

Tuolumne Wind Project Authority

333 East Canal Drive, P.O. Box 949
Turlock, CA 95381-0949



AGENDA TUOLUMNE WIND PROJECT AUTHORITY

**TURLOCK IRRIGATION DISTRICT
BOARD ROOM, MAIN OFFICE BUILDING
333 EAST CANAL DRIVE
TURLOCK, CALIFORNIA**

**LOEWS CORONADO BAY RESORT
4000 CORONADO BAY ROAD
CORONADO, CA 92118**

[Click here to view the livestream of the meeting](#)

ALTERNATE FORMATS OF THIS AGENDA WILL BE MADE AVAILABLE UPON REQUEST TO QUALIFIED INDIVIDUALS WITH DISABILITIES. APPROPRIATE INTERPRETIVE SERVICES FOR THIS MEETING WILL BE PROVIDED IF FEASIBLE UPON ADVANCE REQUEST TO QUALIFIED INDIVIDUALS WITH DISABILITIES.

REGULAR MEETING TUESDAY, NOVEMBER 19, 2024 9:00 A.M.

- A. Call to Order**
- B. Public Comment Period (5-minutes per speaker)**

Interested persons in the audience are welcome to introduce any topic within the Authority's jurisdiction. Matters presented under this heading may be discussed, but no action will be taken by the Commission at this meeting.
- C. Action Items**
 - 1. Resolution to Authorize the Turlock Irrigation District General Manager to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project**

Consider a resolution to authorize the Turlock Irrigation District General Manager or his designee to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project, including but not limited to the agreements as outlined below:

 - Purchase and Sale Agreement
 - Guaranty Agreement
 - Colin Selby, Resource Planning Department Manager
- D. Motion to Adjourn**

Tuolumne Wind Project Authority

333 East Canal Drive, P.O. Box 949
Turlock, CA 95381-0949



**TUOLUMNE WIND PROJECT AUTHORITY
COMMISSION AGENDA REPORT**

Board Meeting Date: November 19, 2024

Subject: Resolution requesting authorization for the Turlock Irrigation District General Manager or his designee to perform the execution of: (1) the “Purchase and Sale Agreement” between Tuolumne Wind Project Authority and Washington Wind LLC; and (2) the “Guaranty Agreement” between Clearway Energy Operating LLC, and Tuolumne Wind Project Authority, pending final legal review.

Administration: Power Supply

Recommended Action: Adoption of resolution authorizing the Turlock Irrigation District General Manager or his designee to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project, pending final legal and accounting review and General Manager approval.

Background and Discussion: In March of 2022, Turlock Irrigation District (“TID”) and Clearway Energy Group LLC (“Clearway”) executed a Confidentiality Agreement, under which, they began sharing information and conducting discussions regarding Clearway’s potential purchase of the Tuolumne Wind Project (“TWP”). In December of 2023, TID and Clearway executed a Letter of Intent that was largely non-binding, except for its exclusivity provisions, which afforded the parties a period within which they would conduct exclusive negotiations regarding the purchase.

Over the course of 2024, TID and Clearway negotiated the terms and conditions of the “Purchase and Sale Agreement” that would govern Clearway’s purchase of the assets that make up TWP (“TWP Assets”), as Clearway, a private entity, could not purchase the Tuolumne Wind Project Authority (“TWPA”) because it is a Joint Powers Authority that can only be owned by governmental entities. TID and Clearway also negotiated a post-sale “Amended and Restated Senior Purchase Power Agreement” (“Senior PPA”), under which, TID would purchase the energy generated by the TWP Assets purchased by Clearway. TID and Clearway negotiated Subordinate Power Purchase Agreement (“Subordinate PPA”) for the increase in generation from a Repowered TWP. Finally, TID and Clearway negotiated the associated Guaranty and Financial Support Agreements, which require Clearway to guaranty the Washington Wind LLC’s obligations under these agreements and the require TID to guaranty TWPA’s financial obligations under the “Purchase and Sale Agreement.”

Key issues for TID included, but were not limited to, TWPA’s bond defeasement, retaining the PCC-0 status for renewable energy credits (RECs) produced by the Project Assets that TID would purchase from Clearway under the Senior PPA, the Senior PPA

price, and the post-sale liabilities that TWP would maintain for an agreed upon period after the sale. On August 18, 2023, the California Energy Commission’s responded to District staff’s inquiries and indicated that while the CEC cannot make prospective RPS verification determinations, offered guidance to District staff’s on the requirements for count-in-full or “PCC-0” status. Throughout the negotiations with the prospective seller, District staff endeavored to align the contractual documents with the CEC’s guidance to ensure the District retains the ability to provide count-in-full status for the Renewable Energy Credits generated by Seller after the transaction is executed. These protections will help minimize the long-term cost borne by the District’s ratepayers.

Based on the evaluation of this deal as a package between both the Purchase and Sale Agreement, the Senior PPA, and the Subordinate PPA, it is expected that the benefits associated with execution of the above referenced agreements outweigh the benefits of continued ownership of TWP through Tuolumne Wind Project Authority (“TWPA”).

Alternative(s) Pros and Cons:	Alternative: Do not approve the agreements and retain control of TWP. Pros: The debt associated with Tuolumne Wind Plant will be defeased. Cons: The Long-term power purchase agreement with an out of state resource contains risks.
Additional Information:	Sale of the Tuolumne Wind Plant will also trigger the execution of a Purchased Power Agreement between Washington Wind LLC and Turlock Irrigation District.
Fiscal Impact:	No more debt payments associated with TWP after the close date.

Presenter Signature <i>Colin Selby</i>	Dept. Manager Signature <i>Colin Selby</i>	AGM Signature <i>Tim Payne</i>
Name: Colin Selby	Name:	Name: Tim Payne
Date Signed: 11/12/2024	Date Signed:	Date Signed: 11/12/24

GM Signature 
Name: Brad Koehn
Date Signed: 11/13/2024

RESOLUTION NO. 2024 -

RESOLUTION APPROVING THE TURLOCK IRRIGATION DISTRICT GENERAL MANAGER OR HIS DESIGNEE TO PERFORM THE EXECUTION OF: (1) THE “PURCHASE AND SALE AGREEMENT” BETWEEN TUOLUMNE WIND PROJECT AUTHORITY AND WASHINGTON WIND LLC; AND (2) THE “GUARANTY AGREEMENT” BETWEEN CLEARWAY ENERGY OPERATING LLC, AND TUOLUMNE WIND PROJECT AUTHORITY

WHEREAS, Tuolumne Wind Project Authority owns and operates an approximately 136.6 MW nameplate capacity wind farm comprised of 62 wind turbines located in Klickitat County, Washington; and

WHEREAS, Tuolumne Wind Project Authority desires to sell, transfer and assign to Washington Wind LLC, and Washington Wind LLC desires to purchase and receive from Tuolumne Wind Project Authority, all of Tuolumne Wind Project Authority’s right, title and interest in and to the Purchased Assets upon the terms and subject to the conditions set forth in the Purchase and Sale Agreement between Tuolumne Wind Project Authority and Washington Wind LLC; and

WHEREAS, Tuolumne Wind Project Authority and Turlock Irrigation District, an irrigation district organized under the laws of the State of California (“**TID**”) are parties to the Power Purchase Agreement, dated July 14, 2009 (“**Original PPA**”); and

WHEREAS, in connection with such sale of the Purchased Assets, Tuolumne Wind Project Authority desires to transfer and assign the Original PPA to Washington Wind LLC at the closing if and when it occurs; and

WHEREAS, immediately after giving effect to the assignment of the Original PPA, Tuolumne Wind Project Authority desires to cause Turlock Irrigation District to execute and deliver to Washington Wind LLC the Amended and Restated Power Purchase Agreement (attached) at the Closing, if and when it occurs, in part with the intent to ensure that the classification of the electricity products under the Amended and Restated Power Purchase Agreement shall “count in full toward RPS procure targets” under California Public Utilities Code Section 399.16(d) and 20 Cal. Code Regs. Title 20 Section 3202(a) (also referred to as Portfolio Content Category Classification zero (“**PCC-0**”)) and thereby maintain the same classification that these electricity products have under the Original PPA; and

WHEREAS, Buyer, Tuolumne Wind Project Authority, a joint powers authority (the “**TWP Authority**”), and Tuolumne Wind Project, LLC, a Delaware limited liability company (“**TWP LLC**”) were the original parties to that certain Power Purchase Agreement dated as of July 14, 2009 (the “**Original PPA**”), pursuant to which TWP LLC (or, in the event of TWP LLC assigning its assets and liabilities to the TWP Authority thereunder, the TWP Authority) committed to selling all energy and capacity from a 136.6 MW_{AC} wind energy project on a site located near Goldendale, Klickitat County (the “**Existing Facility**”) to Turlock Irrigation District for a term of up to 25 years; and

WHEREAS, in connection with the closing of the Acquisition Transaction, (i) Washington Wind LLC will take over the operation of the Existing Facility from TWP Authority and now desires to sell and deliver to Turlock Irrigation District the Net Output and associated RECs,

Ancillary Services and Capacity Rights (as all such terms are hereinafter defined) to Turlock Irrigation District (TID), and TID desires to buy the same from Washington Wind LLC in accordance with the terms and conditions hereof for a term of at least fifteen (15) years; (ii) Washington Wind LLC wishes to initiate development activities to Repower the Existing Facility; and (iii) Washington Wind LLC wishes to continue to sell and deliver to Turlock Irrigation District the Net Output and associated RECs, Ancillary Services and Capacity Rights from the Repowered Facility for an extended term and TID desires to continue to be the exclusive purchaser of these products from Washington Wind LLC.

NOW, THEREFORE, BE IT RESOLVED that the Commission of the Tuolumne Wind Project Authority hereby:

1. Consents to sale of Tuolumne Wind Project to Washington Wind, LLC; and
2. Authorizes and directs the Turlock Irrigation District General Manager or his designee to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project, pending final legal and accounting review/edits and General Manager approval.

Moved by Commissioner _____, seconded by Commissioner _____, that the foregoing resolution be adopted.

Upon roll call the following vote was had:

Ayes:

Noes:

Absent:

The President declared the resolution _____.

I, Jennifer Land, Secretary of the Commission of the TUOLUMNE WIND PROJECT AUTHORITY, a California joint powers authority, do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly adopted at a regular meeting of said Commission held the 19th day of November, 2024.

Secretary of the Commission of the
Tuolumne Wind Project Authority

PURCHASE AND SALE AGREEMENT

between

Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the
State of California,

as a Seller,

and

Washington Wind LLC,

a Delaware limited liability company,

as Purchaser

dated as of [____], 2024

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EXHIBITS:

Exhibit A	Project Description and Map of Project Site
Exhibit B	Aggregate Net Working Capital Amount Calculation
Exhibit C	Form of Assignment of Original PPA
Exhibit D	Assignment and Assumption of Leases and Easements
Exhibit E	Form of Bill of Sale and Assignment and Assumption Agreement
Exhibit F	Form of Purchaser Parent Guaranty
Exhibit G	Form of Seller Financial Support Agreement
Exhibit H	Form of A&R PPA
Exhibit I	Form of Landowner Estoppel
Exhibit J	Form of NSC Smelter Lease Amendment
Exhibit K	Purchase Price Calculation

DISCLOSURE SCHEDULES:

[to be listed]

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “**Agreement**”), dated as of [_____], 2024 (the “**Effective Date**”), is made and entered into by and between Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California (“**Seller**”), and Washington Wind LLC, a Delaware limited liability company (“**Purchaser**”) (Seller and Purchaser are collectively referred to herein, as the “**Parties**” and each, individually, as a “**Party**”). Capitalized terms used, and not otherwise defined, herein shall have the meanings set forth in Section 1.1.

RECITALS

WHEREAS, Seller owns and operates an approximately 136.6 MW nameplate capacity wind farm comprised of 62 wind turbines located in Klickitat County, Washington, as more particularly described on Exhibit A to this Agreement (the “**Project**”); and

WHEREAS, Seller desires to sell, transfer and assign to Purchaser, and Purchaser desires to purchase and receive from Seller, all of Seller’s right, title and interest in and to the Purchased Assets (as defined in Section 1.1 below) upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, Seller and Turlock Irrigation District, an irrigation district organized under the laws of the State of California (“**TID**”) are parties to the Power Purchase Agreement, dated July 14, 2009 (“**Original PPA**”);

WHEREAS, in connection with such sale of the Purchased Assets, Seller desires to transfer and assign the Original PPA to Purchaser at the Closing (as defined in Section 1.1), if and when it occurs; and

WHEREAS, immediately after giving effect to the assignment of the Original PPA, Seller desires to cause TID to execute and deliver to Purchaser the A&R PPA (as defined in Section 1.1 below) at the Closing, if and when it occurs, in part with the intent to ensure that the classification of the electricity products under the A&R PPA shall “count in full toward RPS procure targets” under California Public Utilities Code Section 399.16(d) and 20 Cal. Code Regs. Title 20 Section 3202(a) (also referred to as Portfolio Content Category Classification zero (“**PCC-0**”)) and thereby maintain the same classification that these electricity products have under the Original PPA; and

WHEREAS, immediately after giving effect to the assignment of the Original PPA, Seller desires to cause TID to execute and deliver to Purchaser the SPPA (as defined in Section 1.1 below) at the Closing.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals which are incorporated herein, the mutual covenants and agreements set forth in this Agreement, the representations and warranties

set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I.

DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. As used in this Agreement, the following defined terms have the meanings indicated below:

“**AAA**” has the meaning set forth in Section 12.13(a).

“**Accountant’s Certificate**” has the meaning set forth in Section 2.2.

“**Acquisition Proposal**” has the meaning set forth in Section 6.10.

“**Action or Proceeding**” means any legal, administrative, arbitral, mediation or other alternative dispute resolution procedure or other action, proceeding, claim, suit, litigation, arbitration, assessment, audit, inquiry or similar investigation before any Governmental Authority or otherwise at law or in equity.

“**Affiliate**” means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with the Purchaser specified. The phrase “**Controlled Affiliate**” as used in this Agreement with respect to Purchaser means an Affiliate of Purchaser that is Controlled by Clearway Energy, Inc.

“**Aggregate Net Working Capital Amount**” means (without duplication) the current assets of the Business that are included in the Purchased Assets only for the line item categories of current assets specifically identified in Exhibit B, minus the current liabilities of the Business that are included in the Purchased Assets only for the line item categories of current liabilities specifically identified in Exhibit B, as determined in accordance with the methodology used in the preparation of Aggregate Net Working Capital Amount set forth on Exhibit B, and otherwise in accordance with GAAP as of 12:01 A.M. (Eastern time) on the Closing Date before taking into account the consummation of the transactions contemplated by this Agreement. In the event the Closing does not occur on the last day of a month, then each item included as a proration item on Exhibit B and included in the calculation of Aggregate Net Working Capital Amount shall be prorated to the extent applicable as of the Closing Date by multiplying the amount of each such item for the full calendar month by a fraction, the numerator of which is the number of days elapsed from and including the first day of the month in which the Closing Date occurs to but excluding the Closing Date, and the denominator of which is the total number of days in such month, provided that to the extent items may be determined on a daily basis, such amounts will be allocated on a daily basis. Notwithstanding anything to the contrary in this Agreement, in no event shall “**Aggregate Net Working Capital Amount**” include cash, cash equivalents, marketable securities, or any Tax assets.

“**Aggregate Net Working Capital Adjustment Amount**” means the Aggregate Net Working Capital Amount minus the Target Aggregate Net Working Capital Amount.

“**Agreement**” means this Purchase and Sale Agreement and the Exhibits, the Annexes and the Disclosure Schedules attached hereto.

“**Allocation**” has the meaning set forth in Section 8.10.

“**Allocation Principles**” has the meaning set forth in Section 8.10.

“**Apportioned Obligations**” has the meaning set forth in Section 9.4.

“**Arbitration**” has the meaning set forth in Section 12.13(a).

“**A&R PPA**” means the Amended and Restated Power Purchase Agreement, to be entered into and dated as of the Closing Date pursuant to Section 6.4, between TID and Purchaser.

“**Assignment of Original PPA**” means the Assignment of Original PPA, in substantially the form of Exhibit C attached hereto.

“**Assignment of Real Property Interests Agreement**” means the Assignment of Real Property Interests Agreement, in substantially the form of Exhibit D attached hereto.

“**Assumed Liabilities**” has the meaning set forth in Section 2.1(c)(i).

“**Auditor Certificate**” means the report of independent auditor referenced in Section 11.01 of the Project’s Bond Indenture.

“**Balancing Authority**” means an entity that integrates resource plans ahead of time, maintains demand and resource balance within a Balancing Authority Area, and supports interconnection frequency in real time.

“**Balancing Authority Area**” means the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

“**Benefit Plan**” means “employee benefit plan,” as such term is defined in Section 3(3) of ERISA, or other pension, bonus, profit sharing, stock option or other agreement or arrangement providing for employee remuneration or benefits, including a “multiemployer plan,” as that term is defined in Section 4001(a)(3) of ERISA.

“**Bill of Sale and Assignment and Assumption Agreement**” means the Bill of Sale and Assignment and Assumption Agreement, in substantially the form of Exhibit E attached hereto.

“**Books and Records**” means copies of the past three (3) years of the books and financial and operating records for the Project, in the Seller’s possession, kept by the Seller in the ordinary course of business (including the documents referenced in the Schedules) and have been Made Available to the Purchaser.

“**Brown Act**” means the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 *et. seq.*

“**Business**” means the business and operations of the Project.

“**Business Day**” means a day other than Saturday, Sunday or any day on which banks located in San Francisco, California are authorized or obligated to close.

“**California Energy Commission**” or “**CEC**” means the California State Energy Resources Conservation and Development Commission formed pursuant to California Public Resources Code Section 25000 et seq.

“**Cap**” has the meaning set forth in Section 10.4(a).

“**Claims**” has the meaning set forth in Section 6.7.

“**Closing**” has the meaning set forth in Section 2.3(a).

“**Closing Date**” is the date on which the Closing occurs.

“**Closing Date Title Policy**” has the meaning set forth in Section 7.10.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Commercial Rules**” has the meaning set forth in Section 12.13(a).

“**Confidential Information**” has the meaning set forth in Section 6.16(b).

“**Confidentiality Agreement**” means that certain Non-Disclosure Agreement, dated as of March 17, 2022, and amended as of April 18, 2024, by and between Clearway Energy Group, LLC and TID.

“**Contract**” means any legally binding written or oral contract or agreement, including an agreement regarding indebtedness, lease, mortgage, licenses agreement, purchase order, commitment, letter of credit or any other legally binding obligation to which the party in question is a party or otherwise bound.

“**Control**” when used with respect to any particular Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “**Controlling**” and “**Controlled**” have meanings correlative to the foregoing.

“**CPRA**” means the California Public Records Act, Cal. Govt. Code §§7920, et seq.

“**Credit Support Documents**” has the meaning set forth in Section 4.11(a)(xx).

“**Data Room**” means all documents and materials posted to the folders named “**TID & Clearway**” in Seller’s electronic data room hosted by Kiteworks and accessible by Purchaser.

“**Deductible**” has the meaning set forth in Section 10.4(a).

“**Default Rate**” means, with respect to any amount due and payable but unpaid under this Agreement, a rate per annum equal to (a) the prime rate published in the Wall Street Journal, Eastern Edition, in effect on the date such payment was due and payable plus (b) [REDACTED].

“**Disclosure Schedules**” means the disclosure Schedules attached to this Agreement.

[REDACTED]

“**Effective Date**” has the meaning set forth in the Preamble.

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, offsets, attributes and allowances of any kind (including all Renewable Energy Credits), howsoever entitled and whether arising before, on, or after the Closing, attributable to the Project or the electric energy, capacity or other generator-based products produced therefrom, including (i) any avoided emissions of pollutants to the air, soil or water, such as sulfur oxides, nitrogen oxides and carbon monoxide, and any rights related thereto, (ii) any avoided emissions of methane, carbon dioxide and other “greenhouse gases” that have been determined by the United Nations Intergovernmental Panel on Climate Change or any other governmental, quasi-governmental or non-governmental agency or body to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere, and any rights related thereto, (iii) any reporting rights relating to the reduction of “greenhouse gases” under Section 1605(b) of the National Energy Policy Act of 1992 or under any other federal, state, local or foreign law, rule or regulation related to the reduction of air pollutants or “greenhouse gases” or the trading of emissions or emissions credits, including so-called “green tags” or “green certificates,” and (iv) any credits, certificates or similar instruments issued pursuant to a federal or state renewable portfolio standard or analogous program.

“**Environmental Claim**” means any suit, action, contest, demand, directive, claim, Lien, assessment, citation, fine, penalty, investigation, audit, written notice of noncompliance or violation, allegation of liability or potential liability, or proceeding made or brought by any Person with respect to the Project and/or any portion of the Project Site in each such case alleging any liability under or violation of or noncompliance with any applicable Environmental Law.

“**Environmental Law**” means all Laws (including rules, regulations, codes, plans, injunctions, judgments, orders, ordinances, decrees, rulings and charges thereunder) of Governmental Authorities (and all agencies thereof) concerning or relating to pollution or protection of human health, land conservation, wildlife, flora and fauna, natural resources, or the environment, including laws relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials into the air, surface water, ground water, lands or subsurface (including releases to ambient air, land and surface and subsurface strata), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, release, disposal, transport, or handling of Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986, the Emergency Planning and Community Right to Know Act, 42

U.S.C. §§ 11001 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Resource Conservation Recovery Act, 42 U.S.C. § 6901 et seq., and the Hazardous and Solid Waste Amendments Act of 1984, the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Endangered Species Act (16 U.S.C. §§ 1531 et seq.), the Migratory Bird Treaty Act (16 U.S.C. §§ 703 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §§ 5101 et seq.) all , and any other federal, Washington state, or local laws, in each case in effect as of the Effective Date.

“**ERISA**” means the Employment Retirement Income Security Act of 1974.

“**Estimated Aggregate Net Working Capital Adjustment Amount**” means the Estimated Aggregate Net Working Capital Amount, minus the Target Aggregate Net Working Capital Amount.

“**Estimated Aggregate Net Working Capital Amount**” has the meaning set forth in Section 2.4(a).

“**Existing Title Policy**” means that certain ALTA Owner’s Policy of Title Insurance dated as of August 28, 2008, issued by the Title Company, Policy No. 390481.

“**Excluded Assets**” has the meaning set forth in Section 2.1(b).

“**FAA**” means the Federal Aviation Administration.

“**Favorable Opinion of Bond Counsel**” has the meaning set forth in Section 2.3(b)(1).

“**FERC**” means the Federal Energy Regulatory Commission and any successor agency.

“**FERC 203 Approval**” means authorization from FERC pursuant to Section 203 of the FPA to consummate the transaction contemplated hereunder.

“**Final Aggregate Net Working Capital Amount**” has the meaning set forth in Section 2.4(b).

“**Financial Statements**” has the meaning set forth in Section 4.2(a).

“**FPA**” means the Federal Power Act.

“**Fundamental Representations**” means Seller Fundamental Representations and Purchaser Fundamental Representations, collectively.

“**GAAP**” means generally accepted accounting principles in the United States of America.

“**GIA**” means the Generation Interconnection Agreement, dated as of August 25, 2008, between KPUD and Seller.

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Governmental Approval” means any consent, filing, registration, notification, authorization or approval required by any Governmental Authority.

“Governmental Authority” means any federal, national, regional, state, multinational, tribal, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power (including the California Public Utilities Commission, Washington Utilities and Transportation Commission and FERC); any regulatory entity, independent system operation or regional transmission operator (including the Bonneville Power Administration, California ISO, and the North American Electric Reliability Corporation, Western Electricity Coordinating Council, the Federal Aviation Administration); or any court or governmental tribunal.

“Hazardous Substances” means (i) any petroleum, petroleum constituents or petroleum products, per-and-polyfluoroalkyl substances, flammable, ignitable, corrosive or explosive substances or materials, radioactive materials, biohazardous materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, (ii) any chemicals or other materials or substances which are defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “pollutants,” “contaminants” or words of similar import under any Environmental Law, and (iii) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority under any Environmental Law.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“Income Tax” means any U.S. federal, state, local or non-U.S. Tax measured by or imposed on net income.

“Income Tax Return” means any Tax Return relating to Income Taxes.

“Indebtedness” means all obligations or indebtedness of a Person: (a) for borrowed money; (b) evidenced by notes, bonds, debentures or similar instruments; (c) for the deferred purchase price of goods, assets or services (other than trade payables or accruals incurred in the ordinary course of business and not past due); (d) under capital leases; (e) secured by a Lien on the assets of such Person, whether or not such obligation has been assumed by such Person; (f)

with respect to reimbursement obligations for letters of credit and other similar instruments (whether or not drawn); (g) under any interest rate swap agreement, forward rate agreement, interest rate cap or collar agreement or other financial agreement or arrangement entered into for the purpose of limiting or managing interest rate risks; (h) in the nature of guaranties, endorsements and assumptions of the obligations described in clauses (a) through (g) above of any other Person or as to which such Person has an obligation substantially the economic equivalent of a guaranty; or (i) in respect of any other amount properly characterized as indebtedness in accordance with GAAP.

“Indemnified Party” means either any Seller Indemnified Party or any Purchaser Indemnified Party, as the context may require, claiming indemnification under any provision of Article X.

“Indemnifying Party” means any Person against whom a claim for indemnification is being asserted under any provision of Article X.

“Independent Accounting Firm” has the meaning set forth in Section 8.10.

“Insurance Policies” has the meaning set forth in Section 4.15.

“Intercompany Arrangements” has the meaning set forth in Section 4.13.

“Intellectual Property” means all patents and patent rights, trademarks and trademark rights, trade names, trade name rights, service marks and service mark rights, service names and service name rights, domain names, inventions, copyrights and copyright rights and all pending applications for and registrations of patents, trademarks, service marks and copyrights.

“Inventories” means all inventories of the Seller, including all finished goods, work in process, raw materials, spare parts and all other materials and supplies to be used or consumed by the Project.

“Judicial Relief” has the meaning set forth in Section 12.13(b).

“Knowledge of Seller” or **“Seller’s Knowledge”** [REDACTED]

“Knowledge of Purchaser” or **“Purchaser’s Knowledge”** [REDACTED]

“KPUD” means Public Utility District No. 1 of Klickitat County, Washington.

“Laws” means all applicable common law, constitutions, laws (including Environmental Law), statutes, treaties, rules, Orders, codes, ordinances, standards, regulations, restrictions, official guidelines, policies, directives, injunctions, interpretations, Permits or like action having the effect of law of any Governmental Authority.

“**LGIA**” means the Standard Large Generator Interconnection Agreement, executed as of January 21, 2010, between Seller and the Bonneville Power Administration.

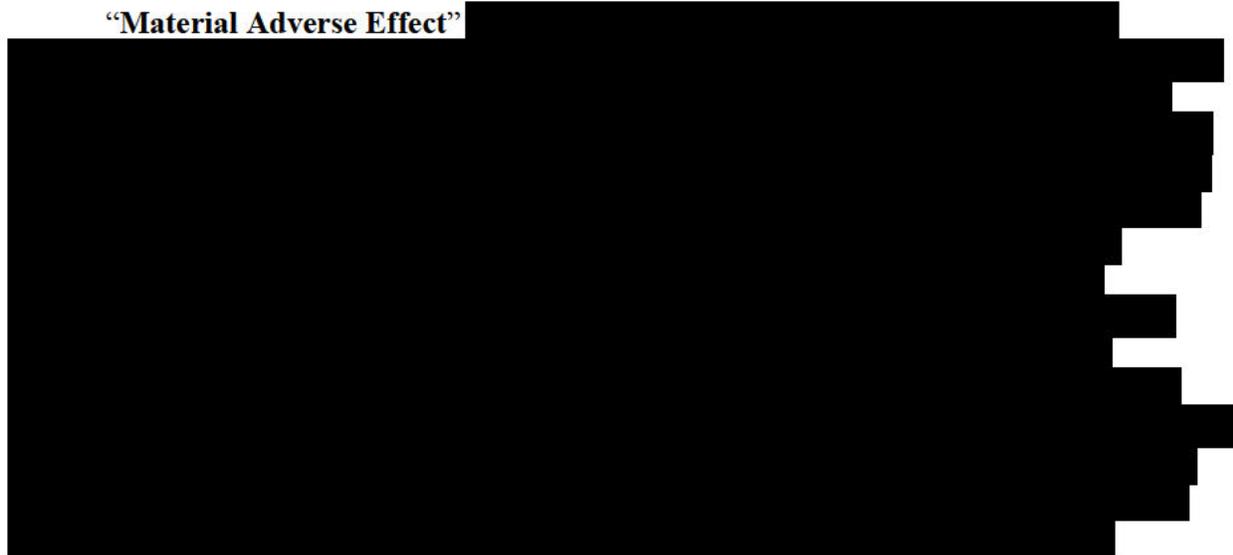
“**Liabilities**” means any Indebtedness, claim, commitment, obligation, duty, Losses, payable or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability and including Tax), regardless of whether such Indebtedness, claim, commitment, obligation, duty, Loss, payable or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP and regardless of whether such Indebtedness, claim, commitment, obligation, duty, Losses, payable or liability is immediately due and payable.

“**Lien**” means any mortgage, deed of trust, lien, pledge, charge, security interest, assessment, reservation, assignment, hypothecation, defect in title, encroachments and other burdens, restrictive covenant, Contract restricting the use of the Project Site, condition or restriction or easement or encumbrance of any kind, whether arising by Contract or under any Law and whether or not filed, recorded or otherwise perfected or effective under any Law, or any preference, priority or preferential arrangement of any kind or nature whatsoever including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

“**Losses**” means any and all damages, losses, Liabilities, costs, fines, penalties, assessments, awards, charges, claims, demands, complaints, fees, injuries, levies, sanctions, settlements, stipulations, costs or expenses, including reasonable attorneys’, accountants’ and experts’ fees and expenses (including such items incurred in investigating or defending a claim), Taxes, judgments and interest, in each case subject to Section 10.8.

“**Made Available**” means the documents and materials (and, in the case of Contracts, Project Permits and Reports, true, complete and correct copies of the same) that were posted to the Data Room as of three (3) Business Days prior to the Effective Date or the Closing Date, as applicable.

“**Material Adverse Effect**”





“**MBR Authority**” has the meaning set forth in Section 4.16(a).

“**MW**” means megawatts of electric power.

“**NERC**” means the North American Electric Reliability Corporation and any successor corporation.

“**Neutral Auditor**” means KPMG (“**KPMG**”) or, if KPMG is unable to serve, an impartial nationally recognized firm of independent certified public accountants other than Seller’s accountants or Purchaser’s accountants, mutually agreed to by Purchaser and Seller.

“**NSC Smelter Lease**” means that Wind Energy Lease and Agreement dated as of January 4, 2006 by and between NSC Smelter LLC, a Delaware limited liability company, and Windy Point Partners, LLC, a Delaware limited liability company, as evidenced by that certain Memorandum of Lease dated as of January 14, 2006, recorded on January 25, 2006 as Document No. 1064008 of the Official Records as amended by that certain First Amendment to Wind Energy Lease and Agreement dated as of April 28, 2008, as evidenced by that certain Memorandum of Lease dated as of April 28, 2008, recorded on May 6, 2008 as Document No. 1076935 of the Official Records, as further amended by that certain Second Amendment to Wind Energy Lease and Agreement dated as of August 13, 2008, as evidenced by that certain Memorandum of Lease dated August 13, 2008, recorded on August 21, 2008 as Document No. 1078941 of the Official Records, as assigned from Windy Point Partners, LLC, a Delaware limited liability company, to Tuolumne Wind Project LLC, a Delaware limited liability company, pursuant to that certain Assignment and Assumption of Leases dated August __, 2008, recorded on August 28, 2008 as Document No. 1079063 of the Official Records and on August 28, 2008 as Document No. 1079064 of the Official Records, as further amended by that certain unrecorded Third Amendment to Wind Energy Lease and Agreement dated as of September 9, 2009.

“**Order**” means any writ, judgment, injunction, ruling, decision, order, verdict, decree, writ, mandate, command or similar direction of any Governmental Authority or arbitrator that is binding on the applicable Person, whether preliminary or final.

“Organizational Documents” means, with respect to any Person, the articles or certificate of incorporation or organization, bylaws, joint exercise of powers agreement, limited partnership agreement, partnership agreement, limited liability company agreement, member control agreement, trust agreement, or other organizational documents of such Person, including any shareholder, voting trust or similar organizational documents or agreements of such Person in connection with any of the foregoing.

“Original PPA” has the meaning set forth in Recitals.

“Party” or **“Parties”** has the meaning set forth in the preamble of this Agreement.

“Permit” means permits from any Governmental Authority.

“Permitted Liens” means, as to the Purchased Assets, any of the following: (a) inchoate mechanics’ and materialmen’s Liens for construction in progress and workmen’s, repairmen’s, warehousemen’s and carriers’ Liens, arising in the ordinary course of business that in each case are either (i) for amounts not due and payable or (ii) being contested in good faith through appropriate proceedings for which adequate reserves have been established in the applicable balance sheet in accordance with GAAP, (b) statutory Liens for current Taxes (i) that are not yet due or payable or (ii) that are set forth on Schedule PE attached hereto and that being contested diligently and in good faith through appropriate proceedings and for which adequate reserves have been established, and are being maintained, in the applicable balance sheet in accordance with GAAP, (c) Liens arising under original purchase price conditional sales contracts and equipment leases with third parties incurred in the ordinary course of business of the Project (but not as a result of, or otherwise reflecting, amounts that have not been paid, or obligations that have not been performed, when due), (d) zoning, entitlement, land use, environmental, building and other similar restrictions promulgated by a Governmental Authority arising in the ordinary course of business (including under Project Permits held by Seller in respect of the Project), in each case not arising from the breach or violation thereof or any default or unperformed or unpaid obligations thereunder, (e) any Lien that is listed as a Schedule B exception to the Closing Date Title Policy, when issued, (f) such other Liens set forth on Schedule 1.1(a), (g) solely prior to the Closing and the payoff contemplated by the Project Bonds Payment, Liens securing or purporting to secure the Project Bonds, and (h) any matter listed in the Existing Title Policy.

“Person” means any natural person, corporation, limited liability company, general partnership, limited partnership, proprietorship, other business, entity, organization, trust, union, association or Governmental Authority.

“PFM Financial Advisor’s Letter” means a letter dated on or about the Effective Date of PFM Financial Advisor confirming the outstanding principal balance of the Project Bonds as of the Effective Date.

“Post-Closing Aggregate Net Working Capital Adjustment Amount” has the meaning set forth in Section 2.4(d).

“Post-Closing Tax Period” means any taxable period (or portion thereof) beginning after the Closing Date.

“Proposed Aggregate Net Working Capital Amount” has the meaning set forth in Section 2.4(b).

“Pre-Closing Tax Period” means any taxable period (or portion thereof) ending on or prior to the Closing Date.

“Procurement Content Category 0” or **“PCC-0”** has the meaning set forth in the Recitals.

“Project” has the meaning set forth in the Recitals.

“Project Bonds” means, collectively, the Seller’s outstanding 2009 Series B revenue bonds in the original principal amount of [REDACTED] and the Seller’s outstanding 2016 Series A refunding bonds in the original principal amount of [REDACTED]; each under the Project Bonds Indenture, and all related financing and security documents.

“Project Bonds Indenture” has the meaning set forth in Section 7.7.

“Project Bonds Trustee” means The Bank of New York Mellon Trust Company, N.A., in its capacity as **“Trustee”** under the Project Bonds.

“Project Bonds Payment” has the meaning set forth in Section 7.7.

“Project Contracts” has the meaning set forth in Section 4.11(a).

“Project Easements” means the easements set forth in Schedule 4.6(a)(i).

“Project Ground Leases” means the leases of real property set forth in Schedule 4.6(a)(i).

“Project Permit” has the meaning set forth in Section 4.12.

“Project Site” means any portion of real property subject to any Real Property Document.

“Project Tangible Personal Property” has the meaning set forth in Section 4.7.

“Prudent Wind Industry Practices” means the practices, methods and acts engaged in or approved or commonly used by members of the wind power industry in the United States in respect of the design, construction, maintenance, operation and repair of wind power energy generation facilities of comparable type and complexity to the Project that, at a particular time, in the exercise of reasonable judgment in light of the facts known and such other practices, methods or acts by those reasonably experienced in the wind power industry as would have reasonably been expected to accomplish the desired result in a manner consistent with applicable Laws, reliability, safety and expedition. **“Prudent Wind Industry Practices”** does not necessarily mean one particular practice, method, or standard of care, skill, safety and diligence in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, specifications and standards.

“PTCs” means the renewable energy credit described in Section 45 of the Code.

“PUHCA” means the Public Utility Holding Company Act of 2005.

“Purchased Assets” has the meaning set forth in Section 2.1(a).

“Purchase Price” has the meaning set forth in Section 2.2.

“Purchase Price Allocation Schedule” has the meaning set forth in Section 8.10.

“Purchaser” has the meaning set forth in the preamble of this Agreement, and includes its successors and permitted assigns.

“Purchaser Approvals” has the meaning set forth in Section 5.5.

“Purchaser Consents” has the meaning set forth in Section 5.4.

“Purchaser Consolidated Returns” has the meaning set forth in Section 9.3.

“Purchaser Fundamental Representations” means the representations and warranties set forth in Section 5.1 (Existence), Section 5.2 (Authority), Section 5.3 (No Conflicts), and Section 5.7 (Brokers).

“Purchaser Indemnified Parties” means Purchaser, its successors and permitted assigns, Affiliates, directors, officers, managers, employees, shareholders, members, controlling Persons and agents.

“Purchaser Parent Guarantor” means Clearway Energy Operating LLC, a Delaware limited liability company.

“Purchaser Parent Guaranty” means the Guaranty issued by Purchaser Parent Guarantor in favor of Seller, entered into and effective as of the Effective Date, with respect to Purchaser’s obligations under this Agreement and the other Transaction Documents, in the form attached hereto as Exhibit F.

“Purchaser Taxes” means (a) all Taxes of, arising from, or attributable to the Project, the Business, the Purchased Assets, or the Assumed Liabilities and imposed in respect of any Post-Closing Tax Period (as determined, with respect to a Straddle Period, in the same manner as the Apportioned Obligations are determined in accordance with Section 9.4) (including (x) the Purchaser Tax Amount, and (y) any penalty, fee, or addition to a personal property Tax that is charged by the applicable Governmental Authority subsequent to the Closing and that results from, or relates to, a failure to file timely a Tax Return that is due with respect to a taxable period, or portion thereof, that starts after to the Closing Date), (b) Transfer Taxes, and (c) any other Taxes that arise from or relate to the Post-Closing Tax Period, in each case, with the exception of the REET (which, for the avoidance of doubt, is a Seller Tax).

“Purchaser Tax Amount” has the meaning set forth in Section 9.4.

“Qualified Termination” has the meaning set forth in Section 11.3.

“REET” means the Tax that is the Washington State Real Estate Excise Tax set forth in RCW 82.45, or its successor.

“REET Affidavit” means the Washington State Real Estate Excise Tax Affidavit, Form 84001a, or its successor form, that is required by RCW 82.45.

“Real Property Documents” means, collectively, all Project Ground Leases and Project Easements attached hereto in Schedule 4.6(a)(i).

“Recovery Costs” has the meaning set forth in Section 11.3.

“Release” means any release, spill, emission, discharge, leaking, pumping, pouring, emptying, escaping, injection, deposit, disposal, dumping, discharge, dispersal, leaching, placing or migration to the environment or into or out of any property, including the movement of Hazardous Substances through or in the environment or property.

“Releasees” has the meaning set forth in Section 6.7.

“Releasers” has the meaning set forth in Section 6.7.

“Renewable Energy Credits” means any credit, certificate, renewable energy certificate, allowance or similar right that is related to the Environmental Attributes of the Project, whether arising pursuant to Applicable Law, certification, markets, trading, off-set, private transaction, renewable portfolio standards, voluntary programs or otherwise, including renewable energy credits certified by the Center for Resource Solutions.

“Reports” has the meaning set forth in Section 4.17.

“Representatives” means, as to any Person, its officers, managers, directors, employees, partners, members, stockholders, Affiliates, counsel, agents, accountants, advisers, engineers, consultants, representatives and agents.

“Retained Liabilities” has the meaning set forth in Section 2.1(c)(ii).

“Revised Code of Washington” or **“RCW”** is the compilation of all permanent Laws now in force in the State of Washington.

“Rights” means all claims, causes of action, rights of recovery and rights of set-off against any Person arising from or related to the Business, the Purchased Assets or the Assumed Liabilities, including: (i) all rights under any Project Contract, including all rights to receive payment for products sold and services rendered thereunder, to receive goods and services thereunder, to assert claims and to take other rightful actions in respect of breaches, defaults and other violations thereof; (ii) all of Seller’s rights under Project Contracts to cash reserves, advance payments, escrows, security deposits, and other prepaid items provided by Seller in connection with the Project; and (iii) all rights under all guarantees, warranties (including warranties, to the extent transferable, against manufacturers or vendors of Project Tangible

Personal Property), indemnities and insurance policies arising from or related to the Business, the Purchased Assets or the Assumed Liabilities.

“**Seller**” has the meaning set forth in the preamble of this Agreement, and includes its respective successors and permitted assigns.

“**Seller Approvals**” has the meaning set forth in Section 3.5.

“**Seller Connected Entities**” means Seller, TID, Walnut Energy Center Authority, and any Person that is directly or indirectly, through one or more intermediaries, Controlled by any of Seller, TID, or Walnut Energy Center Authority, and in existence as of the Effective Date.

“**Seller Consents**” has the meaning set forth in Section 3.4.

“**Seller Financial Support Agreement**” means the Financial Support Agreement issued by TID in favor of Purchaser, entered into and effective as of the Effective Date, in the form attached hereto as Exhibit G.

“**Seller Fundamental Representations**” means the representations and warranties set forth in Section 3.1 (Existence; Corporate Power), Section 3.2 (Authority), Section 3.3 (No Conflicts), Section 3.7 (Brokers), Section 4.1 (Purchased Assets and the Business), Section 4.13 (Intercompany Arrangements), and Section 4.18 (Bankruptcy; Solvency).

“**Seller Indemnified Parties**” means Seller and its successors and permitted assigns, Affiliates, directors, officers, managers, employees, shareholders, members, controlling Persons and agents.

“**Seller Tax Amount**” has the meaning set forth in Section 9.4.

“**Seller Taxes**” means (a) all Taxes of, arising from, or attributable to the Project, the Business, the Purchased Assets, or the Assumed Liabilities and imposed in respect of any Pre-Closing Tax Period (as determined, with respect to a Straddle Period, in the same manner as the Apportioned Obligations are determined in accordance with Section 9.4) (including (x) the Seller Tax Amount, and (y) any penalty, fee, or addition to a personal property Tax that is charged by the applicable Governmental Authority subsequent to the Closing but that results from, or relates to, a failure to file timely a Tax Return that relates to a taxable period, or portion thereof, that ends on or prior to the Closing Date), (c) the REET; provided, however, that Seller Taxes shall not include (A) any Transfer Taxes or (B) any other Taxes (i) that are imposed on Purchaser with respect to the Project, the Business, the Purchased Assets, or the Assumed Liabilities and (ii) that arise from or relate to the Post-Closing Tax Period, in each case, with the exception of the REET (which, for the avoidance of doubt, is a Seller Tax). Seller Taxes shall not include any Transfer Taxes.

“**SPPA**” means the Subordinate Power Purchase Agreement, to be entered into and dated as of the Closing Date pursuant to Section 6.4, between TID and Purchaser.

“**Straddle Period**” means any taxable period that includes, but does not end on, the Closing Date.

“**Target Aggregate Net Working Capital Amount**” means [_____] Dollars (\$[_____]).

“**Tax**” or “**Taxes**” means (a) all federal, state, local, non-U.S. and other net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, registration, license, lease, leasehold interest, service, service use, withholding, payroll, employment, excise, environmental, fuel, conservation, production, severance, stamp, occupation, premium, property (whether real, personal, or otherwise), windfall profits, intangible, utility, communications, escheat, unclaimed property liabilities, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever in the nature of a tax (including any amounts resulting from the failure to file any Tax Return), together with any interest and any penalties, additions to tax or additional amounts with respect thereto; (b) any Liability for payment of amounts described in clause (a) whether as a result of joint, several, transferee or successor liability, of being a member of an affiliated, consolidated, combined or unitary group for any period, pursuant to a Contract or otherwise through operation of law; (c) any Liability for the payment of amounts described in clauses (a) or (b) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person; and (e) any Liability, expense, or loss incurred in connection with the determination, settlement, or litigation of any of the foregoing.

“**Tax Returns**” means any report, certificate, claim for refund, return, election, estimated Tax filing or declaration relating to, or filed or required to be filed with respect to, Taxes, including any amendments thereof or schedules or attachments thereto or modification thereto and any document with respect to, or accompanying a request for, an extension of time for which to file any such return, report, form, statement, or other information, in each case, required to be filed with or submitted to any Governmental Authority in connection with the determination, administration, assessment, collection, or payment of any Tax.

“**Termination Date**” has the meaning set forth in Section 11.1(b).

“**Termination Fee**” has the meaning set forth in Section 11.3.

“**Third Party Claim**” has the meaning set forth in Section 10.5(a).

“**TID**” has the meaning set forth in the Recitals, and includes its successors and assigns.

“**Title Company**” means First American Title Insurance Company.

“**Transaction Documents**” means, collectively, this Agreement, the Assignment of Original PPA, the Assignment and Assumption of Real Property Interests Agreement, the Bill of Sale and Assignment and Assumption Agreement, the Purchaser Parent Guaranty, the Seller Financial Support Agreement, the REET Affidavit, and any other agreements (other than the A&R PPA and SPPA), certificates, documents or instruments entered into at or prior to the Closing pursuant to this Agreement for the Closing.

“**Transfer Taxes**” means, with the exception of the REET, all transfer, bulk transfer, documentary, sales, use, stamp, stamp duty, registration, recording, mortgage, titling, lease, leasehold interest, filing, excise, conveyance Taxes and other such Taxes and fees (including any

penalties and interest) incurred in connection with the transactions contemplated by this Agreement and the documents to be delivered hereunder (or under any Transaction Document).

“**Transmission Service Agreement**” means the Transmission Service Agreement, dated as of August 25, 2008, between KPUD and Seller.

“**Treasury Regulations**” means the regulations promulgated under the Code by the United States Department of Treasury, as such regulations may be amended from time to time.

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

“**Wind Data**” means all meteorological data actually generated for the Project by meteorological towers on the Project Site and all final third party reports and studies regarding such data that are relevant to the use of any of the Project’s wind turbines, in each case as amended, supplemented or updated.

Section 1.2 Interpretation.

(a) Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender, (ii) words using the singular or plural number also include the plural or singular number, respectively, (iii) the terms “hereof,” “herein,” “hereby,” “hereunder” and derivative or similar words refer to this entire Agreement, (iv) the terms “**Article**” or “**Section**” refer to the specified Article or Section of this Agreement and all references to Annexes, Exhibits and Schedules are intended to refer to Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part of this Agreement for all purposes, (v) the words “include” and “including” are not words of limitation and shall be deemed to be followed by the words “without limitation,” (vi) the use of the word “or” to connect two or more phrases shall be construed as inclusive of all such phrases (e.g., “A or B” means “A or B, or both”) unless used in conjunction with the word “either” in which case each such phrase shall be construed as exclusive; and (vii) references to Persons include their respective successors and permitted assigns and, in the case of Governmental Authorities, Persons succeeding to their respective functions and capacities.

(b) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

(c) Any date specified for action that is not a Business Day shall mean the first Business Day after such date.

(d) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(e) [Intentionally deleted].

(f) [Intentionally deleted].

(g) The Article and Section headings have been used solely for convenience, and are not intended to describe, interpret, define or limit the scope of this Agreement.

(h) Conflicts or discrepancies, errors or omissions in this Agreement or the various documents delivered in connection with this Agreement will not be strictly construed against the drafter of the contract language, rather, they shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the Parties at the time of contracting.

(i) A reference to any Contract or document is to that Contract or document as amended, novated, supplemented or replaced from time to time, to the extent permitted by this Agreement.

(j) All references in this Agreement to “dollars” or “\$” shall, in each case, be deemed to refer to United States currency unless otherwise specifically provided.

ARTICLE II.

SALE OF PURCHASED ASSETS AND CLOSING

Section 2.1 Purchase and Sale. Seller shall sell, transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase from Seller, all of Seller’s right, title and interest in and to the Purchased Assets at the Closing upon the terms and subject to the conditions set forth in this Agreement, free and clear of all Liens suffered or incurred by Seller except Permitted Liens.

a. **“Purchased Assets”** means all of the assets comprising or related to the Project, including the following:

(ii) Real Property. All of Seller’s interests in the Real Property Documents, including all of Seller’s interest in the Project Site, and all improvements, buildings, structures, fixtures and appurtenances thereto, if any, now or hereafter owned by Seller;

(ii) Tangible Personal Property. All Project Tangible Personal Property;

(iii) Project Contracts. All Project Contracts;

(iv) Project Permits. All Project Permits;

(v) Books and Records. All Books and Records of Seller;

(vi) [Intentionally Deleted]

(vii) Incidental Assets. All of Seller’s right, title and interest in and to any storage or warehouse receipts, bills of lading, certificates of title and documents, insofar as the same are used in, related primarily to or are necessary for the Business or the Project;

(viii) all Governmental Approvals (other than Project Permits) obtained by Seller for the benefit of the Project and all pending applications therefor or renewals thereof, in each case to the extent transferable to Purchaser;

(ix) the goodwill and going concern value and other intangible assets, if any, arising from or related to the Business or the Project.

(b) “**Excluded Assets**” means all assets and properties of Seller other than the Purchased Assets. Without limitation of the foregoing, “**Excluded Assets**” includes:

(i) all minute books, organizational documents, stock registers and such other books and records of Seller as they pertain to ownership, organization or existence of Seller,

(ii) all of Seller’s cash, cash equivalents and marketable securities in any and all accounts of Seller or on hand of Seller and all rights and obligations of Seller with respect to such accounts;

(iii) all of Seller’s rights and benefits under this Agreement and the other Transaction Documents to which it is a party;

(iv) all of Seller’s insurance policies and rights thereunder, including such rights and proceeds in connection therewith arising from or relating to (A) the Purchased Assets prior to the Closing or (B) Retained Liabilities;

(v) all of Seller’s claims for refund of Taxes and other government charges in respect of the Purchased Assets: (A) (i) that relate to, and arose with respect to, a taxable period (or portion thereof) ending on or prior to the Closing Date and (ii) in respect of such Seller economically bore the Tax to which such refund relates or (B) that relate to the REET;

(vi) all property and assets expressly designated in Schedule 2.1(b)(vii).

(c) Liabilities

(i) Assumed Liabilities. In connection with the sale, transfer, conveyance, assignment and delivery of the Purchased Assets pursuant to this Agreement, on the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall assume the following Liabilities pertaining to the Purchased Assets, solely to the extent arising and relating to the period on and following the Closing (the “**Assumed Liabilities**”):

(A) Obligations in Respect of the Project Site and Tangible Personal Property. All Liabilities of Seller in respect of the Real Property Documents, the Project Site or in respect of the ownership or operation of the Tangible Personal Property, if any, solely to the extent arising, relating to the period and to be performed on and after the Closing Date, and expressly

excluding any such Liabilities arising, relating to the period or to be performed on or prior to the Closing;

(B) Liabilities under Project Contracts and Project Permits. All Liabilities of Seller under the Real Property Documents, the Project Contracts and Project Permits arising and to be performed on and after the Closing, and excluding any such Liabilities arising or to be performed prior to the Closing; and

(C) Purchaser Taxes. All Liabilities for, arising from, or with respect to any Purchaser Taxes.

provided that, notwithstanding anything to the contrary stated elsewhere in this Agreement, and for the avoidance of doubt, Purchaser is not assuming, and shall not assume, (x) any Liability to pay or satisfy any Taxes of Seller or any other Seller Connected Entity or (y) any Liability that is a Retained Liability.

(ii) Retained Liabilities. The Parties agree that any Liabilities and obligations not described in Section 2.1(c)(i) and Liabilities, if any, under Intercompany Arrangements are not part of the Assumed Liabilities and Purchaser shall not assume by virtue of this Agreement or the transactions contemplated hereby, and shall have no liability with respect to, and Seller shall be responsible for timely paying, performing and discharging when due, any other Liabilities of Seller including all Liabilities relating to the Business or the Project (collectively, the “**Retained Liabilities**”). In particular, the Purchaser shall not have any liability or obligation with respect to any of the following:

(A) Pre-Closing Liabilities. Any Liabilities of Seller that arise or accrue prior to, the Closing (including any such Liabilities arising prior to, but to be performed after, the Closing), including on account of any breach by Seller of any term, covenant or provision of any Project Contract, including any Liabilities or other obligation to any contractor, vendor, laborer, or materialman under or in connection with any Project Contract and any Liabilities arising in connection with, or Liens on, the Project Site or Project Tangible Personal Property, in each case or prior to, or otherwise relating to the period prior to, the Closing;

(B) Excluded Asset Liabilities. Any Liabilities or other obligations resulting from, arising out of or relating to (1) the Excluded Assets or the ownership, possession, use or operation of any business conducted therewith or therefrom at any time; and (2) any Indebtedness of Seller (including Indebtedness existing or arising under the Project Bonds);

(C) Environmental Liabilities. All Liabilities under or related to Environmental Laws, whether such Liability is known or unknown, contingent or accrued, to the extent such Liabilities occurred in the period prior to the Closing Date, including but not limited to any Liabilities relating to (1) any violation or alleged violation of an Environmental Law relating to the Purchased Assets or the Project Site, to the extent such violation arises prior to the Closing;

(2) loss of life, injury to persons or property or damage to natural resources (to the extent such loss, injury or damage arose on or prior to the Closing), caused by the presence or Release of Hazardous Materials at, on, in, under, adjacent to or migrating from the Project Site , prior to the Closing, including, but not limited to, Hazardous Materials contained in building materials at the Project Site or in the air, soil, surface water, sediments, groundwater, landfill cells, or in other environmental media at or adjacent to the Project Site or off-site disposal locations; and (3) the investigation and/or remediation (whether or not such investigation or remediation commenced on or before the Closing Date or commences after the Closing Date) of Hazardous Materials that have been Released prior to the Closing, at, on, in, under, or migrating from the Project Site , including, but not limited to, Hazardous Materials contained in building materials at the Project Site or in the air, soil, surface water, sediments, groundwater, landfill cells, in other environmental media at the Project Site , or off-site disposal locations; except, in each case, for Liabilities arising on or after the Closing;

(D) Employees. All Liabilities or other obligations associated with, related to or arising with respect to any current or former employees of Seller, regardless of whether arising before or after the Closing Date, including Liabilities (1) arising under any collective bargaining agreement or any pension, benefit or welfare plan, (2) for wages, overtime, bonuses, employment taxes, severance pay, transition payments, vacation pay or workers' compensation benefits; or (3) for personal injury, death, discrimination, harassment, civil or human rights violations, wrongful discharge, grievances or unfair labor practices, except, in each case, for Liabilities of employees of Purchaser or its Affiliates, arising after the Closing (with respect to their employment with Purchaser or its Affiliates) who were formerly employees of Seller; and

(E) Seller Taxes. All Liabilities for, arising from, or with respect to any Seller Taxes.

provided that, notwithstanding anything to the contrary stated elsewhere in this Agreement, and for the avoidance of doubt, Seller is not retaining, and shall not retain, (x) any Liability to pay or satisfy any Taxes of Purchaser or any Affiliate of Purchaser (i) that are imposed on Purchaser (or its Affiliate) with respect the Project, the Business, the Purchased Assets, or the Assumed Liabilities and (ii) that arise from or relate to the Post-Closing Tax Period, in each case, with the exception of the REET (which, for the avoidance of doubt, is a Retained Liability), or (y) any Liability that is an Assumed Liability.

Section 2.2 Purchase Price. As of the Effective Date, Purchaser shall have received the draft PFM Financial Advisor's Letter and a draft Auditor Certificate. At least four (4) Business Days prior to the expected Closing Date, Seller shall cause to be delivered to Purchaser the final PFM Financial Advisor's Letter and a final Auditor Certificate. The Purchase Price is defined in and shall be computed in accordance with Exhibit K.

Section 2.3 Closing.

(a) Closing. The closing of the transactions described in Section 2.1 (the “**Closing**”) will take place via electronic exchange of signatures at 10:00 A.M. PT four (4) Business Days after the date that the conditions set forth in Article VII and Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent legally permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent legally permissible, waived by the Party or Parties entitled to the benefit of such conditions, or any other date mutually agreed upon in writing by Purchaser and Seller. The effective time of Closing shall be at 12:01 A.M. (Pacific Prevailing Time) on the Closing Date.

(b) Seller’s Closing Actions.

At the Closing, Seller shall take the following actions:

(i) Seller shall cause the Seller contribution amounts set forth in Exhibit K to be paid to the Project Trustee.

(ii) Seller shall execute and deliver to Purchaser (A) the Assignment of Original PPA, (B) the Assignment of Real Property Interests Agreement, (C) REET Affidavit; and (D) the Bill of Sale and Assignment and Assumption Agreement, and Seller shall cause TID to execute and deliver to Purchaser the A&R PPA and the SPPA pursuant to Section 6.4;

(iii) Seller shall deliver to Purchaser a certificate, dated as of the Closing Date and executed by an authorized officer or the board (or equivalent) of Seller, certifying that the conditions set forth in Section 7.1, Section 7.2 and Section 7.12 have been satisfied, subject to Section 10.4(b);

(iv) Seller shall deliver to Purchaser a certificate, dated as of the Closing Date, executed by the Secretary (or equivalent officer) of Seller as to the incumbency and specimen signatures of the officers of Seller executing this Agreement and the other Transaction Documents to which Seller is a party and certifying that attached thereto are true and complete copies of: (A) (1) resolutions adopted by the board, commission or similar governing body of Seller, and (2) the consent of TID and Walnut Energy Center Authority in their respective capacities as members in Seller, in each case authorizing the execution, delivery and performance of this Agreement, the Transaction Documents to which Seller is a party and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby; and (B) the Organizational Documents of Seller;

(v) Seller shall cause TID to deliver to Purchaser a certificate, dated as of the Closing Date, executed by the Secretary (or equivalent officer) of TID certifying that attached thereto are true and complete copies of: (A) resolutions adopted by the board, commission or similar governing body of Seller, authorizing the execution, delivery and performance of the Transaction Documents to which TID is a party and the A&R PPA, the SPPA, and the consummation of the transactions contemplated hereby

and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby;

(vi) Seller shall deliver to Purchaser a valid, properly completed, and duly executed Internal Revenue Service Form W-9 from in respect of Seller (or, if Seller is an entity disregarded as separate from its regarded owner for federal income tax purposes, in respect of the regarded owner of Seller),;

(vii) Seller shall deliver copies of all federal and state tax liens, if any, against Seller, the Project, or any of the Purchased Assets;

(viii) Seller shall deliver to Purchaser electronic or hard copies of the Books and Records; and

(ix) Seller shall permit Purchaser to access the Project Site, if requested, and shall deliver to Purchaser all keys and security access codes necessary to physically access the Project Site and all buildings thereon and to access and operate computer systems included in the Purchased Assets.

(c) Purchaser's Closing Actions. At the Closing, Purchaser shall take the following actions:

(i) Purchaser shall pay to or for the benefit of Seller an amount equal to the Purchase Price, calculated in accordance with Exhibit K, by wire transfer of immediately available funds (to the account of the Project Bonds Trustee designated in the Accountant's Certificate provided to the Purchaser at least four (4) business Days prior to the Closing Date) in exchange for all Purchased Assets;

(ii) Purchaser shall execute and deliver to Seller: (A) the Assignment of Original PPA, (B) the Assignment of Real Property Interests Agreement, (C) REET Affidavit; and (D) the Bill of Sale and Assignment and Assumption Agreement; and Purchaser shall execute and deliver to TID the A&R PPA and the SPPA pursuant to Section 6.4; and

(iii) Purchaser shall deliver to Seller a certificate, dated as of the Closing Date and executed by an authorized officer or the board (or equivalent) of Purchaser, certifying that the conditions set forth in Sections 8.1, Section 8.2, Section 8.7 and Section 8.8 have been satisfied.

Section 2.4 Aggregate Net Working Capital Adjustment Amount.

(a) At least five (5) Business Days prior to the scheduled Closing Date, Seller will prepare and deliver to Purchaser a worksheet setting forth Seller's good faith estimate of the Aggregate Net Working Capital Amount as of the Closing Date (the "**Estimated Aggregate Net Working Capital Amount**"), as well as a computation thereof (which computation shall be prepared in the same format and on the same basis as set forth on Exhibit B).

(b) Within [sixty (60)] days after the Closing Date, Purchaser will prepare (at Purchaser's expense) and deliver to Seller a worksheet setting forth Purchaser's good faith computation of the actual Aggregate Net Working Capital Amount as of the Closing Date (the "**Proposed Aggregate Net Working Capital Amount**"), which computation shall be prepared in the same format and on the same basis used to prepare the Estimated Aggregate Net Working Capital Amount, together with a reasonably detailed explanation of, and documentation reasonably sufficient to confirm the accuracy of the computation of, such Proposed Aggregate Net Working Capital Amount. If within thirty (30) days following delivery of such worksheet and supporting documentation, Seller does not object in writing thereto to Purchaser, then the Proposed Aggregate Net Working Capital Amount shall constitute the actual Aggregate Net Working Capital Amount as of the Closing Date for purposes of this Agreement (the "**Final Aggregate Net Working Capital Amount**"). If, within thirty (30) days following delivery of such worksheet and supporting documentation, Seller objects in writing thereto to Purchaser (describing in reasonable detail the specific line items and values that are in dispute and the reasons for such dispute, and proposing alternative values with respect to such specific line items) such Proposed Aggregate Net Working Capital Amount shall be subject to the objection and resolution provisions set forth in Section 2.4(c) below.

(c) If Seller timely objects to Purchaser's Proposed Aggregate Net Working Capital Amount pursuant to Section 2.4(b) then Purchaser and Seller shall negotiate in good faith and attempt to resolve the particular items and values that are identified in the applicable written notice of objection over a ten (10) day period commencing on delivery of written notice of objection pursuant to Section 2.4(b) be. Should such negotiations not result in an agreement as to the Final Aggregate Net Working Capital Amount within such ten (10) day period (or such longer period as Purchaser and Seller may mutually agree), then either Party may submit such disputed items and values to the Neutral Auditor. Each Party agrees to promptly execute a reasonable engagement letter, if requested to do so by the Neutral Auditor. Purchaser and Seller, and their respective Representatives, shall cooperate fully with the Neutral Auditor. The Neutral Auditor, acting as an expert and not an arbitrator, shall resolve such disputed items and determine the values to be ascribed thereto, and using those values (together with other items not in dispute) determine the Final Aggregate Net Working Capital Amount as of the Closing Date only (prepared on the same basis used to prepare the Estimated Aggregate Net Working Capital Amount). The Parties hereby agree that the Neutral Auditor shall only decide the specific disputed items, the values ascribed thereto and using those values (together with the other items included in the applicable Proposed Aggregate Net Working Capital Amount) determine the Final Aggregate Net Working Capital Amount, and the Neutral Auditor's decision with respect to such disputed items and values must be within the range of values assigned to each such item in the applicable Proposed Aggregate Net Working Capital Amount and the notice of objection, respectively. All fees and expenses relating to the work, if any, to be performed by the Neutral Auditor will be borne equally by Purchaser and Seller. The Neutral Auditor shall be directed to resolve the disputed items and amounts and deliver to Purchaser and Seller a written determination of the Final Aggregate Net Working Capital Amount (such determination to be made consistent with this Section 2.4(c), including a worksheet setting forth all material calculations used in arriving at such determination and to be based solely on information provided to the Neutral Auditor by Purchaser and Seller) within thirty (30) days after being retained, which determination will be final, binding and conclusive on the Parties and their respective Affiliates and representatives, successors and assigns. Notwithstanding anything

herein to the contrary, the dispute resolution mechanism contained in this Section 2.4(c) shall be the exclusive mechanism for resolving disputes, if any, regarding the Aggregate Net Working Capital, if any, and neither Seller nor Purchaser shall be entitled to indemnification pursuant to Article X for Losses resulting or arising from the amount of the Aggregate Net Working Capital Amount or the determination of Aggregate Net Working Capital.

(d) The “**Post-Closing Aggregate Net Working Capital Adjustment Amount**” shall be the amount equal to (i) the Final Aggregate Net Working Capital Amount minus (ii) the Target Aggregate Net Working Capital Amount. If the Post-Closing Aggregate Net Working Capital Adjustment Amount is greater than the Estimated Aggregate Net Working Capital Adjustment Amount, then Purchaser shall pay in cash to Seller the amount of such difference. If the Post-Closing Aggregate Net Working Capital Adjustment Amount is less than the Estimated Aggregate Net Working Capital Adjustment Amount, then Seller shall pay in cash to Purchaser the amount equal to the absolute value of such difference. Any payment in respect of the Final Aggregate Net Working Capital Amount pursuant to this Section 2.4(d) will be due and payable within ten (10) days after the Final Aggregate Net Working Capital Amount is finally determined as provided in this Section 2.4 and will be payable by wire transfer of immediately available funds to such account or accounts as shall be specified by Purchaser or Seller, as applicable. Any payments made pursuant to this Section 2.4(d) shall be treated as an adjustment to the Purchase Price by the Parties, including for Tax purposes, unless otherwise required by applicable Law.

(e) Following the Closing, Seller and Purchaser shall cooperate and provide each other and, if applicable the Neutral Auditor, and their respective representatives, reasonable assistance and access to such books, records and employees as are reasonably requested in connection with the matters addressed in this Section 2.4. Consistent with the foregoing, Purchaser shall, at its expense, provide or provide reasonable access (in a manner not unreasonably disruptive to its business) to Seller or the Neutral Auditor to review the books and records, documents and work papers related to the preparation of the worksheet and computation of the Final Aggregate Net Working Capital Amount Seller and the Neutral Auditor shall be entitled to make reasonable inquiries and information requests of Purchaser regarding the worksheet setting forth the computation of the Final Aggregate Net Working Capital Amount and the calculations set forth therein.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES AS TO SELLER

Except as set forth in the Disclosure Schedules, Seller represents and warrants to Purchaser, as of the Effective Date and as of the Closing Date, that:

Section 3.1 Existence; Corporate Power. Seller is a joint powers authority duly formed and validly existing under the laws of the State of California and has the requisite organizational power and authority to execute and deliver this Agreement and each other agreement to be executed and delivered by it hereunder, to perform its obligations hereunder and thereunder, to consummate the transactions contemplated hereby and thereby, and to directly or

indirectly own, hold, operate, sell, assign, convey and transfer the Purchased Assets, and to carry on the Business as it is now being conducted.

Section 3.2 Authority. All organizational actions or proceedings necessary to authorize the execution and delivery by Seller of this Agreement and any other Transaction Documents to which Seller is a party and the performance by either of them of its obligations hereunder and thereunder, have been duly and validly taken. This Agreement and the other Transaction Documents to which Seller is a party have, and the Seller Financial Support Agreement has, been duly and validly executed and delivered by Seller and constitute the valid and binding obligation of Seller, enforceable against it, in accordance with their respective terms, except as such terms may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization or similar Laws affecting the enforcement of creditors' rights generally and (b) general principles of equity, whether considered in a proceeding in equity or at law.

Section 3.3 No Conflicts. Assuming the Seller Consents and the Seller Approvals are obtained, the execution, delivery and performance by Seller of this Agreement and any other Transaction Documents to which Seller is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not, except as set forth in Schedule 3.3, (a) conflict with, result in a breach of, or constitute a default under any of the Organizational Documents of Seller; (b) conflict with or result in a violation or breach of any provision of any Law applicable to it with respect to the Project; (c) result in the creation of any material Lien upon the Purchased Assets; (d) violate, result in a breach of, constitute (with or without due notice or lapse of time or both) a default or cause any obligation, penalty, premium or right of termination to arise or accrue under, any Project Contract or Project Permit; or (e) accelerate, cancel, terminate or modify, or give any party the right to accelerate, cancel, terminate or modify any Project Contracts or Project Permits.

Section 3.4 No Consent. Except as set forth on Schedule 3.4 (the "**Seller Consents**"), and except with respect to Governmental Approvals, which are governed exclusively by Section 3.5, the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereunder, including the assignment, sale or other transfer by Seller to Purchaser of all of the Purchased Assets, do not require it to obtain any consent, approval or action of any Person as a result or under any terms, conditions or provisions of any Contract to which it is a party.

Section 3.5 Regulatory Matters and Governmental Approvals. Except as set forth on Schedule 3.5 (the "**Seller Approvals**"), no Governmental Approval on the part of Seller is required in connection with the execution, delivery and performance of the Transaction Documents to be executed and delivered by Seller hereunder or the consummation of the transactions contemplated hereby and thereby, including the assignment, sale or other transfer by Seller to Purchaser of all of the Purchased Assets. Prior to the Effective Date, Seller presented a draft of this Agreement to the CEC for its review.

Section 3.6 Legal Proceedings. Except with respect to any Actions or Proceedings arising under Environmental Law that are governed exclusively by Section 4.14, there is no Action or Proceeding pending or, to the Knowledge of Seller, threatened against any of Seller with respect to the Purchased Assets or the Project in law or in equity or before any

Governmental Authority. Except as set forth on Schedule 3.6, there are no outstanding injunctions, judgments, Orders, decrees, rulings, or charges to which Seller is a party or by which Seller is bound and that would have a material and adverse effect on the ability of such Seller to timely perform its obligations under the Transaction Documents to which it is a party or to timely consummate the transactions contemplated thereby.

Section 3.7 Brokers. None of Seller or any other Seller Connected Entity has entered into any agreement or arrangement entitling any Person to a claim against it for a finder's fee, brokerage commission or similar payment directly or indirectly in connection with the transactions contemplated by this Agreement, which claim could result in any Assumed Liability.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES AS TO THE PROJECT

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Purchaser, as of the Effective Date and as of the Closing Date, that:

Section 4.1 Purchased Assets and the Business.

(a) Seller has title to or a valid leasehold interest in all of the Purchased Assets, free and clear of all Liens incurred or suffered by Seller, other than Permitted Liens. Except as set forth in the Project Contracts and the Real Property Documents, the Seller has not granted any right, option or interest of any Person (other than Purchaser) to acquire any right, title or interest in or to any of the Purchased Assets.

(b) Seller has not conducted any business other than in connection with the ownership and operation of the Project. Seller has no assets or liabilities that do not arise from or otherwise relate to the development, construction, ownership or operation of the Project. Seller does not own any equity interests in any Person.

(c) To the Seller's Knowledge, the transfer to Purchaser of the Purchased Assets pursuant to this Agreement, together with Purchaser's rights under this Agreement and the Transaction Documents, comprise the assets required to operate the Business by the Seller in substantially the same manner as such operations have heretofore been conducted by the Seller in all material respects.

(d) Exhibit A sets forth an accurate description of the Project and the layout of the Project Site.

Section 4.2 Financial Statements; Indebtedness.

(a) True and complete copies of (i) the audited consolidated balance sheet of the Business as at [●] (the "**Balance Sheet**"), and the related statements of income and cash flows of the Business, together with all related notes and schedules thereto (collectively referred

to as the “**Financial Statements**”) and (ii) the unaudited consolidated balance sheet of the Business as at [●] (the “**Interim Balance Sheet**”), and the related unaudited consolidated statements of income and cash flows of the Business, together with all related notes and schedules thereto (collectively referred to as the “**Interim Financial Statements**”), are attached hereto as Schedule 4.2. Each of the Financial Statements and the Interim Financial Statements fairly present, in all material respects, the consolidated financial position and results of operations and cash flows of the Business as at the respective dates thereof and for the respective periods indicated therein, and have been prepared in accordance with GAAP applied on a consistent basis in all material respects throughout the periods covered thereby, except as otherwise noted therein and subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments that will be consistent with past practice and will not, individually or in the aggregate, be material.

(b) Except as and to the extent adequately accrued or reserved against in the Balance Sheet, Seller does not have any liability or obligation of any nature arising out of, relating to or affecting the Business or the Purchased Assets, whether accrued, absolute, contingent or otherwise, whether known or unknown and whether or not required by GAAP to be reflected in a consolidated balance sheet of the Business or disclosed in the notes thereto, except for liabilities and obligations, incurred in the ordinary course of business consistent with past practice since the date of the Balance Sheet, that are not, individually or in the aggregate, material to the Business.

(c) To the Knowledge of Seller, the books of account and financial records of Seller pertaining to the Business are true and correct and have been prepared and are maintained in accordance with sound accounting practice.

(d) Seller has no Indebtedness other than, prior to the Closing, under the Project Bonds; and, as of the Closing after giving effect to the payment, prepayment or defeasance in accordance with the Project Bonds Indenture, Seller has no Indebtedness. No default, event of default, or acceleration (however so defined under the Project Bonds) has occurred under the Project Bonds. Seller will provide the Purchaser the maturity schedule.

Section 4.3 Absence of Certain Changes or Events. Since the date of the Interim Balance Sheet, (i) the Business has been conducted in the ordinary course of business in all material respects, and (ii) there has not occurred any Material Adverse Effect.

Section 4.4 Regulatory Matters and Governmental Approvals. Except for the Seller Approvals, no Governmental Approval is required in connection with the execution, delivery and performance of the Transaction Documents to be executed and delivered by Seller hereunder or the consummation of the transactions contemplated hereby and thereby.

Section 4.5 Compliance with Laws. Except with respect to compliance with Environmental Law, which matters are governed exclusively by Section 4.14 and set forth on Schedule 4.14, and except as set forth on Schedule 4.5, or where such matters have been cured, to the Knowledge of Seller, Seller is, and for the past three (3) years has been, in compliance in all material respects with all applicable Laws material to Seller’s Purchased Assets. Seller has

not received written notice of any actual or potential violation of any Law that has not been cured.

Section 4.6 Real Property.

(a) Schedule 4.6(a)(i) sets forth a true, correct and complete list of all Real Property Documents, and Seller has Made Available to Purchaser all such Real Property Documents, including any amendments, modifications or supplements and recorded memoranda thereto. The documents listed on Schedule 4.6(a)(i) are the entire agreements between the respective parties thereto with respect to the matters set forth therein except as specified in Schedule 4.6(a)(i), and the documents listed in Schedule 4.6(a)(i) include all of the agreements executed by Seller with respect to the matters set forth therein. Seller holds a leasehold interest in the real property described in each Project Ground Lease and holds an easement interest in the real property described in each Project Easement, and has undisturbed nonexclusive possession of the Project Site thereunder, in each case subject only to the terms and conditions of the Project Ground Leases, the Project Easements, and the Permitted Liens. The Real Property Documents do not include and are separate and distinct from the Project Contracts described in Section 4.11(a).

(b) [Reserved].

(c) Except as set forth in Schedule 4.6(c), Seller has not assigned, transferred, conveyed, encumbered or granted any interest in or to any of the Project Site (whether as a lessor, sublessor, grantor, subgrantor, licensor or otherwise), and, to Seller's Knowledge, except for the Permitted Liens, there are no third party rights (including any option, purchase right, or right of first refusal) granted by Seller with respect to the Project Site.

(d) With respect to the Project, the Real Property Documents provide rights in the Project Site sufficient to enable the Project to be located, operated, and maintained on the Project Site by Seller, and provide adequate ingress and egress to Seller in connection with the operation and maintenance of the Project. All rents, royalties and other payments owed under the Real Property Documents have been paid in full to the extent due or payable as of the Effective Date and the Closing Date. Seller has not received any actual notice of violation (or claimed violation) of any covenants, conditions, or other restrictions recorded against the Project Site that has not been cured as of the Effective Date. Notwithstanding the foregoing, Seller does not warrant or represent that Purchaser will have sufficient rights under the Real Property Documents to conduct any post-Closing repowering of the Project.

(e) Each of the Real Property Documents constitutes a valid and binding obligation of Seller and, to the Knowledge of Seller, any other party thereto and is enforceable against Seller and, to the Knowledge of Seller, any other party thereto in accordance with its terms. Except as set forth on Schedule 4.6(e), (i) Seller is not in breach or default under any Real Property Document for a default that remains uncured, (ii) to the Knowledge of Seller, no other Person that is a party to any Real Property Document is in breach or default under any Real Property Document that remains uncured, and Seller has not sent a written notice of a default to any other Person that is a party to any Real Property Document for a default that remains uncured, (iii) to the Knowledge of Seller, there is no event, fact, or circumstance, that, with the

passage of time or the giving of notice, or both, would reasonably be likely to result in a breach or default under a Real Property Document by Seller or any other Person that is a party to any Real Property Document, and (iv) to the Knowledge of Seller, no action is being taken by any Person to terminate or suspend any Real Property Document.

(f) The Existing Title Policy is the only title policy for the Project in Seller's possession. The Existing Title Policy has been Made Available to Purchaser.

(g) Seller has not received written notice of any existing, pending or threatened zoning, building code or other moratorium proceedings, or similar matters related to any portion of the Project Site. Seller has not received written notice of any condemnation or eminent domain proceeding or similar proceedings for assessment of impact fees or special assessments and, to the Knowledge of Seller, the foregoing has not been threatened, with respect to any portion of the Project Site. Except as set forth in Schedules 4.6(e), 4.8, 4.9 and 4.14,[in the three (3) years preceding the Effective Date of this Agreement,] Seller has not had in effect any outstanding notice of, and has not received any written notice of, any injunction, decree, order, writ, or judgment outstanding, or any claims, litigation, administrative actions, or similar proceedings pending or, to the Knowledge of Seller, threatened, relating to any portion of the Project Site, including, that would materially impair the activities thereon or use thereof by Seller, in each case that has not been cured.

(h) Except as expressly set forth in Schedules 4.6(e), 4.8, to the Knowledge of Seller, in the past three (3) years,] Seller has not had in effect any outstanding notice that, and has not received any written notice that, its use of the Project Site is not in compliance in all material respects with all Laws (including, but not limited to, those relating to building, land use, subdivision, health and safety), in each case that has not been cured..

Section 4.7 Personal Property. Subject only to the Permitted Liens, Seller has good and valid title to, or a valid leasehold in, (a) all Inventories, machinery, equipment, spare parts, furniture, furnishings, rolling stock, tools, office supplies, vehicles, computer hardware and other tangible personal property incorporated in the Project or used or held by Seller for use in connection with the Business (collectively, "**Project Tangible Personal Property**"). Upon consummation of the transactions contemplated by this Agreement, Purchaser will own or have the right to use all of the assets, properties and rights sufficient for the operation and maintenance of the Project and the Business as conducted prior to the Effective Date. Neither Seller nor any other officers, managers, directors or independent contractors of Seller, nor any other Seller Connected Entity, owns any rights in any assets, tangible or intangible, which are used by Seller in the conduct of the Business. Schedule 4.7(a) set forth a true and complete list of (i) each item of Project Tangible Personal Property (including Inventories) owned by Seller and (ii) each lease or other Contract under which Seller is the lessee of, or holds or operates, any Project Tangible Personal Property owned by a third Person, including, in each case, the expiration date thereof and a brief description of the property covered. For the avoidance of doubt, none of the items of tangible property and assets expressly identified on Schedule 2.1(b)(vii) as Excluded Assets are located at the Project Site or are included in Purchased Assets or in Project Tangible Personal Property that are subject to the representations and warranties in this Section 4.7 provided, however, that any Tangible Personal Property at the Project Site that belongs to EDF or SGRE shall be excluded.

Section 4.8 Legal Proceedings. Except (a) as set forth on Schedule 4.8 and (b) with respect to any Actions or Proceedings arising under Environmental Law that are governed by Section 4.14 and set forth on Schedule 4.14, there is no, and for the past three (3) years have not been any, Action or Proceeding pending or, to the Knowledge of Seller, threatened by or against Seller in law or in equity or before any Governmental Authority, including any such Action or Proceeding affecting Seller's properties or assets (or by or against Seller or relating to Seller). Except as set forth on Schedule 4.8, to Seller's Knowledge, there exists no basis on which any such Action or Proceeding may reasonably be expected to be brought or threatened against Seller. Except as set forth on Schedule 4.8, there are no outstanding Orders (or unsatisfied judgments, penalties or awards) to which Seller is a party, by which it is bound, or by which Seller or any of its properties or assets is affected by. Except as set forth on Schedule 4.8, to Seller's Knowledge, there exists no basis on which any such Order may reasonably be expected to be brought or threatened against Seller.

Section 4.9 Taxes. Except as disclosed on the corresponding subsection of Schedule 4.9:

(a) To Seller's Knowledge, there are no Taxes of Seller arising from any Pre-Closing Tax Period for which Purchaser (or any of its Affiliates) could become liable as a result of the transactions contemplated by this Agreement or any of the Transaction Documents. Seller is not, and never has been, subject to U.S. federal income tax. Seller has timely and properly filed all income and other material Tax Returns that it is required to file to the appropriate Governmental Authority.

(b) Other than Permitted Liens, there are no Liens for Taxes upon the Project or any of the Purchased Assets. In the past three (3) years, Seller has not received any written notice that any Governmental Authority is in the process of imposing any Lien for Taxes on the Project or any of the Purchased Assets (other than for current Taxes that are not yet due or payable), that has not been cured.

(c) Except as set forth in the Permitted Liens, Project Ground Leases and Project Easements, for Tax purposes, Seller is aware of no other Person that has an ownership interest in the Project or the Project Site. No Purchased Asset is subject to any tax partnership agreement or provision requiring a partnership income Tax Return to be filed under Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute.

(d) No Governmental Authority in a jurisdiction where Seller does not file a Tax Return has made a claim or assertion in writing, or threatened in writing, that Seller, is or may be subject to Tax by such jurisdiction in respect of the Project or any of the Purchased Assets.

(e) Since obtaining ownership of the Project, no private letter ruling or other ruling has been requested or received by Seller from any Governmental Authority with respect to the Project, any Purchased Asset, or the Assumed Liabilities that could be binding on Purchaser (or any of its Affiliates), the Project, any Purchased Asset, or the Assumed Liabilities (or any tax reporting position taken with respect to any of the foregoing) after the Closing Date.

(f) Since obtaining ownership of the Project, no grant ever has been provided to Seller by the United States, a state, a political subdivision of a state, or any other Governmental Authority (i) for use in connection with the Project or (ii) with respect to which Seller or the Project is, or ever has been, a beneficiary (in each case with respect to the Project).

(g) Seller has not taken either the investment tax credit or the production tax credit under Section 48 and 45 of the Internal Revenue Code of 1986, as amended.

(h) Seller has not received any written notice that the Project or the Purchased Assets are improperly listed or described on the real property Tax rolls.

(i) To Seller's Knowledge, there is no fact or circumstance that reasonably would be expected to give rise to an obligation or requirement under applicable Law for Purchaser to withhold or deduct any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement, for the Pre-Closing Tax Period.

Section 4.10 Employee and Labor Matters. Seller does not have and has never had any employees.

Section 4.11 Project Contracts.

(a) Exclusive of the Real Property Documents set forth in Schedule 4.6(a)(i), Schedule 4.11(a) contains a true and correct list of all of the following Contracts (collectively, the "**Project Contracts**") to which Seller is a party including, without duplication:

(i) all Contracts to sell or effect a physical or financial sale of any output or attributes related to the output of the Project, including any electricity, Environmental Attributes (including RECs), capacity, resource adequacy or similar products, including under any hedge, call, revenue put, swap or similar agreement, including the Original PPA;

(ii) all Contracts related to the interconnection of and transmission services for the Project;

(iii) all Contracts for the supply of equipment, for construction services, and for the operation, maintenance or management of the Project;

(iv) all Contracts providing for the extension of credit by Seller;

(v) all agreements relating to Indebtedness (including, without limitation, guarantees, pledge agreements, mortgages, debentures, letters of credit, and security agreements);

(vi) [Intentionally Deleted];

(vii) all Contracts to sell or effect a sale of the Project or Seller assets, other than Contracts in the ordinary course of business for the sale of unusable or

immaterial assets not necessary for the operation or maintenance of the Project and for consideration not in excess of [REDACTED];

(viii) all Contracts for capital expenditures under which Seller has remaining obligations in excess of [REDACTED] and that is not reflected on the capital expenditure budget of Seller furnished to Purchaser prior to the date hereof;

(ix) all Contracts that, upon consummation of the transactions contemplated hereby, would limit the ability of Seller to compete in any line of business or with any Person or in any geographic area or during any period of time (other than limitations that in the aggregate are immaterial);

(x) all Contracts that restrict the right of Seller to engage in any line of business or compete with any Person or otherwise to freely engage in operations anywhere in the world (including any Contract providing for non-solicitation of employees or other business relations, providing for exclusivity or requirements supply terms of for "most favored nation" pricing or other terms);

(xi) all Contracts requiring indemnification of another Person;

(xii) all Contracts regarding confidentiality or nondisclosure entered into by Seller;

(xiii) all Contracts providing a power of attorney granted by Seller;

(xiv) all Contracts with any labor union;

(xv) all Contracts with Seller and any officer, manager, employee, consultant, independent contractor or other Person for work relating to the Project;

(xvi) all partnership, joint venture and joint ownership Contracts, and all similar Contracts (however named) relating to the Business involving a sharing of assets, profits, losses, costs or liabilities with a third party (including any Contract with Seller);

(xvii) all Contracts relating to an Intercompany Arrangement;

(xviii) all Contracts with any Governmental Authority;

(xix) all Contracts related to Intellectual Property (other than licenses of generally available, non-customized computer software granted to Seller with a total replacement cost of less than [REDACTED];

(xx) all Contracts which involve an annual payment, either to or from Seller, in excess of [REDACTED] with respect to a single Contract and are not terminable by Seller without Liability, but in each case, only to the extent that such Contract is in effect or imposes any actual or potential Liability following the Closing;

(xxi) all Contracts comprised of guarantees, letters of credit, bonds, indemnities and other credit assurances of a comparable nature (including account control or escrow agreements for cash posted as credit support) either (A) entered into, made or issued by or on behalf of Seller to any third Person to secure Seller's obligations under any other Project Contract or otherwise in connection with the Project or (B) entered into, made or issued by or on behalf of any third Person to or for the benefit of Seller to secure such third Person's obligations under any Project Contract to which it is a party or otherwise in connection with the Project (such Contracts and related documents, collectively, "**Credit Support Documents**"); and

(xxii) any other Contract that is material to the Seller's operation of the Project or the Business.

(b) Seller has Made Available all of the Project Contracts. Except as set forth in Schedule 4.11(b), each Project Contract is in full force and effect and constitutes the legal, valid, binding and enforceable obligation of Seller, and, to the Knowledge of Seller, each other party thereto, in accordance with its terms, except as such terms may be limited by (i) applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity, whether considered in a proceeding in equity or at law. Except as set forth in the Estoppels, to the Seller's Knowledge, Seller is not, and to the Knowledge of Seller, no other party thereto (x) is in breach of or default in any material respect under a Project Contract, or (y) has given or received any written notice of termination or suspension of any Project Contract. To the Knowledge of Seller, (a) no action is being taken by any Person to terminate or suspend any Project Contract, and (b) no event has occurred and is continuing that, with notice or the lapse of time or both, would reasonably be expected to result in any such termination or suspension.

(c) Set forth on Schedule 4.11(c) is an itemized list of the particulars of cash reserves, advance cash payments, cash escrows, cash security deposits or other prepaid cash items in connection with the Project that are held by any counterparty to, and under, any Project Contract (including under any Credit Support Document).

Section 4.12 Permits. Schedule 4.12 sets forth all Permits, and to the extent reflected in the Permits, their expiration dates (if applicable), which are relied upon by the Seller to operate the Project (collectively, the "**Project Permits**"). To the Knowledge of Seller, all such Project Permits are in full force and effect, and no appeal or other proceeding is pending or, to the Knowledge of Seller, threatened to revoke any such Project Permits. Seller has not received written notice that it is in material default or material violation of any Project Permit, except as has been fully cured or otherwise fully resolved as of the Effective Date. To the Knowledge of Seller, no event has occurred and is continuing that, with notice or the lapse of time or both, would constitute a material default or material violation of the terms, conditions or provisions of any Project Permit. To the Knowledge of Seller, the Project is in full compliance with all Project Permits. Seller has not received and, to Seller's Knowledge, no other Seller Connected Entity has received, written notice from any Person of a violation of any Project Permit, except as has been fully cured or otherwise fully resolved as of the Effective Date. Seller has Made Available each Project Permit and any amendments, modifications or supplements thereto it has obtained. The Seller has not received any written notice of any Actions or Proceedings pending or

threatened relating to the suspension, revocation, termination or modification of any such Project Permit.

Section 4.13 Intercompany Arrangements. There are no existing or pending transactions, Contracts or Liabilities, including any that are required for the operation of the Project, between or among (a) Seller on the one hand, and (b) any other Seller Connected Entity or any of Seller's or any other Seller Connected Entity's respective officers, directors, stockholders or members, on the other hand (collectively, the "**Intercompany Arrangements**"). Notwithstanding the foregoing, the Seller has existing and ongoing relationships with the Seller Connected Entities that involve Contractual or quasi-Contractual relationships, which include but are not limited to governance related issues but that will not result in any liability to the Purchaser Post-Closing.

Section 4.14 Environmental Matters. Except as set forth on Schedule 4.14:

(a)

(i) to the Knowledge of Seller, Seller is, and has for the past three (3) years been, in compliance with all material respects of all Environmental Laws;

(ii) to the Knowledge of Seller, there are no locations or premises within the Project Site (or any structure thereon) where there has been a Release that (i) Seller is obligated to investigate, remove, remediate or otherwise respond to pursuant to any Environmental Law or any Contract entered into with any other Person or (ii) has resulted in or would result in a material Environmental Claim against or material Liability of Seller under any Environmental Law that has not been fully and finally resolved;

(iii) Seller has not received, and to Seller's Knowledge no other Seller Connected Entity has received, written notice from any Person, including any Governmental Authority or third party, identifying or alleging (i) any material Environmental Claim on or affecting the Project Site, (ii) material violations of Environmental Laws by Seller or relating to the Project or the Project Site, or (iii) any notice of any investigation, or any request for information relating to the Project or the Project Site, in each case under, any Environmental Law, and to the Knowledge of Seller, no such notice has been threatened.

(iv) to the Knowledge of Seller, Seller has not, and to Seller's Knowledge no other Person has, generated, manufactured, sold, handled, treated, recycled, stored, transported, disposed of, arranged for the disposal of, or Released any Hazardous Materials on or from the Project Site or associated with the Project, in each case in a manner which would give rise to material liabilities to Seller under Environmental Laws;

(v) Seller has not agreed in any binding manner to assume any actual or potential liability arising under any Environmental Laws of any other Person;

(vi) Except as Set forth in Schedule 4.6(i) and 4.14, to the Knowledge of Seller, (a) no portion of the Project Site is listed or is proposed for listing on the National Priorities List pursuant to CERCLA, the Comprehensive Environmental Response, Compensation and Liability Information System List (“**CERCLIS**”), any registry of contaminated land sites or on any similar state list of sites requiring investigation or cleanup, and (b) no Lien (other than a Permitted Lien) has been filed against any portion of the Project Site or personal property of any of them under any Environmental Law.

(b) There are no proceedings under any Environmental Law pending, or to the Knowledge of Seller, threatened to which Seller is (or reasonably could be made) a party and which (i) could reasonably give rise to any legal restraint on or prohibition against the transactions contemplated by this Agreement or the Project or (ii) could reasonably, individually or in the aggregate, be material to Seller or the Project.

(c) There is no Order of any arbitrator or Governmental Authority relating to any Environmental Law outstanding against Seller and/or any of the Project Site that reasonably could, individually or in the aggregate, be material to Seller and/or the Project.

Section 4.15 Insurance. Schedule 4.15 lists all of the insurance policies maintained by or on behalf of Seller or with respect to which Seller is an insured and covering the Project or any of the Purchased Assets (the “**Insurance Policies**”). All Insurance Policies are in full force and effect. To the Seller’s Knowledge, there are no unpaid claims or pending claims under any Insurance Policies.

Section 4.16 Regulatory.

(a) Seller is not aware of any circumstances with respect to Seller that would prevent Purchaser from obtaining its MBR Authority to sell wholesale energy at market-based rates as a result of the transactions contemplated hereby. For purposes of this Agreement, “**MBR Authority**” means an order from FERC issued pursuant to Section 205 of the FPA (i) authorizing a generation company to sell energy, capacity and certain ancillary services at market-based rates, (ii) granting a generation company blanket authorization under Section 204 of the FPA to issue securities and assume liabilities, and (iii) granting a generation company the other blanket authorizations and waivers customarily granted by FERC to an entity that sells wholesale energy and capacity at market-based rates. Neither Seller nor the Project is subject to FERC jurisdiction.

(b) Neither Seller nor the Project has either “**Exempt Wholesale Generator**” status (within the meaning of PUHCA) or MBR Authority.

(c) Seller is not a “public utility” under Section 201(e) of the FPA.

(d) Seller is not a party to a shared facilities agreement.

(e) None of the Seller or any other Seller Connected Entity has received any written notice, claim, complaint, protest, or assertion either from, or directed to, any Governmental Authority stating or finding that the Seller is in violation of or has failed to

comply with, any requirement under the FPA or PUHCA and the regulations thereunder nor under the applicable tariffs and market rules of the Bonneville Power Administration.

(f) In the past three (3) years, Seller there has been no written notice in effect that it is not and during such period Seller has not received any written notice that it is not, in material compliance with all, and is not in violation of any, Laws, judgments, decrees, consents, requirements, orders, protocols, reliability standards, and rules and regulations applicable to Seller of the Bonneville Power Administration, FERC, NERC, WECC, Federal Aviation Administration, and the Washington Utilities and Transportation Commission, except in each case for any such violation that has been fully cured.

Section 4.17 Reports. Schedule 4.17 sets forth the third party reports in the Seller's possession that have been performed in the past three (3) years, related to the Project (collectively, the "**Reports**"). Seller has Made Available to Purchaser the Reports. Seller makes no warranties expressed or implied regarding the accuracy of, or the statements in, any Reports performed, prepared and/or issued by any third parties.

Section 4.18 Bankruptcy; Solvency.

(a) No bankruptcy event has occurred and is continuing with respect to Seller. Neither the signing of this Agreement nor the closing of the transactions contemplated by this Agreement requires the approval of any trustee in bankruptcy or bankruptcy court with jurisdiction over any reorganization or any bankruptcy Action or Proceeding affecting Seller or TID.

(b) Seller is not now insolvent and Seller will not be rendered insolvent by the sale of the Purchased Assets under this Agreement. As used in this Section 4.18(b), "insolvent" means that the sum of the debts and other probable Liabilities of Seller exceeds the present fair saleable value of Seller's assets. Immediately after giving effect to the consummation of the Closing: (i) Seller will be able to pay its Liabilities as they become due in the usual course of its business; (ii) Seller will not have unreasonably small capital with which to conduct their present or proposed business, (iii) Seller will have assets (calculated at fair market value) that exceed its Liabilities and (iv) taking into account all pending and threatened litigation, final judgments against Seller in actions for money damages are not reasonably anticipated to be rendered at a time when, or in amounts such that, Seller will be able to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum probable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered) as well as all other obligations of Seller.

Section 4.19 Bank Accounts. [Intentionally deleted].

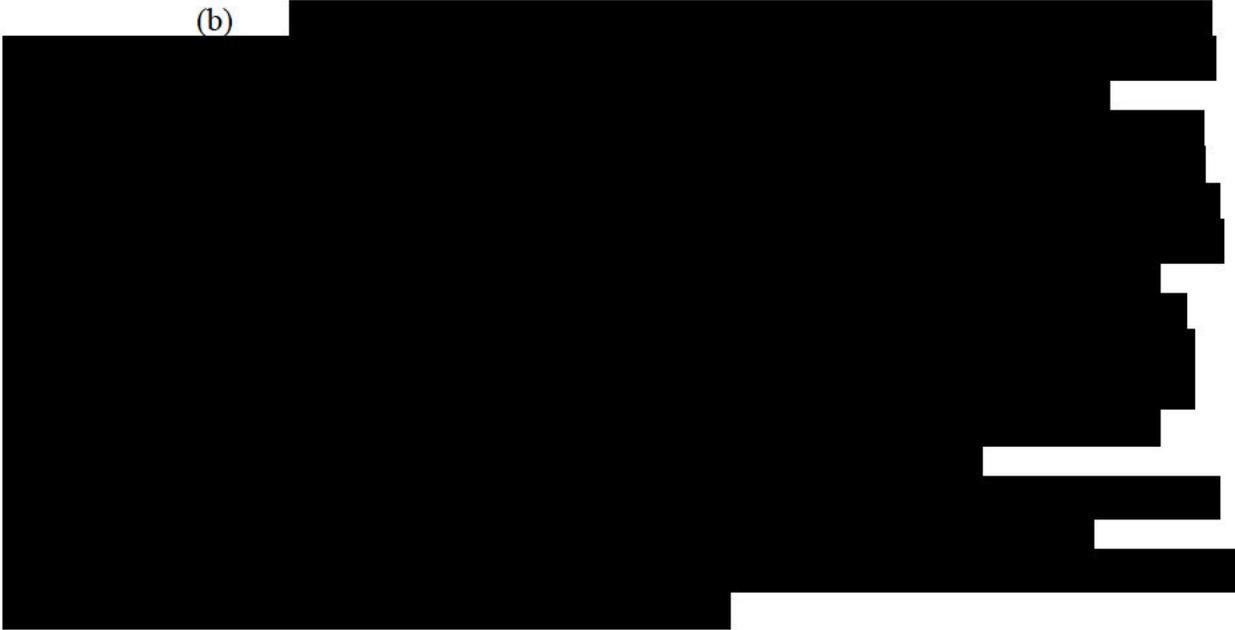
Section 4.20 Intellectual Property. Except as set forth on Schedule 4.20, Seller does not own any patent, trademark registration, service mark registration, copyright registration or domain name registration, or any applications for any of the foregoing. To the Knowledge of the Seller, Seller has not, in the conduct of its business and use of its intellectual property, infringed and is not infringing on any rights of a third party in any material respect. No claim is pending or to the Knowledge of Seller has been threatened in

writing against Seller alleging infringement, dilution, misappropriation or other violation of any Intellectual Property of any Person (including without limitation any claim of ownership by any officer, director, employee, consultant, or third party of any Intellectual Property).

Section 4.21 Certain Disclaimers.

(a) Except as expressly set forth in Article III and in this Article IV, the Seller or its Representatives, or officers has not made or is not making any other representations or warranties whatsoever, express or implied, written or oral, and expressly disclaims any other representations or warranties of any kind or nature, express or implied, as to the Project or Purchased Assets.

(b)



ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller, as of the Effective Date and as of the Closing Date, that:

Section 5.1 Existence. Purchaser (i) is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware and (ii) has all requisite power and authority to execute and deliver this Agreement and each other agreement required to be executed and delivered by Purchaser hereunder, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby and to own or lease its assets and to carry on its business as currently conducted, in each case, except where a failure to be so qualified would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.2 Authority. All limited liability company actions and proceedings necessary to authorize the execution and delivery by Purchaser of this Agreement, the Purchaser Parent Guaranty and all other Transaction Documents to which Purchaser is a party, and the performance by Purchaser of its obligations hereunder and thereunder, have been duly and validly taken. This Agreement and all other Transaction Documents to which Purchaser is a party have been duly and validly executed and delivered by Purchaser and (assuming the due authorization, execution and delivery by Seller) constitute legal, valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms, except as such terms may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditor's rights generally, and (b) general principles of equity, whether considered in a proceeding in equity or at law.

Section 5.3 No Conflicts. Assuming the Purchaser Consents and the Purchaser Approvals are obtained, the execution, delivery and performance by Purchaser of this Agreement, any other agreements to be executed and delivered by Purchaser hereunder and any other Transaction Documents to which Purchaser is a party do not and will not (a) conflict with, result in a breach of, or constitute a default under, Purchaser's Organizational Documents; (b) to the Knowledge of Purchaser, conflict with, result in a breach of, or constitute a default under any Contract to which Purchaser is a party; (c) conflict with or result in a violation or breach of any provision of any Law applicable to Purchaser; or (d) result in the creation of any material Lien upon Purchaser or any of its assets, except in the cases of clauses (b) through (d), where the violation, breach, conflict or default, would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.4 No Consent. Except as set forth in Schedule 5.4 (the "**Purchaser Consents**") and except with respect to Governmental Approvals, which are governed exclusively by Section 5.5, the execution, delivery and performance by Purchaser of this Agreement, any other agreements to be executed and delivered by Purchaser hereunder or any other Transaction Documents to which Purchaser is a party, and the consummation of the transactions contemplated hereunder do not require Purchaser to obtain any consent, approval or action of or give any notice to any Person as a result or under any terms, conditions or provisions of any Contract by which it is bound, except for such consents, approvals or notices which would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.5 Governmental Approvals. Except as set forth in Schedule 5.5 ("**Purchaser Approvals**"), no Governmental Approval is required to be obtained by Purchaser in connection with the execution, delivery and performance of this Agreement, any other agreements to be executed and delivered by Purchaser hereunder or any other Transaction Documents to which Purchaser is a party or the consummation of the transactions contemplated hereby or thereby, except for such Governmental Approvals which would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.6 Legal Proceedings. There are no Actions or Proceedings pending or, to the Knowledge of Purchaser, threatened against Purchaser or any of its assets in law or equity or before any Governmental Authority that would result in the issuance of an Order restraining,

enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement.

Section 5.7 Brokers. Neither Purchaser nor any of its Affiliates have entered into any agreement or arrangement entitling any Person to a claim against Purchaser for a finder's fee, brokerage commission or similar payment, directly or indirectly, in connection with the transactions contemplated by this Agreement, which claim could result in any Seller Liability.

Section 5.8 Experienced Purchaser. Purchaser has substantial experience purchasing, owning, operating, and maintaining projects similar to the Project.

ARTICLE VI.

COVENANTS

Section 6.1 Regulatory Approvals.

(a) Prior to Closing, each of Seller and Purchaser shall, and shall cause its respective applicable Affiliates to, as promptly as practicable, make all filings with all Governmental Authorities and other Persons required by Seller, Purchaser or their respective Affiliates (as applicable) to consummate the transactions contemplated hereby and shall, and shall cause its respective Affiliates to, use reasonable best efforts to obtain as promptly as practicable all Project Permits and all consents, approvals or Actions or Proceedings of all Governmental Authorities and other Persons as required by this Agreement necessary to consummate the transactions contemplated hereby, including FERC 203 Approval (*provided that* the preparation of the application and filing to FERC for FERC 203 Approval shall be coordinated by Purchaser and, to the extent necessary and if requested by Purchaser, may be a joint filing by Seller and Purchaser), the Seller Approvals, the Seller Consents, the Purchaser Approvals, the Purchaser Consents, and such filings as may be required under the HSR Act. Prior to Closing, each Party shall promptly provide the other Party with a copy of any filing, Order or other document proposed to be delivered to or received from any Governmental Authority or other Person relating to the obtaining of any such Project Permits, consents, approvals or Actions or Proceedings of Governmental Authorities and other Persons. Prior to Closing, Seller shall provide a status report about such filings to Purchaser upon the reasonable request of Purchaser. If required by the HSR Act and if the appropriate filing pursuant to the HSR Act has not been filed prior to the date hereof, each Party agrees to make an appropriate filing pursuant to the HSR Act with respect to the transactions contemplated by this Agreement within fifteen (15) Business Days after the date hereof, to supply as promptly as practicable to the appropriate Governmental Authority any additional information and documentary material that may be requested pursuant to the HSR Act, and shall request early termination of the HSR waiting period. Each Party shall bear its own costs and legal fees contemplated by this Section 6.1(a) and the Parties agree to evenly split the HSR filing fee.

(b) Each Party will, and will cause its respective applicable Affiliates to, consult and cooperate with the other Party as to the appropriate time of any filings and

notifications with Governmental Authorities, furnish to the other Party such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Authority. To the extent permitted under applicable Law, each Party will have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Party or any of its Affiliates in connection with the transactions contemplated hereby.

(c) Notwithstanding anything in Section 6.1(a) to the contrary, under no circumstance shall Purchaser or its Affiliates be required to divest any asset or take any action with regard to any other power generation assets or other assets that any such Person owns or in which it has any interest in order to obtain any Governmental Approval, including the FERC 203 Approval. For the purposes of clarity, the Parties shall coordinate and provide one another with information reasonably necessary to complete such filings.

(d) Prior to and for a period of one hundred twenty (120) days after the Closing Date, Seller agrees to use commercially reasonable efforts to provide to Purchaser, at Purchaser's sole expense, such information about the Project and assistance as Purchaser may from time to time reasonably request in connection with Purchaser's preparation and submission of documentation to NERC for the termination of the Project's existing NERC registration and establishment of the Purchaser's new NERC registration in respect of the Project, with the intent that such termination and new registration be effective as of the Closing Date. Seller shall invoice Purchaser monthly for all reasonable and documented costs incurred to provide assistance as may be requested by the Purchaser pursuant to this Section 6.20(a), including but not limited to such costs for all staff, consultant, and legal assistance.

(e) Seller may file this Agreement with the CEC subject to the requirements of Section 6.19 (Confidentiality).

Section 6.2 Access to Information; Records.

(a) Prior to Closing, Seller shall keep in their possession and control all information and records with respect to the Project and the Business, consistent with the current policies of Seller.

(b) From the date hereof until the Closing (but not thereafter), Seller shall: (a) at all reasonable times and upon reasonable prior notice during regular business hours make appropriate members of its management teams available for questions related to the properties, assets, books and records pertaining to the Project, the Purchased Assets, or the Business, which information and records shall be provided to Purchaser or Made reasonably available for examination and review by Purchaser and its Representatives; and (b) deliver to Purchaser copies of the unaudited financial statements of Seller as of the end of each month as promptly as practicable as they become available.

Section 6.3 Conduct of Business Prior to Closing.

(a) During the period between the Effective Date and the Closing, Seller shall operate and carry on the Business and the Project in the ordinary course, consistent with past

practice in all material respects and Prudent Wind Industry Practices. Without limiting the foregoing, Seller shall: (a) use commercially reasonable efforts consistent with Prudent Wind Industry Practices and past practice to preserve and maintain the current organization and business of Seller and to preserve the rights, goodwill, availability of services and the material relationships with all suppliers, contractors, Governmental Authorities, licensors, customers, distributors and others having business relations with Seller with respect to the Project; (b) keep its physical assets in good working condition, ordinary wear and tear excepted; (c) continue the payment of its accounts payable in the ordinary course consistent with past practice; and (d) operate the Business in material compliance with applicable Laws.

(b) Except as required by this Agreement or for the transactions to be consummated as contemplated in this Agreement, or as set forth on Schedule 6.3(b) or except with the prior express written approval of Purchaser or in respect of Excluded Assets, Seller shall not:

(i) transfer or sell, directly or indirectly, any of the Purchased Assets to any Person or create any Lien (other than Permitted Liens) upon the Purchased Assets;

(ii) make any material change in the Business or operations or practices of the Project;

(iii) make any material capital expenditures (or enter into any Contracts in respect of material capital expenditures) other than as contemplated by the Project Contracts or the Project's budget Made Available to Purchaser prior to the date hereof;

(iv) enter into any Contract for any acquisitions (by merger, consolidation, or acquisition of stock or assets or any other business combination) of any Person or business or any division thereof;

(v) sell, assign, dispose, lease or otherwise transfer any material asset, tangible or intangible, other than (i) sales of electric power as set forth in the Project Contracts, (ii) the transfer of any related Environmental Attributes under any Project Contracts, and (iii) in the ordinary course consistent with past practice and Prudent Wind Industry Practice, the transfer of an asset that is worn out, obsolete, damaged or no longer necessary or useful for the operation of the Project;

(vi) create, incur, assume or guarantee, or agree to create, incur, assume or guarantee any Indebtedness for borrowed money or enter into any "keep well" or other agreement to maintain the financial condition of another Person, or enter into any arrangement having the economic effect of any of the foregoing;

(vii) mortgage, pledge, or subject to any Lien (other than Permitted Liens), any portion of its properties or assets, tangible or intangible;

(viii) enter into, amend, modify, accelerate, grant a waiver in respect of, become in default of, cancel or terminate or consent to the termination or assignment of any Contract, other than, with respect to the Project Contracts, any amendment,

modification or waiver which is not material and is in the ordinary course of business consistent with Prudent Wind Industry Practices;

(ix) enter into or amend, modify or waive any rights under, in each case, in any material respect, any Contract (or series of related Contracts) with Seller other than the entry into or amendment, modification, or waiver of any such Contracts as may be expressly contemplated as part of the transactions under this Agreement;

(x) (A) make any change or amendment in its Organizational Documents or (B) cause, permit or acquiesce in any (1) sale or transfer of or creation of any Lien any equity interest in Seller or (2) issuance of equity interests in Seller or granting of any other rights or options with respect to the equity interest in Seller;

(xi) settle or agree to settle any material dispute with any third party, including any Governmental Authority or otherwise cancel, compromise, waive, or release of any right or claim (or series of related rights and claims), in each case outside the ordinary course of business consistent with past practice;

(xii) (A) with the exception of (i) the Drip Loop Cables, a portion of which are being provided to the Purchaser, pursuant to Section 6.22 of this Agreement, and (ii) four (4) gearboxes that will be replaced after the Closing, delay or postpone any material repair that arises from event that occurs on or after the Effective Date or material maintenance scheduled in the ordinary course of business on or after the Effective Date that is required to meet Prudent Wind Industry Practices; provided that Seller shall not be responsible for supply chain delays for the procurement of spare parts, equipment or materials beyond Seller's reasonable control and Seller shall be excused from performing such maintenance or repair to the extent and for so long as it is prevented or hindered from doing so due to winter weather conditions or due to the aforementioned supply chain delays, or (B) delay or postpone the payment of accounts payable, accrued liabilities and liabilities, other than in the ordinary course of business consistent with past practice;

(xiii) adopt any plan to be acquired, or of liquidation, dissolution, reorganization or file a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(xiv) (A) change any method of Tax accounting, (B) enter into any agreement with any Governmental Authority (including a "closing agreement" under Code Section 7121) with respect to any Tax or Tax Return, (C) surrender a right to a Tax refund, (D) file an amended Tax Return, (E) make, change or revoke any election with respect to Taxes, (F) file any Tax Return that is inconsistent with past practice, (G) consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment (other than in the ordinary course of business consistent with past practices), (H) commence any proceeding with respect to Taxes or a Tax matter, or (I) settle or compromise any Tax liability, in each case, if any such action reasonably would

be expected to have a more than de minimis adverse effect on Purchaser or any Affiliate of Purchaser;

(xv) hire any employee, adopt any Benefit Plan or provide any employee with a compensation increase outside of the ordinary course of business consistent with past practice;

(xvi) agree to enter into any Contract or otherwise make any commitment to do any of the foregoing in this Section 6.3(b); or

(xvii) take any actions that would cause the electricity products purchased under the A&R PPA to lose their PCC-0 classification and be inconsistent with the classification of these electricity products that existed under the Original PPA;

Section 6.4 Power Purchase Agreements.

(a) A&R PPA. Seller confirms that the Original PPA is a Project Contract included in the Purchased Assets. The Parties acknowledge that, if and when the Assignment of Original PPA is executed at Closing pursuant to Section 2.3(b)(ii) and Section 2.3(c)(ii), the Original PPA will be assigned by Seller to Purchaser under and in accordance therewith and this Agreement. At Closing immediately after giving effect to such assignment, Purchaser shall execute and deliver, and Seller shall cause TID to execute and deliver, the A&R PPA in substantially the form attached hereto as Exhibit H. The Parties further acknowledge that the A&R PPA (i) reflects the intent of the parties thereto to ensure (x) the assignment of the Original PPA does not constitute a “resale” of “any electricity products” under 20 Cal. Code Regs. Title 20 Section 3202(b), and (y) that the classification of the electricity products under the A&R PPA remain the same as the PCC-0 classification of these electricity products under the Original PPA, and (ii) contain, among other provisions, terms requiring Purchaser (in its capacity as “Seller” thereunder) to use commercially reasonable efforts to assist TID in keeping the classification of the electricity products under the A&R PPA consistent with the PCC-0 classification as existed under the Original PPA, including by working with CEC to address any concerns about repowering the Project pursuant to the A&R PPA in order to maintain such a classification after such a repower..

(b) SPPA. At Closing Purchaser shall execute and deliver, and Seller shall cause TID to execute and deliver, the SPPA in substantially the form attached hereto as Exhibit I.

Section 6.5 Satisfaction of Conditions. Prior to Closing, each of Seller and Purchaser shall, and shall cause their respective applicable Controlled Affiliates to, use their respective commercially reasonable efforts to promptly satisfy each condition to their respective obligations set forth in Article VII and Article VIII. Each of Seller and Purchaser shall use their respective commercially reasonable efforts to cooperate with one another to obtain any consents required to be obtained by it from third parties in connection with the consummation of the transactions contemplated by this Agreement at or prior to Closing. Except as may be specifically required by this Agreement, neither Seller nor Purchaser, nor any of their respective Affiliates, shall have

any obligation to make any payments or incur any material out-of-pocket Liability to obtain any consents of third parties.

Section 6.6 Intercompany Accounts and Arrangements. [Intentionally deleted.]

Section 6.7 Release.

- (a) In consideration of the covenants, agreements and undertakings of the Parties under this Agreement, each Party, on behalf of itself and its respective present and former parents, subsidiaries, Affiliates, officers, directors, shareholders, members, successors and assigns (collectively, “**Releasors**”) hereby releases, waives and forever discharges the other Party and its respective present and former, direct and indirect, parents, subsidiaries, Affiliates, employees, officers, directors, shareholders, members, agents, representatives, permitted successors and permitted assigns (collectively, “**Releasees**”) of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, “**Claims**”), which any of such Releasors ever had, now have, or hereafter can, shall, or may have against any of such Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the Closing Date arising out of or relating to the Project, except in all cases for any Claims relating to rights and obligations expressly preserved by, created by or otherwise arising (prior to, on, or after the Closing) out of: (i) this Agreement, including any obligation to indemnify, defend or hold harmless for any Losses pursuant to Article X, and (ii) any other Transaction Document.
- (b) **Section 1542 Waiver.** In giving the release set forth in Section 6.7(a) of this Agreement, which includes claims that may be unknown to the Parties at present, each Party acknowledges that it has read and understands Section 1542 of the California Civil Code, which reads as follows: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.” Each Party hereby expressly waives and relinquishes all rights and benefits under Section 1542 and any law or principle of similar effect in any jurisdiction with respect to the releases granted herein, including but not limited to the release of unknown and unsuspected claims granted in this Agreement.

Section 6.8 Insurance.

- (a) From the date of this Agreement up to and including the Closing Date, Seller shall ensure that all of the Insurance Policies are kept in force and effect. If Seller is aware

of any event or circumstance occurring prior to Closing in respect of which a claim may be made under the Insurance Policies, Seller shall, promptly upon becoming so aware but in any case prior to the Closing, notify Purchaser of such event or circumstance.

(b) Purchaser acknowledges and agrees that (i) no insurance policies arranged for the benefit of or provided to Seller in respect of the Project, including the Insurance Policies (but excluding the Existing Title Policy), shall continue after the Closing Date and (ii) Purchaser shall not, and shall procure that no Affiliate of Purchaser shall, make any claims under any such insurance policies or insurance coverage. Purchaser further hereby acknowledges and agrees that no historic insurance coverage provided by or to Seller in respect of the Project, including the Insurance Policies, shall be available to Purchaser after the Closing Date. Purchaser further acknowledges and agrees that it has no right, title or interest in any unearned premiums on any policies maintained by or for the benefit of Seller or any insurance proceeds.

Section 6.9 Notification of Certain Matters and Update to Disclosure Schedules.

(a) Each Party shall give prompt written notice to the other Party of (i) the occurrence or non-occurrence of any change, condition or event, the occurrence or non-occurrence of which would render any representation or warranty of such Party contained in this Agreement, if made on or immediately following the date of such event, untrue or inaccurate, (ii) the occurrence of any change, condition or event that has had or is reasonably likely to have a Material Adverse Effect applicable to it, (iii) any failure of such Party or any Affiliate of such Party to comply with or satisfy any covenant or agreement to be complied with or satisfied by it hereunder or any event or condition that would otherwise result in the nonfulfillment of any of the conditions to the other Party's obligations hereunder, (iv) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the consummation of the transactions contemplated by this Agreement, or (v) any Action pending or, to such Party's knowledge, threatened against such Party relating to the transactions contemplated by this Agreement.

(b) Each Party shall supplement the information set forth on the Disclosure Schedules with respect to any matter now existing or hereafter arising that, if existing or occurring at or prior to the date of this Agreement, would have been required by it to be set forth or described in the Disclosure Schedules or that is necessary to correct any information in the Disclosure Schedules or in any representation or warranty of the Party which has been rendered inaccurate thereby promptly following discovery thereof. No such supplement, nor any information a Party may otherwise obtain from their counter Party or any other Person, shall be deemed to cure any breach of any representation or warranty made in this Agreement or any other Transaction Document or have any effect for purposes of determining the satisfaction of the applicable conditions set forth in Article VII and Article VIII, the compliance by a Party with any covenant set forth herein or Each Party's rights to indemnification pursuant to Section 10.1 and Section 10.2 of this Agreement.

(c) Prior to the Closing, Purchaser shall notify Seller promptly upon having any Purchaser's Knowledge of any fact or circumstance that on its face would render any material representation or warranty of Seller in this Agreement materially untrue.

Section 6.10 Exclusivity. From the date hereof until the Closing Date or earlier termination of this Agreement, Seller agrees (on behalf of itself and each other Seller Connected Entity) that it shall not, and shall not authorize, and shall use its best efforts to cause its directors, managers, officers, employees and representatives, and each other Seller Connected Entity, not to, directly or indirectly, (a) solicit, initiate, seek, entertain, encourage, facilitate, support or induce the making, submission or announcement by any Person of any inquiry, indication or expression of interest, proposal or offer that constitutes or would reasonably be expected to lead to an Acquisition Proposal, (b) enter into, participate in, maintain or continue any communications (except to provide written notice as to the existence of these exclusivity provisions without disclosing their terms) or negotiations regarding, or deliver or make available to any Person any information with respect to, or take any other action regarding, any inquiry, indication or expression of interest, proposal or offer that constitutes, or would reasonably be expected to lead to, an Acquisition Proposal, (c) agree to, accept, approve, endorse or recommend any Acquisition Proposal, or (d) enter into any letter of intent or any other Contract contemplating or otherwise relating to any Acquisition Proposal. Seller shall immediately cease, and shall cause its directors, managers, officers, employees and representatives, and each other Seller Connected Entity, to immediately cease, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, “**Acquisition Proposal**” means any agreement, offer, proposal or indication or expression of interest (other than this Agreement), or any public announcement of the intention to enter into any such agreement or of any offer, proposal or indication of interest, relating to, or involving, directly or indirectly: (i) any direct or indirect acquisition, sale or issuance of any equity interests in Seller; (ii) any merger, consolidation, equity exchange, business combination or similar transaction involving Seller; (iii) any sale, lease, mortgage, pledge, exchange, transfer, license, acquisition, or disposition of all or any of the Purchased Assets, the Business or the Project (other than in the ordinary course of business as expressly permitted under this Agreement); (iv) any liquidation or dissolution of Seller or the Business; or (v) any transaction which is similar in form, substance or purpose to any of the foregoing transactions.

Section 6.11 [Intentionally Deleted]

Section 6.12 Post-Closing Business Conduct. The Parties agree that, from and after the Closing, Purchaser and its Affiliates shall have the sole and absolute discretion to conduct the course of operations of the Business and any development, maintenance, management, repowering, decommissioning, reconstruction or construction, or other handling of the Purchased Assets or in connection with the Project. From and after the Closing, for a period of three (3) years, Seller agrees not to, and to cause TID not to, take any action that may adversely affect, or otherwise interfere with or diminish, the Project’s interconnection and transmission rights (as existed at Closing) unless TID is required to reduce the transfer capability on any interconnection or transmission facilities interconnected with, or used by the Project to comply with: (a) applicable Laws; (b) the directives of NERC, FERC, the Reliability Coordinator, the Balancing Authority for the applicable interconnection and/or transmission facilities, or any other Governmental Authority (other than TID), or (c) Good Utility Practice.

Section 6.13 Transfer of Project Permits At Closing and at Purchaser’s sole cost, Seller will assign to Purchaser all Project Permits that Seller is legally able to assign to Purchaser. Seller shall *not* be responsible in any way for any Seller Project Permits that Seller cannot legally

assign to Purchaser other than to cooperate with Purchaser in respect thereof pursuant to Section 6.18 (Further Assurances).

Section 6.14 Payment of Liabilities. Seller shall pay or otherwise satisfy in the ordinary course of business, prior to or on the Closing, all of the liabilities and obligations incurred during the pre-Closing period in connection with the Business and, after the Closing, arising from the Retained Liabilities.

Section 6.15 Refunds and Remittances. After the Closing: (a) if Seller receives any refund or other amount that is for a Purchased Asset or is otherwise properly due and owing to Purchaser in accordance with the terms of this Agreement, Seller promptly shall remit, or shall cause to be remitted, such amount to Purchaser and (b) if Purchaser or any of its Affiliates receive any refund or other amount that is an Excluded Asset or is otherwise properly due and owing to Seller in accordance with the terms of this Agreement, Purchaser promptly shall remit, or shall cause to be remitted, such amount to Seller.

Section 6.16 Bulk Transfer Laws. Prior to the Closing, Seller shall comply with the requirements of all applicable bulk sale, bulk transfer or similar laws in Washington State.

Section 6.17 Replacement of LOC. On or about the Closing Date (but no later than ten (10) Business Days after the Closing Date), Purchaser shall cause to be issued and delivered to KPUD a letter of credit in the amount of [REDACTED] to secure the Purchaser's obligations under the LGIA, as required under Section 11.5 thereof, and Purchaser shall require that KPUD release and return to Seller the letter of credit (#____, dated ____) issued by [name of bank] on behalf of Seller to the Bonneville Power Administration under the LGIA. The Parties shall reasonably cooperate and coordinate with each other with respect to (a) the presentation prior to the Closing Date of a draft form of such replacement letter of credit to be issued on behalf of Purchaser for approval by KPUD and (b) the replacement of the letter of credit issued on behalf of Seller with such letter of credit to be issued on behalf of Purchaser pursuant to the foregoing.

Section 6.18 Further Assurances. Prior to and after Closing, each of Seller and Purchaser shall, and Seller shall cause each other Seller Connected Entity to (in each case at Seller's sole cost and expense), and Purchaser shall and shall cause its Controlled Affiliates to (in each case at Purchaser's sole cost and expense), use their respective commercially reasonable efforts to, and to reasonably cooperate with the other Party to do the following ministerial actions, if necessary to consummate the closing, (i) negotiate, execute and deliver, or cause to be executed and delivered, such documents and instruments, (ii) take, or cause to be taken, such further actions as may be reasonably necessary and are within their control to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party and (iii) execute, acknowledge and deliver all such further conveyances, notices, assumptions and releases and such other instruments, and shall take such further reasonable actions, as may be necessary or appropriate to assure fully to Purchaser all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be included in Purchased Assets and conveyed to Purchaser under this Agreement and the other Transaction Documents. Notwithstanding the foregoing, the obligations set forth in this Section 6.18 shall not require either Party to assume any material costs or assume any liability beyond that set forth in the other Sections of this Agreement.

Section 6.19 Confidentiality; Public Announcements.

(a) The Confidentiality Agreement shall remain in full force and effect following the execution of this Agreement and shall apply to all documents and information furnished to either Party by or on behalf of the other Party in connection with the transactions contemplated by this Agreement. The Confidentiality Agreement shall continue in full force and effect until the Closing Date, at which time such Confidentiality Agreement and the obligations of the Parties under this Section 6.19(a) shall terminate. If for any reason this Agreement is terminated prior to the Closing Date, the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms. For a period of two years following the Closing Date, Seller shall not, and Seller shall cause the respective Representatives of Seller not to, use for its or their own benefit or divulge or convey to any third party, any Confidential Information (as defined below) except as may be reasonably required in connection with Seller's operation; provided, however, that Seller may furnish such portion (and only such portion) of the Confidential Information as Seller reasonably determines it is obligated under applicable Law to disclose if: (i) it receives a request to disclose all or any part of the Confidential Information under the terms of a subpoena, civil investigative demand or order issued by a Governmental Authority; (ii) to the extent not inconsistent with such request, it notifies Purchaser of the existence, terms and circumstances surrounding such request and consults with Purchaser on the advisability of taking steps available under applicable Law to resist or narrow such request; (iii) it exercises its commercially reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to the disclosed Confidential Information; and (iv) disclosure of such Confidential Information is required to prevent Seller from being held in contempt or becoming subject to any other penalty under applicable Law. For purposes of this Agreement, "**Confidential Information**" consists of all nonpublic information and data relating to the Business (including Intellectual Property, customer and supplier lists, pricing information, marketing plans, market studies, client development plans, business acquisition plans and all other information or data), the Purchased Assets or the transactions contemplated hereby, except for data or information that is or becomes available to the public other than as a result of a breach of this Section 6.19.

(b) Notwithstanding anything to the contrary in this Section 6.19 or any other Section of this Agreement, if a third party requests Confidential information from the Seller under California Public Records Act, Cal. Govt. Code §§7920, et seq. ("**CPRA**"), or if NERC or WECC request Confidential Information from the Seller, the Seller will notify the Purchaser of the existence, terms and circumstances surrounding the request and will discuss with Purchaser the advisability of taking steps available under applicable Law to resist or narrow such request; provided, however, that after discussing the foregoing with the Purchaser, the Seller may, in its sole discretion, determine what Confidential Information should be produced in response to any such requests and the Seller's production of this Confidential Information shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 6.19 or any other similar obligations set forth herein.

(c) Notwithstanding anything to the contrary in this Section 6.19 or any other Section of this Agreement, if Seller determines, in its sole discretion, that it must produce Confidential Information pursuant to the Brown Act, the Seller will notify the Purchaser of the existence, terms and circumstances surrounding the production of this Confidential Information

before Seller produces the Confidential Information. Seller's production of Confidential Information under the Brown Act shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 6.19 or any other similar obligations set forth herein

(d) On and after the date hereof and through the Closing Date, the Parties shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and neither party shall issue any press release or make any public statement prior to obtaining the other party's written approval, which approval shall not be unreasonably withheld, except that no such approval shall be necessary to the extent disclosure may be required by applicable Law or any listing agreement of any party hereto.

Section 6.20 Transition Services.

(a) For a period of one hundred twenty (120) days after Closing, Seller shall, at Purchaser's sole expense with respect to the costs described below, provide assistance reasonably requested by Purchaser (and its consultants and advisors) for the operation of (consistent with ordinary course operations as of the Closing), and the transitioning to Purchaser of, the Project's information technology systems and administrative functions, including, but not limited to, its communications, SCADA, network operations, accounting, treasury services, maintenance of project bank accounts, equipment manufacturer interfaces, supply chain and workflow management modules, interconnection and transmission systems, registrations, and OASIS accounts (in each case existing as of the Closing); which assistance shall include providing Purchaser-designated personnel full access to all of such systems and to the Project's databases and documents consistent with Seller's access as of the Closing as required for Purchaser to continue to perform the business and administrative functions enabled by such systems, databases and documents. Seller shall invoice Purchaser monthly for all reasonable and documented costs incurred to provide assistance pursuant to this Section 6.20(a), including but not limited to such costs for all staff, consultant, and legal assistance but excluding overhead costs and expenses not allocated to employee salaries.

(b) For a period of one hundred and twenty (120) days after the Closing, Seller shall, at Purchaser's sole expense, provide assistance reasonably requested by Purchaser (and its consultants and advisors) (i) with respect to engagement, managing relationships, registrations, [filings] and discussions with Governmental Authorities with respect to interconnection, transmission, NERC, and other operational matters of the Project (and their continuation consistent with past practices and requirements), including with the Bonneville Power Administration, FERC, FAA, WECC, CEC, EIA, and the Washington Utilities and Transportation Commission; and (ii) with respect to compliance-related activities, including providing background information, support regarding NERC registration and transfer of ownership of any accounts or registrations as applicable, and the provision of evidence and records for NERC, WECC, CEC, EIA, and other regulatory compliance requirements for the period prior to Closing; provided that following the Closing Seller shall not (a) engage with any Governmental Authority with respect to the Project except in conjunction with Purchaser and (b) have any authority to bind Purchaser or the Project and (iii) to take any appropriate and reasonable action necessary to maintain the Project's interconnection and transmission rights (as existed at the Closing). Seller shall invoice Purchaser monthly for all reasonable and documented

costs incurred to provide assistance pursuant to this Section 6.20(b), including but not limited such costs for all staff, consultant, and legal assistance.

Section 6.21 Financial Support Agreement and Parental Support

(a) Seller shall at all times cause the Seller Financial Support Agreement to remain in full force and effect in accordance with its terms.

(b) Purchaser shall at all times cause the Purchaser Parent Guaranty to remain in full force and effect in accordance with its terms. In the event that the Purchaser Parent Guaranty is for any reason rescinded, revoked or breached by Purchaser Parent Guarantor or is otherwise not enforceable against Purchaser Parent Guarantor, Purchaser shall promptly cause a Replacement Guaranty or Replacement Letter of Credit (as such terms are defined in, and under, Section 9 of the Purchaser Parent Guaranty) to be executed and delivered or issued, as applicable, to Seller.



ARTICLE VII.

CONDITIONS TO OBLIGATIONS OF PURCHASER

The obligations of Purchaser hereunder to purchase the Purchased Assets and to consummate the Closing are subject to the satisfaction, at or before the Closing, of each of the following conditions (all or any of which may be waived in writing in whole or in part by Purchaser in its sole discretion):

Section 7.1 Bring-Down of Seller's Representations and Warranties. The representations and warranties of Seller contained in this Agreement (other than Seller Fundamental Representations) (i) that are qualified by materiality or Material Adverse Effect qualifiers shall be true and correct as so qualified on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date and (ii) that are not qualified by materiality or Material Adverse Effect qualifiers shall be true and correct in all material respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date. The Seller Fundamental Representations (read without regard to any materiality or Material Adverse Effect qualifiers) shall be true and correct in all but de minimis respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an

earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date.

Section 7.2 Performance Prior to and at Closing. Seller shall have performed and complied in all material respects its respective obligations and covenants under this Agreement to be so performed by Seller at or prior to Closing.

Section 7.3 No Order, Litigation or Violation. No Order shall have been entered and no Action or Proceeding shall have been instituted that restrains, enjoins or otherwise prohibits or makes illegal the consummation of any of the transactions contemplated by this Agreement. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law, except for violations that would not reasonably be expected to be material.

Section 7.4 Governmental Approvals. (a) FERC 203 Approval shall have been obtained by Purchaser and shall be in full force and effect or, as applicable, any waiting period and any extension thereof shall have expired or been terminated, (b) the filings of Purchaser and Seller pursuant to the HSR Act, if any, shall have been made and the applicable waiting period and any extensions thereof shall have expired or been terminated, (c) MBR Authority shall have been obtained by Purchaser with respect to the rates Purchaser (in its capacity as “Seller” under the A&R PPA and the SPPA) expects to charge TID under and in accordance with the A&R PPA and the SPPA, and (d) Purchaser’s new NERC registration in respect of the Project (applied for pursuant to Section 6.1(d)) shall have become effective.

Section 7.5 Consents and Approvals. Without duplication of those obtained or satisfied under Section 7.4, Seller shall have obtained and delivered to Purchaser true and correct copies of all Seller Consents and all Seller Approvals.

Section 7.6 No Material Adverse Effect. No Material Adverse Effect shall have occurred and be continuing.

Section 7.7 No Casualty Event. The Purchased Assets have not suffered any material loss, damage, destruction or other material casualty, whether or not covered by insurance.

Section 7.8 Seller’s Closing Actions. Seller shall have provided the Closing deliverables to Purchaser and undertaken the Closing actions set forth in Section 2.3(b).

Section 7.9 Project Permits. All Project Permits that are assignable by Seller to Purchaser have been assigned to Purchaser and all Project Permits that are not assignable by Seller have otherwise been obtained by Purchaser.

Section 7.10 Title Insurance Policies. Purchaser shall have received at its sole expense, an irrevocable commitment of the Title Company to issue an ALTA Owner’s Title Insurance Policy, insuring Purchaser’s indefeasible leasehold and easement interests in the Project Site, dated as of the Closing Date, and which includes coverage in an amount of the Purchase Price and is in form and substance reasonably acceptable to Purchaser (the “**Closing Date Title Policy**”). The Purchaser shall pay the premium for any Title Insurance Policy and for all endorsements thereto. Seller agrees to provide to the Title Company a title affidavit confirming,

to Seller's Knowledge, the parties in possession of the Project Site and confirming that Seller has had no work done on the Project Site which has not been paid for.

Section 7.11 Survey. Purchaser shall have received, at its sole expense, an ALTA/NSPS Land Title Survey (i) showing each tract of land referenced in Schedule A of the Closing Date Title Policy and the locations of all exceptions to title shown on the Closing Date Title Policy that are capable of being plotted, and (ii) which is in form and substance reasonably acceptable to the Title Company and Purchaser.

Section 7.12 Power Purchase Agreement. (a) Seller shall have executed and delivered, and shall have caused TID to execute and deliver, to Purchaser the A&R PPA and the SPPA and (b) the "Effective Date" as defined under the A&R PPA shall have occurred and the "Term" as defined under the A&R PPA shall have commenced.

Section 7.13 Seller Financial Support Agreement. The Seller Financial Support Agreement has not been rescinded, revoked or breached by TID, and is in full force and effect against TID as of and from and after the Effective Date in accordance with terms.

Section 7.14 Estoppels. Purchaser shall have received an executed estoppel certificate [that is in the form required by the Project Ground Leases and Project Easements, or, if no form is required,] substantially in the form attached hereto as Exhibit I and executed no more than thirty (30) days prior to the Closing Date, from each landowner party to a Real Property Document.

Section 7.15 NSC Smelter Lease Amendment. Purchaser shall have received an amendment to the NSC Smelter Lease duly executed by the counterparties to the NSC Smelter Lease, and which is substantially in the form attached hereto as Exhibit J, and otherwise in form and substance reasonably acceptable to Purchaser; *provided, however*, that Purchaser shall make clear in its discussions with NSC Smelter and in any NSC Smelter Lease Amendment that the amendment is not binding on Seller and is conditioned on the Closing.

Section 7.16 Withholding Matters. Purchaser shall have made a determination in good faith that Purchaser is under no obligation or requirement under applicable Law to deduct or withholding any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement if Closing were to occur; *provided that*, if Purchaser makes a determination that, as a result of Closing, Purchaser would be under an obligation or requirement under applicable Law to deduct or withholding any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement, then Purchaser shall use commercially reasonable efforts to cooperate with Seller to reduce, mitigate, and otherwise eliminate such expected deduction or withholding, such that no such deduction or withholding is expected as a result of Closing. For the avoidance of doubt, as of the Effective Date, Purchaser is aware of no obligation or requirement under applicable Law (or any fact or circumstance that reasonably would be expected to give rise to an obligation) to deduct or withholding any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement if Closing were to occur.

Section 7.17 Balancing Services Agreement. Seller shall have entered into a balancing services agreement in connection with the Project with Avangrid in form and substance reasonably satisfactory to Purchaser, *provided, however*, that if Purchaser consents in writing to Seller's execution of the balancing services agreement with Avangrid prior to Closing, and Seller executes that agreement, this condition shall be satisfied.

ARTICLE VIII.

CONDITIONS TO OBLIGATIONS OF SELLER

The obligations of Seller hereunder to sell the Purchased Assets and to consummate the Closing are subject to the satisfaction, at or before the Closing, of each of the following conditions (all or any of which may be waived in whole or in part by Seller in its sole discretion):

Section 8.1 Bring-Down of Purchaser's Representations and Warranties. The representations and warranties made by Purchaser in this Agreement (other than Purchaser Fundamental Representations) (i) that are qualified by materiality qualifiers shall be true and correct as so qualified on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date and (ii) that are not qualified by materiality qualifiers shall be true and correct in all material respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date. The Purchase Fundamental Representations (read without regard to any materiality qualifiers) shall be true and correct in all but de minimis respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date.

Section 8.2 Performance Prior to and at Closing. Purchaser shall have performed and complied in all material respects the obligations and covenants required under this Agreement to be so performed by Purchaser at or prior to Closing.

Section 8.3 Governmental Approvals. (a) FERC 203 Approval shall have been obtained pursuant to Section 6.1 and Section 7.4 and shall be in full force and effect, and (b) the filings of Purchaser and Seller pursuant to the HSR Act, if any, shall have been made and the applicable waiting period and any extensions thereof shall have expired or been terminated.

Section 8.4 Consents and Approvals. Without duplication of those obtained or satisfied under Section 8.3, Purchaser shall have obtained and delivered to Purchaser true and correct copies of all Purchaser Consents and all Purchaser Approvals. Notwithstanding anything to the contrary in this Agreement, the Parties agree that this Agreement shall only be binding on the Seller if approved by Sellers Board of Directors, which approval shall be evidenced by Seller's execution and delivery of this Agreement as of the Effective Date.

Section 8.5 No Order, Litigation or Violation. No Order shall have been entered and no Action or Proceeding shall have been instituted that restrains, enjoins or otherwise prohibits or makes illegal the consummation of any of the transactions contemplated by this Agreement. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law, except for violations that would not reasonably be expected to be material.

Section 8.6 Purchaser's Closing Actions. Purchaser shall have provided the Closing deliverables to Seller and undertaken the Closing actions set forth in Section 2.3(c).

Section 8.7 Power Purchase Agreement. Purchaser shall have executed and delivered to TID the A&R PPA and the SPPA.

Section 8.8 Rate Approvals for the A&R PPA and the SPPA. Purchaser shall have delivered to Seller and TID evidence of MBR Authority with respect to the rates Purchaser (in its capacity as "Seller" under the A&R PPA and the SPPA) expects to charge TID under and in accordance with the A&R PPA and the SPPA.

Section 8.9 Purchaser Parent Guaranty. The Purchaser Parent Guaranty has not been rescinded, revoked or breached by Clearway Energy Operating LLC, and is in full force and effect against Clearway Energy Operating LLC, as of and from and after the Effective Date in accordance with terms.

Section 8.10 Purchase Price Allocation.

(a) Seller Allocation. No later than ninety (90) days subsequent to the date on which all adjustments to the Purchase Price have been made pursuant to Section 2.4, Purchaser shall prepare and deliver to Seller a statement which shall provide for the allocation of the Purchase Price among the assets purchased pro rata based upon fair market value subject to any necessary adjustment pursuant to Section 2.4 (plus the Assumed Liabilities, to the extent properly taken into account pursuant to the provisions of Code Section 1060, plus any other items constituting consideration for applicable income tax purposes pursuant to the provisions of Code Section 1060) among the Purchased Assets (the "**Allocation**") in a manner consistent with the principles of Code Section 1060 and the Treasury Regulations promulgated thereunder (the "**Allocation Principles**") Within fifteen (15) days after receipt of such Allocation, Seller shall propose to Purchaser in writing any reasonable changes to such Allocation together with documentation supporting such changes (and in the event that no such changes are proposed in writing to Purchaser within such time period, Seller shall be deemed to have agreed to, and accepted, the Allocation). Purchaser and Seller shall attempt in good faith to resolve those differences, if any, with respect to the Allocation within fifteen (15) days after Purchaser's receipt of a timely written notice of comments from Seller. If Purchaser and Seller are unable to resolve such differences within such time period, then any remaining disputed matters shall be submitted to a nationally recognized independent public accounting firm mutually agreed to in writing by Purchaser and Seller (the "**Independent Accounting Firm**") for resolution in accordance with this Agreement and the Allocation Principles. Promptly, but not later than fifteen (15) days after such matters are submitted to it for resolution hereunder, the Independent Accounting Firm will determine those matters in dispute and will render a written report as to the disputed matters and the resulting allocation, which report shall, absent manifest error, be

conclusive and binding upon Purchaser, Seller, and their respective Affiliates. The fees, costs and expenses of the Independent Accounting Firm shall be borne in inverse proportion as the parties may prevail on matters resolved by the Independent Accounting Firm, which proportionate allocations shall be determined by the Independent Accounting Firm at the time its determination is rendered on the merits of the matters submitted to it; *provided that*, the Independent Accounting Firm may increase the allocation of the costs of such determination to any party making, or that has made, unnecessary information requests. Neither Seller nor Purchaser nor any of their respective Controlled Affiliates shall take a position on any Tax Return, or in any Tax audit or other Tax proceeding that is in any manner inconsistent with the Allocation, except as required by a “determination” (as defined in Section 1313(a) of the Code). Each Party shall use its commercially reasonable efforts to notify promptly each other Party following receipt of notice of any pending or threatened Tax audit or Tax proceeding or assessment challenging the Allocation. Notwithstanding anything to the contrary herein, any amounts included within Assumed Liabilities (including, for the avoidance of doubt, deferred revenue) shall be reported by the Parties (and their respective Controlled Affiliates) for all applicable tax purposes in a manner that does not result in Purchaser’s recognition of any income in respect of a deemed payment from Seller to Purchaser in respect of such amounts (including deferred revenue).

(b) Notwithstanding any provision of Section 9.10(a), prior to Closing, Seller shall prepare and deliver to Purchaser a statement which shall provide for the allocation of the Purchase Price for the REET based upon fair market value real property portion of the Purchased Assets and allocating values for purposes of determining the REET liability (the “**REET Allocation**”) in a manner consistent with the relevant allocation principles (the “**REET Allocation Principles**”) together with an appraisal from a nationally recognized and independent appraisal firm, consistent with such allocation, which identifies the amount allocable to the assets purchased, including any Contract Real Property subject to tax under RCW 82.45. If requested by Purchaser, Seller shall provide the REET Allocation Principles relied upon by the Seller to make the REET Allocation and any supporting documentation based upon REET Allocation Principles. Seller will notify Purchaser when it pays the REET and shall provide documentation of payment.

Section 8.11 No Material Adverse Effect. No Material Adverse Effect shall have occurred and be continuing, unless the occurrence of which has been waived in writing by Purchaser pursuant to Section 7.6.

Section 8.12 No Casualty Event. The Purchased Assets have not suffered any material loss, damage, destruction or other material casualty, whether or not covered by insurance, unless the occurrence of which has been waived in writing by Purchaser pursuant to Section 7.7.

ARTICLE IX.

TAX MATTERS

Section 9.1 Transfer and Similar Taxes. [REDACTED]



Section 9.2 Tax Returns. Seller will timely and properly prepare and file (or cause to be timely prepared and filed) all Tax Returns of the Seller required by applicable Law covering the Project, the Business, the Purchased Assets, or the Assumed Liabilities for any taxable period ending at or prior to the Closing that are required to be filed, regardless of when due (and will timely pay all Seller Taxes shown as due on such Tax Returns). Purchaser will be required to prepare and file (or cause to be prepared and filed) all Tax Returns of the Purchaser required by applicable Law covering the Business, the Purchased Assets and the Assumed Liabilities for the Post-Closing Tax Period, including any Straddle Period (and, without limitation to Purchaser’s right to indemnification in respect of Seller Taxes, will timely pay all Taxes shown as due on such Tax Returns); Notwithstanding anything to the contrary in this Agreement, Seller shall prepare and file any Tax Returns relating to the Project Bonds.

Section 9.3 Cooperation. Seller and Purchaser shall cooperate with one another in connection with (a) the preparation and filing of any Tax Return with respect to the Project, the Purchased Assets, or the Assumed Liabilities; (b) any Tax claim or other Third Party Claim involving Taxes with respect to the Business, the Purchased Assets, or the Assumed Liabilities; and (c) any other matter under this Agreement relating to Taxes. Such cooperation shall include the retention and the provision of records and information that are reasonably relevant to any such Tax matter and access to representatives on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Without limitation to the foregoing, Seller and Purchaser agree to retain all books and records with respect to Tax matters pertinent to the Project, the Purchased Assets, and the Assumed Liabilities relating to any taxable period beginning prior to the Closing Date until the expiration of the statute of limitations applicable to such Tax or Tax matter. Notwithstanding anything to the contrary in this Agreement, but except to the extent required by applicable Law or except as required pursuant to a “determination” (within the meaning of Section 1313(a) of the Code) (or a similar or corresponding determination under applicable state or local Law), Purchaser shall not take any position on any Tax Return inconsistent with the allocation of the Purchaser Price and payment of the REET established under Section 8.10 of this Agreement. Purchaser shall not be required to provide Seller with (i) copies of any consolidated, combined or unitary income Tax Return that includes Purchaser or its direct or indirect owners (collectively, “**Purchaser Consolidated Returns**”), (ii) workpapers prepared with respect to a Purchaser Consolidated

Return, or (iii) notices or correspondence in connection with an audit or other proceeding or other discussions with any Governmental Authority with respect to a Purchaser Consolidated Return.

Section 9.4 Tax Proration. Without limitation of any obligations with respect to Seller's liability for any Seller Tax, with respect to a Straddle Period, (i) all real property Taxes, personal property Taxes, and similar ad valorem obligations levied or imposed with respect to the Project, the Purchased Assets and the Assumed Liabilities (individually or in the aggregate) in respect of that Straddle Period shall be apportioned between Seller and Purchaser based on the number of days of such Straddle Period included in the period ending on (and including) the Closing Date and the number of days of such taxable period included in the period subsequent to the Closing Date and (ii) Taxes other than Taxes described in clause (i) of this sentence levied or imposed with respect to the Project, the Purchased Assets, and the Assumed Liabilities (individually or in the aggregate) in respect of such Straddle Period shall be allocated using a "closing of the books" methodology as of the end of the Closing Date (the liability for Taxes as allocated between Purchaser and Seller pursuant to clause (i) and clause (ii) of this sentence, the "**Apportioned Obligations**"); *provided that*, (x) exemptions, allowances, or deductions that are calculated on an annual basis shall be allocated between the period ending on the Closing Date and the period beginning subsequent to the Closing Date in proportion to the number of calendar days in each period and (y) the taxable period in respect of a particular real property Tax, personal property Tax, or any other similar ad valorem obligation shall begin on the date on which ownership of the applicable asset gives rise to the liability for the particular Tax and shall end on the day immediately prior to the next such applicable date. Seller shall be liable for that amount of the Apportioned Obligations that is attributable to a pre-Closing portion of any Straddle Period (the "**Seller Tax Amount**"). Purchaser shall be liable for that amount of the Apportioned Obligations that is attributable to a post-Closing portion of any Straddle Period (the "**Purchaser Tax Amount**").

Section 9.5 Indemnification.



Section 9.6 No Withholding. Notwithstanding anything to the contrary in this Agreement, neither Party shall withhold any payment due and owing to their counter Party based on any third party claims.

Section 9.7 Tax Treatment. Although Seller does not pay federal income tax, for purposes of Purchaser's future, potential federal income tax liability, the sale of the Purchased Assets by Seller, and *the* purchase of the Purchased Assets by Purchaser, is intended to be

treated as a taxable acquisition of assets by Purchaser from Seller (the “**Intended Tax Treatment**”). No party hereto shall, or shall permit any of its Controlled Affiliates to, take any position on any federal Tax Return, or make any filing, inconsistent with the Intended Tax Treatment unless otherwise required pursuant to a “determination” (as defined in Section 1313(a) of the Code).

Section 9.8 Conflict. Notwithstanding anything to the contrary contained in this Agreement, to the extent there is any conflict between this Article IX and any other provision of this Agreement (including Article X), the provisions of this Article IX shall govern matters relating to Taxes and Tax matters.

ARTICLE X.

INDEMNIFICATION

[REDACTED]

Section 10.4 Limitations on Claims.

(a) Except for any obligation to make a payment when due hereunder, any breach of any Fundamental Representation, and any breach of any representation or warranty involving fraud, (i) Seller shall not have any obligation to indemnify Purchaser pursuant to Section 10.1(a) until the aggregate amount of all such Losses for which Seller is responsible exceeds an amount equal to one-half of one percent (0.5%) of the Purchase Price, and (ii) Purchaser shall not have any obligation to indemnify Seller pursuant to Section 10.2 until the aggregate amount of all such Losses for which Purchaser is responsible exceeds an amount equal to one-half of one percent (0.5%) of the Purchase Price (in the case of either (i) or (ii), the “**Deductible**”), at which time the Indemnifying Party shall be required to indemnify the Indemnified Party for the amount of all of such Losses (including the amount of the Deductible). The aggregate liability of (x) Seller pursuant to Section 10.1(a) for breaches of Fundamental Representations and any breach of any representation or warranty where Seller has been found to have committed fraud (in an unappealable ruling) shall collectively be limited to an amount equal to one hundred percent (100%) of the Purchase Price and any other claim in connection with this Agreement shall be limited to an amount equal to twelve and one-half percent (12.5%) of the Purchase Price, and (y) Purchaser pursuant to Section 10.2 shall be limited to an amount equal to twelve and one-half percent (12.5%) of the Purchase Price (in the case of either (x) or (y), the “**Cap**”). For the avoidance of doubt, this Section 10.4(a) shall not apply to any amount indemnifiable or subject to indemnification pursuant to Section 9.5. Notwithstanding anything to the contrary in this Agreement, any claims under this Agreement relating to the Seller’s Contract

Real Property rights that are covered by the Closing Date Title Policy shall first be brought against the Title Company.

(b) Notwithstanding the provisions of Section 12.13 (Consent to Jurisdiction), each Indemnifying Party hereby consents to the nonexclusive jurisdiction of any court in which an Action or Proceeding in respect of a Third Party Claim is brought against any Indemnified Party for purposes of any claim that an Indemnified Party may have under this Agreement with respect to such Action or the matters alleged therein and agrees that process may be served on each Indemnifying Party with respect to such claim anywhere.

(c) An insurer or other third party who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third party shall be entitled to any benefit they would not be entitled to receive in the absence of the indemnification provisions by virtue of the indemnification provisions hereof.

Section 10.5 Procedures.

(a) Notice. If any Indemnified Party has determined that a matter has occurred which has given or could give rise to a right of indemnification under this Article X, it may give prompt notice of Claim to the Indemnifying Party stating the amount of Loss, if known, and the method of computation thereof, containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises. If any Indemnified Party receives written notice of the assertion or commencement of an Action or Proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement (a “**Third Party Claim**”) against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Article X, the Indemnified Party shall promptly, and in any event within ten (10) Business Days after receiving written notice of the Third-Party Claim, notify the Indemnifying Party of and assert the claim, provide copies of all material written evidence thereof received by the third party and, if known, specify the amount or an estimate of the amount of the liability arising therefrom. The failure to give any such prompt written notice under this Section 10.5(a) shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that such failure shall have materially prejudiced the Indemnifying Party or to the extent that the survival period, if applicable, expires prior to the giving of such notice. Notwithstanding the foregoing, Purchaser shall be entitled to control any Third Party Claim with respect to Taxes and Tax matters that pertain to the Project, the Business, any Purchased Asset, or any Assumed Liability to the extent such Third Party Claim reasonably would be expected to result in any liability to Purchaser or any of its Affiliates; *provided that*, (i) if the settlement, resolution, or other disposition of such Third Party Claim reasonable would be expected to result in Seller incurring a material Liability under this Purchase Agreement, then Purchaser shall not settle, resolve, or otherwise dispute of such Third Party Claim without the prior consent of Seller (such consent not to be unreasonably withheld, conditioned, or delayed); and (ii) if the Third Party Claim relates to (A) REET, (B) the Seller’s bonds or bond related matters, or (C) Washington State or local Taxes in respect of a Pre-Closing Tax Period (and, solely in respect of a Straddle Period, only with respect to, and to the extent of, that portion of the Straddle Period that pertains to the period

of time that includes, but ends on, the Closing Date), then Seller, and not Purchaser, shall be entitled to control such Third Party Claim (provided that, if the settlement, resolution, or other disposition of such Third Party Claim reasonably would be expected to result in Purchaser (or any of its Affiliates) incurring a material Liability for Taxes that Purchaser (or its applicable Affiliate) would not otherwise have incurred, then Seller shall not settle, resolve, or otherwise dispute of such Third Party Claim without the prior consent of Purchaser (such consent not to be unreasonably withheld, conditioned, or delayed)). Purchaser shall be solely liable for all interest and penalties that accrue due to any failure of the Purchaser to pay any Taxes for which Purchaser is liable under this Section 10.5 and under applicable Law.

(b) Settlement of Losses by Indemnified Party. The Indemnified Party shall not settle, consent to the entry of a judgment of or compromise any claim by a third party for which it is entitled to indemnification hereunder without the prior written consent (which consent shall not be unreasonably withheld or delayed) of the Indemnifying Party.

Section 10.6 Rights of Indemnifying Party.

(a) Right to Assume the Defense. In connection with any claim that may give rise to indemnity hereunder resulting from or arising out of any Third Party Claim, the Indemnifying Party, may, upon written notice to the Indemnified Party within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response), assume the defense, at its own cost and expense, of any such claim or legal proceeding, which defense shall be prosecuted by the Indemnifying Party to a final conclusion or settlement in accordance with the terms hereof; provided, however, the Indemnifying Party may not assume such defense: (i) if it would be a material conflict of interest or materially adverse to the interests of the Indemnified Party, (ii) unless the Indemnifying Party has affirmatively acknowledged in its written notice its duty and obligation (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) to indemnify any Losses arising in such claim or legal proceeding, (iii) unless the reasonably anticipated Losses in respect of such claim or legal proceeding are less than the balance of any liability limitations remaining in favor of the Indemnified Party from the Indemnifying Party or (iv) unless the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Seller, or the Business (including material commercial relations), (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend.

(b) Procedure. If the Indemnifying Party assumes the defense of any Third Party Claim, the Indemnifying Party shall (i) select counsel reasonably acceptable to the Indemnified Party to conduct the defense of such claims or legal proceedings, and (ii) take all steps necessary in the defense or settlement thereof, at its sole cost and expense. If the

Indemnifying Party assumes the defense of any such claim or legal proceeding, the Indemnified Party shall provide any information or authorization as may be reasonably necessary to allow the Indemnifying Party to defend such claim or legal proceeding. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its sole cost and expense (except that the Indemnifying Party will be responsible for the fees and expenses of the separate counsel to the extent the Indemnified Party reasonably concludes that the counsel the Indemnifying Party has selected has an actual or potential conflict of interest). Irrespective of which Party controls the defense of any Third-Party Claim, the other Parties to this Agreement will, and will cause any applicable non-party Affiliate to, reasonably cooperate with the controlling Party in such defense and use commercially reasonable efforts to make available to the controlling Party (at the controlling Party's cost and expense) such witnesses, pertinent records, materials and information in such non-controlling Party's possession or under its control relating thereto as is reasonably required by the controlling Party. The Parties agree that all communications between any Party and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

(c) Settlement of Losses by Indemnifying Party. The Indemnifying Party shall not consent to a settlement of, or the entry of any judgment arising from, any Third Party Claim, without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), unless such settlement or judgment does not result in any Losses incurred by any Purchaser Indemnified Party; provided, however, that the Indemnifying Party shall not consent to a settlement of, or the entry of any judgment arising from, any Third Party Claim which either imposes an injunction or other equitable relief upon the Indemnified Party or does not include a provision whereby the plaintiff or claimant in the matter releases the Indemnified Party from all Liability with respect thereto without the prior written consent of the Indemnified Party.

(d) Decline to Assume the Defense. If the Indemnifying Party does not assume the defense of any Third Party Claim pursuant to Section 10.6(a): (i) the Indemnified Party may defend against such claim or litigation, at the sole cost and expense (which cost and expense shall be reasonable) of the Indemnifying Party, in such manner as it may deem reasonably appropriate, including settling such claim or litigation, subject to the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed), and (ii) the Indemnifying Party shall be entitled to participate in (but not control) the defense of such action, with its counsel and at its sole cost and expense.

Section 10.7 Limitation on Certain Damages. NO PARTY SHALL BE LIABLE FOR ANY PUNITIVE DAMAGES, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (WHETHER OR NOT THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH PARTY HEREBY WAIVES AND RELEASES ANY SUCH CLAIM FOR ANY SUCH PUNITIVE DAMAGES, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES; PROVIDED, HOWEVER, THAT ANY PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES RECOVERED BY A THIRD

PARTY (INCLUDING GOVERNMENTAL AUTHORITIES) AGAINST AN INDEMNIFIED PARTY HEREUNDER SHALL BE INCLUDED IN THE LOSSES RECOVERABLE HEREUNDER.

Section 10.8 Exclusive Remedy. Notwithstanding anything to the contrary that may be contained herein, the indemnities set forth in this Article X shall become effective as of the Closing Date. Except as provided in Article IX and Section 12.3, after the Closing the indemnities set forth in this Article X shall be the exclusive remedies of Purchaser and Seller due to breach of a representation, warranty or covenant contained in this Agreement, and the Parties shall not be entitled to any further indemnification rights or claims of any nature whatsoever in respect thereof, all of which the Parties hereby waive.

Section 10.9 Tax Treatment of Indemnification Payments. Any amount of indemnification payable pursuant to the provisions of this Article X or the indemnification provisions in Article IX shall be treated as an adjustment to the Purchase Price for Tax and all other applicable purposes, unless otherwise required by Law.

ARTICLE XI.

TERMINATION

Section 11.1 Termination. This Agreement may be terminated, and the transactions contemplated hereby may be abandoned, at any time prior to Closing as follows:

- (a) by mutual written consent of Purchaser and Seller;
- (b) by Seller, on the one hand, or by Purchaser, on the other hand:

(i) if the Closing has not occurred on or before the date which is one hundred eighty (180) days from the Effective Date (or, if such date is not a Business Day, the next day which is a Business Day) (the “**Termination Date**”); provided, that if the Closing has not occurred on or before the Termination Date solely due to the failure of a condition set forth in Section 7.4 or Section 8.3 not being met with respect to obtaining a Governmental Approval, and the satisfaction of such condition is being diligently pursued by the appropriate Party, then the Termination Date shall be extended by an additional sixty (60) days; provided, further, that the right to terminate this Agreement shall not be available to a Party if the failure to consummate the transactions contemplated by this Agreement is caused by a breach of this Agreement by such Party; or

(ii) if any Governmental Authority shall have issued an Order or taken any other action which would either (A) permanently enjoin, restrain or otherwise prohibit the transactions contemplated by this Agreement or (B) result in a failure of a condition set forth in Article VII or Article VIII, and such Order or other action shall have become final and non-appealable.

(c) by Purchaser if (i) there has been a breach by Seller of any representation, warranty or covenant contained in this Agreement which would result in a failure of a condition

set forth in Article VII; provided, that Purchaser (A) if such breach is curable, has given Seller at least thirty (30) days' prior notice of the violation or breach and Seller has not cured such violation or breach within thirty (30) days after receipt of notice of such breach, which cure period will be extended for so long as Seller is diligently pursuing a cure for such violation or breach prior to Closing, and (B) has not waived such condition in writing; or (ii) Seller fails to consummate the Closing within five (5) days after the date that the conditions set forth in Article VII and Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent legally permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent legally permissible, waived by the Party or Parties entitled to the benefit of such conditions.

(d) by Seller if (i) there has been a breach by Purchaser of any representation, warranty or covenant contained in this Agreement which would result in a failure of a condition set forth in Article VIII; provided, that Seller (A) if such breach is curable, have given Purchaser at least thirty (30) days' prior notice of the violation or breach and Purchaser has not cured such violation or breach within thirty (30) days after receipt of notice of such breach, which cure period will be extended for so long as Purchaser is diligently pursuing a cure for such violation or breach prior to Closing, and (B) has not waived such condition in writing; or (ii) Purchaser fails to consummate the Closing within five (5) days after the date that the conditions set forth in Article VII and Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent legally permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent legally permissible, waived by the Party or Parties entitled to the benefit of such conditions.

Section 11.2 Effect of Termination. If this Agreement is validly terminated pursuant to Section 11.1, this Agreement will forthwith become null and void, and there will be no liability or obligation on the part of the Parties (or any of their respective Representatives or Affiliates) in respect of this Agreement, except that the applicable portions of Article I, this Section 11.2, Section 11.3 and the entirety of Article XII will continue to apply following any termination and except as provided in the Confidentiality Agreement. .

Section 11.3 Termination Fee.

(a)



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE XII.

MISCELLANEOUS

Section 12.1 Notices. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally, by reputable national overnight courier service or by e-mail transmission (in the case of delivery by

e-mail, solely if receipt is confirmed), in each case to the Parties at the following addresses or email addresses, as applicable:

If to Purchaser, to:



With a copy to:

[]

If to Seller, to:

Tuolumne Wind Project Authority

Attn:

Email:

With a copy to:

[]

Attn:

Email:

Notices, requests and other communications will be deemed given upon the first to occur of such item having been (a) delivered personally to the address provided in this Section 12.1, (b) delivered by confirmed e-mail transmission to the e-mail address provided in this Section 12.1, or (c) delivered by reputable national overnight courier service to the address provided in this Section 12.1. Any Party from time to time may change its address, e-mail address or other information for the purpose of notices to that Party by giving notice specifying such change to the other Party.

Section 12.2 Entire Agreement. This Agreement, the Confidentiality Agreement, and the Transaction Documents, shall supersede all previous oral and written and all contemporaneous oral negotiations, commitments and understandings and all other letters, memoranda or other documents or communications, whether oral, written or electronic, in connection with the negotiation and execution of this Agreement and with respect to the subject matter hereof.

Section 12.3 Specific Performance. The Parties agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur and money damages may not be a sufficient remedy. In addition to any other remedy at law or in equity, each of Purchaser and Seller shall be entitled to specific performance by the other Parties of their respective obligations under this Agreement and immediate injunctive relief to prevent breaches or threatened breaches of this Agreement without the necessity of proving the inadequacy of money damages as a remedy and shall not be required to provide any bond or other security in connection with such order or injunction.

Section 12.4 Expenses. Except as otherwise expressly provided in this Agreement, whether or not the transactions contemplated hereby are consummated, each Party will pay its

own costs and expenses, including costs and expenses incurred prior to Closing, in each case incurred in connection with the negotiation, execution and the Closing of this Agreement and the other Transaction Documents, and such Party's performance of obligations and covenants contemplated hereby and thereby. Notwithstanding anything to the contrary in this Agreement, if any action, suit or other proceeding is instituted concerning or arising out of this Agreement or any transactions contemplated hereunder, each Party shall bear its own costs, expenses and attorneys' fees.

Section 12.5 Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition and delivered pursuant to Section 12.1. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. All remedies, either under this Agreement or by Law or otherwise afforded, will be cumulative and not alternative.

Section 12.6 Amendment. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party.

Section 12.7 No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each Party and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third party beneficiary rights upon any other Person other than any Person entitled to indemnification under Article X.

Section 12.8 Assignment. The obligations of each Party under this Agreement are not assignable without the prior written consent of the other Party, which other Party may withhold in its discretion; *provided that* any assignment by Purchaser to any of its Affiliates following the Closing shall not require the consent of Seller if Purchaser Parent Guaranty remains in effect with respect to the obligations of such assignee Affiliate of Purchaser under this Agreement or such assignee Affiliate of Purchaser provides a guaranty to Seller in substantially the form attached hereto as Exhibit F in replacement of the Purchaser Parent Guaranty. Notwithstanding the foregoing, the Purchaser shall not assign this Agreement to any Affiliate or third party if such assignment would cause the electricity products purchased under the A&R PPA to lose their PCC-0 classification and be inconsistent with the classification of these electricity products that existed under the Original PPA. Without limiting the generality of the foregoing with respect to any assignment prior to Closing (a) such assignment will be subject to obtaining prior to Closing all required Governmental Approvals and third party consents with respect thereto to the extent necessary to avoid a breach of any applicable Project Document or Project Permit that may arise in connection with such assignment or the Closing, and (b) the other Party may withhold its consent to such pre-Closing assignment if any of the matters described in Section 6.4(a)-(b) are not complied with to Seller's reasonable satisfaction to the extent implicated by such assignment. Except as agreed in writing by the non-assigning Party, no assignment of this Agreement shall relieve the assignor Party from its obligations hereunder and, upon such assignment, the assignee party shall agree in writing to be bound by this Agreement.

Section 12.9 Severability. Any provision of this Agreement that is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction. If any provision of this Agreement is or become invalid or unenforceable as a whole or in part, this Agreement will be reformed to come closest to the original intent and purpose of the Parties.

Section 12.10 Non-Recourse. Notwithstanding anything to the contrary contained herein, each Party agrees, for itself and its respective Affiliates and Representatives, that this Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement (including claims for breach, indemnification, or monetary damage), or the negotiation, execution or performance of this Agreement or the transactions contemplated hereby, may only be made against, the Persons that are expressly identified as Parties in their capacities as Parties to this Agreement, and no other Person shall have any liability for any obligations or Liabilities of the Parties or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated by this Agreement or in respect of any representations, warranties, statements or covenants made or alleged to be made in connection herewith; except, in all cases, for recourse, claims, and enforcement against Purchaser Parent Guarantor under the Purchaser Parent Guaranty. The Parties acknowledge that TID's obligations to the Purchaser are exclusively set forth in, and are limited by, the Seller Financial Support Agreement. The Parties acknowledge that TID does not have any obligations under this agreement. The only obligations that TID has are set forth in the Financial Support Agreement.

Section 12.11 Late Payments. With respect to any amount due from either Party to other Party or to an Indemnified Party which is not paid in full when due and payable under this Agreement, the unpaid amount shall accrue interest at the Default Rate until such unpaid amount plus the interest accrued thereon is paid in full.

Section 12.12 Governing Law. THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS BY THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

Section 12.13 Arbitration

(a) With respect to any dispute relating to or arising out of the validity, interpretation or breach of any provision of this Agreement, including any dispute concerning the scope of this arbitration provision, such dispute may, upon mutual written agreement of the Parties, following the written notice of a dispute by one of the Parties, be settled by submission to final, binding and non-appealable arbitration ("**Arbitration**") under this Section 12.13(a), provided that determinations expressly required to be made under the procedures set forth in Section 2.4(c) and Section 8.10, as applicable, shall be made in accordance therewith. Any Party may commence an arbitration by filing a notice with the San Francisco office of the American Arbitration Association ("**AAA**"), with a copy to the other Party at the address provided in Section 12.1. The Arbitration and all pre-hearing, hearing and post-hearing Arbitration procedures will be conducted in accordance with the Commercial Arbitration Rules of the

American Arbitration Association (the “**Commercial Rules**”), except to the extent the Commercial Rules conflict with provisions of this Agreement, in which case the provisions set forth in this Agreement regarding arbitration shall govern. The seat of the Arbitration shall be San Francisco, California and the language of the Arbitration shall be English. The Arbitration tribunal shall consist of one arbitrator mutually agreed by the Parties, provided that if the Parties cannot agree on such arbitrator within ten (10) days of the filing of such notice of Arbitration or another period agreed in writing between the Parties, any Party may request, in a written notice to the AAA (with a copy to the other Party at the address provided in Section 12.1), that the AAA select the arbitrator on behalf of both Parties. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing each Party an opportunity, adequate in the sole judgment of the arbitrator, to discover relevant information from the other Party about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys’ fees and costs, to the same extent as a court of competent law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The Arbitration award shall be rendered by the arbitrator no later than thirty (30) days after the close of the Arbitration hearing, shall be written, shall be in accordance with applicable Law and with this Agreement, and shall be supported by written findings of fact and conclusions of law which shall set forth the reasoned basis for the decision of the arbitrator.

(b) Notwithstanding the foregoing, the Parties specifically reserve the right to seek a temporary judicial restraining order, preliminary injunction, or other similar short term equitable relief in aid of arbitration (collectively, “**Judicial Relief**”) from a court of law having competent jurisdiction, and grant the Arbitration tribunal the right to make a final determination of the Parties’ rights, including whether to make permanent or dissolve such court order. Judgment upon the Arbitration award may also be entered in any court of competent jurisdiction. With respect to any action for Judicial Relief or concerning judgment upon any Arbitration award, the Parties hereby irrevocably consent to the non-exclusive jurisdiction of the state and federal courts located in San Francisco, California, and any appellate court with jurisdiction thereover, waive any objection to venue or personal jurisdiction in such court, and waive personal service of process; and the Parties agree that all such service of process may be made by delivery of registered mail directed to such Party at the address provided in Section 12.1 or by any other manner permitted by applicable Law. The Parties shall be entitled to seek judicial relief as to any disputes relating to this Agreement unless the Parties have mutually agreed to Arbitration, in which case court action shall be permitted only in case of Judicial Relief or concerning judgment upon an Arbitration award.

(c) Each party to any Arbitration proceeding subject to this Section 12.13, and the arbitrator, shall keep the existence and subject matter of the Dispute and any such proceedings confidential. Each Party shall bear its own expenses in the Arbitration and shall share equally the costs of the Arbitration.

Section 12.14 Consent to Jurisdiction. UNLESS THE PARTIES AGREE TO ARBITRATION UNDER SECTION 12.13 OF THIS AGREEMENT, WITH RESPECT TO ANY AND ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, EACH PARTY HEREBY

IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA AND ANY APPELLATE COURT WITH JURISDICTION THEREOVER, AND FURTHER WAIVES ANY OBJECTION TO VENUE OR PERSONAL JURISDICTION IN SUCH COURT. THE AFOREMENTIONED CHOICE OF VENUE IS INTENDED BY THE PARTIES TO BE MANDATORY AND NOT PERMISSIVE IN NATURE, THEREBY PRECLUDING THE POSSIBILITY OF LITIGATION BETWEEN THE PARTIES WITH RESPECT TO OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT IN ANY JURISDICTION OTHER THAN THAT SPECIFIED IN THIS SECTION 12.14. EACH PARTY WAIVES ANY RIGHT TO ASSERT THE DEFENSE OF FORUM NON CONVENIENS OR SIMILAR DOCTRINE. EACH PARTY FURTHER WAIVES PERSONAL SERVICE OF PROCESS IN ANY PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION 12.14 AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, DIRECTED TO SUCH PARTY AT ITS ADDRESS FOR THE GIVING OF NOTICES AS SET FORTH IN SECTION 12.1. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 12.15 Section Headings. The Section headings are for the convenience of the Parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the Parties.

Section 12.16 No Strict Construction. Each of the Transaction Documents are the result of negotiations among, and have been reviewed by, the Parties and their respective counsel. Accordingly, the Transaction Documents shall be deemed to be the product of the Parties, and no ambiguity shall be construed in favor of or against any Party.

Section 12.17 PDF Signature; Counterparts. This Agreement may be executed in any number of counterparts and by separate Parties on separate counterparts, each of which when executed shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or transmitted electronically in Portable Document Format (PDF) shall be equally effective as delivery of a manually-executed counterpart hereof.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized representative of each Party as of the date first above written.

Purchaser

Washington Wind LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized representative of each Party as of the date first above written.

Seller

Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California

By: _____
Name: _____
Title: _____

Exhibit F

Form of Purchaser Parent Guaranty

(attached)

GUARANTY AGREEMENT

Granted by:	Clearway Energy Operating LLC , a Delaware limited liability company (the “ <i>Guarantor</i> ”) on behalf of Washington Wind LLC, a Delaware limited liability company (the “ <i>Company</i> ”)
Granted to:	Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California (together with its successors and permitted assigns, the “ <i>Counterparty</i> ”)
Regarding:	Purchase and Sale Agreement, dated as of the date hereof, between the Company and Counterparty (as amended, restated or other modified from time to time, the “ <i>Contract</i> ”)
Effective Date:	[]
Maximum Amount:	All “Obligations” as defined below.
<i>Subject to the following terms and conditions:</i>	

1. **Parties.** This Guaranty Agreement (“*Guaranty*”), effective as of [] (the “*Effective Date*”), is made and entered into by Guarantor, on behalf of the Company, in favor of Counterparty (each, a “*Party*” and collectively, the “*Parties*”).

2. **Contract Guaranteed.** This Guaranty is given in consideration of Counterparty having entered into that certain the Contract as of the Effective Date.

3. **Guaranty.** Subject to the provisions hereof, Guarantor hereby irrevocably and unconditionally guarantees to Counterparty the prompt payment when due and payable of all amounts payable by Company to Counterparty under the Contract (such guaranteed obligations, the “*Obligations*”). Notwithstanding any other provisions of this Guaranty to the contrary, this Guaranty is not intended, nor shall it be construed or deemed, to expand, limit or modify in any respect the Obligations under the Contract, it being understood and agreed that such Obligations are governed and defined solely by those certain terms and conditions expressly set forth in the Contract. Guarantor shall pay the Obligations within twenty (20) Business Days after Guarantor’s receipt of written demand therefor from Counterparty. (The term “*Business Day*” as used herein shall mean any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.) This Guaranty shall constitute a continuing guarantee of payment and not of collection. The liability of Guarantor under this Guaranty shall be absolute, unconditional and irrevocable (except to the extent that Company’s payment of the Obligations would be excused by Counterparty’s failure to fulfill its obligations thereunder, in each case, pursuant to the terms and subject to the conditions of the Contract), irrespective of: (i) any change in time, manner or place of performance of, or in any other term of, all or any of the Obligations or any other amendment to, modification of (including, without limitation, change orders), waiver of, or any consent to departure from, any provision of the Contract; (ii) any change in ownership of Guarantor or Company; (iii) any bankruptcy, insolvency, dissolution or liquidation of, or other similar proceedings involving, Company; or (iv) subject to Section 3.02, any other circumstances that might otherwise constitute legal or equitable discharge of a surety or guarantor. Guarantor’s obligation hereunder is several from, and not joint

with, Company or any other person. The liability of Guarantor under this Guaranty is subject to the following:

3.01 In no event shall Guarantor be liable for consequential, exemplary, special, equitable, lost profits, punitive, tort, indirect, incidental or any other similar damages, unless such damages are recoverable Obligations under the Contract.

3.02 Notwithstanding anything to the contrary, the liability of Guarantor under this Guaranty, and Counterparty's right of recovery under this Guaranty, is limited to an aggregate amount equal to all of the Obligations (the "*Guaranty Cap*"). The Guaranty Cap includes reasonable out-of-pocket expenses (including reasonable attorney's fees) to enforce this Guaranty, but only to the extent (i) a demand is made and not honored within twenty five (25) Business Days thereafter and (ii) payment under this Guaranty is otherwise due. Such reasonable out-of-pocket expenses shall be payable only if Counterparty prevails in its claim against Guarantor.

3.03 Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which the Company is or may be entitled to arising from or in connection with the Contract, Obligations, the nature of Counterparty's claim or otherwise, except for defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of the Company.

3.04 Notwithstanding anything in this Guaranty to the contrary (other than with respect to the Guaranty Cap as set forth in Section 3.02), this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if at any time, either before or after the termination pursuant to Section 9 hereof, payment of the Obligations guaranteed pursuant to this Guaranty, or any part thereof is rescinded or must otherwise be returned by Counterparty for any reason, including without limitation upon the bankruptcy, insolvency, dissolution or liquidation of the Company, all as though such payment had not been made.

4. **Demands and Notices.** Counterparty shall make a demand for payment in writing, stating specifically that Counterparty is calling upon Guarantor to pay under this Guaranty and stating briefly the type and amount of the Obligation that Company has failed to pay. A demand satisfying the foregoing requirements shall be required with respect to any outstanding Obligations before Guarantor is required to pay and shall be deemed sufficient notice to Guarantor.

5. **Consents and Waivers.**

5.01 Guarantor hereby waives notice of acceptance of this Guaranty, other than Counterparty's signature on this Guaranty, and presentment and demand concerning the liabilities of Guarantor, and any other notice with respect to any of the Obligations and this Guaranty, except as required in Section 4.

5.02 Guarantor hereby waives any right to require that any action or proceeding be brought against Company, or any other obligor principally or secondarily liable, or any other collateral provided as security for all or any of the Obligations, prior to any action against Guarantor.

5.03 Except as to applicable statutes of limitation, Guarantor hereby agrees that no delay of Counterparty in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from any obligations hereunder.

5.05 Guarantor consents to the renewal, compromise, extension, acceleration or other changes in the time of payment or terms of the Obligations, or changes or modifications to the terms of the Contract as agreed to by Company, provided that in no event shall Guarantor's liability under this Guaranty be increased above the Guaranty Cap as a result of such changes.

6. **Continuing Guaranty.** Subject to the provisions of Section 9, this Guaranty is a continuing Guaranty and shall remain in full force and effect until all the Obligations have been satisfied in full.

7. **Subrogation.** Guarantor shall be subrogated to the corresponding rights of Counterparty and Counterparty shall take, at Guarantor's expense, all such steps as the Guarantor may reasonably request to implement such subrogation; *provided, however*, that Guarantor waives any rights it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise, by any reimbursement, exoneration, contribution, indemnification, or any right to participate in any claim or remedy of Counterparty against Company, until all of the Obligations shall have been paid in full.

8. **Successors and Assigns; Assignment.** This Guaranty shall be binding upon Guarantor and its successors and permitted assigns and inure to the benefit of and be enforceable by Counterparty and its successors and permitted assigns. Neither Counterparty nor Guarantor may assign this Guaranty without the prior written consent of the other, which consent shall not be unreasonably withheld.

9. **Termination.** This Guaranty shall automatically terminate, subject to reinstatement pursuant to Section 3.04, with no further action required by Guarantor, Counterparty, Company or any other person, upon the earliest to occur of:

- (i) termination or expiration of the Contract;
- (ii) the date on which all of the Obligations have been satisfied in full;
- (iii) delivery to the Counterparty of a Replacement Guaranty (as defined below) or Replacement Letter of Credit (as defined below); and
- (iv) the date that all of the Obligations have been indefeasibly paid in full..

Upon such termination of this Guaranty, Guarantor shall have no further liability hereunder; *provided, however*, that, notwithstanding anything to the contrary in this Section 9, this Guaranty shall remain in full force and effect with respect to (a) Obligations arising prior to the effective date of termination hereof; and (b) Guarantor's liability pursuant to Section 3 for any payment to a Counterparty in respect of any Obligations that is rescinded or must otherwise be returned for any reason whatsoever.

For purposes of this Section 9: (1) “*Replacement Guaranty*” means a guaranty in substantially the same form and substance as this Guaranty, or otherwise in form and substance reasonably acceptable to the Counterparty, issued by a guarantor that, in the reasonable determination of the Counterparty, is at least as creditworthy on the date such guaranty is issued as Guarantor is on the Effective Date hereof; and (2) “*Replacement Letter of Credit*” means an irrevocable standby letter of credit in favor of the Counterparty and meeting the following criteria: (A) the letter of credit is in an amount equal to the Guaranty Cap as of the date such Replacement Letter of Credit is issued, (B) the issuing bank is rated at least A- by S&P or A3 by Moody’s, and (C) the letter of credit can be drawn on demand by Counterparty (x) upon the same events that would trigger a payment under this Guaranty or (y) within 30 days prior to the letter of credit’s expiration date if the letter of credit is not renewed or replaced.

10. **Notice.** Any demand, notice, request, instruction, correspondence, or other document to be given by any party to another hereunder shall be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, by overnight mail or facsimile, email, or other electronic transmission as follows:

To Guarantor:

[REDACTED]

To Counterparty:

[]

With a copy, which shall not constitute notice, to:

[]
[]
[]
[]

With a copy, which shall not constitute notice, to:

[]
[]
[]
[]

Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile or email shall be effective upon actual receipt if received during the recipient’s normal business hours, or at the beginning of the recipient’s next Business Day after receipt if not received during the recipient’s normal business hours. Any party may change its address for notices by written notice to the other party.

11. **Representations and Warranties.** Guarantor represents and warrants that:

(i) it is a limited liability company duly organized and validly existing under the laws of the State of Delaware and has the limited liability company power and authority to execute, deliver and carry out the terms and provisions of the Guaranty;

(ii) no authorization, approval, consent, or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty; and

(iii) this Guaranty has been duly executed and delivered by Guarantor and constitutes a valid and legally binding agreement of Guarantor, except as the enforceability of this Guaranty may be limited by the effect of any laws affecting creditors' rights generally and by general principles of equity.

12. **Severability.** If one or more provisions of this Guaranty shall for any reason or to any extent be determined invalid or unenforceable, all other provisions shall nevertheless remain in full force and effect.

13. **Governing Law; Dispute Resolution.** This Guaranty shall in all respects be governed by, and construed in accordance with, the law of the State of California.

(a) **Arbitration.** With respect to any dispute relating to or arising out of the validity, interpretation or breach of any provision of this Guaranty, including any dispute concerning the scope of this arbitration provision, such dispute may, if mutually agreed in writing by the Parties, be settled by submission to final, binding and non-appealable arbitration ("**Arbitration**"). Any Party may commence an arbitration by filing a notice with the San Francisco office of the American Arbitration Association ("**AAA**"), with a copy to the other Party at the address provided in Section 10. The Arbitration and all pre-hearing, hearing and post-hearing Arbitration procedures will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "**Commercial Rules**"), except to the extent the Commercial Rules conflict with provisions of this Guaranty, in which case the provisions set forth in this Guaranty regarding arbitration shall govern. The seat of the Arbitration shall be San Francisco, California and the language of the Arbitration shall be English. The Arbitration tribunal shall consist of one arbitrator mutually agreed by the Parties, provided that if the Parties cannot agree on such arbitrator within ten (10) days of the filing of such notice of Arbitration or another period agreed in writing between the Parties, any Party may request, in a written notice to the AAA (with a copy to the other Party at the address provided in Section 10), that the AAA select the arbitrator on behalf of both Parties. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing each Party an opportunity, adequate in the sole judgment of the arbitrator, to discover relevant information from the other Party about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys' fees and costs, to the same extent as a court of competent law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The Arbitration award shall be rendered by the arbitrator no later than thirty (30) days after the close

of the Arbitration hearing, shall be written, shall be in accordance with applicable Law and with this Guaranty, and shall be supported by written findings of fact and conclusions of law which shall set forth the reasoned basis for the decision of the arbitrator.

(b) Notwithstanding the foregoing, the Parties specifically reserve the right to seek a temporary judicial restraining order, preliminary injunction, or other similar short term equitable relief in aid of arbitration (collectively, “**Judicial Relief**”) from a court of law having competent jurisdiction, and grant the Arbitration tribunal the right to make a final determination of the Parties’ rights, including whether to make permanent or dissolve such court order. Judgment upon the Arbitration award may also be entered in any court of competent jurisdiction. With respect to any action for Judicial Relief or concerning judgment upon any Arbitration award, the Parties hereby irrevocably consent to the non-exclusive jurisdiction of the state and federal courts located in San Francisco, California, and any appellate court with jurisdiction thereover, waive any objection to venue or personal jurisdiction in such court, and waive personal service of process; and the Parties agree that all such service of process may be made by delivery of registered mail directed to such Party at the address provided in Section 10 or by any other manner permitted by applicable Law. The Parties shall be entitled to seek judicial relief as to any disputes relating to this Agreement unless the Parties have mutually agreed to Arbitration, in which case court action shall be permitted only in case of Judicial Relief or concerning judgment upon an Arbitration award.

(c) Each party to any Arbitration proceeding subject to this Section 13, and the arbitrator, shall keep the existence and subject matter of the Dispute and any such proceedings confidential. Each Party shall bear its own expenses in the Arbitration and shall share equally the costs of the Arbitration; provided, however, that the arbitral tribunal in its Arbitration decision shall award reasonable costs and fees to the prevailing party.

14. **Amendments or Waivers.** No amendment, waiver or supplement or other modification of any provision of this Guaranty shall be effective unless the same shall be in writing and signed by Guarantor and Counterparty, and then such amendment, waiver, supplement or other modification shall only be effective in the specific instance and for the specific purpose for which given.

15. **Counterparts.** This Guaranty may be executed electronically in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the Effective Date.

Clearway Energy Operating LLC

By _____
Name _____
Title _____

ACCEPTED BY: the Counterparty acknowledges and accepts the above Guaranty.

Tuolumne Wind Project Authority

By _____
Name _____
Title _____

Exhibit G

Form of Seller Financial Support Agreement

(attached)

FINANCIAL SUPPORT AGREEMENT

between

Turlock Irrigation District, an irrigation district organized under the laws of the State of California,

and

Washington Wind LLC,

a Delaware limited liability company,

dated as of [____], 2024

FINANCIAL SUPPORT AGREEMENT

This FINANCIAL SUPPORT AGREEMENT (this “**Agreement**”), dated as of [____], 2024 (the “**Effective Date**”), entered into by Turlock Irrigation District, an irrigation district organized under the laws of the State of California (“**TID**”), on behalf of the Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California (“**TWPA**”), of which TID is a member, and Washington Wind LLC, a Delaware limited liability company (“**Washington Wind**”) (TID and Washington Wind are collectively referred to herein, as the “**Parties**” and each, individually, as a “**Party**”). Capitalized terms used, and not otherwise defined, herein shall have the meanings set forth in the PSA (defined below).

RECITALS

WHEREAS, Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California (“**TWPA**”), and Washington Wind entered into a Purchase and Sale Agreement (“**PSA**”), dated as of [____], 2024, under which TWPA agreed, among other matters, to sell to Washington Wind an approximately 136.6 MW nameplate capacity wind farm comprised of 62 wind turbines located in Klickitat County, Washington, (the “**Project**”);

WHEREAS, TWPA and TID are parties to the Power Purchase Agreement, dated July 14, 2009 (“**Original PPA**”), under which TWPA sells TID the energy and Renewable Energy Credits generated by the Project;

WHEREAS, TWPA uses the payments it receives from TID under the Original PPA, to pay the bond financing costs for TWPA’s purchase of the Project;

WHEREAS, in connection with TWPA’s sale of the Project to Washington Wind under the PSA, TWPA desires to transfer and assign the Original PPA to Washington Wind at the Closing of the PSA transaction;

WHEREAS, immediately after giving effect to the assignment of the Original PPA, TWPA will cause TID to execute and deliver to Purchaser the Amended Restated Power Purchase Agreement (“**A&R PPA**”) at the Closing under which TID will continue to purchase the energy and Renewable Energy Credits generated by the Project;

WHEREAS, TID is entering into the A&R PPA with Washington Wind on financial and other terms and conditions satisfactory to TID;

WHEREAS, TID acknowledges that TWPA’s sale of the Project to Washington Wind will ensure the long-term viability of the Project and TID’s ability to purchase the energy and Renewable Energy Credits generated by the Project; and

WHEREAS, because TID will benefit from TWPA meeting its obligations under the PSA, TID desires to fund specific TWPA obligations under the PSA in order to ensure TID’s continued ability to purchase the energy and Renewable Energy Credits generated by the Project.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, the Parties hereto agree as follows:

ARTICLE I.

TID'S FUNDING OBLIGATIONS

Section 1.1 TID's Funding Obligations. In consideration of Washington Wind executing the A&R PPA with TID, TID agrees that it will pay any amounts due to Washington Wind under the following Articles of the PSA, subject to any PSA imposed temporal limitations on the bringing of claims or damage limitations, if TID determines that the obligations have arisen under express terms of the PSA or if an applicable arbitral tribunal or court of competent jurisdiction rules that TWPA breached one of these Articles of the PSA: Articles II, III, IV, VI, VII, IX, X, XI, and XII (collectively, the "**Financial Support Obligations**"). If one of the limitations on the amount of damages that are recoverable under PSA in Article X, or any other Article of the PSA, applies to a claim against TWPA, TID will only fund Financial Support Obligations up to that limitation. If the limitation on the period for bringing a claim under PSA Section 10.3(a) or any other Section of the PSA applies to a claim against TWPA, the period for bringing such claims would be governed by those section(s) of PSA, even if the Term of this Agreement exceeds the period for bringing claims under the PSA. The amount TID agrees to pay under this Agreement shall be subject to the Limitations on Claims in Section 10.4 of the PSA. In no event shall TID be liable for consequential, exemplary, special, equitable, lost profits, punitive, tort, indirect, incidental or any other similar damages, under this Agreement.

Section 1.2 Other Terms. TID agrees that (a) any renewal, extension or other modification of TWPA's obligations under the PSA, (b) any sale, lease, transfer or other disposition of any or all of the assets of TID or of TWPA, and (c) any bankruptcy, insolvency, dissolution or liquidation of, or other similar proceedings involving, TWPA, shall not, in any way affect, release or discharge TID with respect to its Financial Support Obligations. .

ARTICLE II.

TERM OF AGREEMENT

Section 2.1 Term of Agreement. This Agreement shall terminate on the fourth anniversary of the Effective Date; provided, however, that if a temporal limitation under the PSA terminates a Party's ability to bring a claim prior to the conclusion of this four-year term, that temporal limitation in the PSA shall govern that claim.

ARTICLE III.

NOT A GUARANTY

Section 3.1 Not a Guaranty. This Agreement is a direct, payment obligation of TID and is not, and nothing herein contained and nothing done pursuant hereto by TID shall

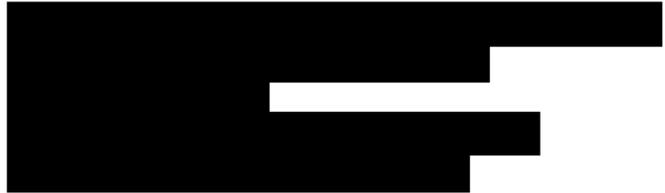
constitute or be construed or deemed to constitute, an evidence of indebtedness or an obligation or liability of TID as a guarantor, endorser, surety, or otherwise in respect of any obligation, indebtedness, or liability, of any kind or character whatsoever, of TWPA and this Agreement does not provide, and is not intended to be construed or deemed to provide, any creditor of TWPA with recourse to or against any of the assets of TID. Because this Agreement is not an obligation of suretyship or guaranty, no provision of California Civil Code Part 4, Title 13, including without limitation the provisions of Article 6 thereof, regarding the exoneration of sureties, is applicable hereto.

ARTICLE IV.

COMMUNICATIONS

Section 4.1 Communications. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (a) on the date of service if served personally on the party to which such notice is to be given; (b) on the date of e-mail transmission (in the case of delivery by e-mail, solely if receipt is confirmed); (c) on the day after delivery to Federal Express or similar overnight carrier or the Express Mail Service maintained by the United States Postal Service; or (d) on the fifth day after mailing, if mailed to the party to which such notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed, to the party as follows:

If to Washington Wind, to:



With a copy to:

[]

If to TID, to:

Turlock Irrigation District
Attn:
Email:

With a copy to:

[]

Attn:
Email:

ARTICLE V.

MISCELLANEOUS

Section 5.1 Applicable Law and Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of laws principles.

(a) **Optional Arbitration.** With respect to any dispute relating to or arising out of the validity, interpretation or breach of any provision of this Agreement, including any dispute concerning the scope of this arbitration provision, such dispute may, upon mutual written separate agreement of the Parties, following the written notice of a dispute by one of the Parties, be settled by submission to final, binding and non-appealable arbitration (“**Arbitration**”) under this Section 5.1(a). Any Party may commence an arbitration by filing a notice with the San Francisco office of the American Arbitration Association (“**AAA**”), with a copy to the other Party at the address provided in Section 4.1. The Arbitration and all pre-hearing, hearing and post-hearing Arbitration procedures will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the “**Commercial Rules**”), except to the extent the Commercial Rules conflict with provisions of this Agreement, in which case the provisions set forth in this Agreement regarding arbitration shall govern. The seat of the Arbitration shall be San Francisco, California and the language of the Arbitration shall be English. The Arbitration tribunal shall consist of one arbitrator mutually agreed by the Parties, provided that if the Parties cannot agree on such arbitrator within ten (10) days of the filing of such notice of Arbitration or another period agreed in writing between the Parties, any Party may request, in a written notice to the AAA (with a copy to the other Party at the address provided in Section 4.1), that the AAA select the arbitrator on behalf of both Parties. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing each Party an opportunity, adequate in the sole judgment of the arbitrator, to discover relevant information from the other Party about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys’ fees and costs, to the same extent as a court of competent law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The Arbitration award shall be rendered by the arbitrator no later than thirty (30) days after the close of the Arbitration hearing, shall be written, shall be in accordance with applicable Law and with this Agreement, and shall be supported by written findings of fact and conclusions of law which shall set forth the reasoned basis for the decision of the arbitrator. Notwithstanding the foregoing, the Parties specifically reserve the right to seek a temporary judicial restraining order, preliminary injunction, or other similar short term equitable relief in aid of arbitration (collectively, “**Judicial Relief**”) from a court of law having competent jurisdiction, and grant the Arbitration tribunal the right to make a final determination of the Parties’ rights, including whether to make permanent or dissolve such court order. Judgment upon the Arbitration award may also be entered in any court of competent jurisdiction. With respect to any action for Judicial Relief or concerning judgment upon any Arbitration award, the Parties hereby irrevocably consent to the non-exclusive jurisdiction of the state and federal courts located in San Francisco, California, and any appellate court with jurisdiction thereover, waive any objection to venue or personal jurisdiction in such court, and waive personal service of process; and the Parties agree that all such service of process may be made by delivery of registered mail directed to such Party at the address provided in Section 4.1 or by any other manner permitted by applicable Law. The Parties shall be entitled to seek judicial relief as to any disputes relating to this Agreement unless the Parties have mutually agreed to Arbitration, in which case court action shall be permitted only in case of Judicial Relief or concerning judgment upon an Arbitration award. .

Each party to any Arbitration proceeding subject to this Section 5.1, and the arbitrator, shall keep the existence and subject matter of the Dispute and any such proceedings confidential. Each Party shall bear its own expenses in the Arbitration and shall share equally the costs of the Arbitration.

(b) Consent to Jurisdiction.

UNLESS THE PARTIES AGREE TO ARBITRATION UNDER SECTION 5.1(a), WITH RESPECT TO ANY AND ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, EACH PARTY HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA AND ANY APPELLATE COURT WITH JURISDICTION THEREOVER, AND FURTHER WAIVES ANY OBJECTION TO VENUE OR PERSONAL JURISDICTION IN SUCH COURT. THE AFOREMENTIONED CHOICE OF VENUE IS INTENDED BY THE PARTIES TO BE MANDATORY AND NOT PERMISSIVE IN NATURE, THEREBY PRECLUDING THE POSSIBILITY OF LITIGATION BETWEEN THE PARTIES WITH RESPECT TO OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT IN ANY JURISDICTION OTHER THAN THAT SPECIFIED IN THIS SECTION 5.1. EACH PARTY WAIVES ANY RIGHT TO ASSERT THE DEFENSE OF FORUM NON CONVENIENS OR SIMILAR DOCTRINE. EACH PARTY FURTHER WAIVES PERSONAL SERVICE OF PROCESS IN ANY PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION 5.1 AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, DIRECTED TO SUCH PARTY AT ITS ADDRESS FOR THE GIVING OF NOTICES AS SET FORTH IN SECTION 5.1. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 5.2 Representations and Warranties. TID represents and warrants that:

(a) it is an irrigation district duly organized and validly existing under the laws of the State of California and has the power and authority to execute, deliver and carry out the terms and provisions of this Agreement;

(b) no authorization, approval, consent, or order of, or registration or filing with, any court or other governmental body having jurisdiction over TID is required on the part of TID for the execution and delivery of this Agreement; and

(c) this Agreement has been duly executed and delivered by TID and constitutes a valid and legally binding agreement of TID, provided, however, that the enforceability of this Agreement against TID are limited to the extent that the rights and obligations under the Indenture, the 2024 Bonds and the Power Purchase Agreement are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California.

Section 5.3 Entire Agreement. This Agreement shall supersede all previous oral and written and all contemporaneous oral negotiations, commitments and understandings and all other letters, memoranda or other documents or communications, whether oral, written or electronic, between the Parties hereto in connection with the negotiation and execution of this Agreement and with respect to the subject matter hereof.

Section 5.4 Expenses. Except as otherwise expressly provided in this Agreement, whether or not the transactions contemplated in the PSA are consummated, each Party will pay its own costs and expenses, in each case incurred in connection with the negotiation, and execution of this Agreement, and the performance of obligations and covenants contemplated hereby and thereby. In the event that any action, suit or other proceeding is instituted concerning or arising out of this Agreement or any transaction contemplated hereunder, each Party shall bear its own costs, expenses and attorneys' fees.

Section 5.5 Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition and delivered pursuant to Section 4.1 of this Agreement. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. All remedies, either under this Agreement or by Law or otherwise afforded, will be cumulative and not alternative.

Section 5.6 Amendment; Assignment. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party. Neither Party may assign its rights or delegate its obligations under this Agreement in whole or part, without the prior written consent of the other Party, and any purported assignment or delegation absent such consent is void.

Section 5.7 Publicity. No party hereto may, directly or indirectly, disclose this Agreement or the terms hereof, other than to or as required by any regulatory agency, rating agency, or other Governmental Authority except with the permission of the other party hereto and then only as permitted by law. Notwithstanding the foregoing, **Washington Wind** acknowledges that TID is subject to certain disclosure obligations under the **CPRA** and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 *et. seq.* ("**Brown Act**"), as well as certain data sharing requirements imposed by NERC and WECC, therefore:

(a) If a third party requests Confidential information from TID under the CPRA , or if NERC or WECC request Confidential Information from TID, TID will notify Washington Wind of the existence, terms and circumstances surrounding the request and will discuss with Washington Wind the advisability of taking steps available under applicable Law to resist or narrow such request; provided, however, that after discussing the foregoing with Washington Wind, the TID may, in its sole discretion, determine what Confidential Information should be produced in response to any such requests and TID's production of this Confidential Information shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 5.7 or any other similar obligations set forth herein.

(b) If TID determines, in its sole discretion, that it must produce Confidential Information pursuant to the Brown Act, TID will notify Washington Wind of the existence, terms and circumstances surrounding the production of this Confidential Information before TID produces the Confidential Information. TID's production of Confidential Information under the Brown Act shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 5.7 or any other similar obligations set forth herein.

Section 5.8 Severability. Any provision of this Agreement that is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction. If any provision of this Agreement is or become invalid or unenforceable as a whole or in part, this Agreement will be reformed to come closest to the original intent and purpose of the Parties.

Section 5.9 No Strict Construction. Each of the Transaction Documents are the result of negotiations among, and have been reviewed by, the Parties and their respective counsel. Accordingly, the Transaction Documents shall be deemed to be the product of the Parties, and no ambiguity shall be construed in favor of or against any Party.

Section 5.10 Section Headings. The Section headings are for the convenience of the Parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the Parties.

IN WITNESS WHEREOF, the Parties caused this Agreement to be executed by their respective duly authorized representatives as of the day and year above written.

TURLOCK IRRIGATION DISTRICT

By: _____ Date: _____
Title

WASHINGTON WIND, LLC

By: _____ Date: _____
Title