligees pursuant to the Agreement and mutually agreed to by the Obligees and the Principal or postponement or extension of the date on which any payment must be made, or act must be performed, by the Principal thereunder;
- c. any failure, omission, delay, waiver or refusal by the Obligees to exercise, in whole or in part, any right or remedy held by the Obligees with respect to the Agreement, except as to applicable statutes of limitation;
- d. any legal disability of the Principal or the Surety;
- e. any rights of subrogation, reimbursement, indemnity or contribution that the Surety or the Obligees may have against the Principal;
- f. any lack of knowledge by the Surety as to the condition (including financial) of the Principal, since the Surety shall be responsible for obtaining its own knowledge of such condition;
- g. any rights or defenses that are or may become available to the Surety by reason of Sections 2819 or 2845 of the California Civil Code; or
- h. any termination of or change in corporate existence, structure or ownership of the Principal or the Surety, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Principal or its assets.

6. No action, suit or proceeding shall be had or maintained against the Surety on this unless the same be brought or instituted within six (6) months after the termination or expiration of this Bond.

7. Regardless of the number of years this Bond is in force, the aggregate liability of the Surety shall not be cumulative in amounts from period to period and shall in no event exceed the amount set forth above, or as amended by rider.

In witness whereof, said Principal and said Surety have caused this Bond to be duly signed and their seals affixed this ____ day of _____, ____.

Principal

BY: _____

Surety

BY: _____
Attorney-in-Fact

Exhibit L
FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This **CONSENT TO COLLATERAL ASSIGNMENT AGREEMENT** (this “Consent”), dated as of _____, 20[], is executed by and among [NAME OF CONTRACTING PARTY], a [legal form of Contracting Party] organized under the laws of the State of [] (the “Contracting Party”), [], a [] (the “Project Owner”), and [], as collateral agent (in such capacity, together with its successors and permitted assigns, the “Collateral Agent”) for various financial institutions named from time to time as Lenders under the Credit Agreement (as defined below) and any other parties (or any of their agents) who hold any other secured indebtedness permitted to be incurred under the Credit Agreement (the Collateral Agent and all such parties collectively, the “Secured Parties”).

A. The Project Owner owns, operates and maintains [] (the “Project”).

B. The Contracting Party and the Project Owner have entered into the agreement specified in Schedule I hereto (as further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Assigned Agreement”).

C. The Borrower, the Project Owner, the other affiliates of the Borrower as Guarantors, various financial institutions named therein from time to time as Lenders, [], as the Administrative Agent and Collateral Agent, have entered into a Credit Agreement, dated as of [] (as amended, modified or supplemented from time to time, the “Credit Agreement”), providing for the extension of the credit facilities described therein.

D. As security for the payment and performance by the Project Owner of its obligations under the Credit Agreement and the other Financing Documents (as defined below) and for other obligations owing to the Secured Parties, the Project Owner has assigned all of its right, title and interest in, to and under, and granted a security interest in, the Assigned Agreement to the Collateral Agent pursuant to the Assignment and Security Agreement, dated as of [] between the Project Owner and the Collateral Agent (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the “Security Agreement”, and, together with the Credit Agreement and any other financing documents relating to the issuance of the Notes, the “Financing Documents”).

E. It is a requirement under the Credit Agreement that the Project Owner cause the Contracting Party to execute and deliver this Consent.

NOW, THEREFORE as an inducement for Lenders to make the Loans, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. Consent to Assignment. The Contracting Party hereby acknowledges and consents to the pledge and assignment of all right , title and interest of the Project Owner in, to and under (but not its obligations, liabilities or duties with respect to) the Assigned Agreement by the Project Owner to the Collateral Agent pursuant to the Security Agreement.

2. Representations and Warranties. The Contracting Party represents and warrants as follows as of the date hereof:

(a) No Amendments. [Except as described in Schedule I hereto,] there are no amendments, modifications or supplements (whether by waiver, consent or otherwise) to the Assigned Agreement, either oral or written.

(b) No Previous Assignments. The Contracting Party affirms that it has no notice of any assignment relating to the right, title and interest of the Project Owner in, to and under the Assigned Agreement other than the pledge and assignment to the Collateral Agent referred to in Section 1 above.

(c) No Termination Event: No Disputes. After giving effect to the pledge and assignment referred to in Section 1, and after giving effect to the consent to such pledge and assignment by the Contracting Party, there exists no event or condition (a “Termination Event”) that would, either immediately or with the passage of time or giving of notice, or both, entitle either the Project Owner or the Contracting Party to terminate the Assigned Agreement or suspend the performance of its obligations under the Assigned Agreement. [Except as set forth on Schedule III hereto,] there are no unresolved disputes between the parties under the Assigned Agreement. All amounts due under the Assigned Agreement as of the date hereof have been paid in full [, except as set forth on Schedule III hereto].

3. Right to Cure.

(a) From and after the date hereof and unless and until the Contracting Party shall have received written notice from the Collateral Agent that the lien of the Security Agreement has been released in *full*, the Collateral Agent shall have the right, but not the obligation, following an Event of Default by the Project Owner under the Assigned Agreement, to pay all sums due under the Assigned Agreement by the Project Owner and to perform any other act, duty or obligation required of the Project Owner thereunder as described in Section 3(c) below; *provided*, that no such payment or performance shall be construed as an assumption by the Collateral Agent or any other Secured Party of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(b) The Contracting Party agrees that it will not (i) terminate the Assigned Agreement or (ii) suspend the performance of any of its obligations under the Assigned Agreement without first giving the Collateral Agent notice and opportunity to cure as provided below. The Contracting Party further agrees that it will not assign any obligation under the Assigned Agreement without the prior consent of the Collateral Agent, which consent shall not be unreasonably withheld, delayed or conditioned, except to the extent the Contracting Party may subcontract such obligations to other parties.

(c) If a Termination Event shall occur, and the Contracting Party shall then be entitled to and shall desire to terminate the Assigned Agreement or suspend the performance of any of its obligations under the Assigned Agreement, the Contracting Party shall, prior to exercising such remedies or taking any other action with respect to such Termination Event, give written notice to the Collateral Agent of such Termination Event. Collateral Agent will have the right, but not the obligation, to cure a Termination Event on behalf of Project Owner, only if Collateral Agent sends a written notice to Contracting Party before the later of (i) the expiration of any cure period under this Agreement, and (ii) fifteen (15) Business Days after Collateral Agent's receipt of notice of such Termination Event from Contracting Party, indicating Collateral Agent's intention to cure. If the Collateral Agent elects to exercise its right to cure as herein provided, it shall have a period of thirty (30) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event specified in such notice if such Termination Event consists of a payment default, or if such Termination Event is an event other than a failure to pay amounts due and owing by the Project Owner (a "Non-monetary Event") the Collateral Agent shall have a period of sixty (60) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event so long as the Collateral Agent has commenced and is diligently pursuing appropriate action to cure such Termination Event (or such longer additional period if the Collateral Agent is unable to cure such Termination Event within such sixty (60) day period despite exercising commercially reasonable efforts, not to exceed a total of thirty (30) additional days); *provided, however*, that (i) if possession of the Project is necessary to cure such Non-monetary Event and the Collateral Agent has commenced foreclosure proceedings, the Collateral Agent will be allowed a reasonable time to complete such proceedings, and (ii) if the Collateral Agent is prohibited from curing any such Non-monetary Event by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving the Project Owner, then the time periods specified herein for curing a Termination Event shall be extended for the period of such prohibition; *provided, further*, that in the event of items (i) or (ii) above, such time period shall not exceed one hundred eighty (180) days. Any cure period for the Collateral Agent shall not commence until the later of (i) the end of the cure period of the Project Owner under the Assigned Agreement and (ii) written notice from the Contracting Party to the Collateral Agent of a Termination Event.

(d) Any curing of or attempt to cure any Termination Event shall not be construed as an assumption by the Collateral Agent or the other Secured Parties of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(e) Following a Termination Event by the Project Entity under the Assigned Agreement, the Contracting Party may require the Collateral Agent, if the Collateral Agent has provided the notice set forth in subsection (c) above, to provide to Contracting Party a report concerning:

- (i) The status of efforts by Collateral Agent to develop a plan to cure the Termination Event;
- (ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been developed, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Contracting Party may reasonably require related to the development, implementation and timetable of the cure plan.

Collateral Agent must provide the report to Contracting Party within fifteen (15) calendar days after Notice from Contracting Party requesting the report. Contracting Party will have no further right to require the report with respect to a particular Termination Event after that Termination Event has been cured.

4. REPLACEMENT AGREEMENTS. NOTWITHSTANDING ANY PROVISION IN THE ASSIGNED AGREEMENT TO THE CONTRARY, IN THE EVENT (I) THE ASSIGNED AGREEMENT IS REJECTED OR OTHERWISE TERMINATED AS A RESULT OF ANY BANKRUPTCY, INSOLVENCY, REORGANIZATION OR SIMILAR PROCEEDINGS AFFECTING THE PROJECT OWNER, AT THE COLLATERAL AGENT'S REQUEST, THE CONTRACTING PARTY, SUBJECT TO ITS BOARD OF DIRECTORS APPROVAL, WHICH CONTRACTING PARTY SHALL REQUEST AND PURSUE IN ACCORDANCE WITH CONTRACTING PARTY'S GENERALLY APPLICABLE CONTRACT APPROVAL PROCESS, WILL ENTER INTO A NEW AGREEMENT WITH THE COLLATERAL AGENT OR THE COLLATERAL AGENT'S DESIGNEE FOR THE REMAINDER OF THE ORIGINALLY SCHEDULED TERM OF THE ASSIGNED AGREEMENT, EFFECTIVE AS OF THE DATE OF SUCH REJECTION, WITH THE SAME COVENANTS, AGREEMENTS, TERMS, PROVISIONS AND LIMITATIONS AS ARE CONTAINED IN THE ASSIGNED AGREEMENT, OR (II) IF THE COLLATERAL AGENT OR ITS DESIGNEE, DIRECTLY OR INDIRECTLY, TAKES POSSESSION OF, OR TITLE TO, THE PROJECT (INCLUDING POSSESSION BY A RECEIVER OR TITLE BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE) AFTER ANY SUCH REJECTION OR TERMINATION OF THE ASSIGNED AGREEMENT, PROMPTLY AFTER THE CONTRACTING PARTY'S WRITTEN REQUEST, THE COLLATERAL AGENT MUST ITSELF OR MUST CAUSE ITS DESIGNEE TO PROMPTLY ENTER INTO A NEW AGREEMENT WITH THE CONTRACTING PARTY HAVING SUBSTANTIALLY THE SAME TERMS AS THE ASSIGNED AGREEMENT FOR THE REMAINING TERM THEREOF, PROVIDED THAT IN THE EVENT A DESIGNEE OF THE COLLATERAL AGENT, DIRECTLY OR INDIRECTLY, TAKES POSSESSION OF, OR TITLE TO, THE PROJECT (INCLUDING POSSESSION BY A RECEIVER OR TITLE BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE), SUCH DESIGNEE SHALL BE APPROVED BY THE CONTRACTING PARTY, NOT TO BE UNREASONABLY WITHHELD.

5. SUBSTITUTE OWNER. THE CONTRACTING PARTY ACKNOWLEDGES THAT IN CONNECTION WITH THE EXERCISE OF REMEDIES FOLLOWING A DEFAULT UNDER THE FINANCING DOCUMENTS, THE COLLATERAL AGENT MAY (BUT SHALL NOT BE OBLIGATED TO) ASSUME, OR CAUSE ANY PURCHASER AT ANY FORECLOSURE SALE OR ANY ASSIGNEE OR

TRANSFeree UNDER ANY INSTRUMENT OF ASSIGNMENT OR TRANSFER IN LIEU OF FORECLOSURE TO ASSUME, ALL OF THE INTERESTS, RIGHTS AND OBLIGATIONS OF THE PROJECT OWNER THEREAFTER ARISING UNDER THE ASSIGNED AGREEMENT. SUCH SALE OR TRANSFER MAY BE MADE ONLY TO AN ENTITY THAT (I) MEETS THE DEFINITION OF “PERMITTED TRANSFeree” AS DEFINED IN THE ASSIGNED AGREEMENT AND (II) IS AN ENTITY THAT THE CONTRACTING PARTY IS PERMITTED TO CONTRACT WITH UNDER APPLICABLE LAW. IF THE INTEREST OF THE PROJECT OWNER IN THE ASSIGNED AGREEMENT SHALL BE ASSUMED, SOLD OR TRANSFERRED AS PROVIDED ABOVE, THE ASSUMING PARTY SHALL AGREE IN WRITING TO BE BOUND BY AND TO ASSUME THE TERMS AND CONDITIONS OF THE ASSIGNED AGREEMENT AND ANY AND ALL OBLIGATIONS TO THE CONTRACTING PARTY ARISING OR ACCRUING THEREUNDER FROM AND AFTER THE DATE OF SUCH ASSUMPTION, AND THE CONTRACTING PARTY SHALL CONTINUE TO PERFORM ITS OBLIGATIONS UNDER THE ASSIGNED AGREEMENT IN FAVOR OF THE ASSUMING PARTY AS IF SUCH PARTY HAD THEREAFTER BEEN NAMED AS THE “CUSTOMER” UNDER THE ASSIGNED AGREEMENT; PROVIDED THAT IF THE COLLATERAL AGENT OR ITS DESIGNEE (OR ANY ENTITY ACTING ON BEHALF OF THE COLLATERAL AGENT, THE COLLATERAL AGENT’S DESIGNEE OR ANY OF THE OTHER SECURED PARTIES) ASSUMES THE ASSIGNED AGREEMENT AS PROVIDED ABOVE, IT SHALL BE PERSONALLY LIABLE FOR THE PERFORMANCE OF THE OBLIGATIONS THEREUNDER SOLELY TO THE EXTENT OF ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE PROJECT.

6. PAYMENTS. COMMENCING ON THE EFFECTIVE DATE OF THIS CONSENT, THE CONTRACTING PARTY SHALL MAKE ALL PAYMENTS DUE TO THE PROJECT OWNER UNDER THE ASSIGNED AGREEMENT DIRECTLY INTO THE ACCOUNT SPECIFIED ON SCHEDULE II HERETO, OR TO SUCH OTHER PERSON OR ACCOUNT AS SHALL BE SPECIFIED FROM TIME TO TIME BY THE COLLATERAL AGENT TO THE CONTRACTING PARTY IN WRITING. ALL PARTIES HERETO AGREE THAT EACH PAYMENT BY THE CONTRACTING PARTY AS SPECIFIED IN THE PRECEDING SENTENCE OF AMOUNTS DUE TO THE PROJECT OWNER FROM THE CONTRACTING PARTY UNDER THE ASSIGNED AGREEMENT SHALL SATISFY THE CONTRACTING PARTY’S CORRESPONDING PAYMENT OBLIGATION UNDER THE ASSIGNED AGREEMENT.

7. NO AMENDMENTS. THE CONTRACTING PARTY ACKNOWLEDGES THAT THE FINANCING DOCUMENTS RESTRICT THE RIGHT OF THE PROJECT OWNER TO AMEND OR MODIFY THE ASSIGNED AGREEMENT, OR TO WAIVE OR PROVIDE CONSENTS WITH RESPECT TO CERTAIN PROVISIONS OF THE ASSIGNED AGREEMENT, UNLESS CERTAIN CONDITIONS SPECIFIED IN THE FINANCING DOCUMENTS ARE MET. THE CONTRACTING PARTY SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, DELAYED OR CONDITIONED, AMEND OR

MODIFY THE ASSIGNED AGREEMENT IN ANY MATERIAL RESPECT, OR ACCEPT ANY WAIVER OR CONSENT WITH RESPECT TO A MATERIAL PROVISION OF THE ASSIGNED AGREEMENT, UNLESS THE CONTRACTING PARTY HAS RECEIVED FROM THE BORROWER OR PROJECT OWNER (AS APPLICABLE UNDER THE FINANCING DOCUMENTS) A COPY OF A CERTIFICATE DELIVERED BY THE PROJECT OWNER TO THE COLLATERAL AGENT TO THE EFFECT THAT SUCH AMENDMENT, MODIFICATION, WAIVER, OR CONSENT IS BEING MADE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FINANCING DOCUMENTS, WHICH MAY IN CERTAIN CIRCUMSTANCES REQUIRE THE BORROWER OR PROJECT OWNER (AS APPLICABLE UNDER THE FINANCING DOCUMENTS) TO HAVE OBTAINED THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT, LENDERS, OR OTHER PARTIES THERETO.

8. ADDITIONAL PROVISIONS. [TO BE SPECIFIED IF NECESSARY TO CLARIFY THE ASSIGNED AGREEMENT.]

9. NOTICES. NOTICE TO ANY PARTY HERETO SHALL BE IN WRITING AND SHALL BE DEEMED TO BE DELIVERED ON THE EARLIER OF: (A) THE DATE OF PERSONAL DELIVERY, (B) POSTAGE PREPAID, REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR SENT BY EXPRESS COURIER, IN EACH CASE ADDRESSED TO SUCH PARTY AT THE ADDRESS INDICATED BELOW (OR AT SUCH OTHER ADDRESS AS SUCH PARTY MAY HAVE THERETOFORE SPECIFIED BY WRITTEN NOTICE DELIVERED IN ACCORDANCE HEREWITH), UPON DELIVERY OR REFUSAL TO ACCEPT DELIVERY, OR (C) IF TRANSMITTED BY FACSIMILE, THE DATE WHEN SENT AND FACSIMILE CONFIRMATION IS RECEIVED; PROVIDED THAT ANY FACSIMILE COMMUNICATION SHALL BE FOLLOWED PROMPTLY BY A HARD COPY ORIGINAL THEREOF BY EXPRESS COURIER:

The Collateral Agent: [_____]
[_____]
Attn: [_____]
Telephone No.: [_____]
Facsimile No.: [_____]

The Project Owner: _____

The Contracting Party: _____

10. SUCCESSORS AND ASSIGNS. THIS CONSENT SHALL BE BINDING UPON AND SHALL INURE TO THE BENEFIT OF THE SUCCESSORS AND ASSIGNS OF THE CONTRACTING PARTY, AND SHALL INURE TO THE BENEFIT OF THE COLLATERAL AGENT, THE OTHER SECURED PARTIES, THE PROJECT OWNER AND THEIR RESPECTIVE SUCCESSORS, TRANSFEREES AND ASSIGNS.

11. COUNTERPARTS. THIS CONSENT MAY BE EXECUTED IN ONE OR MORE COUNTERPARTS WITH THE SAME EFFECT AS IF THE SIGNATURES THERETO AND HERETO WERE UPON THE SAME INSTRUMENT.

12. GOVERNING LAW. THIS CONSENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF CALIFORNIA.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Consent as of the date first written above.

[NAME OF CONTRACTING PARTY]

By: _____
Name:
Title:

[_____] as Collateral Agent

By: _____
Name:
Title:

Acknowledged and Agreed:

[_____]

By: _____
Name:
Title:

Assigned Agreement

Payment Instructions
(Section 6)

All payments due to the Project Owner pursuant to the Assigned Agreement shall be made to [INSERT REVENUE ACCOUNT INFORMATION].

[Schedule III]

[Amounts Due and Unpaid under the Assigned Agreement
(Section 2(c))]

Exhibit M
PROJECT MILESTONE SCHEDULE

Below is a list of key project milestones and the targeted completion date for each.

Milestone	Expected Completion Date
Secure site control	10/8/2025
Complete Environmental Review (CEQA/NEPA)	2/28/2026
Obtain federal and state discretionary permits	3/17/2026
Execute Large Generator Interconnection Agreement	Completed
Start major equipment procurement	Completed
Start construction	5/1/2026
Energization (start of Test Energy)	6/15/2027
Scheduled COD	12/1/2027
Guaranteed COD	6/1/2028

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

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit N
PRELIMINARY METERING DIAGRAM

A preliminary Metering Diagram appears on the following page. To the extent there are revisions to the preliminary Metering Diagram, Seller shall provide to Buyer a revised Metering Diagram at least 60 days prior to the Commercial Operation Date.

Preliminary Metering Diagram appears on the following page

Exhibit O
FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [____], 20__ (the “**Limited Assignment Agreement Effective Date**”) by and among [____], a [____] (“**PPA Seller**”), [____], a [____] (“**PPA Buyer**”), and [____], a [____] (“**Limited Assignee**”), and relates to that certain **PPA** defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

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

1. Limited Assignment and Delegation.

- a. PPA Buyer hereby assigns, transfers and conveys to Limited Assignee all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, and subject to the exclusions specified in Appendix 1, the “**Assigned Product**”) during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section in Appendix 1 (the “**Assigned Product Rights**”). All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.
- b. PPA Buyer hereby delegates to Limited Assignee the obligation to pay for all Assigned Product that is actually delivered or made available to Limited Assignee pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”). All other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer, including without limitation payment for any Product which is not included in the Assigned Product and any other amounts (including without limitation for Deemed Delivered Energy) owed under the PPA. To the extent Limited Assignee fails to pay for any Assigned Product by the due date for payment set forth in the PPA, PPA Buyer remains responsible for such payment, and it will be a Buyer Event of Default pursuant to PPA Section 10.1.1.1 if PPA Buyer does not make such payment within five (5) Business Days of receiving notice of such non-payment from PPA Seller.
- c. Limited Assignee hereby accepts and agrees, and PPA Seller hereby consents, to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above.

- d. All scheduling of Assigned Product and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Limited Assignee upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer is hereby authorized by Limited Assignee to and shall act as Limited Assignee's agent with regard to scheduling Assigned Product; (iii) PPA Buyer will provide copies to Limited Assignee of any Notice (as defined in the PPA) of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iv) PPA Buyer will forward copies to Limited Assignee of all invoices provided to PPA Buyer, provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Limited Assignee. PPA Buyer shall promptly reimburse PPA Seller for any additional costs or expenses reasonably and actually incurred by PPA Seller as a result of this subsection (d).
- e. PPA Seller acknowledges that (i) PPA Buyer and Limited Assignee have advised PPA Seller that Limited Assignee intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer, and (ii) Limited Assignee has the right to purchase receivables due from PPA Buyer for any such Assigned Product. To the extent Limited Assignee purchases any such receivables due from PPA Buyer, Limited Assignee may transfer such receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation; provided, however, that (A) at no time shall PPA Seller be required to pay Limited Assignee for any amounts by which any such receivables exceed any Delivered Product Payment Obligation, (B) any such application by Limited Assignee shall not affect any amounts due and owing under the PPA by PPA Buyer (which, for clarity purposes, includes any amount of Delivered Product Payment Obligation not paid by Limited Assignee as a result of any such application by Limited Assignee under this Section 1(e)), including under any invoice, and (C) at all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA, including the total gross amount due to PPA Seller under each invoice.
- f. At least three (3) Business Days before the commencement of the Assignment Period, The Goldman Sachs Group, Inc. (the "**Guarantor**") will issue, in favor of PPA Seller, a guaranty of Limited Assignee's payment obligations under this Assignment Agreement substantially in the form of Appendix 2 attached hereto (the "**Guaranty**"). PPA Seller may draw upon, apply, or make demand under

the Guaranty to recover any unpaid amounts due from Limited Assignee and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

- g. Except as set forth in Section 1(h) of this Assignment Agreement, and except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the Product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA, including with respect to CAISO revenues and costs; provided that, for avoidance of doubt, nothing set forth in this Assignment Agreement affects PPA Buyer's liabilities and obligations to PPA Seller under the PPA, including if Limited Assignee fails to perform.
- h. Notwithstanding anything to the contrary in this Assignment Agreement including without limitation the immediately preceding Section 1(g) (with respect to the phrase "nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA") and Section 6(i) hereof, the Parties hereby agree that if (1) the assignment, transfer or conveyance of the Assigned Product pursuant to this Assignment Agreement, or (2) PPA Seller's performance of any obligation under this Assignment Agreement, including without limitation if PPA Seller makes any change to the recipient of the WREGIS Certificates as directed by Limited Assignee and PPA Buyer pursuant to Appendix 1 hereof, fails to meet any requirements of the PPA, then PPA Seller shall not be deemed to be in breach of any obligation in the PPA, including without limitation any representation or warranty therein.

2. Assignment Early Termination.

- a. The Assignment Period may be terminated early upon the occurrence of any of the following:
 - i) delivery of a written notice of termination by either Limited Assignee or PPA Buyer to each of the other Parties hereto;
 - ii) delivery of a written notice of termination by PPA Seller to each of Limited Assignee and PPA Buyer following Limited Assignee's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Limited Assignee within three (3) Business Days following receipt by Limited Assignee and PPA Buyer of written notice thereof;
 - iii) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Limited Assignee;

- iv) delivery of a written notice by Limited Assignee if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller;
 - v) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Limited Assignee hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty; or
 - vi) neither Limited Assignee nor the Guarantor maintains a Credit Rating equal to or greater than Baa3 from Moody's and BBB- from S&P, and if ratings by S&P and Moody's are not equivalent, the lower rating shall apply (a "**Required Credit Rating**").
- b. The Assignment Period will end at the end of the last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clauses (a)(i) or (a)(ii) above. All Assigned Rights and Obligations shall revert from Limited Assignee to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Limited Assignee shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Limited Assignee prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.
- c. The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Limited Assignee to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Limited Assignee shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Limited Assignee prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.
3. **Representations and Warranties.** The PPA Seller and the PPA Buyer represent and warrant, each with respect to itself only, to Limited Assignee, as of the Limited Assignment Agreement Effective Date, that (a) the PPA is in full force and effect; and (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder. Limited Assignee represents and warrants to PPA

Seller, as of the Limited Assignment Agreement Effective Date, that the Guarantor has a Required Credit Rating.

4. **Notices.** Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 16 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Limited Assignee of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Limited Assignee shall be provided to the following address, as such address may be updated by Limited Assignee from time to time by notice to the other Parties:

J. Aron & Company LLC
200 West Street
New York, New York 10282-2198
Email: gs-prepay-notices@gs.com

5. **Costs and Expenses.** Each of PPA Buyer and J. Aron will each pay its own costs and expenses (including legal fees) incurred in connection with this Assignment Agreement and as a result of the negotiation, preparation, and execution of this Assignment Agreement. PPA Buyer shall reimburse PPA Seller for its out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred in connection with this Assignment Agreement, including in connection with obtaining required consents from its lenders or other financing parties, as well as reimburse PPA Seller as set forth above in Section 1(d) of this Assignment Agreement.
6. **Miscellaneous.** Section 15.1 with respect to Buyer (i.e., Buyer's Representations and Warranties), and Sections 23 (Severability), 24 (Counterparts), 25 (General), 19 (Mobile-Sierra), 30 (Confidentiality), and 28 (Forward Contract, etc.) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein. For avoidance of doubt, and notwithstanding anything to the contrary in this Assignment Agreement: (i) except as expressly set forth in Section 1(h) of this Assignment Agreement, and except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the Product delivery obligations, nothing in this Assignment Agreement shall modify any provision of the PPA; (ii) PPA Buyer remains obligated to perform all its obligations under the PPA notwithstanding the limited assignment under this Assignment Agreement (including without limitation any such obligations not timely performed by Limited Assignee under this Assignment Agreement), and any failure by Limited Assignee to make payments to PPA Seller as provided in this Assignment Agreement when due under the PPA shall be a Buyer Event of Default under the PPA if not cured within the applicable cure period specified in Section 10.1.1.1 of the PPA; (iii) this Assignment Agreement shall not purport to convey or otherwise allege any right of PPA Buyer or Limited Assignee to make any prepayment to Seller under the PPA or to file or impose any lien on the Facility; (iv) Limited Assignee and PPA Buyer shall comply with all reasonable requests from any Lender in connection with this Assignment Agreement, including in connection with

any Consent to Collateral Agreement; and (v) neither Limited Assignee nor PPA Buyer shall make any assignment of its rights or delegation of its obligations under this Assignment Agreement without the prior written consent of PPA Seller, which it may withhold in its sole discretion.

7. **U.S. Resolution Stay Provisions.** If each of the Parties hereto have not adhered to the ISDA 2018 U.S. Resolution Stay Protocol, as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018 (the “**ISDA U.S. QFC Protocol**”), the terms of the ISDA U.S. QFC Protocol shall be incorporated into and form a part of this Assignment Agreement. For purposes of incorporating the ISDA U.S. QFC Protocol, each Party shall be deemed to have the same status as “Regulated Entity” and/or “Adhering Party” (as such terms are defined therein) applicable to it under the ISDA U.S. QFC Protocol and this Assignment Agreement shall be deemed to be a “Protocol Covered Agreement” (as defined therein).

8. Governing Law, Jurisdiction

- a) **Governing Law.** This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law provisions that would direct the application of another jurisdiction’s laws.
- b) **Jurisdiction.** Each Party submits to the exclusive jurisdiction of the federal courts of the United States, or the courts of the State of California, sitting in the City and County of San Francisco, California.

[Remainder of Page Intentionally Blank]

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

PPA SELLER:

[_____] ,

a Delaware limited liability company

By: _____

Name: _____

Title: _____

PPA Buyer:

[_____]

By: _____

Name: _____

Title: _____

Limited Assignee:

J. ARON & COMPANY LLC

By: _____

Name: _____

Title: _____

Appendix 1 Assigned Rights and Obligations

“**PPA**” means that certain Power Purchase Agreement dated [____], by and between [____], and [____], a Delaware limited liability company, as amended from time to time.

“**Assignment Period**” means the period beginning on [____] and extending until [____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: (1) [Energy] and (2) [green attributes (PCC1 RECs)] that are required to be sold to PPA Buyer under the PPA, provided that [replacement Energy and Replacement Green Attributes, each if any under the PPA] shall be excluded from the Assigned Products.

Further Information: PPA Seller shall transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all [Energy] pursuant to [Section 4.2 and Exhibit H of] the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Limited Assignee and PPA Buyer upon twenty (20) Business Days’ notice, which change shall be effective as of the first day of the next calendar month after such notice period has expired, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Limited Assignee shall be a sale made at wholesale, with Limited Assignee reselling all such Assigned Product.

Appendix 2
Form of Guaranty

[], 2023

NAME
ADDRESS

Attention:

Ladies and Gentlemen:

For value received, The Goldman Sachs Group, Inc. (the “Guarantor”), a corporation duly organized under the laws of the State of Delaware, hereby unconditionally guarantees the prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities, whether now in existence or hereafter arising, of J. Aron & Company, LLC, a subsidiary of the Guarantor and limited liability company duly organized under the laws of the State of New York (the “Company”), to **COUNTERPARTY NAME** (the “Counterparty”) arising out of or under the Limited Assignment Agreement among the Company, the Counterparty and [PPA Buyer] dated as of [____], 2024. This Guaranty is one of payment and not of collection.

The Guarantor hereby waives notice of acceptance of this Guaranty and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or non-payment of any such obligation or liability, suit or the taking of other action by Counterparty against, and any other notice to, the Company, the Guarantor or others.

Counterparty may at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder: (1) agree with the Company to make any change in the terms of any obligation or liability of the Company to Counterparty, (2) take or fail to take any action of any kind in respect of any security for any obligation or liability of the Company to Counterparty, (3) exercise or refrain from exercising any rights against the Company or others, or (4) compromise or subordinate any obligation or liability of the Company to Counterparty including any security therefor. Any other suretyship defenses are hereby waived by the Guarantor.

This Guaranty shall continue in full force and effect until the opening of business on the fifth business day after Counterparty receives written notice of termination from the Guarantor. It is understood and agreed, however, that notwithstanding any such termination this Guaranty shall continue in full force and effect with respect to the obligations and liabilities set forth above which shall have been incurred prior to such termination.

The Guarantor further agrees that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the guaranteed obligations, or interest thereon is rescinded or must otherwise be restored or returned by the Counterparty upon the bankruptcy, insolvency, dissolution or reorganization of the Company. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Counterparty.

The Guarantor hereby represents as follows:

- (a) The Guarantor is duly organized, validly existing, and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Guaranty.
- (b) The execution and delivery of this Guaranty have been and remain duly authorized by all necessary action and do not contravene any provision of the Guarantor's certificate of incorporation or by-laws, as amended to date, or any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on the Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder.
- (c) All consents, licenses, clearances, authorizations, and approvals of, and registration and declarations with, any governmental or regulatory authority necessary for the due execution and delivery of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental or regulatory authority is required in connection with the execution or delivery of this Guaranty.

This Guaranty constitutes the legal, valid, and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with all of its terms and conditions (subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally). The enforceability of the Guarantor's obligations is also subject to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

The Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without prior written consent of the Counterparty, and any purported assignment or delegation absent such consent is void, except for (i) an assignment and delegation of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other

organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise, and (ii) the Guarantor may transfer this Guaranty or any interest or obligation of the Guarantor in or under this Guaranty, or any property securing this Guaranty, to another entity as transferee as part of the resolution, restructuring or reorganization of the Guarantor upon or following the Guarantor becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding. Upon any such delegation and assumption or transfer of obligations, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption or transfer.

THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW. GUARANTOR AGREES TO THE EXCLUSIVE JURISDICTION OF COURTS LOCATED IN THE STATE OF NEW YORK, UNITED STATES OF AMERICA, OVER ANY DISPUTES ARISING UNDER OR RELATING TO THIS GUARANTY.

In the event the Guarantor becomes subject to a proceeding under the Federal Deposit Insurance Act or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together, the "U.S. Special Resolution Regimes"), the transfer of this Guaranty, and any interest and obligation in or under, and any property securing, this Guaranty, from the Guarantor will be effective to the same extent as the transfer would be effective under such U.S. Special Resolution Regime if this Guaranty, and any interest and obligation in or under this Guaranty, were governed by the laws of the United States or a state of the United States. In the event the Company or the Guarantor, or any of their affiliates, becomes subject to a U.S. Special Resolution Regime, default rights against the Company or the Guarantor with respect to this Guaranty are permitted to be exercised to no greater extent than such default rights could be exercised under such U.S. Special Resolution Regime if this Guaranty was governed by the laws of the United States or a state of the United States.

Very truly yours,

The Goldman Sachs Group, Inc.

By: _____
Authorized Officer

Exhibit P
FORM OF ESTOPPEL CERTIFICATE

ESTOPPEL CERTIFICATE
(Power Purchase Agreement)

This ESTOPPEL CERTIFICATE (this "Estoppel Certificate"), dated as of _____, 202_, is provided by _____, a _____ ("Buyer").

RECITALS

A. Buyer and _____, a Delaware limited liability company (the "Project Company") are parties to that certain Power Purchase Agreement, dated as of _____, 202_ (the "Power Purchase Agreement"), in connection with the _____ solar project ("Solar Project").

B. Pursuant to that certain [describe Lender financing agreement].

C. Pursuant to Section [__] of the [Lender financing agreement], the [Lenders] have required that this Estoppel Certificate be delivered as a condition precedent to the consummation of the transactions described therein.

NOW, THEREFORE, in consideration of the foregoing recitals, Buyer hereby certifies, agrees and acknowledges as follows:

1. No default or event of default with respect to Buyer, nor, to the knowledge of Buyer, any other party has occurred under the Power Purchase Agreement, and there are no defaults or unsatisfied conditions presently existing (or which would exist after the passage of time and/or giving of notice) that would allow the Project Company or Buyer to terminate the Power Purchase Agreement.
2. There exists no event or condition that would, either immediately or with the passage of time or giving of notice, or both, entitle either the Project Company or Buyer to suspend the performance of its obligations under the Power Purchase Agreement.
3. Each representation or warranty made or given by Buyer in Section [__] of the Power Purchase Agreement is complete, true and correct.

4. As of the date hereof, (i) the Power Purchase Agreement is in full force and effect and has not been assigned, amended, supplemented or modified, (ii) there are no pending or threatened disputes or legal proceedings between Buyer and the Project Company, (iii) there is no pending or, to the knowledge of Buyer, threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to affect the legality, validity or enforceability of the Power Purchase Agreement, (iv) Buyer is not aware of any event, act, circumstance or condition constituting an event of force majeure under the Power Purchase Agreement, and (v) the Project Company owes no indemnity payments or other amounts to Buyer under the Power Purchase Agreement.
5. The execution, delivery and performance by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any approval or consent of any other person or entity and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.
6. Buyer agrees that any notices required to be delivered to Seller under Section [] of the Power Purchase Agreement, including notices of an [Event of Default], shall be delivered by Buyer to each of the [Lenders] at their respective notice addresses set forth on Exhibit A hereto, and Buyer agrees that the [Lenders] shall have the right (but not the obligation) to cure the defaults listed in any notice of default in accordance with Section [] of the Power Purchase Agreement within a cure period that is the same length as the cure period afforded to Seller under the Power Purchase Agreement with respect to such event (but in no event less than 90 days), and which starts on the later of (i) the same date that the Seller's cure period expires under the Power Purchase Agreement or (ii) the date that the [Lenders] receive such notice that lists the default or defaults of the Seller under the Power Purchase Agreement.
7. [Additional provisions to be included if necessary to clarify the Power Purchase Agreement.]
8. This Estoppel Certificate shall be governed by the laws of the State of New York, without regard to principles of conflict of law.

[Signature page follows]

IN WITNESS WHEREOF, Buyer has caused this Estoppel Certificate to be executed by its undersigned authorized officer as of the date first set forth above.

By: _____
Name:

Exhibit Q

PRINCIPLES OF RENEWABLE ENERGY DEVELOPMENT

SMUD is committed to developing carbon free Renewable Energy in a manner that supports the community, protects the environment, and respects human rights. This document provides guidance on the key objectives that SMUD expects to achieve associated with this commitment. Renewable energy projects engaged in a commercial relationship with SMUD such as a Power Purchase Agreement will use commercially reasonable efforts to provide, implement, and maintain throughout the Term, a Community Benefits Plan that addresses how the project will achieve the key objectives identified herein.

Key objectives:

1. Land Use: Prioritize previously developed lands. Avoid or minimize impacts on sensitive environmental resources, including but not limited to cultural resources, Tribal cultural resources, and biological resources such as endangered species habitat, vernal pools and other sensitive habitats, Waters of the US, Waters of the State and waters identified by CDFW as Streambed. Provide additional mitigation measures if avoidance and minimization measures cannot fully eliminate impacts. Applicants are expected to discuss these topics with both SMUD and the lead agency as early as possible to identify potential associated issues in advance of the purchase power agreement being finalized.
2. Land Use: All projects should employ techniques for maintaining and/or restoring ecosystem function to the site in conjunction with Renewable Energy outcomes, including establishment of native vegetation, restricting use of herbicides and pesticides, use of grazing for vegetation management and seasonally appropriate maintenance practices. Where development is on or surrounded by agricultural lands the project should also employ agricultural practices on the property during operations including sheep grazing, dry crop farming and irrigated food production where feasible.
3. Land Use: Employ design and construction practices that minimize ground disturbance to the maximum extent possible. This is especially critical in areas where cultural, Tribal cultural and biological resources are of significant concern.
4. Sustainable Life Cycle Management: Include plans for sustainable life cycle management of construction materials and project components during construction and operation that provides for recycling and reuse of construction waste and waste during operation including but not limited to the solar panels.
5. Community Benefits:
 - (a) Inclusive Economic Development: Leverage SMUD's Supplier Education & Economic Development (SEED) team to connect with certified small business vendors/contractors in SMUD's service territory to support the project. Submit requests to seed.mgr@smud.org.

6. Zero Carbon Workforce Development: SMUD seeks to galvanize and prepare the region for an inclusive, diverse, creative, and empowered future workforce. Leverage SMUD's existing workforce development agreements, programs, and partnerships throughout the Project to support the development of a clean energy labor force. The Project Team will work with SMUD to engage various elements of the labor supply chain via pre-apprentice and apprenticeship programs, internships, informational sessions, and mentorship opportunities.

7. Sustainable Materials & Equipment: Sourcing materials and equipment from companies that have a human rights policy and statement of supply chain ethics commitment that expresses the corporation's commitment to meet the responsibility to respect human rights and uphold ethical business practices in their operations and value chains.

EXHIBIT R

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification (“**Certification**”) of Commercial Operation is delivered by _____ [*licensed professional engineer*] (“**Engineer**”) to Sacramento Municipal Utility District (“**Buyer**”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“**Agreement**”) by and between Grace Orchard Energy Center, LLC and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [DATE], Engineer hereby certifies and represents to Buyer the following:

1. The Project is operational, interconnected, and synchronized with the CAISO-controlled transmission system.
2. Seller has installed equipment for the Project with a nameplate capacity of no less than ninety-five percent (95%) of the Contract Capacity.
3. The Project’s testing included a performance test, substantially in the form of Exhibit T to the Agreement, demonstrating peak electrical output of no less than ninety-five percent (95%) of the Contract Capacity for the Project at the Delivery Point, adjusted for ambient conditions on the date of the Project testing, and such peak electrical output, as adjusted, was [*peak output in MW*].
4. The Transmission Provider has provided documentation supporting release for Commercial Operation on [DATE].
5. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on [DATE].

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]
this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]
By: _____
Its: _____
Date: _____

EXHIBIT S
FORM OF INSTALLED CAPACITY CERTIFICATE

This certification (“**Certification**”) of Installed Capacity (as defined herein) is delivered by [licensed professional engineer] (“**Engineer**”) to Sacramento Municipal Utility District (“**Buyer**”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“**Agreement**”) by and between Grace Orchard Energy Center, LLC and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

The performance test, substantially in the form of Exhibit T to the Agreement, for the Project demonstrated peak electrical output of __ MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test (“**Installed Capacity**”).

[LICENSED PROFESSIONAL ENGINEER]
By: _____
Its: _____
Date: _____

EXHIBIT T
PERFORMANCE TEST

Solar Energy Center PV

Capacity Test Procedure

Prepared by NextEra Energy Resources

xx/xx/2022

Procedure preparer to edit blue text to make specific for the project.

Revision History

Revision Number	Description of Change	Date
A	Draft	xx/xx/2021
0	Execution Version	xx/xx/2022

Table of Contents

<u>1</u>	<u>Scope & Purpose</u>	4
<u>2</u>	<u>Equipment</u>	5
<u>3</u>	<u>Pre-Test Meeting, Notifications & Check</u>	7
<u>4</u>	<u>Calculation Method</u>	8
<u>5</u>	<u>Data Exclusions</u>	11
<u>6</u>	<u>Capacity Test Execution</u>	12
<u>8</u>	<u>Capacity Test Report</u>	12
<u>9</u>	<u>Reference Documents</u>	13

List of Acronyms

Acronym	Description
AC	Alternating Current
DAS	Data Acquisition System
DC	Direct Current
MET	Meteorology (MET Station)
MST	Module Surface Temperature (aka T_{BOM})
MW	Megawatt
NEER	NextEra Energy Resources "NextEra"
PF	Power Factor
POA	Plane of Array
PPA	Power Purchase Agreement
PPC	Power Plant Controller
RM	Reference Module
RTD	Resistive Temperature Device
SCADA	Supervisory Control and Data Acquisition
STC	Standard Test Conditions
W	Watt

1 Scope & Purpose

This document defines the Capacity Test procedure for xxxxxx Solar. It is intended to serve as a guide for performing the Capacity Test and may be subject to change.

The purpose of the Capacity Test is to determine the Tested Capacity of the PV Array at Standard Test Conditions (STC) as measured at the Revenue-Quality Meter at the Solar Collection Substation. The test is performed for a minimum of **3** consecutive days and is considered complete when at least **300** Valid Data Points have been obtained and at least 3 days have passed. Depending on weather conditions more than 3 days may be needed.

The test is deemed successful if the Tested Capacity is equal to or greater than the Guaranteed Capacity shown in **Table 1** below.

Guaranteed Capacity
xxx MW _{AC}

Table 1 – Array Capacity Value Per PPA

Note 1: A day is defined as continuous hours between Sunrise and Sunset.

2 Equipment

Table 2 describes the location and quantity of the Measurement Devices used for the test. NextEra will submit the calibration certificates with the Capacity Test Report. Please refer to the calibration certificates for details regarding an instrument’s range and accuracy/uncertainty.

Table 2 - Test Measurement Devices

Test Measurement Devices			
Measurement	Manufacturer/Model	Qty	Location
POA Irradiance	POA Pyranometer Hukseflux SR30	3	Tracker @ MET #1 (INVxxxxx) Tracker @ MET #2 (INVxxxxx) Tracker @ MET #3 (INVxxxxx)
POA Irradiance	POA Reference Cells Atonometrics RC18	3	Tracker @ MET #1 (INVxxxxx) Tracker @ MET #2 (INVxxxxx) Tracker @ MET #3 (INVxxxxx)
MST (Met Stations) “Back-Of-Module Temperature”	RTD (PT1000 Class A PRT) Campbell Scientific CS240	6	Tracker @ MET #1 (INVxxxxx) Tracker @ MET #2 (INVxxxxx) Tracker @ MET #3 (INVxxxxx)
POA Irradiance	POA Reference Cell IMT Solar Si-RS485 TC	13	(Qty 1 per 13 Array Locations) INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx, INVxxxxx

RPOA Irradiance (Reflected for Bifacial Modules)	RPOA Reference Cell IMT Solar Si-RS485 TC	13	(Qty 1 per 13 Array Locations) INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx, INVxxxxx
MST (Array) "Back-Of-Module Temperature"	RTD (PT1000 Class A PRT) Omega SA1-RTD	39	(Qty 3 per 13 Array Locations) INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx, INVxxxxx
AC Power	Schneider Electric Power Logic, ION8650 Revenue-Grade Meter (M-161-1)	1	NEER Solar Collection Substation

3 Pre-Test Meeting, Notifications & Check

3.1 Pre-Test Meeting

Notification will be provided **10 days** prior to testing and a pre-test meeting may be held between relevant representatives from NextEra and Off-Taker Entities. If a meeting occurs, notes of the meeting will be taken by NextEra and submitted to the attendees.

3.2 Pre-functional checks

Pre-functional checks will be performed for all equipment and the corresponding functional check sheets will be reviewed by NextEra prior to the start of Performance Testing. Any functional issues that occur during Capacity Testing will be entered into the Commissioning Log by a NextEra representative and will be referenced in the Capacity Test Report. Capacity Testing will be performed when the following conditions are satisfied:

- Weather conditions required to support collection of appropriate range and quantity of test data
- Utility grid voltage is stable and within $\pm 5\%$ of design voltage
- There is grid connectivity at each inverter such that a Capacity Test can be accomplished under load
- The site is substantially complete and the systems are in automatic operation.

3.3 Data Acquisition

Prior to the start of the Capacity Test, NextEra will ensure that data points are being recorded by the historian in, at a minimum, 1 minute samples.

4 Calculation Method

The method to calculate capacity is described as follows. This method will be used to determine both daily capacity (an estimate of the Tested Capacity) as well as the overall Tested Capacity of the Plant.

1. At a minimum, the PV plant AC power output, Reference Module irradiance levels, and module surface temperature measurements are collected and recorded.
2. Reference Module irradiance measurements are then averaged; module surface temperature measurements are also averaged.
3. Ideally the plant will operate at power factor of 1.0 during the test however the Transmission Owner or the System Operator may require otherwise for grid support. The Plant AC power output measurement, P_M , is corrected to a power factor of 1.0 according to the following equation:

$$P_{1PF} = P_M \times \frac{PF_{STC}}{PF_M}$$

P_{1PF} = AC Power corrected to power factor of 1.0

P_M = measured AC power output at the Revenue Meter

PF_M = measured power factor at the Revenue Meter

PF_{STC} = power factor at standard test conditions (1.0pf)

4. Power factor-corrected AC power output, P_{1PF} , is corrected to 25 °C according to the following equation:

$$P_{STC} = \frac{P_{1PF}}{1 + C_t(T_M - 25^\circ\text{C})}$$

P_{1PF} = AC Power corrected to 1.0pf

P_{STC} = AC Power corrected to 25°C

C_t = module power temperature coefficient (**-0.xxx% /°C, Weighted Average**)
 T_M = mean module surface temperature (°C)

5. A plot of P_{STC} vs. mean Reference Module irradiance is created as shown in **Figure 1**.
6. A linear fit is then performed for all Valid Data Points (shown in **BLUE**) while all other data points (shown in **RED**) are excluded from the regression. These **RED** data points represent discrete times in the data set where one or more event is present as defined in Section 5 **Table 3** of this procedure. The coefficient of determination (R^2) for the capacity regression shall be at least **0.92**. The linear fit yields an equation of the following form:

$$y = N * x + b$$

y = P_{STC} power (temperature corrected)
 N = slope of the line
 x = mean Reference Module irradiance (W/m^2)
 b = y intercept

Note: A Valid Data Point is defined as an instantaneous, 1-minute sample of plant data which has not been excluded according the guidelines in Section 5.

7. The Tested Capacity is determined by evaluating the equation at $1,000 W/m^2$:

$$\text{Tested Capacity} = y(1000)$$

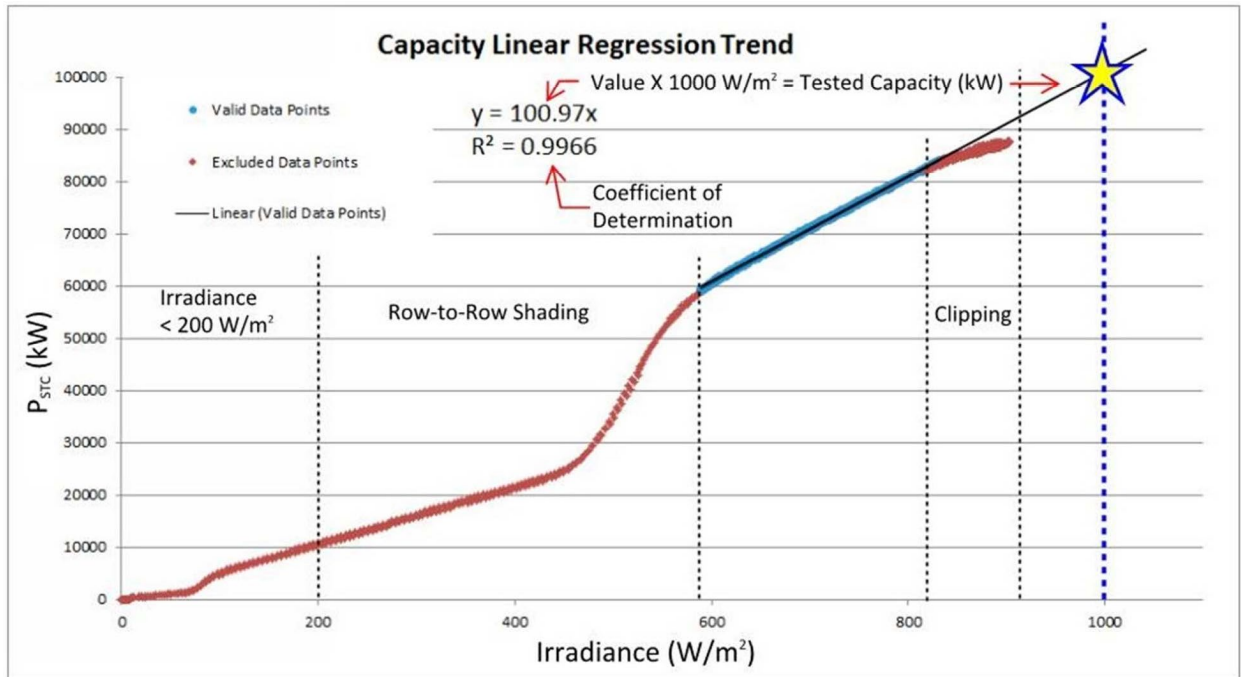


Figure 1 – Example linear fit to Temperature-Corrected Power vs. POA Irradiance

5 Data Exclusions

Data will be excluded from the linear fit if and when any of the following events in **Table 3** occur. Any point not excluded is considered to be a Valid Data Point.

Table 3 - Data Exclusion Events

Event	Definition
Low Irradiance	Mean Reference Module irradiance is less than 200 W/m ²
High Irradiance	Mean Reference Module irradiance is greater than 1200 W/m ²
Inverter(s) Offline	At least one inverter is offline or otherwise producing minimal power relative to the other inverters such that inverter generation is unable to reach nameplate capacity for site.
Grid Interruption	The Fault State of one or more inverters indicates a Grid Failure, or the Utility grid voltage is more than 5% different from the design voltage. The previous five minutes of data will be excluded the event of a Grid Interruption.
Negative Power Flow	The power meter records a net negative power output (power is flowing to the Plant)
Inverter Clipping	At least one inverter has reached the AC power set point OR at least one inverter is commanded to less than 100% output by the PPC.
Row-to-Row Shading	Direct beam row-to-row shading as confirmed by visual inspection
Erratic Irradiance	Erratic irradiance is observed
Snow or Frost	From visual inspection, there is snow or frost on the modules or critical sensors
Irradiance Sensor Failure	There are less than X Reference Modules reading correctly (50% of installed quantity and round up)
MST Sensor Failure	There are less than XX module surface temperature sensors reading correctly (50% of installed quantity and round up)
SCADA/DAS Failure	There is a system-wide failure to collect critical data, including: irradiance, MST and energy meter AC power. The previous five minutes of data will be excluded the event of a Grid Interruption.

6 Capacity Test Execution

6.1 Daily Capacity Test

A capacity value for each calendar day of the Capacity Test period will be calculated according to the procedure outlined in Section 4, using data points subjected to the exclusions described in Section 5.

For each calendar day of the test, the NextEra Test Manager will do the following:

- Confirm all inverters start up at approximately the same time
- Ensure that data is recorded in 1 minute intervals
- Review the Daily Alarm Log and other non-conformance items and ensure that they do not affect the test results

6.2 Tested Capacity

The Tested Capacity of the PV Power Plant will be determined using all Valid Data Points collected over the Capacity Test period. The Tested Capacity value will be calculated according to the procedure outlined in Section 4, using data points subjected to the exclusions described in Section 5. This value will be compared to Guaranteed Capacity shown in Section 1, **Table 1** to determine pass/fail.

6.3 Site Specific Test Configuration (Optional)

Site Pre-Test Assumptions:

1. Xxx
2. Xxx
3. Xxx

Site Testing Configuration:

1. Xxx
2. Xxx

7 Capacity Test Report

Following the conclusion of the Capacity Test, NextEra will issue a Capacity Test Report within **five (5)** business days of the successful completion of the Capacity Test to all relevant parties. The report will include the following:

- Executive summary of testing (e.g., Tested Capacity value, R² value, Daily Capacity Values)
- Instrument calibration certificates

-
- Test data
 - Field notes including non-conformance events (See “Daily Log”)
 - Capacity calculations
 - Conclusions

NextEra will provide the raw test data (consisting of both Valid Data Points and excluded values) and instrument calibration certificates to relevant parties as a separate attachment. This procedure will be appended to the submitted report.

8 Reference Documents

- SCADA Design Drawings – [XXXXXXXXXXXXXXXXXXXXX](#)
- Substation Functional Single Line Diagram – [XXXXXXXXXXXXXXXXXXXXX](#)

President Herber then called for public comment items not on the agenda.

Public comment, a copy of which is attached to these minutes, was received from the following member of the public:

- Jim Holt

President Herber then turned to Directors' Reports.

Director Sanborn reported on her attendance at the Greater Sacramento Economic Council (GSEC) Annual Celebration and the Fair Oaks Chamber of Commerce's Taste of Fair Oaks event. She then reported on her attendance at the first ever CalMatters Ideas Festival as well as the Asians in Energy event, the American River Natural History Association's Feast in the Forest & Art Auction, the *Sacramento Business Journal's* Women Who Mean Business event, and her participant in the National Alliance for Mental Illness (NAMI) Walks event. She concluded by reporting on her attendance at the ribbon cutting for the Paseo All-Electric Housing development.

Director Tamayo reported on his opportunity to speak to a workforce development class at the Urban League as well as his attendance at the My Sister's House Stars of Hope Gala. He then reported on his speaking engagement at a Habitat for Humanity house dedication for three new homes in Oak Park. He also reported on his attendance at the Filipino Fiesta and his speaking engagement at SMUD's Connecting Our Communities Expo. He concluded by reporting on his meeting, along with Vice President Fishman and Director Kerth, with City of Sacramento Councilmember Eric Guerra, who is also a California Air Resources Board (CARB) member and Sacramento Metro Air Quality District (SMAQMD) Board member, where they were able to discuss some common issues and opportunities for future collaboration.

Director Kerth reported on his attendance at the Twin Rivers Unified School District's Bond Oversight Committee meeting as well as his speaking engagement at the Natomas International Night Market and Bazaar. He then reported on his attendance at the Topping Out ceremony for Channel 24, a new midsize venue in Sacramento that will seat 1,200 people. He

concluded by reporting on his daughter's graduation from the University of California, Santa Cruz.

Vice President Fishman reported on his attendance at the California Business Hydrogen Council summit and his speaking engagement at the Energy and Environmental Natural Resources Committee of the National League of Cities. He then reported on his presentation on the 2030 Zero Carbon Plan to the Indus Valley Chamber of Commerce. He concluded by reporting on his attendance and participation in two different Juneteenth celebrations.

Director Rose reported on his participation in a tree planting with the Orangevale/Fair Oaks Community Foundation and the Sacramento Tree Foundation that had been rescheduled from a previous date due to rain. He then reported on his attendance at the American Public Power Association (APPA) National Conference. He concluded by reporting on his acceptance on behalf of SMUD of a certificate for our work on the Light Up Navajo Nation effort.

President Herber reported on her attendance at Diversity Day hosted by SMUD Employee Resource Groups (ERGs) and SMUD's Diversity, Equity, Inclusion & Belonging (DEIB) Council. She thanked Jose Bodipo-Memba, Chief Diversity Officer, and Dr. Markisha Webster, Director of DEIB, Learning & Sustainable Communities, for their work on the event. She reported on her participation in the Sacramento Pride Parade and thanked all those who participated. She reported on her attendance at the My Sister's House Star of Hope Gala, the Asian American and Pacific Islander (AAPI) Night Market, the Greater Sacramento Economic Council (GSEC) Chair's Retreat, and the SMUD Employee Recognition Gala. She concluded by reporting on her visit to the SMUD Museum of Science and Curiosity (MOSAC) exhibit on health.

Paul Lau, Chief Executive Officer and General Manager, reported on the following items:

- 1) **PRIDE Month**. I would like to start tonight's report by recognizing June as PRIDE Month. Celebrating PRIDE Month promotes acceptance, equality and awareness of the issues the LGBTIQ+ community faces. I am proud of the work we are

doing to foster diversity, equity, inclusion and belonging in all we do at SMUD. At the same time, I recognize there is much more work to do to create communities that are truly inclusive and equitable across our community, country and the world. Team SMUD has been busy with PRIDE Month celebrations, including, as you heard a moment ago, the Sacramento PRIDE parade with President Herber and Director Tamayo. As we celebrate PRIDE Month, I want to thank our PRIDE@SMUD Employee Resource Group and their Allies. They are doing great work to foster inclusion, equality and equity for our LGBTIQ+ employees.

2) **Juneteenth.** Juneteenth was officially celebrated yesterday. It commemorates the freedom finally granted to more than 250,000 enslaved black people in Texas in 1865. As Vice President Fishman stated, this was two years after the Emancipation Proclamation. The need to share the rich and often painful history of people of color in this country is critical. By honoring this history with occasions like Juneteenth, we remember the millions who were enslaved. And we remind ourselves that when any member of our community suffers, we all suffer. I want to say thank you to our SMUD Board members, leaders and staff who have represented SMUD at Juneteenth events over these past few weeks.

3) **Light Up Navajo Nation.** We recently sent a five-person line crew to work in Arizona for 12 days, helping bring electricity to those who have never had power. This crew joined others from 42 utilities in 16 states under the American Public Power Association's (APPA's) Light Up Navajo Nation initiative, which is in its fourth year. Our crew set 60 poles, five transformers and installed more than three miles of distribution lines. Thank you to the crew for helping electrify hundreds of rural

households in the Navajo Nation. APPA recognized the SMUD team and its work at last week's APPA National Conference. Special thanks to SMUD Board Member Brandon Rose for accepting that recognition on behalf of SMUD.

- 4) **SMUD's Connecting Our Communities Expo.** Earlier this month, SMUD's Connecting our Communities Expo returned for a second year - and it was a huge success with a boost in attendance to over 400 attendees! Director Tamayo gave a great welcome, and I want to thank our Chief Customer Officer Brandy Bolden – she and her team were like rock stars. People were taking selfies with her, and people were coming up to me, hugging me and saying what a great job they do. It is just wonderful to see people that really need those services connect with those organizations that provide those services – many of them do not know about. The event provided information on the Energy Assistance Program Rate (EAPR), Medical Discount Rate and Energy Saver Bundles. It gave customers who were there very good detail about the programs that we offer, but it also connected them with the organizations that provide services that can help them beyond what SMUD can.
- 5) **Diversity Day.** I am excited to report that SMUD's Employee Resource Groups celebrated worldwide Diversity Day together this past month with an opportunity to learn more about our ERGs! May 21st commemorated the many diverse cultures from around the world. Our Diversity, Equity, Inclusion and Belonging (DEIB) Council and Employee Resource Groups (ERGs) – including our new ERG, ADAPT (Allies and Diverse Abilities Partnering Together) - gathered during lunchtime to celebrate with music, food and games. Dozens of employees signed up to be new ERG members! Thanks to all who organized and attended this great event!

6) **Awards.** In the awards category, I have some great kudos to share: Congratulations to Director Bui-Thompson on being recognized as this year's Conference of Asian American Professionals (CAAPS) AMA Outstanding Woman Leader! This award recognizes Asian Americans leading the way as role models for future generations. Also, congratulations to Director Tamayo on receiving the Special Loyalty Award at this year's Filipino Fiesta of Sacramento in honor of his constant support over the years.

7) **Board Video.** Tonight's video is about our Time-of-Day (TOD) cost estimator tool on smud.org. This tool was created in house by SMUD staff when we introduced TOD rates, and it received a recent overhaul. As you will see in the video, the tool makes it simple for customers to create a customized estimate of the cost to run different appliances in their homes. And, by seeing how much things cost to operate at different times of day, they can see a variety of easy ways to save energy and money on their bills.

President Herber requested the Summary of Board Direction, but there were no items.

No further business appearing, President Herber adjourned the meeting at 5:43 p.m.

Approved:

President

Assistant Secretary

From: [jim.holt](#)
To: [Public Comment](#)
Subject: [EXTERNAL] FIC unfair
Date: Friday, May 24, 2024 2:55:06 PM

CAUTION: This email originated from outside of SMUD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

This, again, is a comment about the unfairness of the fixed infrastructure charge (FIC). While the FIC is 24.15, my actual April 2024 energy use charge is 7.84. Last month a board member responded "In the past--before the FIC--the per KWh rate covered that cost...but that meant that people who used a lot of energy were paying far more than their share of the fixed costs." What?, how is it fair to put a greater burden on those who seek to conserve energy and subsidize the cost to those who live in large houses, or, just make no effort to conserve. Further, most aspects of operating a business might be viewed as a fixed cost. Salaries of your employees likely among users by fairly distributing TOTAL cost per KWh. Otherwise, the result is subsidization of higher energy users by those who consume less energy. I note that PG&E recently got approval from the PUC to get on the bandwagon for billing of a FIC rate + a rate for usage. Monkey see . . . monkey do. Public utilities like SMUD that devote a great deal of effort toward convincing the community of users about forward thinking approaches should wake-up and lead the way toward true fairness in the distribution of energy costs.

James Holt
Acct 2500499
Ph: 513-907-9295

SSS No. CIO 24-002

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
N/A
Board Meeting Date
July 18, 2024

TO	TO
1. Steve Kustin	6.
2. Amber Connors	7.
3. Scott Martin	8.
4. Suresh Kotha	9. Legal
5.	10. CEO & General Manager

Consent Calendar	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No <i>If no, schedule a dry run presentation.</i>	Budgeted	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No <i>(If no, explain in Cost/Budgeted section.)</i>
FROM (IPR)	DEPARTMENT				MAIL STOP	EXT.	DATE SENT		
Oliver Daniels III	Information Technology				A129	5977	07/05/24		

NARRATIVE:

Requested Action: Ratify the Chief Executive Officer and General Manager’s execution of a contract between **Software AG USA, Inc.** and SMUD for a technology platform and Enterprise Service Bus (ESB) services for a five-year period for a contract not-to-exceed amount of \$8.7 million.

Summary: SoftwareAG is the provider of SMUD’s Enterprise Service Bus (ESB). The ESB is a centralized integration platform used to enable communication between many of SMUD’s core systems and third part Software as a Service (SaaS) providers. The ESB has been in operation at SMUD since 2011 and was enabled as part of the SmartSacramento initiative to support the integration of advanced meter infrastructure (AMI) data into various systems and processes.

SoftwareAG negotiated a sale of its software (which included the functionality SMUD uses) to IBM effective July 1, 2024. The terms of the deal included IBM’s intent to cancel and renegotiate any new contracts or contract renewals that were not executed prior to July 1, 2024.

The CEO executed the contract to ensure continuity of service. The contract renewal included provisions for new outage management system (OMS) integration environment, options for early termination, and a cost savings of a minimum of \$2.7 million over the five-year duration of the contract.

Board Policy: *(Number & Title)* Governance Process GP-3, Board Job Description: i) Take such other actions as may be required by law.

Benefits: Execution of the renewal resulted in substantial cost savings pursuant to completed negotiations and avoided costly and time-consuming disruption associated with transition to another product.

Cost/Budgeted: New SoftwareAG contract cost will be \$8,747,323 over a period of 5 years.

Alternatives: Do not ratify the contract, and enter into negotiations for identical services at a higher cost.

Affected Parties: Information Technology, Contractor (Software AG), Supply Chain Services & Legal

Coordination: Executive Office, Information Technology, Contractor (Software AG), Supply Chain Services & Legal

Presenter: Oliver Daniels, Project Integration Manager

Additional Links:

SUBJECT Ratify Contract Execution – Software AG USA, Inc.	ITEM NO. <i>(FOR LEGAL USE ONLY)</i>
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

ORDER FORM

This Order Form ("Order Form") is entered into by and between Supplier and Customer (each named below) and is effective as of the date last signed below ("Effective Date"). This Order Form is incorporated into and made part of the Agreements (defined below) and use of the Products set out in this Order Form is governed by the terms of this Order Form and the Agreements. In the event of any conflict between any provision of this Order Form and the Agreements, this Order Form will prevail. Any contrary or additional terms and conditions included in any purchase order or similar document (printed or online) related to this Order Form will be invalid and non-binding, even if received, accepted, approved, or signed by a party. Capitalized terms used in this Order Form but not otherwise defined herein will have the meanings given to them in the Agreements.

Parties	
Software AG USA, Inc. ("Supplier") 11951 Freedom Drive, Suite 410, Reston, VA 20190	Sacramento Municipal Utility District ("SMUD" or "Customer") 6201 S Street, Sacramento, CA 95817

Agreements
Software License Agreement dated November 16, 2010, as amended, by and between Supplier and Customer ("SLA") and Cloud Services Agreement dated June 29, 2018, as amended, by and between Supplier and Customer ("CSA") (the SLA and CSA each are an "Agreement" and together are the "Agreements")

General and Customer Information	
Product Type	Subscription Software and SaaS
Start Date	Group A: June 30, 2024
	Group B: November 13, 2024
Subscription Term	from the Start Date through June 29, 2029
Maintenance & Support Level	Enterprise Active (as described the applicable maintenance and support service description, as updated by Supplier from time to time and made available at www.softwareag.com/support-policies)
Subscription Renewal Terms	Terminates automatically upon expiration of the Subscription Term set out above unless renewed by prior written agreement between the parties not less than three months before the expiration of the Subscription Term.
Software Installation Address	SMUD, 1708 59th Street, Sacramento, CA 95819
Delivery Contact	Katherine Davis katherine.davis@smud.org
Customer Contact	Katherine Davis katherine.davis@smud.org
Billing Contact	all invoices will be sent to smudinvoic@smud.org in accordance with the invoicing provisions set out in the Technology Addendum dated August 19, 2019 (executed under Contract No. 4600001298)

Fees and Payment Terms		
Subscription Fee	Group A: USD 7,972,030 (excluding applicable taxes)	
	Group B: USD 775,293 (excluding applicable taxes)	
	TOTAL: USD 8,747,323 (excluding applicable taxes)	
Payment Terms	30 days from date of receipt of invoice	
Invoice Terms	Invoice Amount	Invoice Date
	Group A: USD 1,594,406 (excluding applicable taxes)	the Effective Date
	Group B: USD 105,909 (excluding applicable taxes)	November 13, 2024
	Group A: USD 1,594,406 (excluding applicable taxes)	June 30, 2025
	Group B: USD 167,346 (excluding applicable taxes)	
	Group A: USD 1,594,406 (excluding applicable taxes)	June 30, 2026
	Group B: USD 167,346 (excluding applicable taxes)	
	Group A: USD 1,594,406 (excluding applicable taxes)	June 30, 2027
	Group B: USD 167,346 (excluding applicable taxes)	
	Group A: USD 1,594,406 (excluding applicable taxes)	June 30, 2028
Group B: USD 167,346 (excluding applicable taxes)		

Transactions - API Transactions	
API Transactions - Per Unit Fee	The licensed quantity of API Transactions in the Product table below represents the average monthly allowance included in the Subscription Fees set out above and Customer will not be entitled to any refund or credit in respect of any unused portion of the same. If the average monthly usage within any Overage Billing Period exceeds the licensed quantity of API Transactions, the excess usage ("Overage") will be charged to Customer based on average monthly usage at Supplier's then prevailing list rate.
Overage Invoice Terms	Invoiced in arrears within one month of the end of each Overage Billing Period.
Overage Billing Period	Each period of twelve months starting on the Start Date.

API Transactions - Non-Production Environments	<p>Group A: Products identified as 'Diverse Self-Hosted' with the with the license metric 'API Transaction' may be deployed by Customer on a self-hosted basis ("On-Premise API Transactions"). On-Premise API Transactions include an unlimited number of non-production API Transactions.</p> <p>Products identified as 'Hosted Software' with the with the license metric 'API Transaction' include a total number of non-production API Transactions up to the aggregate quantity of API Transactions licensed for Test and Development in the table below (together, the "Non-Production Cloud API Transactions"). Non-Production Cloud API Transactions can be consumed in any non-production environment. Any Overage (in any non-production environment) will be charged to Customer at Supplier's then prevailing list rate.</p> <p>Group B: Products with the license metric 'API Transaction' may be deployed by Customer on a self-hosted basis ("On-Premise API Transactions"). On-Premise API Transactions include an unlimited number of non-production API Transactions.</p>
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Transactions - MFT Transactions	
MFT Transactions - Per Unit Fee	The licensed quantity of MFT Transactions in the Product table below represents the average monthly allowance included in the Subscription Fees set out above and Customer will not be entitled to any refund or credit in respect of any unused portion of the same. If the average monthly usage within any Overage Billing Period exceeds the licensed quantity of MFT Transactions, the excess usage (" Overage ") will be charged to Customer based on average monthly usage at Supplier's then prevailing list rate.
Overage Invoice Terms	Invoiced in arrears within one month of the end of each Overage Billing Period.
Overage Billing Period	Each period of twelve months starting on the Start Date.
MFT Transactions - Non-Production Environments	Products identified as 'Diverse Self-Hosted' with the with the license metric 'MFT Transaction' may be deployed by Customer on a self-hosted basis (" On-Premise MFT Transactions "). On-Premise MFT Transactions include an unlimited number of non-production MFT Transactions.

Transactions - Integration Transactions	
Integration Transactions - Per Unit Fee	The licensed quantity of Integration Transactions in the Product table below represents the average monthly allowance included in the Subscription Fees set out above and Customer will not be entitled to any refund or credit in respect of any unused portion of the same. If the average monthly usage within any Overage Billing Period exceeds the licensed quantity of Integration Transactions, the excess usage (" Overage ") will be charged to Customer based on average monthly at Supplier's then prevailing list rate.
Overage Invoice Terms	Invoiced in arrears within one month of the end of each Overage Billing Period.
Overage Billing Period	Each period of twelve months starting on the Start Date.
Integration Transactions - Non-Production Environments	<p>Group A: Products identified as 'Diverse Self-Hosted' with the with the license metric 'Integration Transaction' may be deployed by Customer on a self-hosted basis ("On-Premise Integration Transactions"). On-Premise Integration Transactions include an unlimited number of non-production Integration Transactions.</p> <p>Products identified as 'Hosted Software' with the with the license metric 'Integration Transaction' include a total number of non-production Integration Transactions up to the aggregate quantity of Integration Transactions licensed for Test and Development in the table below (together, the "Non-Production Cloud Integration Transactions"). Non-Production Cloud Integration Transactions can be consumed in any non-production environment. Any Overage (in any non-production environment) will be charged to Customer at Supplier's then prevailing list rate.</p> <p>Group B: Products with the license metric 'Integration Transaction' may be deployed by Customer on a self-hosted basis ("On-Premise Integration Transactions"). On-Premise Integration Transactions include an unlimited number of non-production Integration Transactions.</p>

Products			
Product Name	Quantity and License Metric	Code	Usage
Group A:			
wM.io API Mgmt Enterprise - SaaS (Hosted Software) comprising:	300 x API Transaction	WAZC2	Production
- webMethods.io Developer Portal (Hosted Software)	1 x Tenant	DPOCT	Production
- webMethods API Control Plane - SaaS (Hosted Software)	1 x Tenant	WCOC1	Production
- webMethods.io API Gateway Service Enterp. (Hosted Software)	1 x Tenant	YAINS	Production
wM.io API Mgmt Enterprise - SaaS (1) (Hosted Software) comprising:	30 x API Transaction	WAZC1	Test
- webMethods.io Developer Portal (Hosted Software)	1 x Tenant	DPOCT	Test
- webMethods.io API Gateway Service Enterp. (Hosted Software)	1 x Tenant	YAINS	Test
wM.io API Mgmt Enterprise - SaaS (1) (Hosted Software) comprising:	30 x API Transaction	WAZC1	Development
- webMethods.io Developer Portal (Hosted Software)	1 x Tenant	DPOCT	Development
- webMethods.io API Gateway Service Enterp. (Hosted Software)	1 x Tenant	YAINS	Development
webMethods.io API Mgmt Enterp. - Add. Env. (Hosted Software) comprising:	1 x Instance	WMZIE	Test
- webMethods.io API Additional Env. Enterp. (Hosted Software)	1 x Instance	YAINI	Test

wM.io Integration Enterprise - SaaS (1) (Hosted Software) comprising:	300 x Integration Transaction	WIZC1	Production
- webMethods.io Integration Enterprise Svc (Hosted Software)	1 x Tenant	BICES	Production
- webMethods.io Unlimited Cloud Connectors (Hosted Software)	1 x Tenant	CCNST	Production
- webMethods.io End-to-End Monitoring (Hosted Software)	1 x Tenant	UHMEN	Production
wM.io Integration Enterprise - SaaS (1) (Hosted Software) comprising:	30 x Integration Transaction	WIZC1	Test
- webMethods.io Integration Enterprise Svc (Hosted Software)	1 x Tenant	BICES	Test
- webMethods.io Unlimited Cloud Connectors (Hosted Software)	1 x Tenant	CCNST	Test
- webMethods.io End-to-End Monitoring (Hosted Software)	1 x Tenant	UHMEN	Test
wM.io Integration Enterprise - SaaS (1) (Hosted Software) comprising:	30 x Integration Transaction	WIZC1	Development
- webMethods.io Integration Enterprise Svc (Hosted Software)	1 x Tenant	BICES	Development
- webMethods.io Unlimited Cloud Connectors (Hosted Software)	1 x Tenant	CCNST	Development
- webMethods.io End-to-End Monitoring (Hosted Software)	1 x Tenant	UHMEN	Development
webMethods.io Integration Enterp - Add. Env. (Hosted Software) comprising:	1 x Instance	WMZXI	Test
- webMethods.io Integration Env. Enterp. (Hosted Software)	1 x Instance	BICNE	Test
wM Integration Enterprise Self-Hosted (2) (Diverse Self-Hosted) comprising:	42,000 x Integration Transaction	WIZS2	Production
- wM Test Suite (Diverse Self-Hosted)	1 x Metered Add-On	GWMTS	Production
- Microservices Runtime (Diverse Self-Hosted)	1 x Metered	MSCAA	Production
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Production
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Production
- Integration Server (Diverse Self-Hosted)	1 x Metered	PIE	Production
- Software AG Designer - Unlimited Users (Diverse Self-Hosted)	1 x Metered Add-On	SDFUL	Production
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Production
- webMethods All Adapters (Diverse Self-Hosted)	1 x Metered Add-On	WAA	Production
- Local Service Development (Diverse Self-Hosted)	1 x Metered Add-On	WEL	Production
- CloudStreams Server (Diverse Self-Hosted)	1 x Metered Add-On	WST	Production
wM Integration Enterprise Self-Hosted (2) (Diverse Self-Hosted) comprising:	Unltd x Integration Transaction	WIZS2	Test
- wM Test Suite (Diverse Self-Hosted)	1 x Metered Add-On	GWMTS	Test
- Microservices Runtime (Diverse Self-Hosted)	1 x Metered	MSCAA	Test
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Test
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Test
- Integration Server (Diverse Self-Hosted)	1 x Metered	PIE	Test
- Software AG Designer - Unlimited Users (Diverse Self-Hosted)	1 x Metered Add-On	SDFUL	Test
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Test
- webMethods All Adapters (Diverse Self-Hosted)	1 x Metered Add-On	WAA	Test
- Local Service Development (Diverse Self-Hosted)	1 x Metered Add-On	WEL	Test
- CloudStreams Server (Diverse Self-Hosted)	1 x Metered Add-On	WST	Test
wM Integration Enterprise Self-Hosted (2) (Diverse Self-Hosted) comprising:	Unltd x Integration Transaction	WIZS2	Development
- wM Test Suite (Diverse Self-Hosted)	1 x Metered Add-On	GWMTS	Development
- Microservices Runtime (Diverse Self-Hosted)	1 x Metered	MSCAA	Development
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Development
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Development
- Integration Server (Diverse Self-Hosted)	1 x Metered	PIE	Development
- Software AG Designer - Unlimited Users (Diverse Self-Hosted)	1 x Metered Add-On	SDFUL	Development
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Development
- webMethods All Adapters (Diverse Self-Hosted)	1 x Metered Add-On	WAA	Development
- Local Service Development (Diverse Self-Hosted)	1 x Metered Add-On	WEL	Development
- CloudStreams Server (Diverse Self-Hosted)	1 x Metered Add-On	WST	Development
wM API Mgmt Enterprise - Self-Hosted (Diverse Self-Hosted) comprising:	36,000 x API Transaction	WAZS2	Production
- webMethods Developer Portal (Diverse Self-Hosted)	1 x Metered Add-On	DPOAA	Production
- API Gateway Runtime Component (Diverse Self-Hosted)	1 x Metered Add-On	PIEGA	Production
- webMethods API Control Plane Self-Hosted (Diverse Self-Hosted)	1 x Metered Add-On	WCOS1	Production
- API Gateway Advanced Edition (Diverse Self-Hosted)	1 x Metered	YAIAA	Production
- webMethods Microgateway (Diverse Self-Hosted)	1 x Metered	YAMAA	Production
wM API Mgmt Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	Unltd x API Transaction	WAZS1	Test
- webMethods Developer Portal (Diverse Self-Hosted)	1 x Metered Add-On	DPOAA	Test
- API Gateway Runtime Component (Diverse Self-Hosted)	1 x Metered Add-On	PIEGA	Test
- API Gateway Advanced Edition (Diverse Self-Hosted)	1 x Metered	YAIAA	Test
- webMethods Microgateway (Diverse Self-Hosted)	1 x Metered	YAMAA	Test
wM API Mgmt Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	Unltd x API Transaction	WAZS1	Development
- webMethods Developer Portal (Diverse Self-Hosted)	1 x Metered Add-On	DPOAA	Development
- API Gateway Runtime Component (Diverse Self-Hosted)	1 x Metered Add-On	PIEGA	Development
- API Gateway Advanced Edition (Diverse Self-Hosted)	1 x Metered	YAIAA	Development
- webMethods Microgateway (Diverse Self-Hosted)	1 x Metered	YAMAA	Development

webMethods B2B Enterprise (Diverse Self-Hosted) comprising:	1 x Metered Add-On	WMZBE	Production
- webMethods Module for AS4 (Diverse Self-Hosted)	1 x Metered Add-On	ASH	Production
- EDI Module (Diverse Self-Hosted)	1 x Metered Add-On	EEO	Production
- Trading Networks (Diverse Self-Hosted)	1 x Metered Add-On	OTN	Production
- EDIINT Module (Diverse Self-Hosted)	1 x Metered Add-On	WEI	Production
webMethods B2B Enterprise (Diverse Self-Hosted) comprising:	1 x Metered Add-On	WMZBE	Test
- webMethods Module for AS4 (Diverse Self-Hosted)	1 x Metered Add-On	ASH	Test
- EDI Module (Diverse Self-Hosted)	1 x Metered Add-On	EEO	Test
- Trading Networks (Diverse Self-Hosted)	1 x Metered Add-On	OTN	Test
- EDIINT Module (Diverse Self-Hosted)	1 x Metered Add-On	WEI	Test
webMethods B2B Enterprise (Diverse Self-Hosted) comprising:	1 x Metered Add-On	WMZBE	Development
- webMethods Module for AS4 (Diverse Self-Hosted)	1 x Metered Add-On	ASH	Development
- EDI Module (Diverse Self-Hosted)	1 x Metered Add-On	EEO	Development
- Trading Networks (Diverse Self-Hosted)	1 x Metered Add-On	OTN	Development
- EDIINT Module (Diverse Self-Hosted)	1 x Metered Add-On	WEI	Development
webMethods MFT Enterprise - Self-Hosted (Diverse Self-Hosted) comprising:	30 x MFT Transaction	WMZS1	Production
- Active Transfer Agents (Diverse Self-Hosted)	1 x Metered Add-On	MAG	Production
- ActiveTransfer Gateway (Diverse Self-Hosted)	1 x Metered Add-On	MAP	Production
- ActiveTransfer Server Component (Diverse Self-Hosted)	1 x Metered	MAT	Production
- API Gateway Standard Edition (Diverse Self-Hosted)	1 x Metered Add-On	YAISA	Production
webMethods MFT Enterprise - Self-Hosted (Diverse Self-Hosted) comprising:	Unltd x MFT Transaction	WMZS1	Test
- Active Transfer Agents (Diverse Self-Hosted)	1 x Metered Add-On	MAG	Test
- ActiveTransfer Gateway (Diverse Self-Hosted)	1 x Metered Add-On	MAP	Test
- ActiveTransfer Server Component (Diverse Self-Hosted)	1 x Metered	MAT	Test
- API Gateway Standard Edition (Diverse Self-Hosted)	1 x Metered Add-On	YAISA	Test
webMethods MFT Enterprise - Self-Hosted (Diverse Self-Hosted) comprising:	Unltd x MFT Transaction	WMZS1	Development
- Active Transfer Agents (Diverse Self-Hosted)	1 x Metered Add-On	MAG	Development
- ActiveTransfer Gateway (Diverse Self-Hosted)	1 x Metered Add-On	MAP	Development
- ActiveTransfer Server Component (Diverse Self-Hosted)	1 x Metered	MAT	Development
- API Gateway Standard Edition (Diverse Self-Hosted)	1 x Metered Add-On	YAISA	Development
Universal Messaging Fully Featured for wM (Diverse Self-Hosted)	1 x Metered Add-On	NUMWF	Production
Universal Messaging Fully Featured for wM (Diverse Self-Hosted)	1 x Metered Add-On	NUMWF	Test
Universal Messaging Fully Featured for wM (Diverse Self-Hosted)	1 x Metered Add-On	NUMWF	Development
Optimize Base Engine Bundle (Diverse Self-Hosted) comprising:	1 x Metered Add-On	OBEM2	Production
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Production
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Production
- Optimize Base Engine (Diverse Self-Hosted)	1 x Metered Add-On	OBE	Production
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Production
Optimize Base Engine Bundle (Diverse Self-Hosted) comprising:	1 x Metered Add-On	OBEM2	Test
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Test
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Test
- Optimize Base Engine (Diverse Self-Hosted)	1 x Metered Add-On	OBE	Test
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Test
Optimize Base Engine Bundle (Diverse Self-Hosted) comprising:	1 x Metered Add-On	OBEM2	Development
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Development
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Development
- Optimize Base Engine (Diverse Self-Hosted)	1 x Metered Add-On	OBE	Development
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Development
Optimize for Infrastructure (Diverse Self-Hosted)	1 x Metered Add-On	WMI	Production
Optimize for Infrastructure (Diverse Self-Hosted)	1 x Metered Add-On	WMI	Test
Optimize for Infrastructure (Diverse Self-Hosted)	1 x Metered Add-On	WMI	Development
BigMemory Max FX Edition (Diverse Self-Hosted)	1 x Metered Add-On	TABFE	Production
BigMemory Add-on (GB) (Diverse Self-Hosted)	1 x Metered Add-On	TABGB	Production
webMethods Metering Local Server (Diverse Self-Hosted)	1 x Metered Add-On	MTL	Production
webMethods Metering Local Server (Diverse Self-Hosted)	1 x Metered Add-On	MTL	Test
webMethods Metering Local Server (Diverse Self-Hosted)	1 x Metered Add-On	MTL	Development
webMethods DevOps Edition (Diverse Self-Hosted) comprising:	10 x Named User	PIDAU	Production
- wM Test Suite (Diverse Self-Hosted)	10 x Named User	GWMTS	Production
- Local Service Development (WEL) (Diverse Self-Hosted)	10 x Named User	WEL	Production
wM Insight Agents (Diverse Self-Hosted)	12 x Each	ISB	Production
wM Insight Agents (Diverse Self-Hosted)	8 x Each	ISB	Test
wM Insight Server (Diverse Self-Hosted)	4 x Processor Core Type Standard	IST	Production
wM Insight Server (Diverse Self-Hosted)	4 x Processor Core Type Standard	IST	Test

Group B:			
wM Integration Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	50 x Integration Transaction	WIZS1	Production
- wM Test Suite (Diverse Self-Hosted)	1 x Metered Add-On	GWMTS	Production
- IBM WebSphere MQ Adapter (Diverse Self-Hosted)	1 x Metered Add-On	IMQ	Production
- webMethods Adapter for JDBC (Diverse Self-Hosted)	1 x Metered Add-On	JDB	Production
- Microsoft Package Adapter (Diverse Self-Hosted)	1 x Metered Add-On	MIP	Production
- Microsoft MSMQ Adapter (Diverse Self-Hosted)	1 x Metered Add-On	MMQ	Production
- Microservices Runtime (Diverse Self-Hosted)	1 x Metered	MSCAA	Production
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Production
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Production
- X400 Adapter (Diverse Self-Hosted)	1 x Metered Add-On	OFX	Production
- Integration Server (Diverse Self-Hosted)	1 x Metered	PIE	Production
- Adapter for Enterprise JavaBeans (Diverse Self-Hosted)	1 x Metered Add-On	POJ	Production
- PeopleSoft Enterprise Adapter (Diverse Self-Hosted)	1 x Metered Add-On	PSN	Production
- Remedy Adapter (Diverse Self-Hosted)	1 x Metered Add-On	REM	Production
- Software AG Designer - Unlimited Users (Diverse Self-Hosted)	1 x Metered Add-On	SDFUL	Production
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Production
- webM Big Data Adapter for Apache Kafka (Diverse Self-Hosted)	1 x Metered Add-On	WAK	Production
- Local Service Development (Diverse Self-Hosted)	1 x Metered Add-On	WEL	Production
- webMethods Adapter for HDFS (Diverse Self-Hosted)	1 x Metered Add-On	WHD	Production
- Adapter Development Kit (Diverse Self-Hosted)	1 x Metered Add-On	WMK	Production
- webMethods Adapter for Salesforce (Diverse Self-Hosted)	1 x Metered Add-On	WSF	Production
- CloudStreams Server (Diverse Self-Hosted)	1 x Metered Add-On	WST	Production
wM Integration Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	Unltd x Integration Transaction	WIZS1	Test
- wM Test Suite (Diverse Self-Hosted)	1 x Metered Add-On	GWMTS	Test
- IBM WebSphere MQ Adapter (Diverse Self-Hosted)	1 x Metered Add-On	IMQ	Test
- webMethods Adapter for JDBC (Diverse Self-Hosted)	1 x Metered Add-On	JDB	Test
- Microsoft Package Adapter (Diverse Self-Hosted)	1 x Metered Add-On	MIP	Test
- Microsoft MSMQ Adapter (Diverse Self-Hosted)	1 x Metered Add-On	MMQ	Test
- Microservices Runtime (Diverse Self-Hosted)	1 x Metered	MSCAA	Test
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Test
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Test
- X400 Adapter (Diverse Self-Hosted)	1 x Metered Add-On	OFX	Test
- Integration Server (Diverse Self-Hosted)	1 x Metered	PIE	Test
- Adapter for Enterprise JavaBeans (Diverse Self-Hosted)	1 x Metered Add-On	POJ	Test
- PeopleSoft Enterprise Adapter (Diverse Self-Hosted)	1 x Metered Add-On	PSN	Test
- Remedy Adapter (Diverse Self-Hosted)	1 x Metered Add-On	REM	Test
- Software AG Designer - Unlimited Users (Diverse Self-Hosted)	1 x Metered Add-On	SDFUL	Test
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Test
- webM Big Data Adapter for Apache Kafka (Diverse Self-Hosted)	1 x Metered Add-On	WAK	Test
- Local Service Development (Diverse Self-Hosted)	1 x Metered Add-On	WEL	Test
- webMethods Adapter for HDFS (Diverse Self-Hosted)	1 x Metered Add-On	WHD	Test
- Adapter Development Kit (Diverse Self-Hosted)	1 x Metered Add-On	WMK	Test
- webMethods Adapter for Salesforce (Diverse Self-Hosted)	1 x Metered Add-On	WSF	Test
- CloudStreams Server (Diverse Self-Hosted)	1 x Metered Add-On	WST	Test
wM Integration Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	Unltd x Integration Transaction	WIZS1	Development
- wM Test Suite (Diverse Self-Hosted)	1 x Metered Add-On	GWMTS	Development
- IBM WebSphere MQ Adapter (Diverse Self-Hosted)	1 x Metered Add-On	IMQ	Development
- webMethods Adapter for JDBC (Diverse Self-Hosted)	1 x Metered Add-On	JDB	Development
- Microsoft Package Adapter (Diverse Self-Hosted)	1 x Metered Add-On	MIP	Development
- Microsoft MSMQ Adapter (Diverse Self-Hosted)	1 x Metered Add-On	MMQ	Development
- Microservices Runtime (Diverse Self-Hosted)	1 x Metered	MSCAA	Development
- My webMethods Server (Diverse Self-Hosted)	1 x Metered Add-On	MWS	Development
- Universal Messaging for Integration A/P (Diverse Self-Hosted)	1 x Metered Add-On	NUMWI	Development
- X400 Adapter (Diverse Self-Hosted)	1 x Metered Add-On	OFX	Development
- Integration Server (Diverse Self-Hosted)	1 x Metered	PIE	Development
- Adapter for Enterprise JavaBeans (Diverse Self-Hosted)	1 x Metered Add-On	POJ	Development
- PeopleSoft Enterprise Adapter (Diverse Self-Hosted)	1 x Metered Add-On	PSN	Development
- Remedy Adapter (Diverse Self-Hosted)	1 x Metered Add-On	REM	Development
- Software AG Designer - Unlimited Users (Diverse Self-Hosted)	1 x Metered Add-On	SDFUL	Development
- BigMemory Max EX Edition for webMethods (Diverse Self-Hosted)	1 x Metered Add-On	TABWM	Development
- webM Big Data Adapter for Apache Kafka (Diverse Self-Hosted)	1 x Metered Add-On	WAK	Development
- Local Service Development (Diverse Self-Hosted)	1 x Metered Add-On	WEL	Development

- webMethods Adapter for HDFS (Diverse Self-Hosted)	1 x Metered Add-On	WHD	Development
- Adapter Development Kit (Diverse Self-Hosted)	1 x Metered Add-On	WMK	Development
- webMethods Adapter for Salesforce (Diverse Self-Hosted)	1 x Metered Add-On	WSF	Development
- CloudStreams Server (Diverse Self-Hosted)	1 x Metered Add-On	WST	Development
wM API Mgmt Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	100 x API Transaction	WAZS1	Production
- webMethods Developer Portal (Diverse Self-Hosted)	1 x Metered Add-On	DPOAA	Production
- API Gateway Runtime Component (Diverse Self-Hosted)	1 x Metered Add-On	PIEGA	Production
- API Gateway Advanced Edition (Diverse Self-Hosted)	1 x Metered	YAIAA	Production
- webMethods Microgateway (Diverse Self-Hosted)	1 x Metered	YAMAA	Production
wM API Mgmt Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	Unltd x API Transaction	WAZS1	Test
- webMethods Developer Portal (Diverse Self-Hosted)	1 x Metered Add-On	DPOAA	Test
- API Gateway Runtime Component (Diverse Self-Hosted)	1 x Metered Add-On	PIEGA	Test
- API Gateway Advanced Edition (Diverse Self-Hosted)	1 x Metered	YAIAA	Test
- webMethods Microgateway (Diverse Self-Hosted)	1 x Metered	YAMAA	Test
wM API Mgmt Enterprise - Self-Hosted (1) (Diverse Self-Hosted) comprising:	Unltd x API Transaction	WAZS1	Development
- webMethods Developer Portal (Diverse Self-Hosted)	1 x Metered Add-On	DPOAA	Development
- API Gateway Runtime Component (Diverse Self-Hosted)	1 x Metered Add-On	PIEGA	Development
- API Gateway Advanced Edition (Diverse Self-Hosted)	1 x Metered	YAIAA	Development
- webMethods Microgateway (Diverse Self-Hosted)	1 x Metered	YAMAA	Development
SAP Adapter (Diverse Self-Hosted)	1 x Metered Add-On	WSP	Production
SAP Adapter (Diverse Self-Hosted)	1 x Metered Add-On	WSP	Test
SAP Adapter (Diverse Self-Hosted)	1 x Metered Add-On	WSP	Development
Universal Messaging Fully Featured for wM (Diverse Self-Hosted)	1 x Metered Add-On	NUMWF	Production
Universal Messaging Fully Featured for wM (Diverse Self-Hosted)	1 x Metered Add-On	NUMWF	Test
Universal Messaging Fully Featured for wM (Diverse Self-Hosted)	1 x Metered Add-On	NUMWF	Development

webMethods.io API Management Enterprise Edition Cloud Service Information

Service Availability	<p>99.90% - Production environments 99.50% - Development and Test environments</p> <p>The availability calculation is based on the number of minutes the Cloud Service is available within a given month and region and excludes planned downtime and emergency maintenance. The overall Cloud Service availability is derived by the average value of its components measured and published via https://trust.softwareag.com/ for the respective Data Storage Location or, if available, via a dedicated status page reporting for Customer. Planned and unplanned downtime for the Cloud Services is published on https://trust.softwareag.com/ or the dedicated customer status page with expected time when the system will be available again.</p>
Enterprise Service Credit Commitment	These Cloud Services are subject to the terms of the "Enterprise Cloud Service Credit Commitment" made available at https://www.softwareag.com/cloud-service-credits .
Data Storage Location	Microsoft Azure - US East - Virginia
Support	Supplier will provide the support services described in the applicable Cloud Support Service description as updated by Supplier from time to time and made available at www.softwareag.com/support-policies .
Maintenance Events	Planned maintenance event dates and times are posted on https://trust.softwareag.com/ at least one week prior to the maintenance event. Monthly updates typically do not require downtime. Quarterly releases will require scheduled downtime.
Data Backup and Disaster Recovery	<p>Frequency: daily, 30 days retention Data Backup & Recovery Location: same region as the Data Storage Location referred to above Recovery Point Objective: 24h Recovery Time Objective: 12h</p>
Exit Terms	Access to the Cloud Services will be removed upon expiration or termination of the Subscription Term. Within 30 days after termination or expiration of the Subscription Term ("Exit Period"), and upon Customer request, Supplier will provide a final backup of the Customer Data. After the Exit Period, Supplier will delete Customer's environment/tenant, dedicated virtual servers and Customer Data in accordance with industry standard practices.

webMethods.io Integration Enterprise Edition Cloud Service Information	
Service Availability	99.90% - Production environments 99.50% - Development and Test environments The availability calculation is based on the number of minutes the Cloud Service is available within a given month and region and excludes planned downtime and emergency maintenance. The overall Cloud Service availability is derived by the average value of its components measured and published via https://trust.softwareag.com/ for the respective Data Storage Location or, if available, via a dedicated status page reporting for Customer. Planned and unplanned downtime for the Cloud Services is published on https://trust.softwareag.com/ or the dedicated customer status page with expected time when the system will be available again.
Enterprise Service Credit Commitment	These Cloud Services are subject to the terms of the "Enterprise Cloud Service Credit Commitment" made available at https://www.softwareag.com/cloud-service-credits .
Data Storage Location	Microsoft Azure - US East - Virginia
Support	Supplier will provide the support services described in the applicable Cloud Support Service description as updated by Supplier from time to time and made available at www.softwareag.com/support-policies .
Maintenance Events	Planned maintenance event dates and times are posted on https://trust.softwareag.com/ at least one week prior to the maintenance event. Monthly updates typically do not require downtime. Quarterly releases will require scheduled downtime.
Data Backup and Disaster Recovery	Frequency: daily, 30 days retention Data Backup & Recovery Location: same region as the Data Storage Location referred to above Recovery Point Objective: 24h Recovery Time Objective: 12h
Hybrid application connectivity	Ability to connect securely to on-premises applications via the wM Integration Server and wM Integration Agent.
Exit Terms	Access to the Cloud Services will be removed upon expiration or termination of the Subscription Term. Within 30 days after termination or expiration of the Subscription Term (" Exit Period "), and upon Customer request, Supplier will provide a final backup of the Customer Data. After the Exit Period, Supplier will delete Customer's environment/tenant, dedicated virtual servers and Customer Data in accordance with industry standard practices.

License Metrics
Instance: Products licensed by 'Instance' are limited to use by a total number of instances that does not exceed the licensed quantity above. For these purposes, an 'instance' is either a single installation of the executable software, running on one server, or a set of containers containing data on a disk or disk array managed by a server. Each additional installation of the executable software running on the same or different physical hardware, or set of containers on the same or different disk or disk array, requires a license for additional Instances.
Metered Add-On: Products licensed by 'Metered Add-On' may be installed on any number of server or containers, provided such Product is directly installed within or connected to a Product that is Metered. Such Products may not be used on a stand-alone basis.
Metered: Products licensed by 'Metered' may be installed on any number of servers or containers, provided such Product is configured for the metered collection of usage data. Customer will either (i) allow such Products to automatically report usage to Supplier on an hourly basis by providing an outbound internet connection for all such Products and installing versions of such Products that support metering or (ii) report usage of such Products to Supplier at least once per month, using tools or processes provided or approved by Supplier.
Named User: Products licensed by 'Named User' are limited to use by a total number of users that does not exceed the licensed quantity above. For these purposes, a 'user' means a uniquely identified individual, entity (e.g., interface), device or process that accesses, operates, or maintains such Product.
Processor Core Type: Software licensed by 'Processor Core Type' is limited to use on the licensed number of physical Processor Cores above in the licensed Processor Core Type above. A Processor Core is a collection of one or more processor threads and a set of shared execution resources on a processor and a Processor Core Type is the performance class of the processor as determined by Supplier from time to time (a copy of the current version of which is available at https://empower.softwareag.com/sl24sec/SecuredServices/Announcement/Processor/table.htm and is copied below). Customer is permitted to use virtualization technology (i.e., creating virtual machines that act like a separate computer with its own operating system). Each virtual processor core is equal to one physical processor core. Only (virtual) processor cores that are configured within the virtual machine, container or similar partitioning technology running the Software are counted. The quantity of Software required to be licensed is based on the lower of the sum of virtual capacity (in whole numbers) or the full physical capacity of the hardware. (For example, (i) if the Software is running on 2 virtual machines with 5 virtual cores each and is hosted on physical hardware with a maximum physical capacity of 16 physical cores, then 10 Processor Cores must be licensed and (ii) if the Software is running on 4 virtual machines with 5 virtual cores each and is hosted on physical hardware with a maximum physical capacity of 16 physical cores, then 16 Processor Cores must be licensed.)

PROCESSOR CORE PERFORMANCE CLASS	VENDOR	PROCESSOR NAME
STANDARD PERFORMANCE	Amazon	T, M, C, X, I and D Instance Types
	AMD	all AMD CPU Chipsets
	Google	all GCE Instance Types (see exception for GPUs in High Performance)
	HP/Intel	Itanium (1) Series 93XX or earlier; Itanium (2) Series 95XX; HP PA-RISC
	Intel	all Intel CPU Chipsets
	IBM	PowerPC 970; PowerXCell; Cell/B.E. Bi; Power 5; Power 6; Power 7; Power 7+; System z9, z990 & earlier; System z10; System z196; z114
	Microsoft	all Microsoft Azure Instance Types (see exception for GPUs in High Performance)
	Oracle/Sun	Sparc T4; Sparc T5; Sparc M5; Sparc M6; Sparc M7; Sparc S7; Sparc T7; Sparc M8; Sparc T8; Sparc M10; Sparc M12
	Sun/Fujitsu	UltraSparc T1, T2; Sparc 64 VI, VII, VII+, X, X+, XII; UltraSparc IV; UltraSparc IV+; Sparc V; Sparc T3
HIGH PERFORMANCE	Amazon	P, G, F, R Instance Types
	IBM	Power P8; Power8+; Power9; zEC12; zBC12; z13 (2964); z13s (2965); z14 (3906); z14 ZR1/LR1 (3907); z15 (8561); z15 T02 (8562); z16 (3931); z16 (3932)
	any vendor	any system configuration with GPUs attached
	any vendor	any system with Nvidia processor cores attached to the configuration for processing

(PCX v23-Aug-2023)

Each: Products licensed by 'Each' are limited to the installation and use of a total number of copies that does not exceed the licensed quantity above.

Tenant: A 'Tenant' is dedicated share of a Cloud Services installation instance including its own logical database, configuration, user management and other individual functionality for the Tenant. A Tenant is accessible with a unique URL.

API Transaction: An 'API Transaction' is an inbound API call to an API Gateway or microgateway component. API Transactions are licensed in units of 10,000 API Transactions per month (1 x API Transaction = 10,000 API Transactions).

MFT Transaction: A 'MFT Transaction' is an initiation of an inbound file transfer or an initiation of an outbound file transfer. MFT Transactions are licensed in units of 10,000 MFT Transactions per month (1 x MFT Transaction = 10,000 MFT Transactions).

Integration Transaction: An 'Integration Transaction' is an execution of a top-level service, flow or workflow that is triggered manually, or by an external event or request, or by a scheduled timer. A service, flow or workflow that takes more than three seconds to complete is counted as an additional Integration Transaction for each additional three seconds (or part thereof). Integration Transactions are licensed in units of 10,000 Integration Transactions per month (1 x Integration Transaction = 10,000 Integration Transactions).

Product Specific License Provisions

wM Insight Agents (ISB): wM Insight Agents are licensed per Managed Component and are limited to use by a total number of Managed Components that does not exceed the licensed quantity above. For these purposes a 'Managed Component' refers to the running of an application platform, stand-alone application or tool that is instrumented by wM Insight. For technical reasons, the software key for this Software may be less restrictive than the terms in this Order Form. Notwithstanding any software keys provided for the Software, Customer's right to use the Software is governed exclusively by the terms of this Order Form.

wM Insight Server (IST): For technical reasons, the software key for this Software may be less restrictive than the terms in this Order Form. Notwithstanding any software keys provided for the Software, Customer's right to use the Software is governed exclusively by the terms of this Order Form.

Universal Messaging for Integration A/P (NUMWI): Universal Messaging for Integration Active/Passive provides messaging capabilities invoked directly through Integration Server only.

webMethods DevOps Edition (PIDAU): webMethods DevOps Edition, though licensed in a production environment, is restricted to (i) installation in local environments that are unrestricted in terms of capacity and (ii) use for development purposes only. Customer must have a production or development license of Integration Server and/or Trading Networks and/or Universal Messaging and/or Process Engine and/or webMethods Adapters to install products locally.

API Gateway Runtime Component (PIEGA): API Gateway Runtime Component enables API Gateway users to create Flow services that run within the API Gateway (where Flow is Supplier's proprietary language for creating programming logic). Use is only allowed in the context of APIs available in API Gateway.

BigMemory Max EX Edition for webMethods (TABWM): BigMemory Max EX Edition for webMethods may only be used for clustering and not for distributed caching; hybrid data storage is permitted but the use of off-heap memory data storage is not permitted.

wM.io API Mgmt Enterprise - SaaS (1) (WAZC1): Analytics Data retention is limited to 90 days and Analytics Data storage is limited to 250 gigabytes (GB). Analytics Data is the data generated by the use of the Product and used for providing reports and dashboards within the Product. In case of API Gateway, Analytics Data is transactional data and audit logs.

wM.io API Mgmt Enterprise - SaaS (WAZC2): Analytics Data retention is limited to 90 days and Analytics Data storage is limited to 250 gigabytes (GB). Analytics Data is the data generated by the use of the Product and used for providing reports and dashboards within the Product. In case of API Gateway, Analytics Data is transactional data and audit logs.

Non-Production Usage

Development/Test: Software licensed for 'Development' or 'Test' may be used solely for development or test purposes, respectively, and may not be used for processing live data in a production environment.

Other Product Terms

Diverse Self-Hosted: Customer may use the Software identified as 'Diverse Self-Hosted' on machines that operate any operating system versions then supported by Supplier and may switch to any other then supported operating system versions, provided always that the total aggregate number of licenses deployed does not exceed the then licensed quantity. Details of supported operating system versions can be found on Supplier's support website <https://empower.softwareag.com/>.

Hosted Software: Hosted Software refers to software that is hosted by Supplier and made available and provided as a service which is accessible remotely by Customer.

ADDITIONAL TERMS:

1. **Agreements:** The Products in the Product table above identified as 'Diverse Self-Hosted' are Software and are licensed under and governed by the terms of the SLA. Products in the Product table above identified as "Hosted Software" are Cloud Services and are licensed under and governed by the terms of the CSA. The Software and Cloud Services are together the "Products".

2. **Group A Products:**

Subject to the terms of this Order Form and the respective Agreement, Customer is granted a subscription license for the Products identified above as the "Group A" Products for the respective Subscription Term set out above. The Group A Products may be used solely for Customer's utilization of SMUD's on-premise webMethods installation, and supporting Software AG tools, to support internal business functions, including supporting enterprise systems integration, external strategic business partners, customer self-service platforms, and energy trading - reporting and compliance workloads. The exception being a legacy integration with a third-party payments vendor.

The Group A Products supersede and replace the following: (i) the Software in the Product Schedule attached to Amendment No. 4 dated August 19, 2019 (CMS 65674), which Software is superseded and replaced as of the respective Start Date set out above; (ii) the Cloud Services in the Order Form dated June 29, 2021 (CMS 191906), which Cloud Services will expire by its own terms on June 29, 2024; (iii) the Software in the Order Form dated August 19, 2021 (CMS 214060), which Software is superseded and replaced as of the respective Start Date set out above; and (iv) the Cloud Services in the Order Form dated June 15, 2022 (CMS 215224) that are identified therein as the Upgraded Cloud Services, which Cloud Services will expire by its own terms on June 29, 2024.

3. **Option for Additional Group A Products:** Until December 31, 2024 and provided that such Products are still then generally available for purchase by Supplier, Customer may license the Products set out in the table below at the fees set out below. Any additional Products will be granted for the duration of the Subscription Term set out above and the annual subscription fees set out below will be prorated over the duration of the Subscription Term. Any additional Products will be set out in subsequent Order Form(s) to be signed by the Parties.

Product Name	Quantity and License Metric	Code	Usage	Annual Subscription Fee
Group A:				
wM Integration Enterprise Self-Hosted (2) (Diverse Self-Hosted)	40,000 x Integration Transaction	WIZS2	Production	USD 551,520

4. **Group B Products:**

Subject to the terms of this Order Form and the respective Agreement, Customer is granted a subscription license for the Products identified above as the "Group B" Products for the respective Subscription Term set out above. The Group B Products may be used solely for Customer's Outage Management System ("OMS") implementation. OMS is a computer system used by Customer to manage and restore customer power outages.

The Group B Products are the renewal for the Software in the Order Form dated November 13, 2023 (CMS 382424), which Software will expire by its own terms on November 12, 2024.

5. **Subscription License Terms:** The Products in this Order Form are licensed solely for the duration of the Subscription Term. Upon any expiration or termination, all rights to the Products will automatically terminate. Customer will discontinue all use of the Products and, within 10 days after such expiration or termination, delete the Software and all copies and related materials (and, upon request, certify such destruction to Supplier).

6. **Hosting Services:** Customer may appoint a third party ("Hosting Services Provider") for the purposes of hosting the Software in this Order Form, limited to infrastructure services and management (provision of associated hardware and operating system), either in an "on premise" environment (on local computers of Customer or the Hosting Services Provider) or "cloud" environment (via an organization that provides cloud computing resources).

7. **Fiscal Funding:** Customer fully intends to complete all payment obligations in this Order Form. However, Customer may, at the end of each fiscal year, terminate this Order Form and the remaining payments due hereunder if Customer is unable to secure appropriate funding for the products and services provided for herein. In the event of such termination, all rights to the Products set out in this Order Form will automatically terminate effective on such termination and Customer will immediately discontinue all use of the Products and, within 10 days after such termination, delete the Software and all copies and related materials (and, upon request, certify such destruction to Supplier). Customer will not be entitled to any refund of payments made to Supplier prior to such termination.

8. **Third Party Components:** The Software and any portion of the Cloud Services, including but not limited to plug-ins or connectors or fat clients, downloaded by Customer ("Cloud Service Downloadable") may contain or be distributed with certain open source, free, or commercial third party components, which may be subject to special license terms and conditions ("Third Party Terms") located at <http://softwareag.com/licenses>. Third Party Terms include important licensing and warranty information and disclaimers of third party licensors. For the avoidance of doubt, if Customer uses the Software and Cloud Service Downloadable in accordance with the Documentation, the Third Party Terms do not restrict the rights granted under the respective Agreement. In the event a third party manufacturer no longer provides active support for any third party component, Supplier will use commercially reasonable efforts to respond to any issues with the Software and/or Cloud Service Downloadable related to the third party

component.

9. **Export Control and Usage Restrictions:**

To the extent that any national or international export control, sanctions or trade control laws or regulations apply to the Agreements, the parties agree to comply with the same and obtain any required approval, reporting and/or information obligations. Supplier is not required to perform any obligation under the Agreements if prohibited by such export control laws, regulations or restrictions.

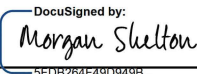
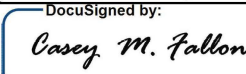
Customer will not use, access or provide access to the Products in any manner that violates an applicable economic, financial or trade prohibition, sanction or embargo, which may include but is not limited to such prohibitions, sanctions or embargoes enacted or imposed by law or other restrictive measure and administered or enforced by (i) the United Nations Security Council, (ii) the United States government, (iii) the European Union or any of its member states' governments, (iv) the United Kingdom, (v) the Singaporean government, (vi) the Swiss Confederation, or (vii) any other authority that has jurisdiction over Customer, Supplier or the relevant project or activity for which the Products are being used, accessed or provided.

10. **Assignment by Supplier:** Notwithstanding any provision of the Agreements to the contrary, Supplier may transfer any rights or obligations under the Agreements, in whole or in part: (i) to an affiliate; (ii) to any third party in connection with the assignment to any such third party of the right of the Supplier to receive any sums payable to Supplier under the Agreements; (iii) as part of a merger, reorganization, acquisition, sale or transfer of any of Supplier's assets, voting securities or ownership of a part or whole of the Supplier's rights or obligations under the Agreements; or (iv) as part of a merger, reorganization, acquisition, sale or transfer of one or more of Supplier's business divisions or units. For purposes of this provision, an "affiliate" is any business entity which now or in the future controls, is controlled by or is under common control with Supplier through the ownership of more than fifty percent (50%) of the outstanding voting stock of the controlled corporation or more than fifty percent (50%) of the equity interests of a non-corporate entity.

11. **No Processing of GDPR Personal Data:** Customer represents and warrants to the Supplier that it does not process personal data as defined under Art. 4 GDPR ("GDPR-relevant personal data") that is subject to General Data Protection Regulation (EU) 2016/679 ("GDPR") and that GDPR-relevant personal data will not be provided to Supplier under the Agreements. Customer will inform Supplier promptly should it become necessary to transmit or grant access to GDPR-relevant personal data, so that the parties will be able to enter into a data processing agreement in accordance with GDPR requirements. Customer acknowledges and agrees that unless and until such a data processing agreement is entered into between the parties, Supplier will not be responsible for any non-compliance with the GDPR.

12. **Validity:** The terms and pricing set out in this Order Form are conditional on this Order Form being fully signed by all parties prior to June 30, 2024. If this condition is not met, then this Order Form will be null and void and of no effect.

The duly authorized representatives of the parties accept the terms of this Order Form by signing below. This Order Form may be executed in one or more counterparts, with the same effect as if the parties had signed the same document. The parties agree to the use of digital signatures.

Agreed and Accepted	
Software AG USA, Inc.	Sacramento Municipal Utility District
Signed: 	Signed: 
Name: Morgan Shelton	Name: Casey Fallon
Title: Assistant Secretary	Title: Director, Procurement, Warehouse and Fleet
Date: 28-Jun-2024 9:00:26 PM EDT	Date: 6/28/2024

CALIFORNIA DATA PRIVACY ADDENDUM

This California Data Privacy Addendum ("**Addendum**") is incorporated into the Agreements between Software AG USA, Inc. ("**Service Provider**" or "**SAG**") and Sacramento Municipal Utility District ("**Customer**").

- 1.1 For purposes of this Addendum, "**Data Protection Law**" means any applicable California data protection and data privacy law, rule, or regulation, including but not limited to the California Consumer Protection Act of 2018 and its implementing regulations ("**CCPA**"), as any may be amended or replaced, including those that are enacted or become effective after the Agreement's effective date. The terms "**business**", "**business purpose**", "**personal information**", "**process**", "**sell**", "**service provider**" and "**share**" have the meanings provided under Data Protection Law.
- 1.2 The parties agree that with respect to Customer personal information ("**Customer PI**") that SAG processes pursuant to the Agreement, Customer is the business and SAG is the service provider. This Addendum applies when SAG processes Customer PI as a service provider.
- 1.3 SAG shall process Customer PI only for the limited and specific business purpose of providing the products and services identified in the Agreement, including any Order Form or Statement of Work ("**Business Purpose**"), and only in accordance with Customer's documented instructions.
- 1.4 SAG shall not (i) sell or share Customer PI; (ii) retain, use, or disclose Customer PI for any purpose, including any commercial purpose, other than the Business Purpose unless expressly permitted by the CCPA; (iii) retain, use, or disclose Customer PI outside of the direct business relationship between Customer and SAG; and (iv) combine Customer PI that SAG receives pursuant to the Agreement with PI that SAG receives from another person or persons or collects from its own interactions with consumers, provided that SAG may combine PI to perform any business purpose as permitted by Data Protection Law.
- 1.5 SAG shall comply with all applicable sections of the CCPA, including - with respect to Customer PI - providing the same level of privacy protection as required by of businesses by the CCPA. SAG shall implement and maintain reasonable security practices and procedures appropriate to the nature of the Customer PI to protect it from unauthorized or illegal access, destruction, use, modification, or disclosure.
- 1.6 Customer may take reasonable and appropriate steps to ensure that SAG uses Customer PI in accordance with Data Protection Law. Reasonable and appropriate steps may include ongoing manual reviews and automated scans of SAG's system and regular internal or third-party assessments, audits, or other technical and operational testing at least once every 12 months.
- 1.7 SAG shall notify Customer if it determines that it is no longer able to meet its obligations under the CCPA. Upon notice, Customer may take reasonable and appropriate steps to stop and remediate unauthorized use of Customer PI.
- 1.8 Customer shall inform SAG of any consumer request regarding Customer PI made pursuant to Data Protection Law and provide to SAG the information necessary to comply with said request. SAG shall provide reasonable cooperation to assist Customer in responding to any consumer request regarding Customer PI. If any such request is made to SAG directly, SAG shall not respond without Customer's prior authorization unless required to do so by applicable law.
- 1.9 Customer agrees that SAG may engage service providers to provide the products and services in the Agreement. For purposes of this Addendum, the term 'service provider' includes outside third parties and SAG affiliates but excludes any SAG employee, contractor or consultant. SAG has engaged the following service providers: www.softwareag.com/dpa-processors. SAG shall provide Customer with reasonable notice before adding or replacing a service provider using the contact information provided by Customer via the SAG support portal, available at https://www.softwareag.com/en_corporate/tc/dpa-toms/subscription.html. SAG shall conclude a written agreement with the service provider that complies with Data Protection Law.

RESOLUTION NO. _____

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

Section 1. That this Board hereby ratifies the Chief Executive Officer and General Manager's execution of the contract between **Software AG USA, Inc.** and Sacramento Municipal Utility District (SMUD) for a five-year period for a contract not-to-exceed amount of \$8,747,323, as set forth in **Attachment** ____ hereto and made a part hereof.

Section 2. The Chief Executive Officer and General Manager, or his delegate, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amounts and applicable contingencies.

SSS No. CFO 23-016

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date 2024
Board Meeting Date July 18, 2024

TO				TO			
1.	Jose Bodipo-Memba			6.			
2.	Lora Anguay			7.			
3.	Scott Martin			8.			
4.				9.	Legal		
5.				10.	CEO & General Manager		
Consent Calendar		Yes	No <i>If no, schedule a dry run presentation.</i>	Budgeted	Yes	No <i>(If no, explain in Cost/Budgeted section.)</i>	
FROM (IPR) Lisa Limcaco			DEPARTMENT Accounting		MAIL STOP B352	EXT. 7045	DATE SENT 12/18/23

NARRATIVE:

Requested Action: Provide the Board with SMUD’s financial results for the year-to-date period and a summary of SMUD’s current Power Supply Costs.

Summary: Staff will present SMUD’s financial results for the year-to-date period and a summary of SMUD’s current Power Supply Costs to the Board of Directors.

Board Policy: GP-3, Board Job Description
(Number & Title)

Benefits: Provide Board members with information regarding SMUD’s financial position and SMUD’s current power supply costs.

Cost/Budgeted: N/A

Alternatives: Provide information via written memo/report to the Board.

Affected Parties: Accounting

Coordination: Accounting

Presenter: Lisa Limcaco

Additional Links:

SUBJECT SMUD’s Financial Results & Power Supply Costs	ITEM NO. (FOR LEGAL USE ONLY) <b style="font-size: 1.5em; color: blue;">5
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

**SACRAMENTO MUNICIPAL UTILITY DISTRICT
OFFICE MEMORANDUM**

TO: Distribution

DATE: June 28, 2024

ACC 24-014

FROM: Kathy Ketchum / Lisa Limcaco

SUBJECT: **MAY 2024 FINANCIAL RESULTS AND OPERATIONS DATA**

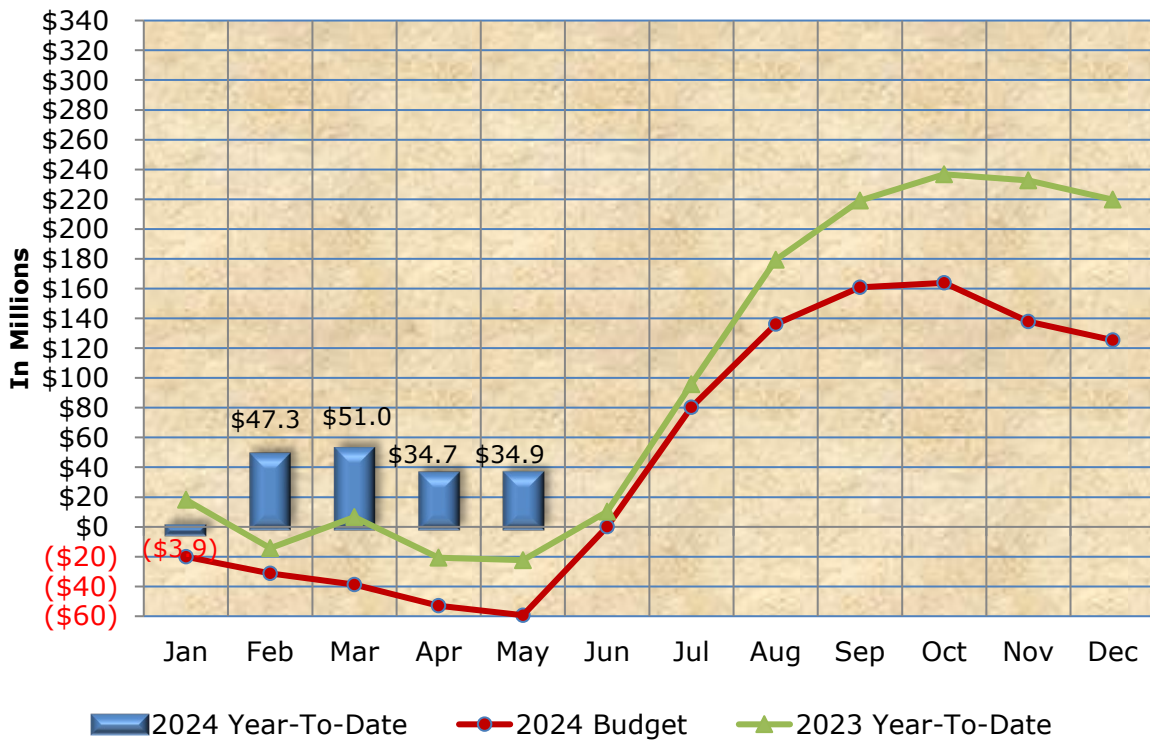
We are attaching the financial and operating reports for the five months of 2024. They include sales and generation statistics and other selected data.

The change in net position is an increase of \$34.9 million compared to a budgeted decrease of \$59.3 million, resulting in a favorable variance of \$94.2 million.

We prepared these statements on the accrual basis of accounting, and they conform to generally accepted accounting principles. The bases for the budget amounts are:

- 1) Budgeted electric revenues are based on the Forecast of Revenues by the Pricing Department, adjusted for unbilled revenues; and
- 2) Budgeted operating expenses reflect the 2024 Budget approved by the Board of Directors on December 14, 2023.

Change in Net Position Year To Date



**SACRAMENTO MUNICIPAL UTILITY DISTRICT
EXECUTIVE SUMMARY
For the Five Months Ended May 31, 2024**

Net Position

- The change in net position is an increase of \$34.9 million compared to a budgeted decrease of \$59.3 million, resulting in a favorable variance of \$94.2 million.

Revenues

- Revenues from sales to customers were \$570.2 million, which was \$2.4 million higher than planned. The increase is primarily due to:
 - Higher commercial sales of \$7.0 million primarily due to higher customer usage.
 - Lower residential sales of \$6.1 million primarily due to lower customer usage.
 - No actual provision for uncollectible accounts compared to a budget of \$1.3 million. The current balance of the accumulated provision is sufficient to cover write-offs of arrears.
- Revenues under the California Global Warming Solutions Act (Assembly Bill [AB] – 32) were \$19.7 million. This is due to carbon allowances sold through the state sanctioned quarterly auctions.
- Low Carbon Fuel Standard (LCFS) revenues were \$3.4 million due to LCFS credit sales.
- Other electric revenues were \$3.6 million higher due to higher unplanned interconnection fees, transmission revenue, and Sacramento Power Academy revenue.
- Non-cash revenues transferred to the rate stabilization fund were \$32.4 million, of which \$19.7 million was for AB-32, \$9.3 million was for the annual WAPA Hydro Generation Adjustment and \$3.4 million was for LCFS. Funds are deferred until SMUD has qualified program expenses (projects that reduce carbon emissions or electric vehicle programs) to recognize revenue.
- Non-cash revenues transferred from the rate stabilization fund were \$36.0 million, which is \$26.1 million higher than plan. The increase is primarily due to \$23.4 million of revenue recognized for AB-32 and \$8.3 million was for revenue recognized for the annual Hydro Generation Adjustment.

Commodities, Purchased Power, and Production

- SMUD's generation was lower by 204 GWh (6.6 percent); JPA and other generation was lower by 236 GWh (10.4 percent); and Hydro generation was higher by 32 GWh (3.9 percent).
- Purchased power expense of \$126.6 million, less surplus power sales of \$49.3 million was \$77.3 million, which was \$4.0 million higher than planned. This increase is due to lower thermal generation that led to increased market purchases at favorable market prices.
- Production operations cost of \$144.8 million, less surplus gas sales of \$37.3 million, was \$107.5 million, which was \$23.8 million lower than planned.
 - Fuel costs of \$90.9 million less surplus gas sales of \$37.3 million, was \$53.6 million, which was \$19.9 million lower than planned. Thermal generation has decreased due to an unplanned outage for the steam turbine generator repair at the Carson plant and it was more economical to replace with hydro generation and market purchases.
- The "power margin", or sales to customers less cost of purchased power, production operations costs and gas hedges included in investment revenue was \$384.3 million, which was \$21.1 million higher than planned. The power margin as a percentage of sales to customers was 67.4 percent, which was 3.4 percent higher than planned. This is primarily due to lower production costs due to lower fuel costs.

Other Operating Expenses

- All other operating expenses were \$435.0 million, which was \$7.0 million higher than planned.
 - Transmission and distribution operations expenses were down \$7.2 million primarily due to lower transmission fees as a result of using more hydro generation and higher WAPA purchases than planned.
 - Customer service and information expenses were down \$3.9 million due to lower participation in My Energy Optimizer Partner and Peak Conserve programs and lower participation in the Commercial and Residential Greenergy programs.
 - Administrative & General expenses were up \$7.2 million primarily due to bond issuance costs and costs related to the February storm.

- Public Good expenses were \$2.9 million higher than planned primarily due to increased HVAC and rebate volume in the Advanced Homes Solutions program. Also, higher than planned project completions in Smart Homes and earlier start in low income building electrification program initiatives.
- Production maintenance expenses were \$1.3 million higher than planned due to unplanned major repair at the Carson plant.
- Transmission and distribution maintenance expenses were \$2.2 million higher than planned primarily due to higher costs related to the February storm response, offset by lower expenses than planned related to vegetation maintenance of transmission and distribution lines.
- Non-cash depreciation and amortization is higher by \$4.2 million primarily due to the unplanned amortization of software subscription assets.

Non-operating Revenues and Expenses

- Other revenue, net, was \$58.3 million higher than planned primarily due to a business interruption insurance recovery payment of \$51.4 million related to the Cosumnes Power Plant and a settlement payment of \$5.8 million related to the Rancho Seco annual spent fuel settlement, and higher interest income.

SACRAMENTO MUNICIPAL UTILITY DISTRICT
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
For the Month Ended May 31, 2024
(thousands of dollars)

	Actual	Budget	Over (Under)	Percent of Increase (Decrease)
OPERATING REVENUES				
Sales to customers	\$ 122,405	\$ 120,298	\$ 2,107	1.8 %
Sales of surplus power	7,101	10,260	(3,159)	(30.8)
Sales of surplus gas	8,127	-	8,127	*
SB-1 revenue (deferral)/recognition, net	106	-	106	*
AB32 revenue	9,255	-	9,255	*
Other electric revenue	3,507	2,831	676	23.9
Revenue to rate stabilization fund	(9,255)	(242)	(9,013)	*
Revenue from rate stabilization fund	4,868	2,451	2,417	98.6
Total operating revenues	146,114	135,598	10,516	7.8
OPERATING EXPENSES				
Operations				
Purchased power	27,299	29,825	(2,526)	(8.5)
Production	21,856	15,167	6,689	44.1
Transmission and distribution	7,361	9,111	(1,750)	(19.2)
Customer accounts	4,937	5,005	(68)	(1.4)
Customer service and information	6,247	6,994	(747)	(10.7)
Administrative and general	24,606	23,205	1,401	6.0
Public good	6,293	5,628	665	11.8
Total operations	98,599	94,935	3,664	3.9
Maintenance				
Production	5,038	5,846	(808)	(13.8)
Transmission and distribution	11,460	11,525	(65)	(0.6)
Total maintenance	16,498	17,371	(873)	(5.0)
Depreciation and amortization				
Depreciation and amortization	22,536	22,573	(37)	(0.2)
Amortization of regulatory asset	3,570	3,403	167	4.9
Total depreciation and amortization	26,106	25,976	130	0.5
Total operating expenses	141,203	138,282	2,921	2.1
OPERATING INCOME (LOSS)	4,911	(2,684)	7,595	283.0
NON-OPERATING REVENUES AND EXPENSES				
Other revenues/(expenses)				
Interest income	3,842	2,325	1,517	65.2
Investment revenue (expense)	(1,654)	20	(1,674)	*
Other income (expense) - net	90	893	(803)	(89.9)
Unrealized holding gains (losses)	832	-	832	*
Revenue - CIAC	1,657	1,723	(66)	(3.8)
Total other revenues	4,767	4,961	(194)	(3.9)
Interest charges				
Interest on long-term debt	9,474	7,738	1,736	22.4
Interest on commercial paper	222	965	(743)	(77.0)
Total interest charges	9,696	8,703	993	11.4
CHANGE IN NET POSITION	\$ (18)	\$ (6,426)	\$ 6,408	99.7 %

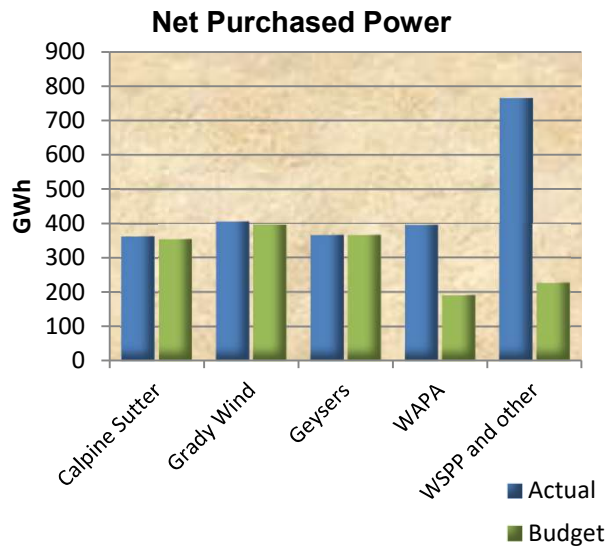
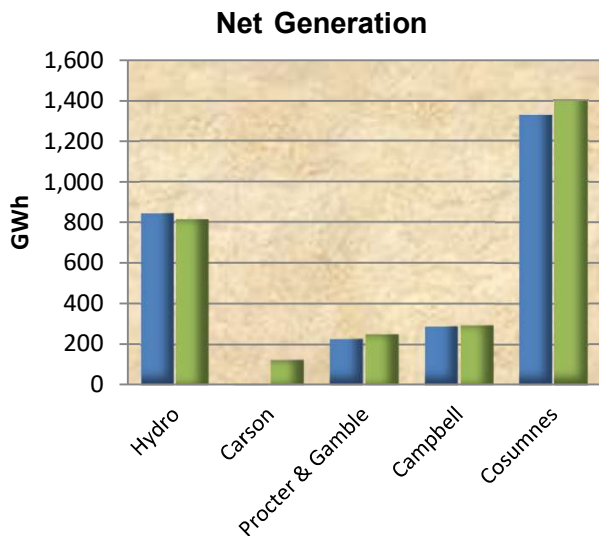
SACRAMENTO MUNICIPAL UTILITY DISTRICT
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
For the Five Months Ended May 31, 2024
(thousands of dollars)

	<u>Actual</u>	<u>Budget</u>	<u>Over (Under)</u>	<u>Percent of Increase (Decrease)</u>
OPERATING REVENUES				
Sales to customers	\$ 570,228	\$ 567,807	\$ 2,421	0.4 %
Sales of surplus power	49,271	68,941	(19,670)	(28.5)
Sales of surplus gas	37,298	-	37,298	*
SB-1 revenue (deferral)/recognition, net	280	-	280	*
AB32 revenue	19,695	-	19,695	*
LCFS revenue	3,423	-	3,423	*
Other electric revenue	18,158	14,580	3,578	24.5
Revenue to rate stabilization fund	(32,437)	(1,210)	(31,227)	*
Revenue from rate stabilization fund	35,998	9,876	26,122	264.5
Total operating revenues	701,914	659,994	41,920	6.4
OPERATING EXPENSES				
Operations				
Purchased power	126,597	142,280	(15,683)	(11.0)
Production	144,840	131,307	13,533	10.3
Transmission and distribution	35,444	42,675	(7,231)	(16.9)
Customer accounts	23,637	23,438	199	0.8
Customer service and information	31,767	35,640	(3,873)	(10.9)
Administrative and general	106,043	98,859	7,184	7.3
Public good	28,120	25,192	2,928	11.6
Total operations	496,448	499,391	(2,943)	(0.6)
Maintenance				
Production	23,375	22,067	1,308	5.9
Transmission and distribution	54,516	52,309	2,207	4.2
Total maintenance	77,891	74,376	3,515	4.7
Depreciation and amortization				
Depreciation and amortization	114,122	110,846	3,276	3.0
Amortization of regulatory asset	17,976	17,016	960	5.6
Total depreciation and amortization	132,098	127,862	4,236	3.3
Total operating expenses	706,437	701,629	4,808	0.7
OPERATING INCOME (LOSS)	(4,523)	(41,635)	37,112	89.1
NON-OPERATING REVENUES AND EXPENSES				
Other revenues/(expenses)				
Interest income	19,258	11,531	7,727	67.0
Investment revenue	(1,078)	101	(1,179)	*
Other income (expense) - net	58,101	3,872	54,229	*
Unrealized holding gains (losses)	(2,143)	-	(2,143)	*
Revenue - CIAC	8,229	8,600	(371)	(4.3)
Total other revenues	82,367	24,104	58,263	241.7
Interest charges				
Interest on long-term debt	40,476	38,685	1,791	4.6
Interest on commercial paper	2,433	3,113	(680)	(21.8)
Total interest charges	42,909	41,798	1,111	2.7
CHANGE IN NET POSITION	\$ 34,935	\$ (59,329)	\$ 94,264	158.9 %

**SACRAMENTO MUNICIPAL UTILITY DISTRICT
SOURCES AND USES OF ENERGY - COMPARED TO BUDGET
For the Period Ended May 31, 2024**

Sources of Energy (GWh)	Month		Increase	Year to Date		Increase
	Actual	Budget	(Decrease) Percentage	Actual	Budget	(Decrease) Percentage
Net Generated						
Hydro	249	281	(11.4)	845	813	3.9
Carson Power Plant	-	-	*	1	123	(99.2)
Procter & Gamble Power Plant	38	26	46.2	227	248	(8.5)
Campbell Power Plant	36	9	300.0	288	292	(1.4)
Cosumnes Power Plant	173	183	(5.5)	1,327	1,398	(5.1)
Other	87	67	29.9	180	198	(9.1)
Total net generation	583	566	3.0	2,868	3,072	(6.6)
Purchased Power less transmission losses:						
CalEnergy	16	19	(15.8)	84	93	(9.7)
Calpine Sutter	71	23	208.7	363	353	2.8
Drew Solar	33	32	3.1	125	124	0.8
Feed in Tariff	27	25	8.0	77	85	(9.4)
Geysers	75	74	1.4	365	365	0.0
Grady Wind	83	82	1.2	406	395	2.8
Rancho Seco PV II	35	37	(5.4)	111	131	(15.3)
WAPA	105	74	41.9	394	190	107.4
WSPP and other	189	90	110.0	766	226	238.9
Other long term power	49	63	(22.2)	189	238	(20.6)
Total net purchases	683	519	31.6	2,880	2,200	30.9
Total sources of energy	1,266	1,085	16.7	5,748	5,272	9.0
Uses of energy:						
SMUD electric sales and usage	808	778	3.9	3,870	3,809	1.6
Surplus power sales	418	275	52.0	1,741	1,260	38.2
System losses	40	32	25.0	137	203	(32.5)
Total uses of energy	1,266	1,085	16.7 %	5,748	5,272	9.0 %

* Change equals 1000% or more.



Net generation is lower than planned for the five-month period.

- Hydro generation is higher than planned (3.9 percent).
- JPA generation is lower than planned (10.6 percent).

Purchased power, less surplus power sales, is higher than plan (21.2 percent).

SACRAMENTO MUNICIPAL UTILITY DISTRICT
STATEMENTS OF NET POSITION
May 31, 2024 and 2023
(thousands of dollars)

	Total						
	SMUD	SFA	NCEA	NCGA #1	Intercompany Eliminations	2024	2023
ELECTRIC UTILITY PLANT							
Plant in service, original cost	\$ 6,401,560	\$ 983,716	\$ -	\$ -	\$ (4,578)	\$ 7,380,698	\$ 7,165,613
Less accumulated depreciation	3,020,338	705,316	-	-	(920)	3,724,734	3,604,024
Plant in service - net	3,381,222	278,400	-	-	(3,658)	3,655,964	3,561,589
Construction work in progress	688,031	6,922	-	-	-	694,953	432,883
Investment in Joint Power Agencies	321,507	-	-	-	(283,062)	38,445	32,670
Total electric utility plant - net	4,390,760	285,322	-	-	(286,720)	4,389,362	4,027,142
RESTRICTED ASSETS							
Revenue bond reserves	1,027	-	-	-	-	1,027	2,004
Restricted for payment of debt service	92,765	-	-	-	-	92,765	114,368
JPA funds	-	15,544	14,369	25,711	-	55,624	47,999
Nuclear decommissioning trust fund	9,623	-	-	-	-	9,623	9,143
Rate stabilization fund	208,570	-	-	-	-	208,570	201,093
Other funds	41,549	-	3,000	173	-	44,722	36,197
Due (to) from unrestricted funds (decommissioning)	(6,684)	-	-	-	-	(6,684)	(6,684)
Due (to) from restricted funds (decommissioning)	6,684	-	-	-	-	6,684	6,684
Less current portion	(113,628)	(15,537)	(17,369)	(25,883)	-	(172,417)	(177,005)
Total restricted assets	239,906	7	-	1	-	239,914	233,799
CURRENT ASSETS							
Cash, cash equivalents and investments							
Unrestricted	553,638	36,768	-	-	-	590,406	485,408
Restricted	113,628	15,537	17,369	25,883	-	172,417	177,005
Accounts receivable - net	239,403	34,135	-	2,793	(43,423)	232,908	229,323
Lease receivable	892	-	-	-	(217)	675	615
Energy efficiency loans due within one year	139	-	-	-	-	139	139
Interest receivable	6,887	252	-	13	-	7,152	5,410
Lease interest receivable	68	-	-	-	(20)	48	47
Regulatory costs to be recovered within one year	74,859	104	-	105	-	75,068	61,856
Derivative financial instruments maturing within in one year	25,652	-	-	-	-	25,652	17,895
Inventories	153,309	16,240	-	-	-	169,549	129,308
Prepaid gas to be delivered within one year	-	-	9,785	29,805	-	39,590	31,394
Prepayments and other	25,293	5,876	40	16	-	31,225	39,058
Total current assets	1,193,768	108,912	27,194	58,615	(43,660)	1,344,829	1,177,458
NONCURRENT ASSETS							
Regulatory costs for future recovery							
Decommissioning	98,315	-	-	-	-	98,315	74,051
Pension	534,205	-	-	-	-	534,205	467,885
OPEB	303,414	-	-	-	-	303,414	296,989
Bond Issues	-	531	-	218	-	749	958
Derivative financial instruments	481	-	-	-	-	481	1,218
Derivative financial instruments	38,511	-	-	-	-	38,511	55,869
Prepaid gas	-	-	694,333	71,040	-	765,373	623,643
Prepaid power and capacity	-	-	-	-	-	-	86
Lease receivable	20,641	-	-	-	(3,525)	17,116	17,709
Energy efficiency loans - net	242	-	-	-	-	242	582
Other	79,653	12	(16)	33	-	79,682	80,562
Total noncurrent assets	1,075,462	543	694,317	71,291	(3,525)	1,838,088	1,619,552
TOTAL ASSETS	\$ 6,899,896	\$ 394,784	\$ 721,511	\$ 129,907	\$ (333,905)	\$ 7,812,193	\$ 7,057,951
DEFERRED OUTFLOWS OF RESOURCES							
Accumulated decrease in fair value of hedging derivatives	53,155	-	-	-	-	53,155	60,523
Deferred pension outflows	140,837	-	-	-	-	140,837	138,164
Deferred OPEB outflows	56,729	-	-	-	-	56,729	43,356
Deferred ARO outflows	-	1,415	-	-	-	1,415	1,779
Unamortized bond losses - other	31,296	795	5,074	-	-	37,165	7,472
TOTAL DEFERRED OUTFLOWS OF RESOURCES	282,017	2,210	5,074	-	-	289,301	251,294
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 7,181,913	\$ 396,994	\$ 726,585	\$ 129,907	\$ (333,905)	\$ 8,101,494	\$ 7,309,245

SACRAMENTO MUNICIPAL UTILITY DISTRICT
STATEMENTS OF NET POSITION
May 31, 2024 and 2023
(thousands of dollars)

LIABILITIES AND NET ASSETS

	<u>Total</u>						
	SMUD	SFA	NCEA	NCGA #1	Intercompany Eliminations	2024	2023
LONG-TERM DEBT - NET	\$ 2,510,560	\$ 79,827	\$ 731,926	\$ 94,540	\$ -	\$ 3,416,853	2,868,886
CURRENT LIABILITIES							
Commercial paper notes	-	-	-	-	-	-	200,000
Accounts payable	95,460	10,952	-	-	-	106,412	107,081
Purchased power payable	66,296	8,745	-	1,220	(43,423)	32,838	42,222
Credit support collateral obligation	12,447	-	-	-	-	12,447	14,863
Long-term debt due within one year	84,590	13,115	-	25,530	-	123,235	138,195
Accrued decommissioning	7,140	-	-	-	-	7,140	7,549
Interest payable	27,175	1,831	5,364	886	-	35,256	37,310
Accrued interest liability	275	28	-	-	(20)	283	101
Accrued salaries and compensated absences	55,436	-	-	-	-	55,436	50,341
Derivative financial instruments maturing within one year	35,835	-	-	-	-	35,835	43,603
Customer deposits	2,093	-	-	-	-	2,093	1,798
Lease and subscription software liability	31,990	297	-	-	(217)	32,070	22,983
Other	51,776	-	-	-	-	51,776	50,074
Total current liabilities	470,513	34,968	5,364	27,636	(43,660)	494,821	716,120
NONCURRENT LIABILITIES							
Accrued decommissioning - net	101,254	10,166	-	-	-	111,420	86,267
Derivative financial instruments	19,481	-	-	-	-	19,481	19,599
Net pension liability	259,010	-	-	-	-	259,010	235,451
Net OPEB liability	25,334	-	-	-	-	25,334	6,753
Lease liability	59,811	4,873	-	-	(3,525)	61,159	24,741
Other	87,686	-	247	-	-	87,933	85,148
Total noncurrent liabilities	552,576	15,039	247	-	(3,525)	564,337	457,959
TOTAL LIABILITIES	3,533,649	129,834	737,537	122,176	(47,185)	4,476,011	4,042,965
DEFERRED INFLOWS OF RESOURCES							
Accumulated increase in fair value of hedging derivatives	62,542	-	-	-	-	62,542	73,614
Deferred pension inflows	8,416	-	-	-	-	8,416	17,536
Deferred OPEB inflows	30,616	-	-	-	-	30,616	33,732
Deferred lease inflows	20,717	-	-	-	(3,658)	17,059	17,844
Regulatory credits	844,651	-	-	-	-	844,651	728,922
Unamortized bond gains - other	36,707	-	-	-	-	36,707	41,762
Unearned revenue	3,821	37	-	-	-	3,858	8,229
TOTAL DEFERRED INFLOWS OF RESOURCES	1,007,470	37	-	-	(3,658)	1,003,849	921,639
NET POSITION							
Balance at beginning of year	2,596,003	265,739	52	7,827	(282,922)	2,586,699	2,366,976
Net increase (decrease) for the year	44,791	1,384	(11,098)	(142)	-	34,935	(22,335)
TOTAL NET POSITION	2,640,794	267,123	(10,952)	7,731	(283,062)	2,621,634	2,344,641
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 7,181,913	\$ 396,994	\$ 726,585	\$ 129,907	\$ (333,905)	\$ 8,101,494	\$ 7,309,245

SACRAMENTO MUNICIPAL UTILITY DISTRICT
STATEMENTS OF CASH FLOWS
For the Period Ended May 31, 2024
(thousands of dollars)

	Month	Year to Date
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from customers	\$ 117,795	\$ 602,903
Receipts from surplus power and gas sales	12,751	89,011
Other receipts	9,453	97,328
Payments to employees - payroll and other	(27,314)	(163,690)
Payments for wholesale power and gas purchases	(38,598)	(212,929)
Payments to vendors/others	(84,850)	(253,826)
Net cash (used in) provided by operating activities	(10,763)	158,797
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES		
Proceeds from bond issuance, net of premium	-	733,046
Repayment of debt	-	(537,295)
Prepaid gas supply expenditures	-	(187,894)
Interest on debt	-	(19,420)
Net cash used in noncapital financing activities	-	(11,563)
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES		
Construction expenditures	(34,035)	(180,644)
Contributions in aid of construction	2,237	14,718
Net proceeds from bond issues	-	753,929
Repayments and refundings of debt	(250,000)	(450,000)
Repayments of commercial paper	(150,000)	(150,000)
Other receipts/payments - net	2,693	2,693
Interest on debt	(9,349)	(85,697)
Lease and other receipts/payments - net	(2,462)	(12,833)
Net cash used in capital and related financing activities	(440,916)	(107,834)
CASH FLOWS FROM INVESTING ACTIVITIES		
Sales and maturities of securities	4,389	287,209
Purchases of securities	(49,684)	(244,580)
Interest and dividends received	2,021	21,036
Investment revenue/expenses - net	(1,661)	(1,078)
Net cash (used in) provided by investing activities	(44,935)	62,587
Net (decrease) increase in cash and cash equivalents	(496,614)	101,987
Cash and cash equivalents at the beginning of the month and year	889,825	291,224
Cash and cash equivalents at May 31, 2024	\$ 393,211	\$ 393,211
Cash and cash equivalents included in:		
Unrestricted cash and cash equivalents	\$ 327,250	\$ 327,250
Restricted and designated cash and cash equivalents	54,591	54,591
Restricted and designated assets (a component of the total of \$239,914 at May 31, 2024)	11,370	11,370
Cash and cash equivalents at May 31, 2024	\$ 393,211	\$ 393,211