



SOUTHERN CALIFORNIA
EDISON[®]

An *EDISON INTERNATIONAL*[®] Company

DISTRIBUTED GENERATION SOLUTION AGREEMENT

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LIST OF EXHIBITS

- A Description of Distributed Generation Facility and Single-Line Diagram
- B Designated Load Agreement
- C Procedure for Demonstration of Contract Capacity
- D Distributed Generator's Milestone Schedule
- E Notice List
- F Form of Letter of Credit
- G Added Facilities Agreement Applicant Financed

DISTRIBUTED GENERATION SOLUTION AGREEMENT

This Distributed Generation Solution Agreement, together with the exhibits and attachments (collectively, the “DGS Agreement”) is entered into by and between Southern California Edison Company, a California corporation (“SCE”) and *[Distributed Generator’s Name]*, a *[Distributed Generator’s jurisdiction of organization and type of organization]* (“Distributed Generator”). SCE and Distributed Generator are sometimes referred to herein individually as a “Party” and jointly as the “Parties.” Unless the context otherwise specifies or requires, capitalized terms in this DGS Agreement have the meanings set forth in Article 1.

RECITALS

- A. On June 16, SCE, as part of its distribution system planning process, issued a Request for Proposals (“RFP”) for distributed generation as an alternative to traditional distribution system projects.
- B. Distributed Generator, in response to the RFP, submitted a proposal that was selected by SCE to be a qualified Distributed Generation Solution proposal.
- C. SCE and Distributed Generator desire to enter into this DGS Agreement to specify the terms for Distributed Generator to provide to SCE, and for SCE to make Deferral Credit Payments to Distributed Generator in return for Distributed Generator providing the Distributed Generation Solution.

AGREEMENT

In consideration of these recitals and the agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS

- 1.1 Added Facilities Agreement or AFA – Agreement between Distributed Generator and SCE for the installation of the ARLS in the form attached hereto as Exhibit G as amended, supplemented or replaced from time to time.
- 1.2 Affiliate - means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with that Party. For this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person.
- 1.3 Arbitrator - Has the meaning set forth in Section 12.
- 1.4 Applicable Laws – All constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Distributed Generation Facility or the terms of this DGS Agreement.

- 1.5 Automated Load Reduction Scheme (or ALRS) – The system comprised of communication, relaying, control, and other appurtenant equipment and software, designed to automatically disconnect the Designated Load from SCE’s distribution system, as described in Exhibit A to the AFA, to effectuate the Physical Load Reduction Assurance required under this DGS Agreement.
- 1.6 Bankrupt - Means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.
- 1.7 Business Day – Any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving. A Business Day begins at 8:00 a.m. and end at 5:00 p.m. local time for the Party sending the Notice or payment or performing a specified action.
- 1.8 CAISO – The California Independent System Operator Corporation or successor entity.
- 1.9 Claiming Party – Has the meaning set for in Section 10.2.
- 1.10 Collateral Amount – Has the meaning set forth in Section 3.1.
- 1.11 Collateral Requirements – Has the meaning set forth in Section 3.2(c)(ii).
- 1.12 Commercial Operation – The status of the Distributed Generation Facility upon satisfaction of all of the conditions set forth in Section 4.1.
- 1.13 Confidential Information – All oral or written communications exchanged between the Parties on or after the Effective Date relating to the implementation of this DGS Agreement, and includes this DGS Agreement and its terms and conditions hereof. Notwithstanding the foregoing sentence, Confidential Information also includes bids and other offers made by either Party pursuant to negotiations with respect to this Agreement before the Effective Date. Confidential Information does not include information that (i) is in the public domain as of the Effective Date or which comes into the public domain after the Effective Date from a source other than from the other Party, (ii) either Party can demonstrate in writing was already known to such Party on a non-confidential basis before the Effective Date, (iii) comes to a Party from a bona fide third-party source not under an obligation of confidentiality, and (iv) is independently developed by a Party without use of or reference to Confidential Information or information containing Confidential Information.
- 1.14 Contract Capacity – The lesser of (i) the amount of electric energy generating capacity, set forth in Section 2.3, that Distributed Generator commits to build, own and operate as the Distributed Generation Facility, and (ii) the Demonstrated Contract Capacity.

- 1.15 Costs - Means, with respect to the Non-Defaulting Party, legal expenses and other similar third-party transaction costs and expenses reasonably incurred by that Party in entering into any new arrangement which replaces this Agreement.
- 1.16 CPUC – The California Public Utilities Commission.
- 1.17 Credit Rating - Means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by the Ratings Agencies.
- 1.18 Cross Default – Has the meaning set forth in Section 7.1(b)(ii).
- 1.19 DC – Direct current.
- 1.20 Defaulting Party – Has the meaning set forth in Section 7.1.
- 1.21 Deferral Credit Payments – Has the meaning set forth in Section 6.1.
- 1.22 Demonstrated Contract Capacity – The Distributed Generation Facility's total rated electric alternating current energy generating capacity which will equal the total kilowatt hours generated by the Distributed Generation Facility during the Demonstration Hour, as determined in accordance with Exhibit C.
- 1.23 Demonstration Hour – Has the meaning set forth in Section 1 of Exhibit C.
- 1.24 Designated Load – The electrical load connected to SCE's distribution system designated by Distributed Generator and Designated Load Customer as available to be automatically disconnected by means of the ALRS to satisfy the Physical Load Reduction Assurance pursuant to this DGS Agreement, as more fully set forth in the Designated Load Agreement the form of which is attached hereto as Exhibit B.
- 1.25 Designated Load Agreement – The Agreement between SCE, Distributed Generator and Designated Load Customer, the form of which is attached hereto as Exhibit B.
- 1.26 Designated Load Customer – The owner of the Designated Load, as set forth in the Designated Load Agreement.
- 1.27 Distributed Generation Facility – All equipment and facilities comprising Distributed Generator's generation facility as described in Exhibit A.
- 1.28 Distributed Generation Solution (or DGS) – The installation, coordinated operation and control of the Distributed Generation Facility, Designated Load, and the ALRS.
- 1.29 DGS Agreement – Has the meaning set forth in the Preamble.
- 1.30 DGS Charge – The Total Customer Advance pursuant to paragraph 1 of the AFA, and the Monthly Added Facility Charge pursuant to paragraph 2 of the AFA.
- 1.31 DGS In-Service Date – Provided that Distributed Generator has satisfied all of the conditions set forth in Section 4.1, the DGS In-Service Date will be *[Date]*.
- 1.32 Distributed Generator – Has the meaning set forth in the Preamble.

- 1.33 Early Termination Date – Has the meaning set forth in Section 7.2(a).
- 1.34 Effective Date – Has the meaning set forth in Section 14.1.
- 1.35 Electrical Net Demand – The amount of electric energy delivered from SCE’s electric grid to supply the combined electricity demands of the Designated Load and Distributed Generation Facility, as measured by the ALRS, during Peak Hours.
- 1.36 Emergency or Emergencies – Means:
- (a) An actual or imminent condition or situation which jeopardizes the integrity of SCE’s distribution system or the integrity of any other systems to which SCE’s distribution system is connected, as determined by SCE in its reasonable discretion, or any condition so defined and declared by the CAISO; or
 - (b) An emergency condition as defined under an interconnection agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the SCE’s distribution system, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.
- 1.37 EPC – Has the meaning set forth in Exhibit D.
- 1.38 Event of Default – Has the meaning set forth in Section 7.1.
- 1.39 Federal Funds Effective Rate – Means the annual interest rate posted opposite the caption “Federal Funds (effective)” as set forth in the weekly statistical release as H.15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System.
- 1.40 FERC – The Federal Energy Regulatory Commission.
- 1.41 Firm Service Level – Has the meaning set forth in the Designated Load Agreement.
- 1.42 Fitch – Means Fitch Ratings Ltd. or its successor.
- 1.43 Force Majeure – Any occurrence that was not anticipated as of the Effective Date that:
- (a) In whole or in part:
 - (i) Delays a Party’s performance under this DGS Agreement;
 - (ii) Causes a Party to be unable to perform its obligations; or
 - (iii) Prevents a Party from complying with or satisfying the conditions of this DGS Agreement;
 - (b) Is not within the control of that Party; and
 - (c) The Party has been unable to overcome by the exercise of due diligence, including an act of God, flood, drought, earthquake, storm, fire, pestilence,

lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or actions or inactions of any Governmental Authority, or curtailment or reduction in deliveries of electric energy from the Distributed Generation Facility at the direction of SCE acting in its capacity as an interconnection provider or the CAISO (except as set forth below).

Force Majeure does not include:

- (d) Reductions in generation from the Distributed Generation Facility resulting from ordinary wear and tear, deferred maintenance or operator error;
- (e) Curtailment or reduction in deliveries of electric energy from the Distributed Generation Facility at the direction of SCE acting in its capacity as an interconnection provider or the CAISO when the basis of the curtailment or reduction in deliveries ordered by SCE acting in its capacity as an interconnection provider or the CAISO is congestion arising in the ordinary course of operations of SCE's system or the CAISO-controlled grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair;
- (f) Any delay in providing, or cancellation of, any permit by the issuing Governmental Authority, except to the extent such delay or cancellation is the result of a force majeure claimed by the Governmental Authority;
- (g) Any delay by SCE in providing, or cancellation of, interconnection service, except to the extent such delay or cancellation is the result of a force majeure claimed by SCE acting in its capacity as an interconnection provider; or

(h) The lack of wind, sun or other fuel source of an inherently intermittent nature.
{SCE Comment: For intermittent Distributed Generation Facilities only.}

1.44 Gains – Means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner.

1.45 Governmental Authority – Means:

- (a) Any federal, state, local, municipal or other government;
- (b) Any governmental, regulatory or administrative agency, commission, or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or
- (c) Any court or governmental tribunal.

1.46 kW_{PDC} – Peak DC power.

1.47 Installed DC Rating – The sum of the Photovoltaic Module DC Ratings for all Photovoltaic Modules actually installed at the Site and verified by SCE pursuant

to Exhibit C, expressed in kWPCD.

{SCE Comment: For solar photovoltaic Distributed Generation Facilities only.}

- 1.48 Interconnection Agreement – The agreement between Distributed Generator and SCE, which provides for Distributed Generator to interconnect to SCE’s electrical distribution system, under either SCE’s Rule 21 Tariff or WDAT.
- 1.49 kW – A kilowatt of electric energy generating capacity.
- 1.50 kWh – A kilowatt-hour of electric energy.
- 1.51 Letter of Credit – An irrevocable, nontransferable standby letter of credit, substantially in the form of Exhibit F and acceptable to SCE, provided by Distributed Generator from an issuer acceptable to SCE that is either a U.S. financial institution or a U.S. commercial bank or a U.S. branch of a foreign bank with such financial institution or the bank (i) having a Credit Rating of at least (a) Credit Ratings of at least "A-" by S&P, "A-" by Fitch and "A3" by Moody's, if such entity is rated by the Ratings Agencies; (b) if such entity is rated by only two of the three Ratings Agencies, a Credit Rating from two of the three Ratings Agencies of at least "A-" by S&P, if such entity is rated by S&P, "A-" by Fitch, if such entity is rated by Fitch, and "A3" by Moody's, if such entity is rated by Moody's; or (c) a Credit Rating of at least "A-" by S&P or "A3" by Moody's, or "A-" by Fitch if such entity is rated by only one Ratings Agency; and (ii) having shareholder equity (determined in accordance with generally accepted accounting principles) of at least \$1,000,000,000.00 (ONE BILLION AND 00/100 DOLLARS). Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.
- 1.52 Letter of Credit Default – Means with respect to a Letter of Credit, the occurrence of any of the following events:
- (a) The issuer of a Letter of Credit fails to maintain a Credit Rating of at least (i) "A-" from S&P and Fitch, and "A3" from Moody's, if such entity is rated by all three ratings agencies; or (ii) "A-" from S&P or Fitch, or "A3" from Moody's, if such entity is rated by only one or two of the such Ratings Agencies;
 - (b) the issuer of such Letter of Credit fails to comply with or perform its obligations under such Letter of Credit;
 - (c) the issuer of such Letter of Credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Letter of Credit;
 - (d) Distributed Generator fails to provide an extended or replacement Letter of Credit prior to twenty (20) Business Days before the Letter of Credit expires or terminates;
 - (e) such Letter of Credit fails or ceases to be in full force and effect at any time; or
 - (f) the issuer of such Letter of Credit becomes Bankrupt;

provided, no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

- 1.53 Losses – Means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement, determined in a commercially reasonable manner.
 - 1.54 Milestone Schedule – Distributed Generator’s schedule to develop the Distributed Generation Facility as set forth in Exhibit D, including any revisions thereto in accordance with this Agreement.
 - 1.55 Moody’s – Means Moody’s Investor Services, Inc. or its successor.
 - 1.56 NERC – The North American Electric Reliability Corporation.
 - 1.57 Non-Defaulting Party – Has the meaning set forth in Section 7.2.
 - 1.58 Notice – Notices, requests, statements or payments provided in accordance with Section 14.3 and Exhibit E.
 - 1.59 Operate, Operated, Operating or Operation – Means to provide (or the provision of) all the operation, engineering, purchasing, repair, supervision, training, inspection, testing, protection, use, management, improvement, replacement, refurbishment, retirement, and maintenance activities associated with operating the Distributed Generation Facility in accordance with Prudent Electrical Practices.
 - 1.60 Peak Hours – [*Months from ____ to ____ during the hours of ____ through ____*]
{SCE Comment: Historical peak hours of SCE’s distribution circuit during certain months identified and set forth in the RFP.}
- | |
|---|
| 1.61 <u>Photovoltaic Module</u> – The individual module or component that produces DC electric energy from sun light. |
| 1.62 <u>Photovoltaic Module DC Ratings</u> – For each Photovoltaic Module installed or to be installed at the Site, the number (expressed in kW _{PDC}) stated on the nameplate affixed thereto representing the manufacturer’s maximum (at “peak” sunlight) DC power rating at the standard test condition (“P _{mp} ” or Power maximum at peak).
<i>{SCE Comment: For solar photovoltaic Distributed Generation Facilities only.}</i> |
- 1.63 Physical Load Reduction Assurance – The rights and obligations of the Parties, including access to the Site, that will enable the disconnection of the Designated Load and the Distributed Generation Facility from SCE’s distribution system, by means of the Automated Load Reduction Scheme, or other means, including manual physical disconnection, as determined necessary by SCE in its sole discretion in the event of a failure of the Automated Load Reduction Scheme.
 - 1.64 Prudent Electrical Practices – Means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Distributed Generation Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts

known or that should reasonably have been known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers' warranties, restrictions in this Agreement, and the requirements of Governmental Authority, WECC standards, the CAISO and Applicable Laws.

Prudent Electrical Practices also includes taking reasonable steps to ensure that:

- (a) equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Distributed Generation Facility's needs;
- (b) sufficient Operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to Operate the Distributed Generation Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Distributed Generation Facility and Emergencies whether caused by events on or off the Site;
- (c) preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe Operation of the Distributed Generation Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- (e) equipment is not Operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or SCE's distribution system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and
- (f) equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

1.65 Ratings Agency – Means any of S&P, Moody's and Fitch, and any other rating agency agreed by the parties (collectively the "Ratings Agencies").

1.66 RFP – Has the meaning set forth in the Recitals.

1.67 S&P – Means Standard & Poor's Financial Services LLC or its successor.

- 1.68 Settlement Amount – Means the Non-Defaulting Party’s Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party’s Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party’s Gains exceed its Costs and Losses, then the Settlement Amount shall be Zero dollars (\$0).
- 1.69 Simple Interest Payment – Means a dollar amount calculated by multiplying the:
(a) Dollar amount on which the Simple Interest Payment is based; by
(b) Federal Funds Effective Rate; by
(c) The number of years and any fraction of a year that has accrued through the end of the Term.
- 1.70 Site – The real property on which the Distributed Generation Facility is or will be located, as further described in Section 2.1 and Exhibit A.
- 1.71 Term – Has the meaning in Section 4.3.
- 1.72 Termination Payment – Means the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party for obligations that accrued prior to the Early Termination Date. The Settlement Amount is part of and included in the Termination Payment.
- 1.73 Transfer – Means, with respect to any Collateral Amount or Simple Interest, and in accordance with the instructions of the Party entitled thereto: (i) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the recipient; (ii) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the recipient.
- 1.74 WECC – The Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.
- 1.75 WDAT – Wholesale Distribution Access Tariff.

2. DISTRIBUTED GENERATION FACILITY

- 2.1 Location of Distributed Generation Facility: *[Distributed Generation Facility Address]*.
- 2.2 Interconnection Point: *[insert name or location]*.
{SCE Comment: Placeholder for name of substation or method of identifying location of interconnection to SCE’s electric distribution system.}
- 2.3 Contract Capacity: At least *[Number]* MW.

3. COLLATERAL AMOUNT AND FINANCIAL INFORMATION

- 3.1 Posting Collateral. On or before the thirtieth (30th) day following the Effective Date, Distributed Generator shall post and thereafter maintain collateral (the

“Collateral Amount”) equal to twenty dollars (\$20) for each kilowatt of the Contract Capacity. The Collateral Amount will be held by SCE.

3.2 Form of Collateral.

- (a) The Collateral Amount must be in the form of either a cash deposit or a Letter of Credit;
- (b) If Distributed Generator posts the Collateral Amount in cash, it shall earn interest. SCE shall provide an invoice to Distributed Generator at the end of the Term that sets forth the calculation of the Simple Interest Payment due and SCE shall make payment thereof by the later of the third (3rd) Business Day (so long as no Event of Default has occurred and is continuing with respect to Distributed Generator),
 - (i) of the first (1st) month after the month to which the invoice relates; or
 - (ii) after the day on which such invoice is received.

On or after the occurrence of an Event of Default by Distributed Generator, SCE shall retain any such Simple Interest Payment amount as additional Collateral Amount hereunder for so long as such Event of Default is continuing or the obligations of Distributed Generator under this Agreement have not been satisfied; and

- (c) If Distributed Generator establishes the Collateral Amount by means of a Letter of Credit, such Letter of Credit must be provided substantially in the form of Exhibit F, subject to the following provisions:
 - (i) Each Letter of Credit shall be maintained for the benefit of SCE.
 - (ii) Distributed Generator shall:
 - (1) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit;
 - (2) if the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide a substitute Letter of Credit or alternative Collateral Amount acceptable to SCE at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit; and
 - (3) if the bank issuing a Letter of Credit fails to honor SCE’s properly documented request to draw on an outstanding Letter of Credit, provide a substitute Letter of Credit or alternative Collateral Amount acceptable to SCE, in its sole discretion, within three (3) Business Days after such refusal.

- (iii) Upon the occurrence of a Letter of Credit Default, Distributed Generator shall provide to SCE either a substitute Letter of Credit or alternative Collateral Amount acceptable to SCE, in each case on or before the third (3rd) Business Day after the occurrence thereof.
- (iv) Upon, or at any time after, the occurrence and continuation of an Event of Default by Distributed Generator, or if an Early Termination Date has occurred or been designated as a result of an Event of Default by Seller for which there exist any unsatisfied payment obligations, then SCE may draw on the entire undrawn portion of any outstanding Letter of Credit upon submission to the bank issuing such Letter of Credit of one or more certificates specifying that such Event of Default has occurred and is continuing.

In addition, SCE will have the right to draw on the Letter of Credit for any of the following reasons:

- (1) The Letter of Credit will expire in fewer than twenty (20) Local Business Days and Seller has not provided SCE alternative Development Security or Performance Assurance acceptable to SCE;
- (2) The Seller or the issuer of the Letter of Credit has provided written notice to SCE of either Seller's or the issuer's intent not to renew the Letter of Credit following the present expiration date thereof ("Notice of Non-Renewal"), and Seller has failed to provide SCE with a replacement Letter of Credit satisfactory to SCE in its sole discretion within thirty (30) days following the date of the Notice of Non-Renewal.; or
- (3) SCE has not been paid any or all of Seller's payment obligations due and payable under the Agreement.

Cash proceeds received by SCE from drawing upon the Letter of Credit shall be deemed Collateral Amount as security for Distributed Generator's obligations to SCE and SCE shall have the rights and remedies set forth in Section 11.2(b) with respect to such cash proceeds.

Notwithstanding SCE's receipt of cash proceeds of a drawing under the Letter of Credit, Distributed Generator shall remain liable for any:

- (4) failure to provide sufficient Collateral Amount; or

(5) for any amounts owing to SCE and remaining unpaid after the application of the amounts so drawn by SCE.

(v) In all cases, the costs and expenses of establishing, renewing, substituting, canceling, amending and increasing the amount of a Letter of Credit shall be borne by Distributed Generator.

3.3 Tax Documents.

Distributed Generator shall provide to SCE Internal Revenue Service tax Form W-9 and California tax Form 590 (or their equivalent), completed with Distributed Generator's information, and any other documentation necessary for SCE to comply with its tax reporting or withholding obligations with respect to Distributed Generator, within ten (10) Business Days of Distributed Generator's receipt of Notice from SCE requesting the same.

3.4 Financial Information.

If requested by SCE, Distributed Generator shall deliver within one hundred twenty (120) days following the end of each fiscal year occurring in the Term of this Agreement, a copy of its annual report containing audited consolidated financial statements for such fiscal year.

In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; *provided*, should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Distributed Generator diligently pursues the preparation, certification and delivery of the statements.

4. **CONDITIONS PRECEDENT AND TERM**

4.1 Conditions Precedent to Commercial Operation.

Commercial Operation shall occur when each of the following conditions is satisfied.

- (a) Distributed Generator has received an independent engineer's certification that the Distributed Generation Facility has been completed in all material respects (except punch list items that do not materially and adversely affect the ability of the Distributed Generation Facility to operate as intended), and has provided a copy of such certification to SCE;
- (b) At no cost to SCE, Distributed Generator has provided to SCE, prior to commencement of any construction activities, a report from an independent engineer (acceptable to both SCE and Seller) certifying that Distributed Generator has a written plan for the safe construction and Operation of the Distributed Generation Facility in accordance with Prudent Electrical Practices.

- (c) Distributed Generator has executed the appropriate Interconnection Agreement;
- (d) The Distributed Generation Facility is interconnected to SCE's distribution system pursuant to the terms and conditions of the Rule 21 Tariff or the WDAT, as applicable;
- (e) Distributed Generator has demonstrated the full Contract Capacity as set forth in Section 2.3 (without adjustment for Demonstrated Contract Capacity in accordance with Exhibit C); and
- (f) The ALRS has been installed and is fully operational in accordance with the terms of the Designated Load Agreement and AFA, including Distributed Generator's obligation to procure and construct underground duct banks and related structures required for installation of the ALRS by SCE in accordance with specifications and designs provided by SCE.

4.2 Failure to Achieve Commercial Operation on or before the DGS In-Service Date.

In the event that (i) Distributed Generator and SCE mutually agree that Distributed Generator will not achieve Commercial Operation on or before the DGS In-Service Date; (ii) the DGS In-Service Date will not occur due to any termination of this DGS Agreement as a result of a default by Distributed Generator occurring on or before the DGS In-Service Date; (iii) the procurement of *[the applicable electrical generating equipment (e.g. Wind Turbines)]* for the Distributed Generation Facility does not occur within ninety (90) days after the applicable date set forth in the Milestone Schedule; (iv) close of construction financing for the Distributed Generation Facility is not completed within one hundred twenty (120) days after the applicable date set forth in the Milestone Schedule; or (v) Distributed Generator abandons the Distributed Generation Facility, SCE shall be entitled to:

- (a) The entire Collateral Amount, including the right to draw on and retain for its sole benefit any Letter of Credit and the proceeds thereof, as well as any cash, posted as Collateral Amount; and/or
- (b) Terminate this DGS Agreement;

provided, SCE shall give Notice to Distributed Generator of any determination under Sections 4.2(iii), (iv) or (v) that Commercial Operation is unlikely to occur on or before the DGS In-Service Date, and if within thirty (30) days from the date of such Notice Distributed Generator can establish to SCE's reasonable satisfaction that Commercial Operation is likely to occur on or before the DGS In-Service Date, SCE may not terminate this DGS Agreement prior to the DGS In-Service Date or retain the Collateral Amount at that time, but shall retain all other rights under this DGS Agreement, including the right to terminate this DGS Agreement and retain the entire Collateral Amount if the Distributed Generator fails to achieve Commercial Operation on or before the DGS In-Service Date.

If SCE terminates this DGS Agreement pursuant to this Section 4.2, any amount of Collateral Amount that Distributed Generator has not yet posted with SCE will be immediately due and payable by Distributed Generator to SCE.

4.3 Term.

The Term will commence upon the DGS In-Service Date and continue for a period of thirty-six (36) months. This DGS Agreement automatically terminates at the end of the Term unless earlier terminated as provided in this DGS Agreement.

4.4 Full Return of Collateral Amount.

SCE shall return the full Collateral Amount to Distributed Generator if this DGS Agreement is terminated solely in accordance with Section 10.4, or within thirty (30) days following the last day of the Term, whichever is first.

5. DISTRIBUTED GENERATOR'S OBLIGATIONS; AUTOMATED LOAD REDUCTION

5.1 Distributed Generation Facility Energy and Related Products.

Distributed Generator shall be solely responsible for scheduling the capacity and energy output of the Distributed Generation Facility. SCE shall have no responsibility, duty, obligation or liability in connection with the Distributed Generation Facility, its design, construction, operation, maintenance or removal. SCE shall not purchase or transmit energy from the Distributed Generation Facility pursuant to this Agreement, and SCE shall have no rights to any energy, resource adequacy, ancillary services, environmental attributes or credits, or any other related product.

5.2 Progress Reporting Toward Meeting Milestone Schedule.

At no cost to SCE, Distributed Generator shall be solely responsible for designing, constructing and operating the Distributed Generation Facility. Distributed Generator shall use commercially reasonable efforts to meet the Milestone Schedule and avoid or minimize any delays in meeting this schedule. Distributed Generator shall provide a monthly written report to SCE of its progress toward meeting the Milestone Schedule.

In addition, Distributed Generator shall advise SCE as soon as reasonably practicable of any problems or issues of which Distributed Generator is aware which may materially impact Distributed Generator's ability to meet the Milestone Schedule.

5.3 SCE's Access Rights.

Distributed Generator hereby grants SCE the right of ingress and egress to examine the Site and Distributed Generation Facility for any purpose reasonably connected with this DGS Agreement and the Designated Load Agreement, including immediate access to the Site to effectuate Physical Load Reduction Assurance, or the exercise of any and all rights of SCE under Applicable Laws or SCE's tariff schedules and rules on file with the CPUC.

5.4 Notice of Cessation or Termination of Service Agreements.

Distributed Generator shall provide Notice to SCE within one (1) Business Day after termination of, or cessation of service under, any agreement for the Distributed Generation Facility to operate and remain interconnected to SCE's distribution grid.

5.5 Physical Load Reduction Assurance.

If at any time the Electrical Net Demand exceeds the Firm Service Level set forth in the Designated Load Agreement for any reason, including Force Majeure, SCE may disconnect the Distributed Generation Facility and Designated Load (in accordance with the terms of the Designated Load Agreement) from SCE's distribution system by means of the Physical Load Reduction Assurance.

5.6 NERC Requirements.

- (a) The Distributed Generator shall comply with all Applicable Laws, including reliability standards for the Distributed Generation Facility. SCE will not assume any responsibility for complying with mandatory reliability standards for such facilities and offers no opinion as to whether the Distributed Generator must register with NERC. If required to register with NERC, the Distributed Generator shall be responsible for complying with all applicable reliability standards for the Distributed Generator's interconnection facilities and the Distributed Generation Facility.
- (b) Distributed Generator agrees, that, in accordance with FERC Order No. 697, upon request of SCE, Distributed Generator shall submit a letter of concurrence in support of an affirmative statement by SCE that the contractual arrangement set forth in this Agreement does not transfer "ownership or control of generation capacity" from Distributed Generator to SCE, as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Distributed Generator also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that the contractual arrangement set forth in this Agreement conveys ownership or control of generation capacity from Distributed Generator to SCE.

5.7 Provision of Information and Cooperation.

No later than ten (10) Business Days after Distributed Generator's receipt of a Notice from SCE, Distributed Generator shall provide to SCE all documents reasonably requested by SCE relating to the administration of this DGS Agreement, or in order for SCE to submit regulatory filings or to comply with any discovery or data request for information from the CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal.

In addition, Distributed Generator hereby covenants to fully cooperate with SCE and provide any information requested by SCE in connection with any regulatory filings or other regulatory activities arising out of this RFP, this DGS Agreement and/or Distributed Generation Facility.

5.8 DGS Charge.

Distributed Generator shall pay to SCE the DGS Charge in the manner and in accordance with the terms of the AFA (Exhibit G).

6. SCE'S OBLIGATIONS

6.1 Payments.

- (a) During the Term, SCE shall make monthly payments to Distributed Generator, payable in arrears, on or before the tenth (10th) Business Day of each calendar month, in the amount of *[Dollar amount text]* dollars (*[\$Number]*) ("Deferral Credit Payment"). SCE shall not make a Deferral Credit Payment to Distributed Generator if Distributed Generator fails to effectuate the Distributed Generation Solution.
- (b) SCE shall have the right, but is not obligated, to apply any amounts due to SCE from Distributed Generator for any amounts owing to SCE under this DGS Agreement or the AFA, for past due bills for electric service, or for any other SCE services, towards any amount owed to Distributed Generator under this Agreement. In the event SCE retains any amounts in accordance with this Section 6.1(b), SCE shall provide a written explanation to Distributed Generator for such withholdings.

6.2 Automated Load Reduction Scheme.

SCE shall have the obligations to install, maintain and remove the ALRS in accordance with the terms set forth in the Designated Load Agreement and the AFA, provided Distributed Generator has procured and constructed underground duct banks and related structures required for installation of the ALRS in accordance with specifications and designs provided by SCE.

7. EVENTS OF DEFAULT, REMEDIES, TERMINATION

7.1 Events of Default.

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

- (a) With respect to either Party:
 - (i) the failure to make, when due, any payment required to be made to the other Party pursuant to this Agreement, if such failure is not remedied within three (3) Business Days after written Notice of such failure is given by the non-breaching Party;
 - (ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature;
 - (iii) the failure to perform any material covenant, obligation, term or condition of this Agreement (except to the extent constituting a

separate Event of Default), where such breach is not remedied within five (5) Business Days of Notice of such breach by the non-breaching Party;

- (iv) such Party becomes Bankrupt; or
 - (v) such Party disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of this Agreement.
- (b) With respect to Distributed Generator:
- (i) Distributed Generator fails to post and maintain the Collateral Amount pursuant to Section 3.1, and such failure is not cured within three (3) Business Days after Notice from SCE;
 - (ii) during the Term, a default, Event of Default or other similar condition or event (however described) in respect of Distributed Generator under one or more instruments relating to indebtedness for borrowed money (whether present or future, contingent or otherwise) of any of them (individually or collectively) (“Cross Default”) in an aggregate amount of not less than *[To be determined]* (“Cross Default Amount”) which has resulted in such indebtedness for borrowed money (whether present or future, contingent or otherwise) becoming due and payable under such agreements or instruments, before it would otherwise have been due and payable, or a default by the Distributed Generator in making one or more payments on the due date thereof in an aggregate amount of not less than *[To be determined]* under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);
 - (iii) Distributed Generator fails to pay the DGS Charge when due, and such failure is not cured within three (3) Business Days after Notice from SCE;
 - (iv) Distributed Generator abandons the Distributed Generation Facility;
 - (v) Distributed Generator consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all of the obligations, of the Distributed Generator under this Agreement by operation of law or pursuant to an agreement reasonably satisfactory to SCE;
 - (vi) any termination of the Designated Load Agreement for which SCE is a Non-Defaulting Party; or
 - (vii) the failure to achieve Commercial Operation on or before the DGS In-Service Date pursuant to Section 4.2.

7.2 Early Termination.

If an Event of Default shall have occurred, the Party taking the default (the “Non-Defaulting Party”) has the right(s) to:

- (a) Designate by Notice, which will be effective five (5) Business Days after the Notice is given, a day, no later than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an “Early Termination Date”);
- (b) Withhold any payments due to the Defaulting Party under this Agreement;
- (c) Suspend performance of this Agreement; *provided*, suspension of any performance under this DGS Agreement shall not include (i) Distributed Generator obligations to provide Physical Load Reduction Assurance, and SCE’s right to exercise its rights under Section 5.5 hereof, including injunctive relief or any other means of enforcement of such rights, which rights and obligations will continue in full force and effect regardless of whether SCE is the Defaulting Party or not, or (ii) Distributed Generator’s obligations to post and maintain Collateral Amount in accordance with Article 3;
- (d) Pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement; and
- (e) In the case of SCE, exercise its rights set forth in Section 4.2.

7.3 Termination Payment.

As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide Notice to the Defaulting Party of the Termination Payment. The Notice must include a written statement setting forth, in reasonable detail, the calculation of such Termination Payment including the Settlement Amount, together with appropriate supporting documentation.

- (a) If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within two (2) Business Days after the Notice is provided.
- (b) If the Termination Payment is negative (i.e., the Non-Defaulting Party owes the Defaulting Party more than the Defaulting Party owes the Non-Defaulting Party), then the Non-Defaulting Party shall pay such amount to the Defaulting Party within thirty (30) days after the Notice is provided.

The Parties shall negotiate in good faith to resolve any disputes regarding the calculation of the Termination Payment. Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through mediation and arbitration as provided in Article 12.

7.4 Right of Set-Off.

After calculation of a Termination Payment in accordance with Section 7.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party. The remedy provided for in this section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

7.5 Right to Collateral Amount.

If SCE terminates this Agreement before the DGS In-Service Date pursuant to Section 7.1, SCE shall have the right to the entire Collateral Amount, and any portion of the Collateral Amount not posted by the Distributed Generator shall be immediately due and owing.

7.6 Non-Default Termination; Return of Collateral Amount.

If either Party exercises a termination right, as set forth in Sections 4.1(b) or 10.4, Distributed Generator will be entitled to a return of any Collateral Amount provided to SCE after satisfaction of any payments which may be owing to SCE under this DGS Agreement or the Designated Load Agreement.

7.7 Rights and Obligations Surviving Termination.

The rights and obligations that are intended to survive a termination of this DGS Agreement, including termination pursuant to Section 10.4, are all of those rights and obligations that survive termination and those that arise from Distributed Generator's or SCE's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time before or as a result of the termination of this DGS Agreement, including but not limited to:

- (a) The obligation of either Party to immediately make payments as set forth in this DGS Agreement, including any portion of the Collateral Amount not posted by the Distributed Generator shall be immediately due and owing;
- (b) The right of SCE to effectuate the Physical Load Reduction Assurance until the earlier of one (1) year after termination or the end of the original Term;
- (c) The obligation of Distributed Generator to pay to SCE the Collateral Amount if SCE terminates this DGS Agreement in accordance with Section 4.2 prior to Commercial Operation;
- (d) The obligation of SCE to return any Collateral Amount under Section 7.6, as applicable;
- (e) The limitation of liabilities as set forth in Section 8.1;
- (f) The indemnity obligations as set forth in Section 8.2;

- (g) The obligation of Distributed Generator to maintain insurance as set forth in Article 9; and
- (h) The obligation of confidentiality as set forth in Section 13.

8. LIMITATION OF LIABILITY AND INDEMNITY

8.1 Limitation of Liability.

EXCEPT AS MAY OTHERWISE BE PROVIDED IN THIS DGS AGREEMENT, WITH RESPECT TO THE DESIGN, INSTALLATION AND OPERATION OF THE ALRS THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. FURTHERMORE, EXCEPT FOR ITS WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, SCE SHALL BEAR NO LIABILITY ARISING OUT OF THE OPERATION OF THE ALRS OR ANY OTHER MEANS USED TO DISCONNECT THE DESIGNATED LOAD AND DISTRIBUTED GENERATION FACILITY FROM SCE'S DISTRIBUTION SYSTEM. ANY LIABILITY HEREUNDER IS LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY PROVIDED HEREIN. UNLESS EXPRESSLY PROVIDED FOR IN THIS DGS AGREEMENT, NEITHER PARTY IS LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES.

8.2 Indemnity.

- (a) Except as otherwise provided herein, each Party shall indemnify defend and hold the other Party harmless from and against all losses, damages, claims, liabilities, costs or expenses (including legal expenses) whatsoever for injuries to or death of any person (including, but not limited to, agents employees, contractors, and invitees of SCE and Distributed Generator) and for all loss, damage or destruction of electrical equipment or electric or gas meters or any other property (including, but not limited to, property of SCE, Distributed Generator, and their respective agents, employees, contractors and invitees) arising out of any act or omission except to the extent that they result from any breach of this DGS Agreement, negligence, or intentional wrongdoing by the Party seeking indemnification.
- (b) Distributed Generator shall indemnify, defend and hold SCE harmless from and against all losses, damages, claims, liabilities, costs or expenses (including legal expenses) whatsoever for injuries to or death of any person (including, but not limited to, agents employees, contractors, and invitees of SCE) from any adverse consequences as a result of disconnection of Designated Load from SCE's distribution system at Distributed Load Customer's premises pursuant to this DGS Agreement.

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- (c) Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the indemnifying Party of its representations, warranties and covenants in Section 11. Notwithstanding anything to the contrary in this Agreement, if Distributed Generator fails to comply with the provisions of Section 9, Distributed Generator shall, at its own cost, defend, save harmless and indemnify SCE, its directors, officers, employees, and agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, or expense of any kind or nature (including any direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees and other costs of litigation), resulting from injury or death to any individual or damage to any property, including the personnel or property of SCE, to the extent that SCE would have been protected had Distributed Generator complied with all of the provisions of Section 9. The inclusion of this Section 8.2(c) is not intended to create any express or implied right in Distributed Generator to elect not to provide the insurance required under Section 9.
- (d) All indemnity rights survive the termination of this DGS Agreement for twelve (12) months.

9. INSURANCE

- 9.1 Insurance Coverage. Starting on the Effective Date until the termination of this DGS Agreement and for such additional periods as may be specified below, Distributed Generator, and to the extent not covered by the Distributed Generator's insurance policies, its contractors and subcontractors, shall, at their own expense, provide and maintain in effect the insurance policies and minimum limits of coverage specified below, and such additional coverage as may be required by applicable law, with insurance companies which are authorized to do business in the state in which the services are to be performed and which have an A.M. Best's Insurance Rating of not less than A-:VII. The minimum insurance requirements specified herein do not in any way limit or relieve Distributed Generator of any obligation assumed elsewhere in this Agreement, including, but not limited to, Distributed Generator's defense and indemnity obligations.
- (a) Workers' Compensation Insurance with the statutory limits required by the state having jurisdiction over Distributed Generator's employees;
 - (b) Employer's Liability Insurance with limits of not less than:
 - (i) Bodily injury by accident – One Million dollars (\$1,000,000) each accident
 - (ii) Bodily injury by disease – One Million dollars (\$1,000,000) policy limit

- (iii) Bodily injury by disease – One Million dollars (\$1,000,000) each employee
- (c) Commercial General Liability Insurance, (which, except with the prior written consent of SCE and subject to subsections 9.1(c)(i) and 9.1(c)(ii) below, shall be written on an “occurrence,” not a “claims-made” basis), covering all operations by or on behalf of Distributed Generator arising out of or connected with this Agreement, including coverage for bodily injury, broad form property damage, personal and advertising injury, products/completed operations, and contractual liability. Such insurance shall bear a per occurrence limit of not less than One Million dollars (\$1,000,000), and annual aggregate of not less than One Million dollars (\$1,000,000), exclusive of defense costs, for all coverages. Such insurance shall contain standard cross-liability and severability of interest provisions.

If Distributed Generator elects, with SCE’s written concurrence, to use a “claims made” form of Commercial General Liability Insurance, then the following additional requirements apply:

- (i) The retroactive date of the policy must be prior to the Effective Date; and
- (ii) Either the coverage must be maintained for a period of not less than four (4) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than four (4) years after the Agreement terminates.
- (d) Commercial Automobile Liability Insurance covering bodily injury and property damage with a combined single limit of not less than One Million dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of Distributed Generator’s use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.
- (e) Pollution Liability Insurance, (which, except with the prior written consent of SCE and subject to subsections 9.1(e)(i) and 9.1(e)(ii) below, shall be written on an “occurrence,” not a “claims-made” basis) with limits of not less than [__] Million dollars (\$[__],000,000) *{SCE Comment: Amount will be capped at \$5 million}* per occurrence or each claim and in the annual aggregate, covering losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from the operations of the Distributed Generator, including but not limited to, coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs.

If Distributed Generator elects, with SCE's written concurrence, to use a "claims made" form of Commercial General Liability Insurance, then the following additional requirements apply:

- (i) The retroactive date of the policy must be prior to the Effective Date; and
 - (ii) Either the coverage must be maintained for a period of not less than three (3) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than three (3) years after the Agreement terminates.
- (f) Umbrella/Excess Liability Insurance, written on an "occurrence," not a "claims-made" basis, providing coverage excess of the underlying Employer's Liability, Commercial General Liability, Commercial Automobile Liability and Pollution Liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than Four Million dollars (\$4,000,000) per occurrence and in the annual aggregate. The insurance requirements of this Article 9 can be provided by any combination of Distributed Generator's primary and excess liability policies.

If Distributed Generator elects, with SCE's written concurrence, to use a "claims made" form of Umbrella/Excess Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
- (2) Either the coverage must be maintained for a period of not less than three (3) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than three (3) years after the Agreement terminates.

- 9.2 Insurance Requirements. The insurance required above shall apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Distributed Generator's policies to the contrary. To the extent permitted by law, Distributed Generator and its insurers shall be required to waive all rights of recovery from or subrogation against SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The Commercial General Liability, the Commercial Automobile Liability Policy, the Pollution Liability and the Umbrella/Excess Liability insurance required above shall include, either by policy terms and conditions or by endorsement, SCE, its parent, subsidiaries and affiliates, and their respective officers, directors, shareholders, agents and employees, assigns, and successors in interest, as additional insureds for liability arising out of Distributed Generator's construction, ownership or Operation of the Generating Facility, or obligations or performance, under this Agreement.

- 9.3 Per Project Policies. All policies required by Sections 10.11(a)(i) through 10.11(a)(vi) shall be written on a “per project” or “per contract” basis.
- 9.4 Policies and Certificates of Insurance. Within ten (10) Business Days after the Effective Date, and within ten (10) Business Days after coverage is renewed or replaced, Distributed Generator shall furnish to SCE the entire policy forms, including endorsements, and certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to SCE. All deductibles and co-insurance retentions applicable to the insurance above shall be paid by Distributed Generator. Distributed Generator, or its insurance broker or agent, shall provide SCE with at least thirty (30) days’ prior written notice in the event of cancellation of coverage. SCE’s receipt of certificates that do not comply with the requirements stated herein, or Distributed Generator’s failure to provide certificates, shall not limit or relieve Distributed Generator of the duties and responsibility of maintaining insurance in compliance with the requirements in this Article 9 and shall not constitute a waiver of any of the requirements in this Article 9.
- 9.5 Notice to SCE. Distributed Generator agrees to report to SCE in writing within ten (10) Business Days following all accidents or occurrences resulting in bodily injury to any person, and to any property where such property damage is greater than One Hundred Thousand dollars (\$100,000).
- 9.6 Failure to Maintain Insurance. If Distributed Generator fails to comply with any of the provisions of this Article 9, Distributed Generator, among other things and without restricting SCE’s remedies under the law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required Commercial General Liability, Umbrella/Excess Liability, Pollution Liability and Commercial Automobile Liability insurance, Distributed Generator shall provide a current, full and complete defense to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third-party claim in the same manner that an insurer would have, had the insurance been maintained in accordance with the terms and conditions set forth above. In addition, alleged violations of the provisions of this Article 9 means that Distributed Generator has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Distributed Generator shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

10. FORCE MAJEURE

- 10.1 No Default for Force Majeure. Neither Party shall be in default in the performance of any of its obligations set forth in this DGS Agreement, except for obligations to pay money, when and to the extent failure of performance is caused by Force Majeure.

10.2 Requirements Applicable to the Claiming Party. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the “Claiming Party”) shall be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this DGS Agreement by reason of Force Majeure:

- (a) The Claiming Party, on or before the fourteenth (14th) day after the initial occurrence of the claimed Force Majeure, must give the other Party Notice describing the particulars of the occurrence; and
- (b) The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this DGS Agreement.

The suspension of the Claiming Party’s performance due to Force Majeure may not be greater in scope or longer in duration than is the duration of such Force Majeure. In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform. When the Claiming Party is able to resume performance of its obligations under this DGS Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.

10.3 Termination. Either Party may terminate this DGS Agreement on at least five (5) Business Days’ prior Notice, in the event of Force Majeure which materially interferes with the Claiming Party’s ability to perform its obligations under this DGS Agreement and which extends for more than 90 consecutive days, or for more than a total of 180 days in any consecutive 365-day period.

10.4 AFA Force Majeure. Notwithstanding the foregoing provisions of this Article 10, the force majeure provision contained in paragraph 8 of the AFA shall govern SCE’s responsibility to complete the installation of the ALRS.

11. REPRESENTATIONS, WARRANTIES, AND COVENANTS

11.1 Representations and Warranties. As of the Effective Date, each Party represents, warrants, and covenants to the other Party that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) It has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this DGS Agreement;
- (c) The execution, delivery and performance of this DGS Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Laws;
- (d) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms;

- (e) It is not Bankrupt and there are not proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or become Bankrupt;
- (f) There is not pending, or to its knowledge, threatened against it or, in the case of Distributed Generator, any of its Affiliates, any legal proceeding that could materially adversely affect its ability to perform under this DGS Agreement;
- (g) It is acting for its own account, and its decision to enter into this DGS Agreement is based on its own judgment, not in reliance upon the advice or recommendations of the other Party and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this DGS Agreement; and
- (h) It has not relied on any promises, representations, statements or information of any kind that are not contained in this DGS Agreement in deciding to enter into this DGS Agreement.

11.2 Additional Distributed Generator Representations, Warranties, and Covenants.

As of the Effective Date, in addition to the foregoing Distributed Generator represents, warrants, and covenants to SCE on each day on which Collateral Amount is held by SCE under this Agreement that:

- (a) Distributed Generator has good title to and is the sole owner of such Collateral Amount, and the execution, delivery and performance of the covenants and agreements of this Agreement, do not result in the creation or imposition of any lien or security interest upon any of its assets or properties, including, without limitation, the Collateral Amount other than the security interests and liens created under this Agreement;
- (b) Upon the Transfer of Collateral Amount to SCE, SCE shall have a valid and perfected first priority continuing security interest therein, free of any liens, claims or encumbrances, except those liens, security interests, claims or encumbrances arising by operation of law that are given priority over a perfected security interest; and
- (c) Distributed Generator is not and will not become a party to or otherwise be bound by any agreement, other than this Agreement, which restricts in any manner the rights of any present or future holder of any of the Collateral Amount with respect hereto.

12. DISPUTE RESOLUTION

12.1 Dispute Resolution. Except for matters relating to specific performance, injunctive relief or other equitable remedies, any dispute that cannot be resolved between the Parties shall be settled by means of conference, mediation and/or litigation as provided for herein.

The first step in the dispute resolution process shall be a conference by which the dispute is referred to a designated officer of each Party for resolution.

- 12.2 Mediation. If the Parties are unable to resolve the dispute in accordance with Section 12.1 within a reasonable period of time, either Party may initiate mediation by providing Notice to the other Party of a written request for mediation, setting forth a description of the Dispute and the relief requested. The Parties will cooperate with one another in selecting a mediator from the panel of neutrals from Judicial Arbitration and Mediation Services, Inc., its successor, or any other mutually acceptable mediator, and in scheduling the time and place of the mediation.
- 12.3 Arbitration. If the dispute is not resolved by the mediation, either Party may initiate binding arbitration with respect to the matters first submitted to mediation by providing Notice of a demand for binding arbitration before a single, neutral arbitrator (“Arbitrator”) at any time following the unsuccessful conclusion of the mediation provided for in Section 12.2 above. Unless the Parties agree to alternative arrangements, the selection of arbitrators and the procedure must be in accordance with the commercial arbitration rules then in effect of the Judicial Arbitration and Mediation Services, Inc. The expenses of the arbitration must be borne equally by the Parties. Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration will be in Los Angeles, California. Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator must, in any award, allocate all of the costs of the binding arbitration (other than each Party’s individual attorneys’ fees and costs related to the Party’s participation in the arbitration, which fees and costs will be borne by such Party), including the fees of the Arbitrator and any expert witnesses, against the Party who did not prevail.

At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator’s decision is based. The Arbitrator shall also have the authority to resolve claims or issues in advance of the arbitration hearing that would be appropriate for a California superior court judge to resolve in advance of trial. The Arbitrator shall not have the power to commit errors of law or fact, or to commit any abuse of discretion, that would constitute reversible error had the decision been rendered by a California superior court. The Arbitrator’s decision may be vacated or corrected on appeal to a California court of competent jurisdiction for such error. Unless otherwise agreed to by the Parties, all proceedings before the Arbitrator shall be reported and transcribed by a certified court reporter, with each Party bearing one-half of the court reporter’s fees.

13. CONFIDENTIALITY

- 13.1 Terms and Conditions of this Agreement. Neither Party may disclose any Confidential Information to a third party, other than:
- (a) To such Party’s or its upstream parents’ (which, in the case of SCE, is Edison International), employees, lenders, investors, attorneys,

accountants or advisors who have a need to know such information and have agreed to keep such terms confidential;

- (b) To potential Lenders (that have agreed to keep such terms confidential);
- (c) To the CPUC or the FERC, under seal for any regulatory purpose, including policymaking, but only provided that the confidentiality protections from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection are in place before the communication of such Confidential Information; and
- (d) In order to comply with any Applicable Laws or order issued by a court or entity with competent jurisdiction over the disclosing party; *provided*, the disclosing Party makes reasonable efforts to limit the disclosure of such Confidential Information.

14. MISCELLANEOUS

14.1 Effective Date.

This DGS Agreement shall be deemed effective as of the date upon which the last Party executes this DGS Agreement (“Effective Date”).

14.2 Assignment.

This DGS Agreement is intended to be between the two Parties and neither Party may assign this DGS Agreement without prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

14.3 Notices.

Any notices or demands to be served here under by either Party to the other shall be addressed as specified in Exhibit E.

All Notices must be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, electronic transmission or facsimile. Notices provided in accordance with this Section 14.3 are deemed given as follows:

- (a) Notice by facsimile, another form of electronic transmission, or hand delivery is deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise is deemed given at the close of business on the next Business Day;
- (b) Notice by overnight first class United States mail or overnight courier service is deemed given on the next Business Day after such Notice is sent out; and
- (c) Notice by first class United States mail is deemed given two (2) Business Days after the postmarked date.

14.4 Governing Law.

THIS DGS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS DGS AGREEMENT.

14.5 Entire Agreement.

This DGS Agreement, in combination with all Exhibits and attachments thereto, contains the entire agreement between the Parties.

14.6 Disclaimer of Warranty.

No promise, representation, warranty, or covenant not included in this DGS Agreement has been, or is relied on by either Party. Each Party has relied on its own examination of this DGS Agreement, the counsel of its own advisors, and the warranties, representations, and covenants in the Agreement itself.

14.7 Severability.

If any provision in this DGS Agreement is determined to be invalid, void or unenforceable by the CPUC or any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this DGS Agreement. Any provision of this DGS Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

14.8 Construction.

This DGS Agreement will be considered for all purposes as prepared through the joint efforts of the Parties and may not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

14.9 No Modification.

Except to the extent provided for herein, no amendment or modification to this DGS Agreement will be enforceable unless reduced to a writing signed by all Parties.

14.10 No Third-Party Beneficiaries.

This DGS Agreement does not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this DGS Agreement).

14.11 Order of Precedence.

No provision of this DGS Agreement is intended to contradict or supersede any applicable agreement covering transmission, distribution, metering, scheduling or interconnection. Notwithstanding the foregoing, in the event of an apparent contradiction between this DGS Agreement and any such agreement, such

2014 DGS Agreement

agreement controls. With regard to any contradiction between the DGS Agreement, on the one hand, and the DLA and/or AFA, on the other hand, this DGS Agreement shall control.

14.12 Counterparts.

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

[SIGNATURE PAGE TO FOLLOW]

In WITNESS WHEREOF, the Parties have caused this DGS Agreement to be duly executed as of the Effective Date first written:

[DISTRIBUTED GENERATOR'S NAME],

SOUTHERN CALIFORNIA EDISON COMPANY,

a [Distributed Generator's jurisdiction of organization and type of organization]

a California corporation.

By:

By:

[Name]

[Name]

[Title]

[Title]

Date: _____

Date: _____

EXHIBIT A

DESCRIPTION OF DISTRIBUTED GENERATION FACILITY AND SINGLE-LINE DIAGRAM

A. Distributed Generation Facility

{SCE Note: This is expected to be the electrical and generating characteristics of the Distributed Generation Facility provided to SCE (and approved by SCE) by the Distributed Generator in its response to SCE's RFP.}

B. Single Line Diagram

{SCE Note: This is expected to be the electrical single-line diagram of the Distributed Distributed Generation Facility provided by the Distributed Generator (and approved by SCE) in its response to SCE's RFP.}

EXHIBIT B

DESIGNATED LOAD AGREEMENT

Between

Distributed Generator and Designated Load Customer

[ATTACH DLA]

EXHIBIT C

Procedure for Demonstration of Contract Capacity

*****SCE Comment: For All Technologies.*****

1. Distributed Generator's Notice of Demonstration Hour.
Distributed Generator shall provide Notice to SCE of the hour selected by Distributed Generator, which hour must have occurred within thirty (30) days prior to the DGS In-Service Date, during which Distributed Generator claims it has demonstrated the applicable Contract Capacity ("Demonstration Hour").
2. Demonstration of Contract Capacity.
 - (a) Unless SCE provides timely Notice to Distributed Generator that additional days are required to substantiate data, SCE shall, within thirty (30) days after Distributed Generator's Notice of the Demonstration Hour, retrieve interval data downloaded from Distributed Generator's generation meter or other telemetry to verify Contract Capacity during the Demonstration Hour; and
 - (b) SCE may, at its sole discretion, complete a site visit within thirty (30) days after SCE's receipt of Distributed Generator's Notice of the Demonstration Hour to verify that the Distributed Generation Facility was developed in accordance with the Distributed Generation Facility and Site Description set forth in Exhibit A.

***** End of EXHIBIT C *****

EXHIBIT D
DISTRIBUTED GENERATOR'S MILESTONE SCHEDULE

<i>No.</i>	<i>Date</i>	<i>Milestones</i>
1		Submits interconnection application.
2		Files any land applications.
3		Files construction permit application(s).
4		Files material permit applications.
5		Receives a completed System Impact Study or Phase I Interconnection Study.
6		Obtains control of all lands and rights-of-way comprising the Site.
7		Receives a completed interconnection Facility Study or Phase II Interconnection Study.
8		Executes an interconnection agreement and distribution service agreement, as applicable.
9		Receives FERC acceptance of interconnection agreement and transmission agreement.
10		Receives Construction Permit.
11		Receives Material Permits.
12		Executes an Engineering, Procurement and Construction ("EPC") contract.
13		Procures the <i>[applicable electrical generating equipment]</i> for the Distributed Generation Facility.
14		Completes financing, including construction financing.
15		Begins construction of the Distributed Generation Facility.
19		Begins startup activities.
17		Commercial Operation date.
18		Demonstrates the Contract Capacity.

EXHIBIT E

NOTICE LIST

DISTRIBUTED GENERATOR	SCE
All Notices are deemed provided in accordance with Section 14.3 if made to the address and facsimile numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 14.3 if made to the Contract Sponsor at the address or facsimile number provided below:
Contract Sponsor: Attn: Street: City: Phone: Facsimile:	Contract Sponsor: Attn: Street: City: Phone: Facsimile:
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: Federal Tax ID Number:
Contract Administration: Attn: Phone: Facsimile:	Contract Administration: Attn: Phone: Facsimile:
Generation Operations: Phone: Phone: E-mail:	Generation/Grid Operations: Phone: Phone: E-mail:
Payment Statements: Attn: Phone: Facsimile: E-mail:	Payment Statements: Attn: Phone: Facsimile: E-mail:
Payments: Attn: Phone: Facsimile: E-mail:	Payments: Attn: Phone: Facsimile: E-mail:

EXHIBIT F

FORM OF LETTER OF CREDIT

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT

Reference Number:

Transaction Date:

BENEFICIARY:

Southern California Edison Company
2244 Walnut Grove Avenue
Risk Control GO#1, Quad 1D
Rosemead, CA 91770

Ladies and Gentlemen:

_____ (the "Bank") hereby establishes this Irrevocable Nontransferable Standby Letter of Credit ("Letter of Credit") in favor of Southern California Edison Company, a California corporation (the "Beneficiary"), for the account of _____, a _____ corporation (the "Applicant"), for the amount of XXX AND XX/100 Dollars (\$ _____) (the "Available Amount"), effective immediately and expiring at 5:00 p.m., California time, on _____ (the "Expiration Date").

This Letter of Credit shall be of no further force or effect upon the close of business on the Expiration Day or, if such day is not a Business Day (as hereinafter defined), on the next Business Day.

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by presentation in compliance on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and
2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any full or partial drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at _____ or such other number as specified from time-to-time by the Bank.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

Beneficiary shall be entitled to draw upon this Letter of Credit up to the stated amount, in one or more drawings; provided however that if any drawing would exceed the stated amount, Beneficiary shall be entitled to draw only that portion which would not exceed the stated amount.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

All fees for maintaining or renewing this Letter of Credit Banking charges shall be the sole responsibility of the Applicant.

All notices to Beneficiary with respect to this Letter of Credit are required to be sent by certified letter or overnight courier, return receipt or signature required, to: Southern California Edison Company, Manager of Credit Risk and Collateral, 2244 Walnut Grove Avenue, GO1 Quad 1D, Rosemead, CA 91770. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Issuer

[Name]

[Title]

ATTACHMENT A
Drawing Certificate

TO [ISSUING BANK NAME]

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT

No. _____

DRAWING CERTIFICATE

Bank

Bank Address

Subject: Irrevocable Non-transferable Standby Letter of Credit

Reference Number: _____

The undersigned _____, an authorized representative of Southern California Edison Company (the "Beneficiary"), hereby certifies to *[Issuing Bank Name]* (the "Bank"), and _____ (the "Applicant"), with reference to Irrevocable Nontransferable Standby Letter of Credit No. { _____ }, dated _____, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to \$ _____, for the following reason(s) [check applicable provision]:
 - []A. An Event of Default, as defined in that certain Distributed Generation Solution Agreement between Applicant and Beneficiary, dated as of [Date of Execution] (the "Agreement"), with respect to the Applicant has occurred and is continuing.
 - []B. The Agreement has been terminated pursuant to Section 7.1 or Section 7.2 of the Agreement with respect to the Applicant for which there exist any unsatisfied payment obligations.
 - []C. The Letter of Credit will expire in fewer than twenty (20) Local Business Days (as defined in the Agreement) from the date hereof, and Applicant has not provided Beneficiary alternative Collateral Amount (as defined in the Agreement) acceptable to Beneficiary.
 - []D. The Bank or Applicant has heretofore provided written notice to the Beneficiary of the Bank's or Applicant's intent not to renew the Letter of Credit following the

present Expiration Date thereof, and Applicant has failed to provide the Beneficiary with a replacement letter of credit satisfactory to Beneficiary in its sole discretion within thirty (30) days following the date of the notice of non-renewal.

- []E. The Beneficiary has not been paid any or all of the Applicant’s payment obligations now due and payable under the Agreement.
- []F. The Beneficiary is entitled to retain the entire Collateral Amount: (i) as a result of Applicant’s failure to achieve Commercial Operation of the full Contract Capacity by the DGS In-Service Date as provided in the Agreement; (ii) because the Agreement has been terminated due to an Event of Default by Applicant; or (iii) because the Agreement has been terminated by SCE pursuant to Section 7.2.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. dollars and ____/100ths (U.S.\$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Beneficiary by its authorized representative as of this ____ day of _____, 20__.

Beneficiary: SOUTHERN CALIFORNIA EDISON COMPANY

[Name]

[Title]

EXHIBIT G

**ADDED FACILITIES AGREEMENT
APPLICANT FINANCED**

SOUTHERN CALIFORNIA EDISON COMPANY
ADDED FACILITIES AGREEMENT
APPLICANT FINANCED

(“Applicant”) and Southern California Edison Company (“SCE”), referred to collectively as “Parties” and individually as “Party”, agree, as an accommodation to the Applicant, that SCE shall install the electric facilities described in Exhibit A, and hereinafter referred to as “Added Facilities”, the cost of which shall be borne by the Applicant and which will be located at the service address as shown in Exhibit A. Added Facilities are defined in SCE’s Rule 2.H as those which are in addition to, or in substitution for the standard facilities SCE would normally install to provide electric service. The Parties agree as follows:

1. Applicant shall pay to SCE in advance of construction by SCE for the Applicant-Financed Added Facilities, the estimated Total Installed Cost of said Added Facilities, as set forth in Exhibit A. If applicable, said cost shall include the estimated Income Tax Component of Contributions (ITCC), pursuant to SCE’s Preliminary Statement as filed with the California Public Utilities Commission (“Commission”) and the one-time cost to rearrange existing facilities and/or to provide facilities normally installed by the Applicant.

2. In addition to the payment required under Paragraph 1, the Applicant shall also pay a charge based on the Added Facilities investment in Applicant-Financed Added Facilities, pursuant to SCE’s Rule 2.H as filed with the Commission and as changed from time to time by the Commission. The charge for Applicant-Financed Added Facilities is based upon the Added Facilities investment and the replacement coverage option selected by the Applicant, as follows:
 - (a) Replacement Coverage. The Added Facilities investment amount used as the basis for determining the charge Applicant pays SCE shall not be adjusted whenever Added Facilities are replaced as set forth in Paragraph 12(a). Under this option, Applicant shall pay to SCE, at SCE's sole option, either (SCE to select one):
 - (1) A Monthly Charge based upon _____ times the Added Facilities investment as set forth in Exhibit A.
 - (2) A One-Time Payment representing the present worth of the Monthly Charge (_____ per month) for the Added Facilities in perpetuity as set forth in Exhibit A.
 - (b) Replacement Coverage with 20 year Term. The Added Facilities investment amount used as the basis for determining the charge Applicant pays SCE shall not be adjusted for a term of 20 years whenever Added Facilities are replaced as set forth in Paragraph 12(a). Under this option, Applicant shall pay to SCE a Monthly Charge based upon _____ times the Added Facilities investment as set forth in Exhibit A. At the end of the 20 year term, this Agreement terminates in accordance with the provisions of Paragraph 16. If Applicant wants to continue being served from the Added Facilities, Applicant must sign a new Added Facilities Agreement. The new Added Facilities investment amount will be determined on a reconstruction cost new less depreciation (RCNLD) basis.
 - Without Replacement Coverage. The Added Facilities investment amount used in determining the charge Applicant pays SCE shall be adjusted whenever Added Facilities are replaced as set forth in Paragraph 12(b) and . Under this option, Applicant shall pay SCE a Monthly Charge based on _____ times the Added Facilities investment as set forth in Exhibit A.

3. The costs and charges paid by Applicant pursuant to Paragraphs 1 and 2 will normally be based upon estimated costs. When the recorded book costs have been determined by SCE, the charges may be based upon such recorded costs and adjusted retroactively to the date when

service was first rendered by means of such Added Facilities. Additional charges resulting from such adjustments will, unless other terms are mutually agreed upon, be payable within thirty (30) days from the date of presentation of a bill therefore. Any credits resulting from such adjustments will, unless other terms are mutually agreed upon, be refunded to Applicant.

4. When SCE elects to provide Added Facilities hereunder on a recorded book cost basis, SCE has the right to revise its estimated costs and bill Applicant using such revised estimated costs during the period preceding determination of the recorded book costs. SCE shall indicate such revisions on Exhibit A or a superseding Exhibit A and provide a copy to Applicant. SCE shall commence billing the charge paid by Applicant pursuant to Paragraph 2 above using such revised estimate not earlier than thirty (30) days from the date the revised estimate is provided to Applicant.
5. The Monthly Charge to be paid by Applicant pursuant to Paragraph 2 above, as determined in Exhibit A, shall automatically increase or decrease without formal amendment to this Agreement if the Commission subsequently authorizes a higher or lower percentage rate in the calculation of the costs of ownership for Added Facilities as stated in Rule 2.H, effective with the date of such authorization. Further, the revised costs of ownership shall also be used to determine the unamortized balance of the One-Time Payment due to termination of service, termination of this Agreement, or otherwise, as provided in Paragraph 16 (a).
6. Where it is necessary to install Added Facilities on Applicant's property, Applicant hereby grants to SCE (a) the right to make such installation on Applicant's property including installation of a line extension along the shortest practical route thereon and (b) the right of ingress to and egress from Applicant's property as determined by SCE in its sole discretion for any purpose connected with the operation and maintenance of the Added Facilities. Applicant shall provide rights-of-way or easements of sufficient space to provide legal clearance from all structures now or hereafter erected on Applicant's property for any facilities of SCE.
7. Where formal rights-of-way or easements are required in, on, under, or over Applicant's property or the property of others for the installation of the Added Facilities, SCE shall not be obligated to install the Added Facilities unless and until any necessary permanent rights-of-way or easements, satisfactory to SCE, are granted without cost to SCE. Upon termination of this Agreement in accordance with Paragraph 16, SCE will quitclaim all easements and rights of way in, on, under, and over Applicant's property which are, as determined by SCE in its sole discretion, no longer required by SCE due to the removal of its Added Facilities.
8. SCE shall not be responsible for any delay in completion of the installation of the Added Facilities resulting from shortage of labor or materials, strike, labor disturbances, war, riot, weather conditions, governmental rule, regulation or order, including orders or judgments of any court or commission, delay in obtaining necessary rights-of-way and easements, act of God, or any other cause or condition beyond control of SCE. SCE shall have the right in the event it is unable to obtain materials or labor for all of its construction requirements, to allocate materials and labor to construction projects which it deems, in its sole discretion, most important to serve the needs of its customers, and any delay in construction hereunder resulting from such allocation shall be deemed to be a cause beyond SCE's control.
9. Added Facilities provided hereunder shall at all times remain the property of SCE.
10. This Agreement supplements the appropriate application and contract(s) for electric service presently in effect between the Parties.
11. If it becomes necessary for SCE to alter or rearrange the Added Facilities including, but not limited to, the conversion of overhead facilities to underground, Applicant shall be notified of such necessity and shall be given the option to either terminate this Agreement in accordance with Paragraphs 13 and 16, or to pay to SCE additional charges consisting of:

- (a) The cost to remove any portion of the Added Facilities which is no longer necessary because of alteration or rearrangement, such charge to be determined in the same manner as described in Paragraph 16; plus
- (b) An additional payment, ITCC, and/or one-time cost, if any, for any new Added Facilities requested which shall be determined in the same manner as described in Paragraphs 1 and 2; plus

A revised Paragraph 2 charge based on the total net additional installed cost of all new and remaining Added Facilities. Such revised charge shall be determined in the same manner as described in Paragraphs 1 and 2.

- 12. (a) Whenever Added Facilities are replaced due to damage (caused by other than the Applicant's intentional or negligent conduct) or equipment failure and Applicant has selected replacement coverage pursuant to Paragraph 2 (a) or Paragraph 2 (b), such replacement will be at SCE's expense with no change in the Added Facilities investment amount.
- (b) Whenever Added Facilities are replaced due to damage or equipment failure and Applicant has selected no replacement coverage pursuant to Paragraph 2 , such replacement will be made by SCE at the Applicant's expense, including any applicable ITCC. Charges will be payable by the Applicant to SCE within thirty (30) days from the date of presentation of a bill. If such replacement results in a change in the Added Facilities investment, the Monthly Charge will be adjusted based on the revised added investment effective with the date the replaced Added Facilities are first available. Except that, where a replacement of Added Facilities is required for SCE's operating convenience or necessity or because of damage caused by the sole negligence or willful act of SCE, no increase will be made in the Added Facilities investment amount or the Monthly Charge.

Whenever Added Facilities are replaced due to Applicant's increased load or damage caused by the Applicant's intentional or negligent conduct, such replacement will be made by SCE at the Applicant's expense including any applicable ITCC. Charges will be payable by the Applicant to SCE within thirty (30) days from the date of presentation of a bill. Additionally, the Applicant's Monthly Charge pursuant to Paragraph 2 will be adjusted based on the revised added investment resulting from such replacement and will be effective with the date the replaced Added Facilities are first available.

- 13. This Agreement shall remain in effect until terminated by either party on at least thirty (30) days' advance written notice. Applicant shall pay all costs incurred to the date of termination pursuant to Paragraph 16 including charges for any engineering, surveying, right-of-way and easement acquisition expenses and other associated expenses incurred by SCE for that portion of the Added Facilities not installed.
- 14. SCE has the right to charge Applicant under the terms and conditions of this Agreement commencing with the date SCE, in its sole opinion, is ready to serve or commencing with the ready to serve date requested by Applicant, whichever is later.
- 15. Construction of the Added Facilities shall not commence prior to receipt by SCE of appropriate rights of way and/or easements, and applicant's payment of all monies due as described in Paragraphs 1 and 2(a)(2).
- 16. Upon discontinuance of the use of any Added Facilities due to termination of service, termination of this Agreement, or otherwise:
 - (a) Applicant shall pay to SCE on demand (in addition to all other monies to which SCE may be legally entitled by virtue of such termination) a facility termination charge defined as the removal cost, less the salvage value for the Added Facilities to be removed. Commencing

in the sixteenth (16) year after the date service is first rendered by means of Added Facilities, 20 percent of the termination charge shall be subtracted from that charge each year until the total charge is zero.

- (b) SCE shall be entitled to remove and shall have a reasonable time in which to remove any portion of the Added Facilities located on the Applicant's property.

SCE may, at its option, alter, rearrange, convey, or retain in place any portion of the Added Facilities located off Applicant's property. Where all or any portion of the Added Facilities located off Applicant's property are retained in place and used by SCE to provide permanent service to other customers, the facility termination charge described in Paragraph 16(a) shall be reduced by the installed cost of the retained facilities.

- 17. Applicant may assign this Agreement only with SCE's written consent. Such consent will not unreasonably be withheld. Furthermore, such assignment shall be deemed to include, unless otherwise specified therein, all of Applicant's rights to any refunds which might become due upon discontinuance of the use of any Added Facilities.
- 18. This Agreement shall, at all times be subject to changes or modifications as the Commission may, from time to time, direct in the exercise of its jurisdiction.
- 19. In witness whereof, the parties hereto have caused this Agreement to be signed by their duly authorized representatives/agents. This Agreement is effective as of the last date set forth below.

APPLICANT

SOUTHERN CALIFORNIA EDISON COMPANY

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE SIGNED: _____

DATE SIGNED: _____

A.F. No. _____

SOUTHERN CALIFORNIA EDISON COMPANY
EXHIBIT "A"
APPLICANT FINANCED ADDED FACILITIES

A. F. NO. _____

APPLICANT _____

SERVICE ADDRESS _____

APPLICANT REQUESTED READY TO SERVE DATE _____

All Estimated Costs Shown in this Exhibit "A" (SCE to Select One):

- are not binding estimates (final billing based on recorded costs), or
- are binding estimates valid for Added Facilities completed on or before

DESCRIPTION OF ADDED FACILITIES

Original Estimated Demand _____ kVA

W.O. No(s). _____

DESCRIPTION OF ONE-TIME COSTS (Paragraph 1)

W.O. No(s). _____

EXHIBIT "A"
 APPLICANT FINANCED ADDED FACILITIES

SCE's Actual Ready to Serve Date _____

APPLICANT INITIALS & DATE

ORIGINAL ESTIMATE

AMENDMENT

(Original Estimate Only)

DATE _____

DATE _____

A) TOTAL INSTALLED ADDED FACILITIES
 COST
 (Paragraph 1)

B) ITCC (Paragraph 1) (A X ____%)

C) ONE-TIME PAYMENT OPTION
 OWNERSHIP COST ONLY [Paragraph
 2(a)(2)]

D) ONE TIME COSTS INCLUDING ITCC
 (Paragraph 1)

E) TOTAL CUSTOMER ADVANCE (A + B + C
 + D)

F) MONTHLY ADDED FACILITIES CHARGE
 (Paragraph 2) (A X ____%)

AMENDMENT

FINAL RECORDED COSTS

DATE _____

DATE _____

A) TOTAL INSTALLED ADDED FACILITIES
 COST
 (Paragraph 1)

B) ITCC (Paragraph 1) (A X ____%)

C) ONE-TIME PAYMENT OPTION
 OWNERSHIP ONLY [Paragraph 2(a)(2)]

(T)

(T)

D) ONE TIME COSTS INCLUDING ITCC
(Paragraph 1)

E) TOTAL CUSTOMER ADVANCE (A + B + C
+ D)

F) MONTHLY ADDED FACILITIES CHARGE
(Paragraph 2) (A X ____%)
