June 25, 2015

**Via Email to EPS@energy.state.ca.us**

**SUBJECT: SB 1368 EMISSION PERFORMANCE STANDARDS**
**PUBLIC NOTICE OF COVERED PROCUREMENT**

Pursuant to the California Code of Regulations (CCR) Title 20, Section 2908(b), the City of Burbank is providing notice of a covered procurement subject to public notice, under the Emission Performance Standards (EPS) regulations. The covered procurement that will be discussed at the public meeting is the Renewal Power Sales Contract, which provides for the procurement of electricity with a term of five years or greater from the Intermountain Power Project (IPP), located near Delta, Utah. In addition, a related contract—the Second Amendatory Power Sales Contract—will also be discussed. This contract facilitates repowering of IPP from coal to natural gas.

**Name of Governing Authority/Body Meeting**: City Council of the City of Burbank

**Date**: June 30, 2015

**Time**: 4:50 pm

**Location:** City of Burbank Council Chambers, 275 East Olive Avenue, Burbank, CA 91510

**Wheelchair accessible?**: Yes

**Remote Access, if any**: http://www.burbankca.gov/departments/city-clerk-s-office/meeting-agendas-minutes

**Contact for Public for Further Information:** Ronald E. Davis, General Manager, Burbank Water and Power, 164 West Magnolia Boulevard, Burbank, CA 91502, telephone number: (818) 238-3550.

**Agenda for the Meeting**: Will be posted in accordance with Government Code Section 54950, et seq. at http://www.burbankca.gov/departments/city-clerk-s-office/meeting-agendas-minutes

Additional materials pursuant to the requirements of CCR § 2908(b)(3) concerning the details of the Contracts and the natural gas repowering will be posted in accordance with Government Code Section 54950, et. seq. at: http://www.burbankca.gov/departments/city-clerk-s-office/meeting-agendas-minutes

Sincerely,

Ronald E. Davis
General Manager, Burbank Water and Power

CC

CC:tw

Attachments

# SECOND AMENDATORY POWER SALES CONTRACT

**BETWEEN**

**INTERMOUNTAIN POWER AGENCY**

**AND**

**CITY OF BURBANK**

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# SECOND AMENDATORY POWER SALES CONTRACT

**1. PARTIES:** This Second Amendatory Power Sales Contract, dated as of _____, 201_, by and between INTERMOUNTAIN POWER AGENCY, a political subdivision of the State of Utah, hereinafter designated as "IPA" and City of Burbank, hereinafter designated as the "Purchaser". Each of IPA and Purchaser is referred to individually under this Second Amendatory Power Sales Contract as a "Party" and together they are referred to as "Parties".

**2. RECITALS:** This Second Amendatory Power Sales Contract is made with reference to the following matters, among others.

**2.1** IPA has heretofore entered into Power Sales Contracts providing for the sale by IPA of the electric power and energy and associated rights to transmission capacity of the Intermountain Power Project (the "Project") to certain electric utilities (including the Purchaser) in Utah and in California, and such Power Sales Contracts, in the case of such Utah utilities, are dated as of September 28, 1978 and, in the case of such California utilities, are dated as of August 6, 1980, and each of such Power Sales Contracts has been heretofore amended by the parties thereto. Unless otherwise provided herein, all such Power Sales Contracts (except the Power Sales Contract by IPA with PacifiCorp which is to be terminated as provided in Section 46 of the Power Sales Contracts as added by this Second Amendatory Power Sales Contract), as so amended and as hereafter amended, are herein collectively referred to as the "Power Sales Contracts" and the Power Sales Contract with the Purchaser, as so amended and as hereafter amended, is herein referred to as the "Power Sales Contract". The Utah utilities and the California

utilities as parties to the Power Sales Contracts are herein collectively referred to as "Purchasers", and this Second Amendatory Power Sales Contract by and between IPA and Purchaser, together with the substantially similar Second Amendatory Power Sales Contracts by IPA with the other Purchasers, are herein referred to as the "Second Amendatory Power Sales Contracts".

**2.2** The term of each of the Power Sales Contracts ends on June 15, 2027 and Section 33 of each of the Power Sales Contracts requires IPA, if certain conditions are satisfied, to offer to each of the Purchasers "participation beyond June 15, 2027 in the rights and benefits of the Project or such operating part thereof in proportion to their respective entitlements then existing under the Power Sales Contracts . . .", such participation to be on substantially the same terms and conditions as provided in the Power Sales Contracts.

**2.3** The Project currently includes a two unit coal-fired electric generating facility located in south central Utah together with associated transmission systems and related facilities.

**2.4** The IPA Organization Agreement, as amended, provides that upon replacement of the existing coal-fired generating unit or units of the Project by a natural gas-fired generating facility or facilities, the Project shall thereupon consist of such natural gas-fired electric generating facility or facilities, including associated gas storage, transmission pipeline and related facilities.

**2.5** It is necessary to amend the Power Sales Contracts in order to accomplish the gas repowering.

**2.6** In connection with such gas repowering of the Project, it is also necessary to provide for the renewal of the Power Sales Contracts in accordance with Section 33 thereof, as amended by the Second Amendatory Power Sales Contracts, for a renewal period beginning upon the expiration of the term of the Power Sales Contracts thereby providing for the payment by the Purchasers of reasonable debt service costs resulting from the financing of the capital costs of the gas repowering through the issuance by IPA of its long-term bonds with amortization periods extending into the renewal period.

**2.7** In connection with the gas repowering, the Purchaser and IPA desire to make certain other changes and additions to the Power Sales Contract as set forth in this Second Amendatory Power Sales Contract.

**2.8** In addition, PacifiCorp and IPA are to enter into a Final Amendatory Power Sales Contract (the "PacifiCorp Final Amendatory Contract") that amends their Power Sales Contract to provide for the reduction of PacifiCorp's 4% Generation Entitlement Share to 0% and the reduction of PacifiCorp's 4% Generation Cost Share to 0% and, as a consequence, provides for the termination of the Power Sales Contract between PacifiCorp and IPA, thus terminating PacifiCorp's participation in the Project; and the Second Amendatory Power Sales Contracts include, among others, amendments providing for a 4% increase of Los Angeles' Generation Entitlement and Generation Cost Shares to correspond with such 4% reduction of the PacifiCorp Generation Entitlement and Generation Cost Shares.

**2.9** In connection with and as a result of the termination of PacifiCorp's participation in the Project, PacifiCorp and Los Angeles will terminate, as of the effective date

of the PacifiCorp Final Amendatory Contract, the Power Purchase Agreement, dated June 22, 1989, under which Los Angeles has purchased from PacifiCorp since 1989 power and energy equivalent to PacifiCorp's 4% Generation Entitlement Share for delivery at the Project Generation Station bus under terms the same as those for PacifiCorp's purchase of its 4% Generation Entitlement Share under its Power Sales Contract with IPA.

**3. AGREEMENT:** For and in consideration of the premises and the mutual covenants and agreements herein set forth, it is agreed by and between the Parties as follows:

**4. DEFINITIONS:** Except to the extent otherwise provided herein, all terms which are defined in Section 4 of the Power Sales Contract shall have the same meanings, respectively, in this Second Amendatory Power Sales Contract. In addition, Section 4 of the Power Sales Contract is hereby amended to add thereto the following definitions:

**4.1A** **Alternative Repowering:** Alternative Repowering shall have the meaning set forth in Section 44.6 as added by the Second Amendatory Power Sales Contracts.

**4.7 (A1)** **Capacity:** Capacity as used in Sections 45.1.7 and 45.1.8 as added by the Second Amendatory Power Sales Contracts with respect to the STS, the NTS or the Project Switchyard, shall have the meaning set forth in Section 45.1.7 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A1)** **Excess Power Sales Agreement:** Excess Power Sales Agreement shall mean the Excess Power Sales Agreement, dated December 1, 1980, among Utah Purchasers, certain California Purchasers, an agent for the Utah Purchasers named therein, and a representative of such California Purchasers named therein, as amended or supplemented.

**4.12 (A2)** **Excess Renewal Power Sales Agreement:** Excess Renewal Power Sales Agreement shall have the meaning set forth in the Renewal Power Sales Contracts.

**4.12 (A3)** **Extension Term:** Extension Term shall have the meaning set forth in Section 45.1.2 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A4)** **Extension Term Retirement Facilities and Properties:** Extension Term Retirement Facilities and Properties shall have the meaning set forth in Section 45.1.3 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A5)** **Extension Term Retirement Plan:** Extension Term Retirement Plan shall have the meaning set forth in Section 45.1.4 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A6)** **FAS 143:** FAS 143 shall mean the Statement of Financial Accounting Standards No. 143 issued by the FASB, as further affected or interpreted by additional FASB statements or FASB interpretations.

**4.12 (A7)** **FASB:** FASB shall mean the Financial Accounting Standards Board.

**4.13A Gas Repowering:** Gas Repowering shall have the meaning set forth in Section 44.1 as added by the Second Amendatory Power Sales Contracts.

**4.24A NTS:** NTS shall mean the Northern Transmission System.

**4.25B PacifiCorp:** PacifiCorp shall mean PacifiCorp, an Oregon corporation (successor to Utah Power & Light Company), and its successors and assigns.

**4.25C PacifiCorp Final Amendatory Contract:** PacifiCorp Final Amendatory Contract shall have the meaning set forth in the Recitals hereto.

**4.30A Project Switchyard:** Project Switchyard shall mean the switchyard described in Appendix C as comprising part of the Generation Station.

**4.32C Remaining Purchasers:** Remaining Purchasers shall have the meaning set forth in Section 47.1.5 as added by the Second Amendatory Power Sales Contracts.

**4.32D Renewal Contract Coordinating Committee:** Renewal Contract Coordinating Committee shall have the meaning set forth in the Renewal Power Sales Contracts.

**4.32E Renewal Offer:** Renewal Offer shall have the meaning set forth in Section 33.3 as added by the Second Amendatory Power Sales Contracts.

**4.32F Renewal Power Sales Contracts:** Renewal Power Sales Contracts shall mean the Renewal Power Sales Contracts entered into by I.P.A. with the Purchasers accepting the Renewal Offer. The initial form of Renewal Power Sales Contract is included in Exhibit A to this Second Amendatory Power Sales Contract pursuant to Section 33.3 as added by this Second Amendatory Power Sales Contract.

**4.32G Retired Generation and Related Facilities and Properties:** Retired Generation and Related Facilities and Properties shall have the meaning set forth in Section 44.2 as added by the Second Amendatory Power Sales Contracts.

**4.32H Retirement Actions:** Retirement Actions shall mean, when used with respect to Retired Generation and Related Facilities and Properties under Section 44 or with respect to Extension Term Retirement Facilities and Properties under Section 45, (i) the rendering of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, in a condition that complies with all then applicable laws

and all contractual obligations of I.P.A. with respect thereto; (ii) the dismantling and removal of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, so as to restore the area impacted thereby, (iii) the rendering of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, in a condition that, in I.P.A.'s reasonable discretion, is secure, safe, sanitary and sightly; and (iv) the insuring or otherwise protecting of I.P.A. from claims and liabilities that may arise with respect to such Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable. The term "Retirement Actions" includes the decommissioning and retirement of the Retired Generation and Related Facilities and Properties described in Section 44.2 as added by the Second Amendatory Power Sales Contracts or the decommissioning and retirement of the Extension Term Retirement Facilities and Properties described in Sections 45.1.3 and 45.1.4, in each case as applicable.

**4.32I** **Retirement Costs:** Retirement Costs shall mean, when used with respect to Retired Generation and Related Facilities and Properties under Section 44 or with respect to Extension Term Retirement Facilities and Properties under Section 45, the amounts payable with respect to the "asset retirement obligations" associated with the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, as determined pursuant to FAS 143 and consistent with the Section 44 Retirement Plan or the Extension Term Retirement Plan, as applicable. Such asset retirement obligations shall include, without limitation, all Retirement Actions. In determining such asset retirement costs, to the extent that FAS 143 requires that any probability be assigned to one or more elements of determining such costs (e.g., the degree of the decommissioning and remediation obligation and the potential costs for performing that obligation), a probability of 100% shall be assigned to the potential outcome that results in the highest potential asset retirement cost. The funds received from salvage of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, shall be credited as provided in FAS 143 for purposes of calculating the amount required to fund such asset retirement obligations.

**4.32J** **Second Amendatory Power Sales Contract Effective Date:** Second Amendatory Power Sales Contract Effective Date shall have the meaning set forth in Section 26 of the Second Amendatory Power Sales Contracts.

**4.32K** **Section 36 Facilities:** Section 36 Facilities shall mean rights, properties, facilities and appurtenances that pursuant to and as provided in Section 36 of the Power Sales Contracts are to be or have been sold, leased or otherwise made available by I.P.A. for the construction or operation of any generating unit or units, transmission facilities or other facilities or properties at the Project site that shall not be part of the Project.

**4.32L** **Section 36 Facilities Agreement:** Section 36 Facilities Agreement shall mean any agreement or arrangement pursuant to which I.P.A. sells, leases or otherwise makes available Section 36 Facilities in accordance with Section 36 of the Power Sales Contracts for any generating unit or units, transmission facilities or other facilities or properties located at the Project site but not constituting part of the Project.

**4.32M** **Section 44 Retirement Plan:** Section 44 Retirement Plan shall have the meaning set forth in Section 44.2 as added by the Second Amendatory Power Sales Contracts.

**4.34(A1)** **STS:** STS shall mean the Southern Transmission System.

**4.34F** **Transition Project Indebtedness:** Transition Project Indebtedness shall mean Bonds or other obligations issued by I.P.A. prior to June 16, 2027 that by their terms shall be scheduled to remain outstanding after June 16, 2027; provided that no such Transition Project Indebtedness shall be incurred or authorized on or prior to the Entitlement Determination Date (as defined in the Renewal Power Sales Contracts).

**4.34G** **Transmission Service Agreements:** Transmission Service Agreements shall have the meaning set forth in Section 45.1.7 as added by the Second Amendatory Power Sales Contracts.

**4.34H** **Transmission Support Facilities:** Transmission Support Facilities shall have the meaning set forth in Section 45.1.8 as added by the Second Amendatory Power Sales Contracts.

**5.** **ADDITION OF SECTION 44:** A new Section 44 is hereby added to the Power Sales Contract to read in its entirety as follows:

**44.** GAS REPOWERING OF PROJECT GENERATION:

**44.1** The gas repowering of the Generation Station shall constitute a Capital Improvement of the Project and shall include the construction and installation of two combined cycle power blocks, each with a design capacity of approximately 600 MW, provided that prior to the commencement of such construction and installation, a lesser design capacity for either or both of such combined cycle power blocks may be determined by the Coordinating Committee and the I.P.A. Board of Directors, subject, however, to the approval of the Renewal Contract Coordinating Committee under the Renewal Power Sales Contracts; and provided further that if, pursuant to the Renewal Power Sales Contracts, such design capacity shall be reduced as a result of the termination of any one or more of the Renewal Power Sales Contracts, then the design capacity, as set forth above, shall be reduced as provided in the Renewal Power Sales Contracts, subject to any further reduction as provided hereunder. Such combined cycle power blocks shall replace the existing generating units and related facilities and properties of the Project. Each such power block includes natural gas-fired combustion turbine generating units, four heat recovery steam generators and two steam turbines, heat exchangers, zero liquid discharge systems and all equipment and facilities ancillary to such combined cycle power blocks including the potential use of mechanical draft cooling towers, re-circulating water system, and auxiliary cooling water; provided that upon authorization by the Coordinating Committee and the I.P.A. Board of Directors (i) one of such

combined cycle power blocks may be modified to include the existing steam turbine generator, or (ii) an addition to such combined cycle power blocks and related facilities may be installed consisting of selective catalytic reduction pollution control systems and related facilities for such combined cycle power blocks. The construction and installation of such combined cycle power blocks and all related equipment and facilities (including any modification or addition authorized as set forth above) are herein referred to as the "Gas Repowering". Upon the effectiveness of an Alternative Repowering, if any, in accordance with Section 44.6 of the Power Sales Contracts, (a) as used in this contract, the term "Gas Repowering" shall mean such Alternative Repowering, and (b) without the need for consent of Purchaser (other than the affirmation, if any, of Purchaser's representative that may be necessary for the Coordinating Committee or the Renewal Contract Coordinating Committee to take action to approve the revising of this contract as described in the remainder of this Section 44.1), this contract shall be revised to the extent determined by I.P.A, the Coordinating Committee and the Renewal Contract Coordinating Committee to be necessary to describe such Alternative Repowering as the source or sources of electric generation for the Project (the resulting revisions being the "Alternative Repowering Revisions").

**44.2** The Gas Repowering shall include the decommissioning and retirement from service of the then existing Project generating units and related facilities and properties that are replaced by or otherwise become no longer useful due to the construction or operation of the Gas Repowering, except to the extent that any such then existing generating unit or units and related facilities and properties shall constitute Section 36 Facilities and shall have been or are to be authorized by the I.P.A. Board of Directors and the Coordinating Committee to be sold, leased or otherwise made available for the construction or operation at the Project site of a generating unit or units, transmission facilities or other facilities or properties pursuant to Section 36 of the Power Sales Contract that are not to be used for the generation or transmission of power pursuant to the Power Sales Contracts or the Renewal Power Sales Contracts. Such then existing generating unit or units and related facilities and properties (exclusive of any Section 36 Facilities) to be so replaced or no longer used as part of the Project shall be decommissioned and retired and are herein referred to as "Retired Generation and Related Facilities and Properties". The decommissioning and retirement of the Retired Generation and Related Facilities and Properties shall be performed consistent with Prudent Utility Practice and shall include (i) closure, dismantlement, salvaging and disposal of structures, equipment and facilities, (ii) remediation and reclamation of the affected Project site, including the on-site combustion by-product landfill, the bottom ash and recycling basins, the coal pile and the runoff and wastewater basins, all in compliance with applicable environmental and safety laws and regulations, and (iii)

performance of site reclamation and restoration obligations under applicable property agreements and under permits and licenses by governmental agencies, all as and to the extent approved by the I.P.A. Board of Directors and the Coordinating Committee as constituting part of the Gas Repowering; provided that the Retired Generation and Related Facilities and Properties shall exclude any Section 36 Facilities. The Gas Repowering shall not proceed without a plan (the "Section 44 Retirement Plan") for performing all Retirement Actions and paying all Retirement Costs related to the Retired Generation and Related Facilities and Properties that shall have been approved by the I.P.A. Board of Directors and the Coordinating Committee. The performance of the Section 44 Retirement Plan shall constitute an obligation under the Power Sales Contracts. In the event that the Retirement Actions with respect to any of the Retired Generation and Related Facilities and Properties shall not have been completed by the Transition Date (as defined in the Renewal Power Sales Contracts), such Retirement Actions shall be continued and completed as shall be provided under the Renewal Power Sales Contracts and the amounts then estimated by I.P.A. to be required to pay Retirement Costs to complete such Retirement Actions shall be reserved by I.P.A. and applied to the Retirement Costs of such completion, all as shall be provided under the Renewal Power Sales Contracts.

**44.3** The Gas Repowering shall be undertaken by I.P.A. as a Capital Improvement in accordance with the Power Sales Contracts. I.P.A. and the Coordinating Committee, respectively, shall take the necessary action under and pursuant to the Power Sales Contracts so that the permitting, construction and installation of the Gas Repowering shall commence not later than January 1, 2020, so that the Gas Repowering shall be fully completed and in operation not later than July 1, 2025. Upon completion of its construction and testing each combined cycle power block of the Gas Repowering shall commence operation to supply the electric power generation of the Project in replacement of the then existing generating units and related facilities and properties, and I.P.A. shall cause the Description of the Project in Appendix C to each of the Power Sales Contracts to be revised to provide for such combined cycle power blocks and related equipment and facilities of the Gas Repowering as constituting the Generation Station of the Project in replacement of such existing generating units and related facilities and properties.

**44.4** It is intended by the Parties that this Second Amendatory Power Sales Contract be subject to the acceptance by the Purchasers of the Renewal Offer so that all the required Generation Entitlement Shares are purchased in accordance with the Renewal Power Sales Contracts entered into by Purchasers. Accordingly, notwithstanding anything to the contrary in this Second Amendatory Power Sales Contract or otherwise in the Power Sales Contracts, this Second Amendatory Power Sales Contract shall terminate, without any further action by the Parties, on the final date for acceptance

of the Renewal Offer by Purchasers if the Renewal Offer shall not then have been accepted by Purchasers so that the Renewal Power Sales Contracts providing for one hundred percent (100%) of the Generation Entitlement Shares shall not then have been entered into and shall not be effective in accordance with the terms of the Renewal Offer; provided that, the provisions of Section 46 of the Power Sales Contracts as added by the Second Amendatory Power Sales Contracts shall not terminate but shall survive and continue in force and effect.

**44.5** Unless otherwise approved by the Coordinating Committee, I.P.A. shall finance the Cost of Acquisition and Construction of the Gas Repowering by the issuance of its Bonds or other obligations constituting Transition Project Indebtedness. Such Cost of Acquisition and Construction shall include the Retirement Costs with respect to the Retired Generation and Related Facilities and Properties as provided in the Section 44 Retirement Plan.

**44.6** The Parties recognize that one or more modified versions of or alternatives to the Gas Repowering to provide for one or more sources of electric generation in addition to or in substitution, in whole or in part, for the Gas Repowering may be determined to provide increased benefits or to be otherwise advantageous for the Project (each such version or alternative being an "Alternative Repowering"). No action taken in furtherance of designing, permitting, installing, financing or constructing the Gas Repowering shall constitute a modification or alternative to the Gas Repowering for purposes of this Section 44.6. In the event an Alternative Repowering, if any, is approved by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee, as of the date of such approval, such Alternative Repowering (i) shall be effective, (ii) shall replace any prior plan for repowering the Project, (iii) shall constitute the source for electric generation for the Project and (iv) shall constitute a Capital Improvement approved by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee, but only if prior to the date by which construction of the initial combined cycle power block of the Gas Repowering is to commence as provided in Section 44.3 or such earlier date as determined by I.P.A. and the Coordinating Committee, such Alternative Repowering shall be in full compliance with the following:

**44.6.1** Such Alternative Repowering shall comply with all applicable laws, shall be authorized under the I.P.A. Organization Agreement and shall be capable of supplying the electric generation of the Project (as determined by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee);

**44.6.2** Such Alternative Repowering shall include the decommissioning and retirement from service of any units, facilities and properties (exclusive of any Section 36 Facilities) to be replaced or no longer

to be used as part of the Project due to the construction or operation of such Alternative Repowering, as provided with respect to such decommissioning and retirement under the Power Sales Contracts and Renewal Power Sales Contracts (as such may be amended from time to time);

**44.6.3** The construction, operation and maintenance of such Alternative Repowering shall be, after giving effect to the Alternative Repowering Revisions, permitted under the Power Sales Contracts, the Construction Management and Operating Agreement and the Renewal Power Sales Contracts (as such may be amended from time to time), and under other Project-related agreements, and such Alternative Repowering shall have received all required governmental regulatory approvals and other required consents or approvals (including all approvals required by Purchaser's governing bodies);

**44.6.4** The California Energy Commission shall have determined under applicable California law and regulations that the Renewal Power Sales Contracts of the California Purchasers, pursuant to which such Alternative Repowering shall provide, in whole or in part, the electric capacity and energy purchased under the Renewal Power Sales Contracts, shall be in compliance with the applicable California emission performance standards and any other applicable requirements; and

**44.6.5** The Alternative Repowering Revisions shall have been approved by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee simultaneous with or prior to the effectiveness of such Alternative Repowering and the Alternative Repowering Revisions shall be provided in writing to Purchaser.

**44.7** The Parties agree that, notwithstanding anything to the contrary in the foregoing provisions of this Section 44, in the event, as provided in Section 45.1, the Gas Repowering or an Alternative Repowering shall not be undertaken, the provisions set forth under Section 45 shall be applicable and shall be performed and complied with.

**6. ADDITION OF SECTION 45**: A new Section 45 is hereby added to read in its entirety as follows:

**45.** GAS REPOWERING NOT UNDERTAKEN:

**45.1** So long as no Transition Project Indebtedness shall be outstanding or any and all Transition Project Indebtedness and the interest thereon shall be defeased and deemed paid under the applicable Bond Resolution or other

security document, if I.P.A using its best commercial efforts shall be unable to undertake or cause the undertaking of the Gas Repowering (or an Alternative Repowering) as provided under Section 44 the Parties agree that, notwithstanding anything to the contrary in the Power Sales Contracts, the following shall occur and be performed:

**45.1.1** The Renewal Power Sales Contracts and the Excess Renewal Power Sales Agreement, respectively, shall terminate as shall be provided therein.

**45.1.2** Notwithstanding anything to the contrary in the Power Sales Contracts, the end of the term of the Power Sales Contracts on June 15, 2027 (or such later date that occurs pursuant to Section 26.1) shall be extended to the date on which the decommissioning and retirement of the Extension Term Retirement Facilities and Properties as provided in Section 45.1.3 shall be completed and paid for, but in no event later than January 1, 2032 (the term of such extension being referred to as the "Extension Term"). Such extension of the Power Sales Contracts for the Extension Term shall be for the sole purpose of performing the Retirement Actions with respect to the Extension Term Retirement Facilities and Properties as provided in this Section 45 and providing for the payment and collection of the Retirement Costs with respect to such Retirement Actions, and such Extension Term shall take place and shall be fully effective without any action on the part of the Purchaser or I.P.A..

**45.1.3** At the beginning of the Extension Term the decommissioning and retirement of the then existing Generation Station including related facilities, structures and properties, other than the Project Switchyard, and excluding any facilities to be used as Transmission Support Facilities under Section 45.1.8 (the "Extension Term Retirement Facilities and Properties") shall be undertaken by the Operating Agent under the Construction Management and Operating Agreement. Such decommissioning and retirement of the Extension Term Retirement Facilities and Properties shall be performed consistent with Prudent Utility Practice and shall include (i) closure, dismantlement, salvaging and disposal of structures, equipment and facilities, (ii) remediation and reclamation of the affected Project site, including the on-site combustion by-product landfill, the bottom ash and recycling basins, the coal pile and the runoff and wastewater basins, all in compliance with applicable environmental and safety laws and regulations, and (iii) performance of site reclamation and restoration obligations under applicable property agreements and under permits and licenses by governmental agencies, all as and to

the extent approved by the I.P.A. Board of Directors and the Coordinating Committee.

**45.1.4.** Not less than 90 days prior to January 1, 2024, a plan for performing all Retirement Actions and paying all Retirement Costs with respect to the Extension Term Retirement Facilities and Properties shall be prepared by the Operating Agent and shall be submitted to and approved by I.P.A. and the Coordinating Committee (the "Extension Term Retirement Plan"). The Operating Agent shall perform the Extension Term Retirement Plan or cause the Extension Term Retirement Plan to be performed in a manner consistent with Prudent Utility Practice. The performance of the Extension Term Retirement Plan, as well as performance otherwise provided for under this Section 45, shall constitute an obligation under the Power Sales Contracts.

**45.1.5** The Retirement Costs with respect to the Retirement Actions for the Extension Term Retirement Facilities and Properties shall be included in retirement facility budgets prepared by the Operating Agent for each of the Power Supply Years beginning with the Power Supply Year that commences immediately prior to January 1, 2024 and including each subsequent Power Supply Year to and including the Power Supply Year, or partial Power Supply Year, that ends at the beginning of the Extension Term. Each such retirement facility budget shall provide for payments by the respective Purchasers in amounts that shall be set aside in a separate reserve fund held by I.P.A. in escrow so that the amount of such reserve fund at the beginning of the Extension Term shall equal the amount required for the payment of all such Retirement Costs. Each of the Purchasers shall be furnished by I.P.A. with a separate monthly invoice for its share of such Retirement Costs as set forth in such retirement facility budget for each such Power Supply Year. The share of such Retirement Costs payable by each of the Purchasers for each such Power Supply Year shall be calculated as a fraction, which shall be expressed as a percentage, (i) the numerator of which shall be the total amount of energy (MWh) from the Generation Station purchased by such Purchaser pursuant to its Power Sales Contract during the entire term thereof up to the March 31 preceding the beginning of such Power Supply Year (exclusive, in the case of a Utah Purchaser, of the energy from the Generation Station sold by such Utah Purchaser during such period pursuant to the Excess Power Sales Agreement) plus, in the case of a California Purchaser that is a party to the Excess Power Sales Agreement, the total amount of energy (MWh) from the Generation Station purchased by such California Purchaser pursuant to the Excess Power Sales Agreement during the entire term thereof up to the March 31 preceding the beginning of such

Power Supply Year, and (ii) the denominator of which shall be the total amount of energy (MWh) from the Generation Station purchased by all the Purchasers during such periods as set forth in (i) above.

**45.1.6** Notwithstanding any other provision of this Section 45 to the contrary, if the Retirement Actions with respect to the Extension Term Retirement Facilities and Properties shall not have been completed by May 1, 2030, I.P.A. shall determine or cause an independent qualified consultant selected by it to determine, subject to the reasonable approval of the Coordinating Committee, the Retirement Costs with respect to such uncompleted Retirement Actions, including, without limitation, any Retirement Actions to be performed after the termination of the Extension Term. The Parties shall use commercially reasonable efforts to cause the completion of all Retirement Actions that can reasonably be performed with respect to the Extension Term Retirement Facilities and Properties prior to the termination of the Extension Term. In the event that such Retirement Costs with respect to such uncompleted Retirement Actions shall exceed the amount then held in the reserve fund under Section 45.1.5, the amount of such excess shall be budgeted and be invoiced to and payable by Purchasers for deposit in such reserve fund in the same manner as provided in Section 45.1.5. Upon completion of all Retirement Actions with respect to the Extension Term Retirement Facilities and Properties and payment of all the Retirement Costs with respect to such Retirement Actions, any amount remaining in such reserve fund shall be returned to the Purchasers pro rata in accordance with their respective payments into such reserve fund under this Section 45.

**45.1.7** I.P.A. hereby agrees that within 90 days following January 1, 2024 it will commence offers to the Purchasers, of entitlements which shall constitute rights (expressed as percentages) to use the operating capabilities as measured in MWs (the "Capacity") of the STS, the NTS and the Project Switchyard, respectively. The rights to the Capacity of the STS shall be offered to the California Purchasers in accordance with their respective rights to Capacity in the STS as then existing under the Power Sales Contracts. The Utah Purchasers shall be offered rights to forty percent (40%) of the Capacity of the NTS in accordance with their respective rights to Capacity of the NTS as then existing under the Power Sales Contracts. The California Purchasers shall also be offered rights to the remaining sixty percent (60%) of the Capacity of the NTS in accordance with their respective rights in the STS as then existing under the Power Sales Contracts. Each of the California Purchasers and each of the Utah Purchasers shall be offered rights

to the Capacity of the Project Switchyard in the proportion that the total Capacity of the STS and the NTS as accepted by such Purchaser pursuant to the offer as above provided bears to the total Capacity of the STS and the NTS as then existing under the Power Sales Contracts. If upon receipt by I.P.A. of the acceptances of such offers, there shall be any remaining unaccepted Capacity in any of the STS, the NTS or the Project Switchyard, the rights to such unaccepted Capacity in the STS, the NTS and the Project Switchyard, respectively, shall thereupon be offered by I.P.A. to those Purchasers that have accepted offers of Capacity in the STS, the NTS and the Project Switchyard, respectively, beginning with such Purchaser with the highest percentage of accepted Capacity rights in the STS, the NTS or the Project Switchyard, respectively, and continuing with such Purchasers in descending order of values of the accepted Capacity rights therein so long as there shall be unaccepted Capacity therein. The Transmission Service Agreements described herein below shall contain provision for the further allocation of any unaccepted capacity in the STS, the NTS or the Project Switchyard, respectively, remaining after all such offers by I.P.A. shall be completed. Utilization of such Capacity rights by such Purchasers shall commence upon the beginning of the Extension Term and the terms and conditions of such utilization, including the billings to each such Purchaser for its share of the costs of the operation and maintenance of the STS, the NTS and Project Switchyard, respectively, which shall be equal to its rights to the capacity of the STS, the NTS and the Project Switchyard, as applicable, shall be set forth in Transmission Service Agreements which shall be entered into by I.P.A. with each of the Purchasers accepting such offers of Capacity rights in the STS, the NTS or the Project Switchyard as provided above (the "Transmission Service Agreements"). The term of the Transmission Service Agreements shall begin on the effective date thereof and shall end on the earlier of June 15, 2077 or the final retirement date of all of the STS, NTS and the Project Switchyard. The terms and provisions of the Transmission Service Agreements, subject to the provisions of this Section 45, shall be substantially the same as the applicable provisions of the Renewal Power Sales Contracts with respect to the STS, the NTS and the Project Switchyard, including, without limitation, provisions with respect to administration, charges and billing, payment obligations, rate covenants, utilization and service, pledge of payments, capital improvements and expansion, project indebtedness, adjustments due to excess proceeds of project indebtedness, default, liability, restrictions on disposition, assignment of contract, retirement reserve, retirement of the STS, the NTS and the Project Switchyard and any associated Transmission Support Facilities, retained

facilities, term of contract, contract subject to bond resolution, covenant to comply with bond resolution, severability, termination or amendment, governing law, arbitration, notices, insurance, and the use of rights, properties facilities and appurtenances in connection with the construction, operation and use at the Project site of additional generating or transmission facilities, or other facilities and properties associated therewith. The Transmission Service Agreements shall be subject to the approval of the I.P.A. Board of Directors and by the Coordinating Committee.

**45.1.8** Promptly after January 1, 2024, the Operating Agent shall cause a feasibility study to be undertaken to identify any additional facilities that shall be needed to support the operations of the STS, the NTS or the Project Switchyard (the "Transmission Support Facilities") so that the transfer capability of the STS, the NTS or the Project Switchyard, respectively, shall be in accordance with the design Capacity thereof. The I.P.A. Board of Directors and the Coordinating Committee shall each have the responsibility of approving such Transmission Support Facilities. The acquisition, construction and installation of such facilities shall be financed by I.P.A., in accordance with the Transmission Service Agreements, except to the extent costs thereof shall be payable pursuant to monthly billings under the Transmission Service Agreements, all as shall be provided for under the Transmission Service Agreements. The Operating Agent shall cause the acquisition, construction and installation of the Transmission Support Facilities so that the same shall be completed and capable of commercial operation no later than the commencement of the Extension Term. The Transmission Support Facilities shall be part of the STS, NTS and Project Switchyard, respectively, and shall be included under the Transmission Service Agreements. Costs of operation and maintenance, including any applicable debt service, of the Transmission Support Facilities that provide operational support for the STS, the NTS or the Project Switchyard, respectively, shall be in addition to such costs of the STS, the NTS, or the Project Switchyard, as applicable. Such costs with respect to Transmission Support Facilities providing operational support for the STS, the NTS or the Project Switchyard, respectively, including any costs of acquisition, construction and installation payable pursuant to monthly billings, shall be payable by those Purchasers that enter into Transmission Service Agreements and (i) in the case of the Transmission Support Facilities providing operational support for the STS, such payments shall be by each California Purchaser in accordance with its rights to the STS Capacity under its Transmission Service Agreement, (ii) in the case of the Transmission Support Facilities providing operational support for the NTS, such payments shall be by each Utah

Purchaser and each California Purchaser in accordance with its respective rights to NTS Capacity under its Transmission Service Agreement, and (iii) in the case of any Transmission Support Facilities providing operational support for the Project Switchyard, such payments shall be by each Purchaser in accordance with its rights to the Project Switchyard Capacity under its Transmission Service Agreement. If and to the extent the Transmission Support Facilities shall include any generation unit or facilities providing operational support for the STS, the NTS or the Project Switchyard, as the case may be, unless otherwise arranged pursuant to the Transmission Service Agreements, the energy output thereof shall be delivered to and shall be accepted and paid for by such Purchasers that enter into Transmission Service Agreements in accordance with their respective proportionate shares of the costs of such Transmission Support Facilities providing such operational support for the STS, the NTS or the Project Switchyard, respectively, as provided above.

**7. ADDITION OF SECTION 33.3**: A new Section 33.3 is hereby added to the Power Sales Contract to read in its entirety as follows:

**33.3** I.P.A. hereby agrees that within 45 days following the Second Amendatory Power Sales Contract Effective Date it will commence the initial offer to all the Purchasers by I.P.A. under this Section 33. Such initial offer shall be in substantially the form set forth in Exhibit A to this Second Amendatory Power Sales Contract, including as part of such offer the forms of Offer Letter, Offer Acceptance, and the Renewal Power Sales Contract including the Excess Renewal Power Sales Agreement as Appendix D thereto. The offer by I.P.A. pursuant to this Section 33 shall be made in accordance with the provisions of such Renewal Power Sales Contract with respect to the Renewal Offer (as defined in such Renewal Power Sales Contract) and such offer is herein referred to as the "Renewal Offer". In addition, as provided in the Renewal Power Sales Contract, each Utah Purchaser accepting the Renewal Offer shall be provided with an election to enter into the Excess Renewal Power Sales Agreement. Purchaser acknowledges that the compliance by I.P.A. with the provisions of this Section 33.3 shall satisfy I.P.A.'s obligations under Sections 33.1 and 33.2 of the Power Sales Contract.

**8. ADDITION OF SECTION 36.3:** A new Section 36.3 is hereby added to the Power Sales Contract to read in its entirety as follows:

**36.3** For the avoidance of doubt, the generating units and related facilities and properties that are replaced by the Gas Repowering include Project rights, properties, facilities and appurtenances that may be used or useful as

Section 36 Facilities as provided in this Section 36 in connection with the construction and operation at the Project site of units, facilities and properties which will not be part of the Project.

**9. AMENDMENT OF SECTION 4.7:** Section 4.7 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**4.7** **Capital Improvements:** All renewals or replacements of or repairs, additions, improvements, modifications or betterment to the Project which are (i) consistent with Prudent Utility Practice and determined necessary by the Coordinating Committee to keep the Project in good operating condition or to prevent a loss of revenue therefrom, (ii) required by any governmental agency having jurisdiction over the Project, (iii) required by the Construction Management and Operating Agreement, or (iv) required by the Bond Resolution; provided, however, that Capital Improvements shall not include any generating unit added to the Project in addition to those included in the Project which shall continue to generate electric capacity and energy of the Project. For the avoidance of doubt, the Gas Repowering as described under Section 44 shall constitute a Capital Improvement.

**10. AMENDMENT OF SECTION 4.9**: Section 4.9 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**4.9** **Construction Management and Operating Agreement**: The Intermountain Power Project Construction Management and Operating Agreement, dated as of September 12, 1980, by and between the Department of Water and Power of the City of Los Angeles and I.P.A. relating to the construction and operation of the Project, as heretofore amended and as hereafter amended and supplemented in conformity with the provisions of the Power Sales Contracts.

**11. AMENDMENT OF SECTION 4.10.4:** Section 4.10.4 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**4.10.4** To the extent not included in Monthly Power Costs, the acquisition of resources, facilities and supplies for fuel, fuel transportation or transmission and water for the generating facilities of the Project, and working capital and reserves therefor.

**12. AMENDMENT OF SECTION 4.22.1.3:** Section 4.22.1.3 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**4.22.1.3** One-twelfth of the amount (not otherwise included under any item in this Section 4.22.1 or in Section 4.22.2) which I.P.A. is required under the Bond Resolution to pay or deposit during such Power Supply Year into any other fund or account established by the Bond Resolution, and shall include, without limitation, amounts to provide for the retirement or reclamation of the Project or components of the Project, and any amounts required to make up a deficiency in any fund required or permitted by the Bond Resolution, whether or not resulting from a default in payments by any Purchaser of amounts due under any Power Sales Contract.

**13. AMENDMENT OF SECTION 4.22.1.4:** Section 4.22.1.4 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**4.22.1.4** One-twelfth of the costs of producing and delivering capacity and energy during such Power Supply Year, including, but not limited to water costs, other ordinary operation and maintenance costs, administrative and general costs, insurance costs (including amounts to fund any self-insurance program), overhead costs and any other costs payable by I.P.A. in connection with the output of the Project or related to the conducting of the business of I.P.A. with respect to the Project including personnel compensation, fees for legal, engineering, financial and other services expenses of members of the I.P.A. Board of Directors incurred in connection with attendance at meetings of the I.P.A. Board of Directors or any committee thereof and meetings of the Coordinating Committee and all other expenses properly related to the conduct of such affairs of I.P.A.; provided, however, that minimum costs included under this Section 4.22.1.4 shall with respect to fuel costs include only the fixed costs of fuel as follows:

**4.22.1.4.1** The cost of the coal or natural gas, as applicable, associated with Zero Net Load.

**4.22.1.4.2** The total cost of all transportation of coal or transmission of natural gas, as applicable.

**4.22.1.4.3** The labor and labor loading expenses for fuel handling.

**4.22.1.4.4** The cost of fuel oil delivered to the plant site.

**4.22.1.4.5** The cost of ash disposal including labor and labor loading expenses less any proceeds from the sale of residuals.

**4.22.1.4.6** The cost associated with increasing the coal stockpile or, in the case of natural gas, the cost associated with providing or increasing any natural gas storage.

**4.22.1.4.7** The cost associated with contract payments under minimum or guaranteed payment provisions which are determined by the Coordinating Committee to constitute fixed costs of fuel included in the minimum cost component.

**14. AMENDMENT OF SECTION 6.2.19:** Section 6.2.19 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**6.2.19** With respect to any Bonds issued pursuant to the provisions of the Bond Resolution, other than those referred to in Section 6.2.24, make recommendations to I.P.A., in a timely manner, with respect to (i) each supplement to the Bond Resolution, (ii) the contract of purchase under which each series of Bonds is to be sold, (iii) the selection of managing underwriters for each series of Bonds, (iv) the manner and timing of marketing and amounts of each series of Bonds and (v) the manner and timing of marketing and amounts of notes or other evidences of indebtedness issued in anticipation of the issuance of Bonds.

**15. AMENDMENT OF SECTION 6.2.22:** Section 6.2.22 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**6.2.22** Make recommendations with respect to, and review and approve the revisions by I.P.A. of the Description of the Project which revisions shall be in accordance with Prudent Utility Practice, and I.P.A. shall cause Appendix C to be revised to reflect such revisions, provided, however, that such revisions shall not change the aggregate Maximum Generating Capability of the Generation Station unless such change shall have received the prior approval of the Coordinating Committee.

**16. AMENDMENT OF SECTION 6.2.24:** Section 6.2.24 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**6.2.24** With respect to any Bonds or other obligations the issuance of which requires the authority of the amendments effected under the First Supplemental Resolution or any Bonds or other obligations to be issued to finance or refinance the Gas Repowering as provided under Section 44.5, (A) approve the terms and provisions of each supplement to the Bond Resolution or other instrument authorizing the issuance or sale of or providing the security for any such Bonds or obligations and the contract of purchase under which such Bonds or other obligations are to be sold and, (B) with respect thereto, make recommendations to I.P.A., in a timely manner, with respect to (i) the selection of the managing underwriters for each such issuance and the selection of any independent engineer to provide services in connection with such issuance and (ii) the manner and

timing of marketing of such Bonds or other obligations. The above recommendations made pursuant to this Section 6.2.24 shall not be legally binding on I.P.A. and in the event that the Coordinating Committee fails to make such recommendations, action by I.P.A. with respect to the matters covered by clause (B) above shall not be precluded.

**17. AMENDMENT OF SECTION 29.1.1:** Section 29.1.1 of the Power Sales Contract is hereby amended to read as follows:

**29.1.1** Intermountain Power Agency
c/o General Manager
10653 South River Front Parkway, Suite 120
South Jordan, Utah 84095

**18. AMENDMENT OF SECTION 33.1:** Section 33.1 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**33.1** I.P.A hereby agrees that its existence as a political subdivision has been extended beyond June 15, 2027, and I.P.A. agrees to continue to operate the Project as an electric generating station and/or an electric transmission system, and agrees, if and to the extent then permitted by applicable law, to offer to all the Purchasers participation in the rights and benefits of the Project or such operating part thereof in proportion to their respective entitlements then existing under the Power Sales Contracts. Any such future participation shall be on substantially the terms and provisions provided in the form of Renewal Power Sales Contract included in Exhibit A to this Second Amendatory Power Sales Contract.

**19. AMENDMENT OF SECTION 36.2:** Section 36.2 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**36.2** I.P.A. may, with the approval of the Coordinating Committee, sell, lease, dispose of or otherwise make available such rights, properties, facilities and appurtenances for such construction or operation of other units, facilities or properties at the Project site; provided, however, such sale, lease, disposition or availability arrangement shall comply with all laws and governmental regulations applicable to I.P.A. or to any Purchaser, and shall not have a material adverse effect on the revenues or operations of I.P.A. or any Purchaser; and provided further that no such sale, lease, disposition or availability arrangement shall interfere with the construction and operation of the Project or adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Bonds issued or to be issued by I.P.A. No such arrangement shall be entered into unless I.P.A. shall receive fair value therefor, as determined

by I.P.A. and the Coordinating Committee, and all amounts received shall be credited against Cost of Acquisition and Construction or Monthly Power Costs, as appropriate, pursuant to the Power Sales Contracts. Section 36 Facilities Agreements providing for such an arrangement with respect to the availability, transfer and use of such rights, properties, facilities and appurtenances may be entered into by I.P.A., upon approval of the Coordinating Committee, with an entity or entities, including, without limitation, one or more members of I.P.A. or any entity formed under the Act which includes one or more members of I.P.A. I.P.A. shall use its reasonable efforts to enter into such Section 36 Facilities Agreements pursuant to this Section 36 to provide for, among other matters, the selling, leasing and/or making available to the other parties to such Section 36 Facilities Agreements of the property, rights, equipment and facilities that are required for the proper and economic use or operation of facilities that are not to be used for the generation or transmission of power pursuant to the Renewal Power Sales Contracts.

**20. AMENDMENT OF SECTION 14.2:** Section 14.2 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**14.2** Additional Bonds may be issued by I.P.A. in accordance with the Power Sales Contracts and the provisions of the Bond Resolution at any time and from time to time in the event funds are required for the purpose of financing the Cost of Acquisition and Construction of a Capital Improvement; and at the request of the Coordinating Committee, I.P.A. shall use its best efforts to issue such Bonds.

**21. ADDITION OF SECTION 46:** A new Section 46 is hereby added to the Power Sales Contract to read in its entirety as follows:

**46.** AMENDMENTS RELATED TO TERMINATION OF PACIFICORP'S PARTICIPATION IN THE PROJECT; INCREASE OF LOS ANGELES' GENERATION ENTITLEMENT AND COST GENERATION SHARES.

**46.1** The Purchaser hereby acknowledges and consents (i) to the PacifiCorp Final Amendatory Contract providing for the reduction of PacifiCorp's 4% Generation Entitlement Share to 0% and the reduction of PacifiCorp's 4% Generation Cost Share to 0% and, as a consequence, to the termination of the PacifiCorp Power Sales Contract, and (ii) to the increase from 44.617% to 48.617% (an increase of 4%) of Los Angeles' Generation Entitlement Share and the increase from 44.617% to 48.617% (an increase of 4%) of Los Angeles' Generation Cost Share. Effective on the Second Amendatory Power Sales Contract Effective Date, the Generation Entitlement Shares and the Generation Cost Shares of each respective Purchaser, and its Southern Transmission Cost Share or Northern

Transmission Cost Share , as applicable, shall be as set forth in Appendix A to the Power Sales Contracts as attached to this Second Amendatory Power Sales Contract, and the Generation Entitlement Share to be delivered and the Delivery Point and Delivery Voltage KV-AC of each respective Purchaser on the Southern Transmission System or Northern Transmission System, as applicable, shall be as set forth in Appendix B to the Power Sales Contracts as attached to this Second Amendatory Power Sales Contract. For the avoidance of doubt, effective upon the Second Amendatory Power Sales Contract Effective Date, for the purposes of Section 5.7 of the Power Sales Contracts, the billings by I.P.A. for Monthly Power Costs for the then current Power Supply Year with respect to PacifiCorp's 4% Generation Cost Share and the 4% increase of Los Angeles' Generation Cost Share shall be treated as billings paid by Los Angeles.

**46.2** The Parties acknowledge that (i) the payment and defeasance of the 1982 Outstanding Bonds have taken place and the Generation Entitlement Share and Generation Cost Share of each of the Purchasers has been adjusted, all as provided for in Section 31 of the Power Sales Contracts, (ii) due to such payment and defeasance of the 1982 Outstanding Bonds and as a result of such adjustments referred to in (i) above, the Northern Transmission System entitlements and Northern Transmission Cost Shares and the Southern Transmission System entitlements and Southern Transmission Cost Shares, of the Purchasers, respectively, shall be adjusted in accordance with Section 10 of the Power Sales Contracts, and (iii) effective on the Second Amendatory Power Sales Contract Effective Date, the 4% PacifiCorp Generation Entitlement Share and the PacifiCorp 4% Generation Cost Share are each reduced to 0% with a corresponding increase of 4% of Los Angeles' Generation Entitlement Share and its Generation Cost Share. Accordingly and as a result of the foregoing, the provisions of the Power Sales Contract set forth below are hereby amended as follows:

**46.2.1** Each of the following Sections of the Power Sales Contract identified below shall be deleted in its entirety:

Section 4.7A Contract Generation Cost Share

Section 4.7B Contract Generation Entitlement Share

Section 4.17A Layoff Power Purchase Contract

Section 4.17B Layoff Power Purchaser

Section 4.32A Recomputed Northern Transmission Cost Share

Section 4.32B Recomputed Southern Transmission Cost Share

Section 4.34B Supplemental Northern Transmission Cost Credit

Section 4.34C Supplemental Northern Transmission Cost Share

Section 4.34D Supplemental Southern Transmission Cost Credit

Section 4.34E Supplemental Southern Transmission Cost Share

Section 4.36A UP&L

Section 31 Refunding of 1982 Outstanding Bonds and Modifications of Generation Entitlement and Cost Shares

Section 39.1 Transmission Service

Section 41 Use of Southern Transmission System by Lay-off Power Purchasers; Payment of Certain Costs of Southern Transmission System

Section 42 Use of Northern Transmission System by Lay-off Power Purchasers; Payment of Certain Costs of Northern Transmission System

**46.2.2** Appendix A shall be replaced by the Appendix A attached hereto setting forth for each Purchaser its Generation Cost Share and Generation Entitlement Share and its Northern Transmission Cost Share and Southern Transmission Cost Share; and Appendix B shall be replaced by the Appendix B attached hereto setting forth for each Purchaser its Generation Entitlement Share to be delivered and its Delivery Point and Delivery Voltage KV-AC.

**46.2.3** Appendix D and Appendix E shall each be deleted.

**46.2.4** Each of the following Sections shall be revised or amended as follows:

(i) In Section 4.3, Section 4.20 A and paragraph C.2.1 of Appendix C, "UP&L" where it appears shall be replaced by "PacifiCorp".

(ii) Section 4.33 shall be amended to read in its entirety as follows:

<u>Southern Transmission Cost Share</u>: For any Power Supply Year and as to any particular Purchaser, the share (expressed as to percentage) set forth in Appendix A attributable to such Purchaser with respect to costs associated with the Southern Transmission System. Each Purchaser's Southern Transmission Cost Share is determined by dividing that portion of such

Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at points of delivery on the Southern Transmission System by the aggregate of those portions of all Purchasers' Generation Entitlement Shares specified in Appendix B to be delivered at Points of Delivery on the Southern Transmission System; provided that for the purposes of determining the Southern Transmission Cost Share the Generation Entitlement Share of Los Angeles shall exclude the 4% increase thereof provided in Section 46.1, as added by the Second Amendatory Power Sales Contract.

(iii) In Section 4.36C the provision "(other than UP&L)" shall be deleted.

(iv) In Section 6.1 the provision "(iii) one representative appointed by UP&L," shall be deleted and clauses (iv) and (v) shall be renumbered to (iii) and (iv), respectively, and the subsequent references to such clauses (iv) or (v) shall be revised to (iii) or (iv), respectively; and the last sentence of Section 6.1 shall be deleted and replaced by the following: "As used herein, the term Voting Rights shall mean at any particular time with respect to a Purchaser, such Purchaser's Generation Entitlement Share in effect at such time under its Power Sales Contract."

(v) Section 10.1 shall be amended to read in its entirety as follows:

Each Purchaser shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Southern Transmission System Such entitlement shall constitute a right to capacity in the Southern Transmission System and shall be determined by dividing (i) the sum of that portion of such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at Points of Delivery on the Southern Transmission System, by (ii) the sum of the aggregate of those portions of all Purchasers' Generation Entitlement Shares specified in Appendix B to be delivered at Points of Delivery on the Southern Transmission System; provided that for the purposes of this Section 10.1 the Generation Entitlement Share of Los Angeles shall exclude the 4% increase thereof provided in Section 46.1, as added by this Second Amendatory Power Sales Contract.

(vi) Section 10.2 shall be amended to read in its entirety as follows:

Each Purchaser shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Northern Transmission System. Such entitlement shall constitute a right to capacity in the Northern Transmission System and shall determine by dividing (i) the sum of that portion of such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at Points of Delivery on the Northern Transmission System, if any, by (ii) the sum of the aggregate of those portions of all Purchasers' Generation Entitlement Shares specified in Appendix B to be delivered at Points of Delivery on the Northern Transmission System of all such Purchasers.

(vii) Section 10.3 shall be amended to read in its entirety as follows:

If it is necessary to curtail scheduled power flows over all or any part of either the Southern Transmission System or the Northern Transmission System, each affected Purchaser shall be allocated a portion of the transmission capabilities remaining in service in the ratio that such Purchaser's Generation Entitlement Share scheduled over such affected transmission system or part thereof bears to the Generation Entitlement Shares scheduled over such affected transmission system or part thereof of all affected Purchasers; provided that for the purposes of this Section 10.3 the Generation Entitlement Share of Los Angeles shall exclude the 4% increase thereof provided in Section 46.1, as added by this Second Amendatory Power Sales Contract.

**22. ADDITION OF SECTION 47:** A new Section 47 is hereby added to the Power Sales Contract to read in its entirety as follows:

**47.** EARLY TERMINATION RIGHTS OF CERTAIN PURCHASERS:

**47.1** Any Utah Purchaser that does not accept the Renewal Offer provided pursuant to Section 33 shall have the right to terminate its Power Sales Contract upon the commercial operation of the combined cycle power blocks of the Gas Repowering following the completion of construction and testing thereof; provided that the effectiveness of the termination of the Power Sales Contract of such Utah Purchaser shall be subject to the occurrence of and compliance with the following:

**47.1.1** The taking of action by I.P.A. and the Coordinating Committee which authorizes the undertaking of the Gas Repowering to commence prior to January 1, 2020;

**47.1.2** The delivery by such Utah Purchaser within thirty (30) days following the action taken by I.P.A. and the Coordinating Committee as set forth in Section 47.1.1 of notice to I.P.A. of the exercise of the right to terminate its Power Sales Contract (copies of such notice to be furnished by I.P.A. to the other Purchasers);

**47.1.3** Any and all governmental regulatory approvals, consents and authorizations required or necessary for the termination of the Power Sales Contract of such Utah Purchaser shall have been obtained by such Utah Purchaser, as confirmed by a legal opinion reasonably acceptable to I.P.A. of counsel to such Utah Purchaser;

**47.1.4** No Bonds or other obligations of I.P.A., other than the Transition Project Indebtedness issued to finance the Gas Repowering, shall be outstanding upon the effectiveness of the termination of the Power Sales Contract of such Utah Purchaser;

**47.1.5** A determination shall be made by I.P.A. that each of the following shall comply with the terms of the Bond Resolution, or other resolution, under which the Transition Project Indebtedness to finance the Gas Repowering shall have been issued: (i) the termination of such Utah Purchaser's Power Sales Contract, (ii) the allocation as provided in Section 47.2 of such Utah Purchaser's Generation Entitlement Share and Generation Cost Share, respectively, among one or more of the Utah Purchasers whose Power Sales Contracts are not to be terminated pursuant to this Section 47 and the California Purchasers (each of such Purchasers, a "Remaining Purchaser" and, collectively, the "Remaining Purchasers"), including the corresponding increases as provided by Section 47.2 of the Generation Entitlement Shares and Generation Cost Shares of one or more of the Remaining Purchasers; and (iii) the reallocation pursuant to Section 10 of the Power Sales Contracts (as a result of the allocation pursuant to Section 47.2 referred to in (ii) above) of the Northern Transmission System entitlements and cost shares and, if applicable, of the Southern Transmission System entitlements and cost shares among the Remaining Purchasers;

**47.1.6** The increase of the Generation Entitlement Share and the Generation Cost Share, respectively, of the Remaining Purchasers to the extent provided by Section 47.2 shall be in compliance with all applicable laws and governmental regulations, and shall not have a material adverse effect on the revenues or operations of any Remaining Purchaser, all as shall be confirmed by a legal opinion reasonably acceptable to I.P.A. of counsel to each Remaining Purchaser; and

**47.1.7** The reallocation, if any, of the Southern Transmission System entitlement and cost shares pursuant to Section 10 of the Power

Sales Contracts among those Remaining Purchasers that are California Purchasers and any effect that any such reallocation may have on the transmission service entitlement and cost shares of such California Purchasers under the applicable contractual arrangements of Southern California Public Power Authority ("SCPPA") relating to the Southern Transmission System with I.P.A., each of such California Purchasers, and the trustee under the indenture securing the bonds issued by SCPPA to finance its payments-in-and-of construction for the Southern Transmission System, shall, in each case, be determined by SCPPA to be permitted by and in compliance with such contractual arrangements.

**47.2** Upon the termination of the Power Sales Contract of any Utah Purchaser becoming fully effective in accordance with Section 47.1 (such Utah Purchaser whose Power Sales Contract is so terminated being a "Terminating Utah Purchaser"), the Generation Entitlement Share and Generation Cost Share, respectively, of such Terminating Utah Purchaser (such Generation Entitlement Share and Generation Cost Share being, collectively, a "Terminating Utah Purchaser's Share") shall be reduced and allocated among one or more of the Remaining Purchasers as follows:

**47.2.1** I.P.A. shall allocate to each of the Remaining Purchasers who is a Utah Purchaser who elects in writing by notice to I.P.A. (copies of such notice to be furnished by I.P.A. to the other Purchasers), within thirty (30) days of such electing Utah Purchaser's receipt of the notice described in Section 47.1.2 (the "Election Period"), to receive the allocation of all or a portion of the Terminating Utah Purchaser's Share (each such Remaining Purchaser who so elects being, individually, an "Electing Utah Purchaser" and, collectively, the "Electing Utah Purchasers") as reflected in an agreement among the Electing Utah Purchasers delivered to I.P.A. within ten (10) days of the expiration of the Election Period.

**47.2.2** If no agreement described in Section 47.2.1 is delivered as provided in Section 47.2.1, then I.P.A. shall allocate to each of the Electing Utah Purchasers, that portion of the Terminating Utah Purchaser's Share, calculated by multiplying the Terminating Utah Purchaser's Generation Entitlement Share and Generation Cost Share, respectively, by a fraction the numerator of which shall be such Electing Utah Purchaser's respective Generation Entitlement Share and Generation Cost Share, and the denominator of which shall be the sum of the respective Generation Entitlement Shares and Generation Cost Shares of all Electing Utah Purchasers.

**47.2.3** If, after giving effect to Sections 47.2.1 and 47.2.2, the Electing Utah Purchasers have elected to receive the allocation of less than one hundred percent (100%) of the Terminating Utah Purchaser's

Share, then I.P.A. shall allocate the portion of the Terminating Utah Purchaser's Share not allocated pursuant to Sections 47.2.1 and 47.2.2, among the Remaining Purchasers so as to increase the Generation Entitlement Share and Generation Cost Share, respectively, of each Remaining Purchaser by that portion of such Utah Purchaser's terminated Generation Entitlement Share and Generation Cost Share, respectively, calculated by multiplying such terminated Generation Entitlement Share and Generation Cost Share, respectively, by a fraction the numerator of which shall be such Remaining Purchaser's respective Generation Entitlement Share and Generation Cost Share, and the denominator of which shall be the sum of the respective Generation Entitlement Shares and Generation Cost Shares of all Remaining Purchasers.

**47.3** Upon the effectiveness of the termination of any of the Power Sales Contracts of one or more Utah Purchasers as provided in Section 47.1, Appendices A and B to the Power Sales Contracts shall be revised by I.P.A. so as to set forth the respective Generation Entitlement Shares and Generation Cost Shares, together with the Points of Delivery, of the Remaining Purchasers under their Power Sales Contracts, as determined in accordance with this Section 47. Copies of such revised Appendices A and B shall be furnished by I.P.A. to each Remaining Purchaser to replace the prior Appendices A and B to its Power Sales Contract.

**23. AMENDMENT OF APPENDIX C:** The introductory paragraph of the Description of the Project in Appendix C is hereby amended to read as follows:

> The following description is broad in scope and will be revised by I.P.A. and approved by the Coordinating Committee from time to time as is necessary to reflect the actual Project description as the Project evolves and changes throughout any feasibility and planning process as well as any design, construction and operation phase relating to a Capital Improvement, provided, however, that I.P.A. cannot by resolution change the aggregate Maximum Generating Capability of the Generation Station, unless such change shall have received the prior approval of the Coordinating Committee.

**24. EFFECTIVENESS OF POWER SALES CONTRACT:** Except as amended by this Second Amendatory Power Sales Contract, the Power Sales Contract shall remain in full force and effect.

**25. GOVERNING LAW:** This Second Amendatory Power Sales Contract shall be interpreted, governed by and construed under the laws of the State of Utah.

**26. EFFECTIVE DATE:** This Second Amendatory Power Sales Contract shall be effective on the first date (the "Second Amendatory Power Sales Contract Effective Date") on which all of the following shall have occurred:

**26.1** This Second Amendatory Power Sales Contract shall have been executed and delivered by I.P.A. and the Purchaser;

**26.2** The Purchaser shall have received those final approvals, consents or authorizations of governmental or public agencies, authorities or persons to execute, deliver and perform this Second Amendatory Power Sales Contract as shall be specified as being required by legal counsel as set forth in the opinion referred to in Section 26.3 below;

**26.3** An opinion of counsel to the Purchaser satisfactory to I.P.A. shall have been delivered to I.P.A.;

**26.4** I.P.A. and all the other Purchasers shall have executed and delivered the Second Amendatory Power Sales Contracts; and

**26.5** The PacifiCorp Final Amendatory Contract shall have become effective in accordance with its terms, provided however that, since the effectiveness of the PacifiCorp Final Amendatory Contract is conditioned on the occurrence, among other events, of the effectiveness of the Second Amendatory Power Sales Contracts, the Second Amendatory Power Sales Contract Effective Date shall be deemed to occur if all the events set forth in this Section 26, other than the effectiveness of the PacifiCorp Final Amendatory Contract, shall have occurred and all of the events and conditions for the effectiveness of the PacifiCorp Final Amendatory Contract, other than such effectiveness of the Second Amendatory Power Sales Contracts, shall have occurred and taken place.

[Remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, the Parties have duly caused this Second Amendatory Power Sales Contract to be executed on their respective behalves.

**INTERMOUNTAIN POWER AGENCY**,
a political subdivision of the State of Utah

By:_____

Its: _____

**CITY OF BURBANK**

By:_____

Its: _____

# APPENDIX A

## SCHEDULE OF ENTITLEMENT SHARES AND COST SHARES

| Purchaser | Generation Entitlement Share and Generation Cost Share | Northern Transmission Cost Share | Southern Transmission Cost Share |
|---|---|---|---|
| Beaver | .413 | 1.961 | .000 |
| Bountiful | 1.695 | 8.050 | .000 |
| Enterprise | .199 | .945 | .000 |
| Ephraim | .503 | 2.389 | .000 |
| Fairview | .120 | .570 | .000 |
| Fillmore | .512 | 2.431 | .000 |
| Holden | .048 | .228 | .000 |
| Hurricane | .147 | .698 | .000 |
| Hyrum | .551 | 2.617 | .000 |
| Kanosh | .040 | .190 | .000 |
| Kaysville | .739 | 3.510 | .000 |
| Lehi | .430 | 2.042 | .000 |
| Logan | 2.469 | 11.725 | .000 |
| Meadow | .045 | .214 | .000 |
| Monroe | .130 | .617 | .000 |
| Morgan | .190 | .902 | .000 |
| Mt. Pleasant | .357 | 1.695 | .000 |
| Murray | 4.000 | 18.996 | .000 |
| Oak City | .040 | .190 | .000 |
| Parowan | .364 | 1.729 | .000 |
| Price | .361 | 1.714 | .000 |
| Spring City | .060 | .285 | .000 |
| Heber | .627 | 2.978 | .000 |
| Bridger Valley REA | .230 | 1.092 | .000 |
| Dixie-Escalante REA | 1.534 | 7.285 | .000 |
| Flowell Electric Assoc. | .200 | .950 | .000 |
| Garkane Power Assoc. | 1.267 | 6.017 | .000 |
| Moon Lake Elec. Assoc. | 2.000 | 9.498 | .000 |
| Mt. Wheeler Power, Inc. | 1.786 | 8.482 | .000 |
| Anaheim | 13.225 | .000 | 17.647 |
| Burbank | 3.371 | .000 | 4.498 |
| Glendale | 1.704 | .000 | 2.274 |
| Pasadena | 4.409 | .000 | 5.883 |
| Riverside | 7.617 | .000 | 10.164 |
| Department of Water and Power of the City of Los Angeles | 48.617 | .000 | 59.534 |

# APPENDIX B

## SCHEDULE OF POINTS OF DELIVERY

| PURCHASER | DELIVERY POINT | GENERATION ENTITLEMENT SHARE TO BE DELIVERED | DELIVERY VOLTAGE KV-AC |
|---|---|---|---|
| Beaver | Mona | .413 | 345 |
| Bountiful | Mona | 1.695 | 345 |
| Enterprise | Mona | .199 | 345 |
| Ephraim | Mona | .503 | 345 |
| Fairview | Mona | .120 | 345 |
| Fillmore | Mona | .512 | 345 |
| Holden | Mona | .048 | 345 |
| Hurricane | Mona | .147 | 345 |
| Hyrum | Mona | .551 | 345 |
| Kanosh | Mona | .040 | 345 |
| Kaysville | Mona | .739 | 345 |
| Lehi | Mona | .430 | 345 |
| Logan | Mona | 2.469 | 345 |
| Meadow | Mona | .045 | 345 |
| Monroe | Mona | .130 | 345 |
| Morgan | Mona | .190 | 345 |
| Mt. Pleasant | Mona | .357 | 345 |
| Murray | Mona | 4.000 | 345 |
| Oak City | Mona | .040 | 345 |
| Parowan | Mona | .364 | 345 |
| Price | Mona | .361 | 345 |
| Spring City | Mona | .060 | 345 |
| Heber | Mona | .627 | 345 |
| Bridger Valley REA | Mona | .230 | 345 |
| Dixie-Escalante REA | Mona | 1.534 | 345 |
| Flowell Electric Assoc. | Mona | .200 | 345 |
| Garkane Power Assoc. | Mona | 1.267 | 345 |
| Moon Lake Elec. Assoc. | Mona | 2.000 | 345 |
| Mt. Wheeler Power, Inc. | Gonder | 1.786 | 230 |
| Anaheim | Adelanto | 13.225 | 500 |
| Burbank | Adelanto | 3.371 | 500 |
| Glendale | Adelanto | 1.704 | 500 |
| Pasadena | Adelanto | 4.409 | 500 |
| Riverside | Adelanto | 7.617 | 500 |
| Department of Water and Power of the City of Los Angeles | Adelanto | 48.617 | 500 |

# EXHIBIT A

Initial Renewal Offer Forms


| Form | | Page |
|---|---|---|
| Exhibit A-1 | Form of Offer Letter..... | A-1 |
| Exhibit A-2 | Form of Offer Acceptance ..... | A-2 |
| Exhibit A-3 | Form of Renewal Power Sales Contract (with Form of Excess Renewal Power Sales Agreement attached as Appendix D thereto) ..... | A-3 |


Exhibits A-1, A-2 and A-3 attached to this Exhibit A are incorporated into and form a part of this Exhibit A.

**EXHIBIT A-1**

**FORM OF OFFER LETTER**

[See attached]

[IPA LETTERHEAD]

_____, 201___

Re: Renewal Offer Letter

[Purchaser Name and Address]

Dear [Purchaser Contact]:

The Power Sales Contract, dated _____, by Intermountain Power Agency ("IPA") with _____ (the "Purchaser"), as heretofore amended, including the amendments by the Second Amendatory Power Sales Contract, and the other Power Sales Contracts by IPA, as so amended, with other utilities (collectively including Purchaser's Power Sales Contract, the "Original Power Sales Contracts") provide for participation by Purchaser and such other utilities (collectively including Purchaser, the "Original Purchasers") in the Intermountain Power Project (the "Project"). Under Section 33 of the Original Power Sales Contracts IPA agrees to offer (the "Renewal Offer") to Purchaser and such other Original Purchasers renewal of their participation in the rights and benefits of the Project from and after the expiration on June 15, 2027 (or such later date of termination of the Original Power Sales Contracts that occurs pursuant to Section 26.1 thereof).

This Offer Letter and the terms of the completed form of Offer Acceptance (the "Offer Acceptance") and the terms of the form of the Renewal Power Sales Contract (the "Renewal Power Sales Contract"), including the form of Agreement for Sale of Renewal Excess Power (the "Excess Renewal Power Sales Agreement") included as Appendix D to the Renewal Power Sales Contract, which accompany this Offer Letter constitute the initial offer (the "First Round Offer") by IPA under its Renewal Offer. Such renewal of participation in the Project will be under and pursuant to the Renewal Power Sales Contracts to be entered into by IPA with the Original Purchasers that provide Offer Acceptances of the First Round Offer.

Initially capitalized terms used in this Offer Letter and in the Offer Acceptance which are defined in Section 4 of the Renewal Power Sales Contract shall have the same meanings, respectively, in this Offer Letter and the Offer Acceptance as given such terms in Section 4 of the Renewal Power Sales Contract.

**First Round Offer:** IPA hereby offers to Purchaser participation, commencing on June 16, 2027 (or such later date following termination of the Original Power Sales Contract that occurs pursuant to Section 26.1 thereof), in the rights and benefits of the Project in proportion to Purchaser's Original Purchaser Entitlements. Purchaser may accept this First Round Offer, in whole or in part, by completing and executing the Offer Acceptance accompanying this Offer Letter. Purchaser should set forth in the space provided in the Offer Acceptance (i) the Generation Entitlement Share that is accepted by Purchaser which may be equal to (but not exceed) its Generation Entitlement Share under its Original Power Sales Contract or may be a specified portion of such Generation Entitlement Share, (ii) the Generation Cost Share accepted by Purchaser which shall be the same percentage as the Generation Entitlement Share set forth pursuant to (i) above, and (iii) Purchaser's Point of Delivery (consistent with Section 9.9 of the

Renewal Power Sales Contract). Purchaser's Transmission Cost Share will be calculated as provided under the Renewal Power Sales Contract by dividing the Generation Entitlement Share as set forth by Purchaser pursuant to (i) above that is to be delivered at the Point of Delivery set forth pursuant to (iii) above, by the aggregate of all Generation Entitlement Shares specified in the Offer Acceptances of Purchaser and the other Original Purchasers to be delivered at such Point of Delivery. The completed Offer Acceptance of Purchaser shall be duly authorized and executed by Purchaser, shall have received any and all Regulatory Contract Approvals and shall be submitted to IPA by _____, 201___ or any extension thereof by IPA (the "First Round Offer Acceptance Date"), all in accordance with Section 26 of the Renewal Power Sales Contract.

Any portion of Purchaser's Original Purchaser Entitlements not accepted by Purchaser by its Offer Acceptance of the First Round Offer shall become part of the Orphan Original Purchaser Entitlements under the Renewal Power Sales Contracts. If Purchaser does not timely respond to this First Round Offer, or if Purchaser responds by rejecting in writing its entire Original Purchaser Entitlement, all Purchaser's Original Purchaser Entitlements shall become part of the Orphan Original Purchaser Entitlements, and Purchaser will be deemed to have rejected the Renewal Offer and shall have no further right to participate in the Renewal Offer.

As set forth in the Offer Acceptance, the Renewal Offer process will conclude with no further offers being made in the event Offer Acceptances of the First Round Offer result in the Renewal Power Sales Contracts by IPA with Purchaser and the other Original Purchasers becoming fully effective for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project, all as provided in the Offer Acceptance and in Section 26.2.2 of the Renewal Power Sales Contract. In the event, however, that the First Round Offer does not result in such Offer Acceptances, the Renewal Offer will continue with the Second Round Offer under which IPA will provide (i) that (a) the Utah Committed Purchasers shall have the right to provide to IPA a Utah Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (b) if the Utah Committed Original Purchasers fail to provide to IPA such a Utah Orphan Entitlement Allocation Document, such remaining Utah Orphan Purchaser Entitlements shall then be offered to each of the Utah Committed Original Purchasers as provided under Section 26.3.1.1 of the Renewal Power Sales Contracts, and (ii) that (a) the California Committed Purchasers shall have the right to provide to IPA a California Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (b) if the California Committed Original Purchasers fail to provide to IPA such a California Orphan Entitlement Allocation Document, such remaining California Orphan Original Purchaser Entitlements shall then be offered to each of the California Committed Original Purchasers as provided under Section 26.3.1.2 of the Renewal Power Sales Contracts. In the event, however, that the Second Round Offer does not result in Offer Acceptances for at least eighty-five percent (85%) of the aggregate Original Purchaser Entitlements, the Renewal Offer will continue with the Final Offer in accordance with Section 26.4 of the Renewal Power Sales Contracts.

The same offer as provided in this Offer Letter is being extended to each of the other Original Purchasers.

Upon the Renewal Power Sales Contracts becoming fully effective, each Utah Purchaser accepting this First Round Offer pursuant to an Offer Acceptance that elects to enter into the Excess Renewal Power Sales Agreement should furnish IPA with a notice of its election in accordance with Section 26.6.1 of the Renewal Power Sales Contracts. Los Angeles, as well as each of the other California Purchasers accepting this Renewal Offer that elects to enter into the Excess Renewal Power Sales Agreement, should furnish IPA with a notice of its election in accordance with Section 26.6.1 of the Renewal Power Sales Contracts.

If you have questions regarding this Renewal Offer or would like to discuss any of the terms and provisions of the Offer Acceptance or Renewal Power Sales Contract, please contact us and we will put you in contact with the appropriate person to address those matters.

INTERMOUNTAIN POWER AGENCY

By: _____

Its: _____

**EXHIBIT A-2**

**FORM OF OFFER ACCEPTANCE**

[See attached]

**OFFER ACCEPTANCE**

_____, 201___

To: Intermountain Power Agency ("IPA")

_____ ("Purchaser") hereby accepts the First Round Offer in accordance with the terms of IPA's Offer Letter, dated _____ 201___, including this Offer Acceptance and the accompanying form of Renewal Power Sales Contract (the "Renewal Power Sales Contract"), and hereby specifies for its Offer Acceptance of the First Round Offer the following:

Purchaser's Accepted Generation Entitlement Share:___%

Purchaser's Accepted Generation Cost Share: _____%[1]

Purchaser's Accepted Point of Delivery: _____[2]

Purchaser understands and agrees that its transmission entitlement in the Project and its Transmission Cost Share will be determined as provided in the Renewal Power Sales Contract.

Initially capitalized terms used in this Offer Acceptance which are defined in Section 4 of the Renewal Power Sales Contract shall have the same meanings, respectively, in this Offer Acceptance as given such terms in Section 4 of the Renewal Power Sales Contract.

By this Offer Acceptance, Purchaser agrees that based upon such Offer Acceptance and as provided by the applicable terms of the Renewal Power Sales Contract, IPA will prepare and will execute and deliver to Purchaser the Renewal Power Sales Contract to be entered into with Purchaser, including Appendices A and B thereto, all as provided in Section 26.2 of the Renewal Power Sales Contract, and Purchaser agrees to execute and deliver to IPA such Renewal Power Sales Contract which shall become effective as of the First Round Offer Acceptance Date.

If, there shall have been Offer Acceptances by the Original Purchasers of the First Round Offer so that IPA shall enter into Renewal Power Sales Contracts with Purchaser and all the other Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project, all as provided in Section 26.2.2 of the Renewal Power Sales Contract, Purchaser agrees in accordance with Section 26.2.2 that its Renewal Power Sales Contract, together with such Renewal Power Sales Contracts by IPA with the other Original Purchasers, shall be fully effective in accordance with the terms thereof.

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[1] Purchaser's Generation Cost Share must be the same as its Generation Entitlement Share as required by the Renewal Power Sales Contract.

[2] Purchaser's Point of Delivery must be designated in accordance with Section 9.9 of the Renewal Power Sales Contract.

As provided in Section 26.2.2 of the Renewal Power Sales Contract, upon the receipt by Purchaser and IPA of any and all required Regulatory Contract Approvals and upon Purchaser and IPA furnishing, each to the other, the legal opinions required pursuant to Section 25.3 of the Renewal Power Sales Contract, the Renewal Power Sales Contract of Purchaser with IPA, together with the Renewal Power Sales Contracts of IPA with such other Original Purchasers, shall be effective in accordance with the terms thereof, all as of the First Round Offer Acceptance Date.

Purchaser hereby certifies that the Renewal Power Sales Contract executed and delivered by it as above provided has been duly authorized by Purchaser, and Purchaser has obtained any and all Regulatory Contract Approvals required for its Renewal Power Sales Contract to be fully effective.

It is understood and agreed by Purchaser that in the event that the Offer Acceptances by the Original Purchasers do not permit the Renewal Power Sales Contract to become fully effective as provided in Section 26.2.2, Purchaser's Renewal Power Sales Contract with IPA will, however, become effective in accordance with Section 26.2.1, and Purchaser, together with the other Original Purchasers furnishing Offer Acceptances, will be entitled to receive the Second Round Offer under IPA's continuation of the Renewal Offer, as provided in Section 26.3 of the Renewal Power Sales Contract.

_____, as Purchaser, hereby causes this Offer Acceptance to be executed on its behalf on the date provided above.

_____

By: _____

Its: _____

**EXHIBIT A-3**

**FORM OF RENEWAL POWER SALES CONTRACT**

[See attached]

# RENEWAL POWER SALES CONTRACT

**BETWEEN**

**INTERMOUNTAIN POWER AGENCY**

**AND**

**[NAME OF PURCHASER]**

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# RENEWAL POWER SALES CONTRACT

1. **PARTIES:** This Renewal Power Sales Contract (this "Contract"), is made and entered into as of this _____ day of _____, 201___, by and between INTERMOUNTAIN POWER AGENCY, a political subdivision of the State of Utah ("IPA"), created under the provisions of the Act, and [NAME OF PURCHASER] ("Purchaser").

2. **RECITALS:** This Contract is made with reference to the following facts, among others:

2.1 IPA is the owner of the Project.

2.2 Pursuant to the Original Power Sales Contracts, IPA has sold to the Original Purchasers, and the Original Purchasers have purchased from IPA, all of the generation and transmission capacity of the Project.

2.3 The Original Power Sales Contracts were last amended by the Second Amendatory Power Sales Contracts which provide for the construction and installation of natural gas-fired combined cycle power blocks and related equipment and facilities as a Capital Improvement of the Project which upon completion, will replace the existing coal-fired generating units of the Project.

2.4 The term of each of the Original Power Sales Contracts is to end on June 15, 2027.

2.5 Section 33 of each of the Original Power Sales Contracts, as amended by the Second Amendatory Power Sales Contract, provides for IPA to make the Renewal Offer to the Original Purchasers which is to include offers to renew, and under certain circumstances may include offers to increase, the entitlements of Original Purchasers to the generation and, as applicable, transmission capacity of the Project for a term subsequent to June 15, 2027, all upon the terms set forth or described in such Section 33.

2.6 By its terms each of the Second Amendatory Power Sales Contracts is subject to termination if the Renewal Offer is not accepted by the Original Purchasers by entering into the Renewal Power Sales Contracts with IPA for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and applicable Transmission Cost Shares of the Project, all in accordance with the terms of the Renewal Offer including the provisions of Section 26 of the Renewal Power Sales Contracts.

2.7 IPA has made the initial Renewal Offer to the Original Purchasers, including the Purchaser, and by execution and delivery of this Contract, Purchaser has accepted on the terms set forth in this Contract the Renewal Offer made to Purchaser by IPA with respect to the Generation Entitlement Share and Point of Delivery set forth in Appendix B hereto and the Generation Cost Share and the Transmission Cost Share, as applicable, set forth in Appendix A hereto, as the same may be increased as provided in Section 26 of this Contract.

2.8 IPA and Purchaser are entering into this Contract in conjunction with the execution and delivery of Renewal Power Sales Contracts between IPA and other Purchasers, in order to set forth the terms and conditions upon which IPA shall sell to Purchaser, and Purchaser shall purchase from IPA, a portion of the generation and the applicable transmission capacity of the Project after June 15, 2027.

3. **AGREEMENT:** For and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows:

4. **DEFINITIONS:** All references herein to a "Section" shall refer to the referenced Section of this Contract unless otherwise specifically provided herein. The following terms, whether in the singular or in the plural, when used in this Contract, including the Recitals hereof and the Appendices attached hereto, which are initially capitalized, shall have the meanings specified below:

4.1 **Act:** The Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated, 1953, as amended.

4.2 **Additional Non-Project Facilities:** (a) Any Additional Non-Project Generating Facilities; (b) any transmission facilities that may be constructed at the Project site that do not constitute a part of the Northern Transmission System or the Southern Transmission System; and (c) any other improvements or facilities that do not constitute a part of the Project and that are constructed or installed in connection with or to provide support to any Additional Non-Project Generating Facilities or any transmission facilities described in the preceding clause (b).

4.3 **Additional Non-Project Generating Facilities:** Any generating unit or units that may be acquired, constructed, reconstructed or installed at the site of the Generation Station in addition to Gas Unit 1 and Gas Unit 2, and may include, without limitation, the renewal, modification, reconstruction, improvement or utilization of surplus generating properties, facilities and related equipment of the Project or interests therein and rights pertaining thereto that have been transferred from the Project; provided that such generating unit or units and related properties, facilities and equipment shall not constitute part of the Project.

4.4 **Aggregate Debt Service:** For any period and with respect to all series, issues or tranches of any specified Project Indebtedness, shall mean, as of any date of calculation, the sum of the amounts of Debt Service for such period with respect to all such series, issues or tranches of such Project Indebtedness.

4.5 **Annual Budget:** A budget for any Power Supply Year or portion thereof adopted by IPA pursuant to Section 5.4.

4.6 **Augmented Tax Equivalent Payments:** The amount of Tax Equivalent Payments imposed for any period with respect to the Project, together with the additional amount of Tax Equivalent Payments, if any, that would have been so imposed for such period but for any exemption, deduction or credit granted by the Act or under any other Utah law

based upon the status of any Utah Municipal Purchaser as a municipality or political subdivision of the State of Utah.

4.7 **Auxiliary Facilities:** As of any particular point in time, all property, rights, equipment and facilities, or any rights or interests therein, that constituted a part of any Project Component as to which the Permanent Removal From Service Date has then occurred to the extent: (a) such property, rights, equipment or facilities are necessary or desirable to operate or maintain in accordance with Prudent Utility Practice any Project Component as to which the Permanent Removal From Service Date has not then occurred; or (b) IPA has agreed to provide or make the same available to support any Additional Non-Project Facilities or any IPA Retained Facility pursuant to any Section 39 Facilities Agreement.

4.8 **Auxiliary Facilities Report:** Shall have the meaning set forth in Section 23.2.

4.9 **Available Generating Capability:** The capability at any time of each Gas Unit of the Generation Station to produce power at the high voltage side of its generation transformers, less (a) allocated General Service Requirements and (b) any capacity and energy scheduled by IPA in order to furnish black start or start-up power to PacifiCorp, Deseret Generation & Transmission Co-operative or other utilities pursuant to agreements or arrangements entered into prior to the Transition Date approved by the Original Coordinating Committee or agreements or arrangements entered into on or after the Transition Date that are approved by the Renewal Contract Coordinating Committee.

4.10 **Billing Statement:** The written statement prepared or caused to be prepared each Month by IPA setting forth the monthly amount to be paid to IPA by Purchaser pursuant to such statement in accordance with the provisions of Section 7.

4.11 **Billing Statement Amount:** The total amount due and owing by a Purchaser to IPA for any Month, as set forth in such Purchaser's Billing Statement for such Month.

4.12 **Bond Resolution:** The Original Bond Resolution and any other bond resolution, indenture, loan agreement or other document, including any amendment thereof or supplement thereto, setting forth the terms and conditions or providing for the security of any Project Indebtedness issued or incurred by IPA.

4.13 **Business Day:** A day other than Saturday, Sunday or any day on which banks located in Salt Lake City, Utah are authorized or obligated to close.

4.13A **California Committed Original Purchasers:** The Original California Purchasers that are Committed Original Purchasers.

4.14 **California Purchasers:** The Purchasers who provide electric service primarily in the State of California.

4.15 **California Excess Power Purchasers:** The California Purchaser or California Purchasers that shall authorize and enter into the Excess Renewal Power Sales

Agreement pursuant to Section 26; provided that in any event the California Excess Power Purchasers shall include Los Angeles.

4.15A **California Orphan Entitlement Allocation Document:** A written document signed by all the California Committed Original Purchasers, as set forth under Section 26.3.1.2, providing for the allocation to and acceptance by those California Committed Original Purchasers designated in such document of the then remaining California Orphan Original Purchaser Entitlements; provided that together with such document such designated California Committed Original Purchasers shall provide Offer Acceptances with respect to the California Orphan Original Purchaser Entitlements allocated to such designated California Committed Original Purchasers, respectively, in such document and such document shall be filed with IPA.

4.15B **California Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original California Purchasers, California Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA by one or more Original California Purchasers, (ii) in the case of an acceptance of the First Round Offer by any of the Original California Purchasers in part, that part of such Original California Purchasers' Original Purchaser Entitlements that is not accepted and not included under such Original California Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original California Purchasers), and (iii) in the case where one or more of the Original California Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline, reject or otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original California Purchasers' Original Purchaser Entitlements.

4.16 **Capital Improvement Acquisition and Construction Costs:** With respect to any particular Capital Improvement, all costs of planning, designing, acquiring, constructing and installing such Capital Improvement, including, without limitation, costs of labor, materials, equipment, supplies, interests in real or personal property, taxes, reasonable operating, repair or replacement reserves relating to such Capital Improvement, and any Issuance and Financing Costs associated with any Project Indebtedness issued or to be issued to pay any such costs.

4.17 **Capital Improvements:** All renewals or replacements of or repairs, additions, improvements, modifications or betterments to the Project or any interest in the Project, including, without limitation, the acquisition of natural gas production wells or interests therein and related facilities and properties and gas transmission or transportation facilities for the Project, and the prepayment for the purchase of natural gas supplies for the Project, that are (a) consistent with Prudent Utility Practice and determined to be necessary or desirable by the Original Coordinating Committee, or, if such Capital Improvement is made after the Transition Date, by the Renewal Contract Coordinating Committee, in order to keep the Project or any interest in the Project in good operating condition, to prevent a loss of revenue therefrom, or to increase the capacity, reliability or usefulness of the Project or any interest therein, (b) required by any governmental agency having jurisdiction over the Project, (c) required by the

Construction Management and Operating Agreement, or (d) required by any Bond Resolution; provided, however, that Capital Improvements shall not include any generating unit added to the Project in addition to those included in the Project which continue to generate electric capacity and energy of the Project. Capital Improvements shall consist of Ordinary Capital Improvements and Major Capital Improvements. Each Capital Improvement constitutes a part of the Project Component to which it relates.

4.18 **Committed Original Purchaser:** An Original Purchaser that has (i) accepted its Renewal Offer by entering into an Offer Acceptance as to all of its Original Purchaser Entitlement or (ii) accepted its Renewal Offer by entering into an Offer Acceptance as to part of its Original Purchaser Entitlement and declined, rejected or otherwise relinquished in writing and to the reasonable satisfaction of IPA the Renewal Offer as to the remainder of its Original Purchaser Entitlement, or deemed to have so declined, rejected or otherwise relinquished the same as provided in this Contract.

4.19 **Construction Aid Agreement:** Shall have the meaning set forth in Section 38.2.

4.20 **Construction Management and Operating Agreement:** The Intermountain Power Project Amended and Restated Construction Management and Operating Agreement, dated as of _____, 201___, by and between Los Angeles and IPA relating to the construction and operation of the Project during the term of the Original Power Sales Contracts and the term of the Renewal Power Sales Contracts and any replacements or renewals thereof, as such Agreement, or such replacements or renewals thereof, may from time to time be amended and supplemented.

4.21 **Contract:** Shall have the meaning set forth in Section 1 and is one of the Renewal Power Sales Contracts.

4.22 **Cooperative Purchasers:** The Purchasers that are incorporated and organized as cooperative corporations and provide electric energy to retail customers in any of the States of Utah, Nevada or Wyoming. The Cooperative Purchasers shall not include any of the California Purchasers or the Utah Municipal Purchasers.

4.23 **Cost Shares:** With respect to a Purchaser, shall mean its Generation Cost Share and its Northern Transmission Cost Share or Southern Transmission Cost Share, as applicable.

4.24 **Debt Instruments:** All bonds, notes and other instruments evidencing IPA's obligation to pay or repay Project Indebtedness.

4.25 **Debt Service:** For any period shall mean, as of any date of calculation and with respect to any particular series, issue or tranche of any specified Project Indebtedness an amount equal to the sum of (i) interest accruing during such period on such series, issue or tranche of Project Indebtedness, except to the extent that such interest is to be paid through capitalized interest funded with the proceeds thereof and (ii) that portion of each principal installment (including any unsatisfied balance of a sinking fund installment) with respect to such series, issue or tranche of Project Indebtedness which would accrue during such period if such

principal installment were deemed to accrue daily in equal amounts from the next preceding principal installment due date, for such series, issue or tranche of Project Indebtedness (or, if there shall be no such preceding principal installment due date, from a date one year preceding the due date of such principal installment or from the date of issuance or incurrence of such Project Indebtedness, whichever date is later). Such interest and principal installments for such Project Indebtedness shall be calculated on the assumption that no such Project Indebtedness outstanding at the date of calculation will cease to be outstanding except by reason of the payment of each principal installment on the due date thereof.

4.26 **Reserved**

4.27 **Default Interest Rate:** A variable per annum interest rate equal to 300 basis points above the current General Interest Rate, which interest rate shall be adjusted as of the close of business on the first Business Day of each Month.

4.28 **Designated Project Indebtedness:** Project Indebtedness (other than Project Indebtedness any portion of which bears a variable rate of interest) that is issued or incurred (a) to finance a Capital Improvement where (i) the date of the last maturity of such Project Indebtedness is on or about the end of the estimated useful life of such Capital Improvement as determined by IPA and the Renewal Contract Coordinating Committee, in each case based upon advice provided by a Qualified Independent Engineer with expertise in the relevant subject matter, and (ii) either (x) such Project Indebtedness has Substantially Equal Debt Service for each Fiscal Year such Project Indebtedness is scheduled to be outstanding or (y) there is Substantially Equal Aggregate Debt Service with respect to all Designated Project Indebtedness, including such Project Indebtedness being issued or incurred, for each Fiscal Year such Designated Project Indebtedness is scheduled to be outstanding (using in each case where such Project Indebtedness being issued or incurred is to be sold by competitive bidding, an average interest rate therefor as estimated by IPA), provided that, there shall not be taken into account in the case of either (ii) (x) or (ii) (y) above any Fiscal Year in which all or any portion of the interest on such Project Indebtedness or Designated Project Indebtedness is to be paid through capitalized interest funded with the proceeds thereof or any Fiscal Year during which such Project Indebtedness or Designated Project Indebtedness is scheduled to be outstanding for only a part of such Fiscal Year; or (b) to refund or refinance any outstanding Designated Project Indebtedness where (i) upon the issuance of such Project Indebtedness the Designated Project Indebtedness being refunded or refinanced is defeased and no longer outstanding under the terms of the Bond Resolution under which such Designated Project Indebtedness was issued or incurred and (ii) the Aggregate Debt Service for the then current and each future Fiscal Year with respect to all Designated Project Indebtedness (including such Project Indebtedness being issued or incurred) outstanding immediately after the issuance or incurrence of such Project Indebtedness being issued or incurred, is not greater than the Aggregate Debt Service for each such Fiscal Year with respect to all Designated Project Indebtedness outstanding immediately prior to the issuance or incurrence of such Project Indebtedness being issued or incurred.

4.29 **Effective Date:** The First Round Offer Acceptance Date on which this Contract shall be executed and delivered by or on behalf of IPA and Purchaser and all Regulatory Contract Approvals have been obtained by Purchaser and IPA, respectively, and Purchaser and IPA have each provided the legal opinions as set forth in Section 25.3.

4.30 **Entitlement Determination Date:** Such date, as determined in accordance with the provisions of Section 26, upon which Offer Acceptances shall have been received by IPA that result in Renewal Power Sales Contracts becoming effective for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project.

4.31 **Essential Capital Improvement:** A Capital Improvement approved by the Original Coordinating Committee and designated as either a Major Capital Improvement or an Ordinary Capital Improvement that is determined by IPA to be (a) reasonably necessary for the operation or maintenance of the Project or any interest in the Project in accordance with Prudent Utility Practice, (b) required to prevent a loss of revenues of the Project, (c) required by any applicable law or regulation, (d) required by the Bond Resolution, or (e) required by the Construction Management and Operating Agreement; provided, however, that an Essential Capital Improvement shall not include any Capital Improvement that is undertaken primarily for the purpose of effecting an increase in the rated capacity of any Project Component.

4.32 **Estimated Reserve Free-up Amount:** Shall have the meaning set forth in Section 23.4.

4.33 **Estimated Retirement Account Balance:** Shall have the meaning set forth in Section 23.4.

4.34 **Estimated Retirement Account Deficiency:** Shall have the meaning set forth in Section 23.4.

4.35 **Estimated Retirement Account Surplus:** Shall have the meaning set forth in Section 23.4.

4.36 **Estimated Retirement Costs:** Shall have the meaning set forth in Section 23.4.

4.37 **Estimated Retirement Salvage Proceeds:** Shall have the meaning set forth in Section 23.4.

4.37A **Excess Entitlement Share:** Shall have the meaning set forth in the Excess Renewal Power Sales Agreement.

4.38 **Excess Renewal Power Sales Agreement:** The Agreement for Sale of Renewal Excess Power in substantially the form included in Appendix D to the Renewal Power Sales Contracts and completed and entered into pursuant to Section 26.6 of the Renewal Power Sales Contracts.

4.39 **FAS 143:** The Statement of Financial Accounting Standards No. 143 issued by the FASB, as further affected or interpreted by additional FASB statements or FASB interpretations.

4.40 **FASB:** The Financial Accounting Standards Board or any successor organization thereto.

4.41 **Final Offer:** IPA's continued Renewal Offer, if necessary as provided in Section 26.4.1, with respect to the then remaining Orphan Original Purchaser Entitlements to each of the Committed Original Purchasers in the order of their respective Subscription Generation Entitlement Shares, beginning with the Committed Original Purchaser with the highest Subscription Generation Entitlement Share, as then set forth in Appendix B of the Renewal Power Sales Contracts, and continuing with the Committed Original Purchasers in descending order of values of their Subscription Generation Entitlement Shares under Appendix B; provided that such Final Offer shall cease to be offered any further upon the first to occur of the receipt of an Offer Acceptance by a Committed Original Purchaser that complies with Section 26.4.2 or such an Offer Acceptance that complies with Section 26.4.3.

4.42 **Final Offer Acceptance Date:** Such date as specified in the Offer Letter by IPA with respect to the Final Offer, as such date may be thereafter extended by IPA.

4.43 **Final Retirement Date:** With respect to any particular Project Component, the date upon which all conditions set forth in Section 23.9 have been satisfied as to such Project Component.

4.44 **First Round Offer:** The initial offer under IPA's Renewal Offer offering to each Original Purchaser the renewal, in whole or in part, of its Original Purchaser Entitlements as provided in Section 26.2.

4.45 **First Round Offer Acceptance Date:** _____, 201___, as such date may be extended by IPA.

4.46 **Fiscal Year:** Any period commencing on July 1 of any calendar year and ending on June 30 of the next succeeding calendar year.

4.47 **Fuel Management Practices and Procedures:** The fuel management practices and procedures approved by the Renewal Contract Coordinating Committee as provided in Section 6.2.10.

4.48 **Gas Repowering:** The construction and installation of Gas Unit 1 and Gas Unit 2 as provided in Section 44.1 of the Original Power Sales Contract, together with the decommissioning and retirement of existing generating units and related facilities and properties as provided in Section 44.2 of the Original Power Sales Contracts.

4.49 **Gas Unit:** Includes:

4.49.1 **Gas Unit 1:** The natural gas-fired combined cycle power block and related facilities and properties constituting a part of the Generation Station and referred to as Intermountain Power Project Unit 1, as shall be set forth in the Description of Project attached hereto as Appendix C, together with any Auxiliary Facilities of such generating unit as set forth in Section 23.8.

4.49.2 **Gas Unit 2:** The natural gas-fired combined cycle power block and related facilities and properties constituting a part of the Generation Station and referred to as Intermountain Power Project Unit 2, as shall be set forth in the Description of

Project attached hereto an Appendix C, together with any Auxiliary Facilities of such generating unit as set forth in Section 23.8

4.50 **General Interest Rate:** A variable per annum interest rate equal to 100 basis points less than the Prime Rate; provided, however, that if the Prime Rate cannot be identified for an applicable Business Day in a publication reasonably available to IPA, then the General Interest Rate shall be equal to 100 points above the yield on thirty-day (30-day) notes issued by a corporation specified by IPA, which corporation must (x) be incorporated and headquartered in the United States and (y) have outstanding senior, unsecured debt rated by Standard & Poor's in its highest credit rating category. If Standard & Poor's is no longer issuing credit ratings or, in IPA's reasonable determination, has ceased to be a reliable source of credit information, then IPA shall specify a comparable corporation with outstanding senior, unsecured debt rated in a similar credit rating category by a nationally recognized credit rating agency other than Standard & Poor's.

4.51 **General Service Requirements:** The capacity and energy required for operation of all generating facilities and other equipment and systems used or required at the Generation Station in connection with the operation and maintenance of the Generation Station.

4.52 **Generation Cost Share:** The share (expressed as a percentage) of each Purchaser as set forth in Appendix A attached hereto, as such share may be adjusted from time to time pursuant to Section 26 or other applicable provisions of this Contract, with respect to the costs associated with the Generation Station. A Purchaser's Generation Cost Share shall at all times be the same as its Generation Entitlement Share.

4.53 **Generation Entitlement Share:** The percentage entitlement of each Purchaser in each generating unit of the Project, as set forth in Appendix B attached hereto, as adjusted from time to time pursuant to Section 26 or other applicable provisions of this Contract.

4.54 **Generation Station:** The Generation Station as set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.55 **Reserved**

4.56 **Investment Securities:** Means and includes any of the following securities with maturities consistent with the needs by IPA for such funds: (a) any bonds or other obligations that as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America; (b) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency; (c) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the Laws of any state of the United States of America or any national banking association, provided that such certificates of deposit shall be purchased directly from such bank, trust company or national banking association and shall be continuously and fully insured by the Federal Deposit Insurance Corporation; (d) any repurchase

agreement or reverse repurchase agreement with any bank or trust company organized under the Laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by any Federal Reserve Bank, which agreement is secured by any of the securities described in clause (a) above, and (e) to the extent approved by IPA and the Renewal Contract Coordinating Committee (i) any deposit or investment permitted for public funds under Utah's State Money Management Act, Utah Code Title 51, Chapter 7 and (ii) any securities, bonds, obligations, certificates, deposits or investments permitted under the Bond Resolution.

4.57 **IPA:** Shall have the meaning set forth in Section 1.

4.58 **IPA Member:** Any party to the IPA Organization Agreement dated May 10, 1977, as such Agreement has been or may hereafter be amended from time to time.

4.59 **IPA Retained Facility:** Shall have the meaning set forth in Section 24.

4.60 **Issuance and Financing Costs:** With respect to any particular issue, series or tranche of Project Indebtedness, all capitalized interest, debt service funds or accounts and debt service reserve funds or accounts financed with such Project Indebtedness, and all underwriters' or brokers' discounts or fees, bond insurance premiums, rating agency fees, attorneys' fees and other issuance costs of any type or nature associated with such Project Indebtedness.

4.61 **Los Angeles:** The Department of Water and Power of the City of Los Angeles, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California.

4.62 **Major Capital Improvements:** All Capital Improvements that are approved by the Original Coordinating Committee or Renewal Contract Coordinating Committee, as applicable, and designated thereby as "Major Capital Improvements." All Major Capital Improvements shall be undertaken, acquired and constructed as provided under Section 14. For the avoidance of doubt, the Gas Repowering constitutes a Major Capital Improvement.

4.63 **Maximum Generating Capability:** The maximum net capability of each generating facility of the Generation Station to produce power, determined at the high side of its generation transformer, for sustained periods under conditions existing from time to time.

4.63A **Maximum Purchase Percentage:** with respect to a particular California Purchaser, the percentage obtained by dividing (i) such California Purchaser's Generation Entitlement Share by (ii) the sum of the Generation Entitlement Shares of all California Purchasers.

4.64 **Minimum Generating Capability:** The lowest net capability of each Gas Unit of the Generation Station to produce power, as determined at the high side of its generation transformer, at which such Gas Unit can be maintained in service reliably on a continuous basis under automatic control.

4.65 **Minimum Reserve Funding Amount:** Shall have the meaning set forth in Section 5.13.1.

4.66 **Month:** A calendar month.

4.67 **Monthly Power Costs:** From and after the Transition Date all of IPA's costs, to the extent not paid or to be paid from the proceeds of Debt Instruments, resulting from or attributable to the ownership, operation and maintenance of and renewals and replacements to the Project, together with any Tax Equivalent Payment Differential, all Retirement Costs constituting or payable as Monthly Power Costs, and Debt Service with respect to Renewal Contract Project Indebtedness. IPA shall apply as a credit against Monthly Power Costs, Ordinary Salvage Receipts and interest earned on or after the Transition Date on investments, other than the investment of amounts on deposit in any account in the Retirement Reserve Fund. Monthly Power Costs shall consist of a minimum cost component and a variable cost component and shall include, but not be limited to, the items of cost and expense referred to in this Section 4.67 that are accrued or paid by IPA during each Month of each Power Supply Year. If any Power Supply Year shall include fewer than twelve (12) Months, the fraction expressed in Sections 4.67.1.3, 4.67.1.4, 4.67.1.5, 4.67.1.6 and 4.67.1.7 shall be adjusted accordingly, and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to Sections 4.67.1.3, 4.67.1.4, 4.67.1.5, 4.67.1.6, 4.67.1.7 and 4.67.1.8 shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to said Sections shall be evenly apportioned over the remaining Months of such Power Supply Year.

4.67.1 The minimum cost component of Monthly Power Costs shall consist of:

4.67.1.1 Debt Service with respect to Renewal Contract Project Indebtedness for which amounts are not payable from or have not been previously paid or deposited into any fund or account referenced in Section 4.67.1.2.

4.67.1.2 The amounts that IPA is required under any Bond Resolution to pay or deposit during such Month into any funds or accounts established by such Bond Resolution for Debt Service or Debt Service reserve with respect to Renewal Contract Project Indebtedness or for any other reserve requirements for such Debt Service.

4.67.1.3 One-twelfth (1/12th) of the amount (not otherwise included under any item in this Section 4.67.1 or in Section 4.67.2) that IPA is required under any Bond Resolution to pay or deposit during such Power Supply Year into any fund or account established by such Bond Resolution, and shall include, without limitation, any amounts required to make up a deficiency in any fund required or permitted by such Bond Resolution whether or not resulting from a default in payments by any Purchaser of amounts due under any Renewal Power Sales Contract.

4.67.1.4 To the extent not included in any item referenced in Section 4.67.1.3, one-twelfth (1/12th) of the amount set forth in the Annual Budget for such Power Supply Year to be deposited into any reserve established by IPA from time to time for operation, maintenance, renewal or replacement costs, contingencies, or for general reserves, together with any amounts set forth in any amended Annual Budget to replenish amounts used from such reserves, or into any account in the Retirement Reserve Fund.

4.67.1.5 One-twelfth (1/12th) of the cost of producing and delivering capacity and energy during such Power Supply Year, including, but not limited to, (a) water costs, operation and maintenance costs, administrative and general costs, insurance costs (including amounts to fund any self-insurance program), overhead costs and any other costs payable by IPA in connection with the output of the Project; and (b) all costs related to conducting the business of IPA with respect to the Project, including personnel compensation, fees for legal, engineering, financial and other services, expenses of members of the IPA Board of Directors incurred in connection with attendance at meetings of the IPA Board of Directors or any committee thereof and meetings of the Renewal Contract Coordinating Committee, costs attributable to performance by IPA under the Excess Renewal Power Sales Agreement as provided under Section 26.6, and all other expenses properly related to the conduct of such affairs of IPA; provided, however, that minimum costs included under this Section 4.67.1.5 shall with respect to fuel costs include only the fixed costs of fuel, as follows:

4.67.1.5.1 The cost of the Project Fuel associated with Zero Net Load;

4.67.1.5.2 The labor and labor loading expenses for fuel handling;

4.67.1.5.3 The cost of fuel oil delivered to the plant site;

4.67.1.5.4 The cost associated with providing or increasing any Project Fuel storage;

4.67.1.5.5 The cost associated with contract payments under minimum or guaranteed payment provisions that are determined by the Renewal Contract Coordinating Committee to constitute costs of Project Fuel to be included in the minimum cost component;

4.67.1.5.6 The cost of transmission or transportation of Project Fuel unless otherwise determined

by the Renewal Contract Coordinating Committee pursuant to Section 6.2.10;

Provided further that in the event that any one or more Purchasers shall elect to procure its or their own fuel under Section 9.11, Monthly Power Costs applicable to any such Purchaser for the period during which it procures its own fuel shall include such minimum costs of fuel as provided in Sections 4.67.1.5.2, 4.67.1.5.3 and 4.67.5.4 and shall not include costs relating to Project Fuel provided for in Sections 4.67.1.5.1, 4.67.1.5.5, or 4.67.1.5.6.

4.67.1.6 One-twelfth (1/12th) of the amount necessary during such Power Supply Year to pay or provide reserves for payments (a) pursuant to the Act by IPA to the counties, municipalities and school districts affected by the Project, (b) of all Tax Equivalent Payments and (c) of all taxes required to be paid by IPA.

4.67.1.7 One-twelfth (1/12th) of the Tax Equivalent Payment Differential for such Power Supply Year.

4.67.1.8 Any amounts (not otherwise included under any item in this Section 4.67.1 or Section 4.67.2) constituting Monthly Power Costs pursuant to Sections 5.13, 23.9.3 or 23.9.4.

4.67.2 The variable cost component of the Monthly Power Costs with respect to any Month shall be based upon the costs referenced below associated with the Project Fuel actually used during such Month and shall include:

4.67.2.1 The cost of Project Fuel not otherwise included under Section 4.67.1.5.

4.67.2.2 If and to the extent so determined by the Renewal Contract Coordinating Committee pursuant to Section 6.2.10, the cost of transmission or transportation of Project Fuel other than such transmission or transportation referenced in Section 4.67.1.5.6.

Provided that, for the avoidance of doubt, such variable cost component of Monthly Power Costs shall not be applicable to any Purchaser that elects to procure its own fuel under Section 9.11 for the period during which it procures its own fuel.

4.68 **Northern Transmission Cost Share:** As to any particular Purchaser, the share (expressed as a percentage) set forth for such Purchaser in Appendix A attached hereto, as adjusted pursuant to Section 26, with respect to the costs associated with the Northern Transmission System that are to be allocated among the Purchasers with Points of Delivery on the Northern Transmission System, under the Renewal Power Sales Contracts. Each Purchaser's Northern Transmission Cost Share shall be equal to the quotient obtained by dividing that portion of such Purchaser's Generation Entitlement Share that is to be delivered at a Point of Delivery on the Northern Transmission System by the aggregate of those portions of all Purchasers' Generation Entitlement Shares that are to be delivered at Points of Delivery on the Northern Transmission System.

4.69 **Northern Transmission System:** The A.C. transmission system as set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.70 **Offer Acceptance:** The acceptance by an Original Purchaser of a Renewal Offer which shall be effective as provided by Section 26 hereof.

4.71 **Offer Letter:** The letter by IPA that makes the First Round Offer, the Second Round Offer, if necessary, or the Final Offer, if necessary, as the case may be.

4.72 **Operating Agent:** The entity (Los Angeles) responsible for the operation and maintenance of the Project, in accordance with the Construction Management and Operating Agreement.

4.73 **Operating Budget:** The annual operating budget for each Power Supply Year prepared by the Operating Agent pursuant to the Construction Management and Operating Agreement and approved by the Renewal Contract Coordinating Committee that is incorporated by IPA in the Annual Budget for such Power Supply Year as provided by Section 5.4.1.

4.74 **Operational Period:** With respect to any particular Project Component, the period beginning on the Transition Date and ending on the Permanent Removal From Service Date of such Project Component.

4.75 **Operational Reserves:** Shall have the meaning set forth in Section 5.13.1.

4.76 **Operational Term:** The period beginning on the Transition Date and ending on the Renewal Contract Final Termination Date.

4.77 **Ordinary Capital Improvements:** All Capital Improvements other than Major Capital Improvements that are approved by the Original Coordinating Committee or Renewal Contract Coordinating Committee, as applicable, and designated thereby as an Ordinary Capital Improvement. All Ordinary Capital Improvements shall be undertaken, acquired and constructed as provided under Section 14.

4.78 **Ordinary Salvage Receipts:** All receipts, revenues and other moneys actually received by IPA from the sale or other disposition after the Transition Date of surplus equipment, materials and supplies; provided, however, that Ordinary Salvage Receipts shall not include any receipts, revenues or other moneys received by IPA in connection with the sale or other disposition of equipment, materials or supplies constituting all or part of any Project Component on or after the Permanent Removal From Service Date of such Project Component.

4.79 **Organization Agreement:** That certain Intermountain Power Agency Organization Agreement dated as of May 10, 1977 providing for the creation of IPA, as amended and supplemented.

4.80 **Original Bond Resolution:** The Amended and Restated Power Supply Revenue Bond Resolution adopted by the IPA Board of Directors on August 28, 1998, and effective on July 20, 2007, as it has previously been, and as it may hereafter be, supplemented or amended.

4.80A **Original California Purchasers:** The Original Purchasers that are California Purchasers as California Purchasers is defined in the Original Power Sales Contracts.

4.81 **Original Coordinating Committee:** The committee established pursuant to Section 6.1 of each of the Original Power Sales Contracts.

4.82 **Original Power Sales Contracts:** The Power Sales Contracts between IPA and each of the thirty-six (36) Original Purchasers, pursuant to which IPA has sold and will continue to sell the capacity and energy of the Project through June 15, 2027, as such Contracts have been heretofore amended or supplemented, including without limitation by the Second Amendatory Power Sales Contract, and as such Contracts may hereafter be amended or supplemented.

4.83 **Original Purchaser Entitlements:** As to a particular Original Purchaser, its Generation Entitlement Share (as defined in the Original Power Sales Contracts) and its Generation Cost Share (as defined in the Original Power Sales Contracts) under its Original Power Sales Contract and its transmission entitlement and Transmission Cost Share (as defined in the Original Power Sales Contracts) under its Original Power Sales Contract, all as to which it is entitled to receive a Renewal Offer.

4.84 **Original Purchasers:** Each party, including Purchaser, other than IPA, to an Original Power Sales Contract; provided that in the event any such party shall have assigned its Original Purchaser Entitlement (including its rights as to the IPA renewal offer under Section 33 of such Original Power Sales Contract) in accordance with Section 19.2 of such Original Power Sales Contract prior to the acceptance or rejection by such party of the Renewal Offer, such assignee shall be deemed to be the Original Purchaser with respect to such assigned Original Purchaser Entitlement for the purposes of this Contract.

4.84A **Original Utah Purchasers**: The Original Purchasers that are Utah Purchasers as Utah Purchasers is defined in the Original Power Sales Contracts.

4.85 **Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original Purchasers, Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA, (ii) in the case of an acceptance of the First Round Offer by any of the Original Purchasers in part, that part of such Original Purchasers' Entitlements that is not accepted and not included under such Original Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original Purchasers), and (iii) in the case where any of the Original Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline,

reject or otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original Purchaser Entitlements; and all Orphan Original Purchaser Entitlements shall continue as such under the continued Renewal Offer except to the extent subsequently accepted (in whole or in part) by an Offer Acceptance.

4.86 **Reserved**

4.87 **Permanent Removal From Service Date:** Shall have the meaning set forth in Section 23.1.

4.88 **Point of Delivery:** The point at which each Purchaser is entitled to take delivery of electric energy associated with its Generation Entitlement Share, which point, as to each Purchaser, is set forth on Appendix B attached hereto.

4.89 **Power Supply Year:** The twelve (12) month period commencing at 12:01 a.m. on July 1 of each year during the Operational Term and ending at 12:01 a.m. on the following July 1; provided, however, that (a) if the Transition Date does not occur on July 1 of any year, then the first Power Supply Year shall begin at 12:01 a.m. on the Transition Date and shall end at 12:01 a.m. on the immediately following July 1, and (b) if the Operational Term does not end on June 30 of any year, then the last Power Supply Year shall begin at 12:01 a.m. on the July 1 immediately preceding the last day of the Operational Term and shall end at 12:01 a.m. on the last day of the Operational Term.

4.90 **Prime Rate:** The interest rate per annum for the United States as published on the first Business Day of each Month in the Wall Street Journal under the sub-caption "Prime Rates" under the caption "Money Rates", which interest rate shall be adjusted as of the close of business on the first Business Day of each Month, or, if the Wall Street Journal fails to publish the Prime Rate for the United States on such Business Day, IPA shall select a comparable publication for determination of the Prime Rate.

4.91 **Project:** Means (a) as applicable at any time on and after the Transition Date, the Generation Station, the Southern Transmission System, the Northern Transmission System and the Capital Improvements, and (b) as applicable at any time prior to the Transition Date, the "Project" as defined in the Original Power Sales Contracts.

4.92 **Project Fuel**: The natural gas procured or acquired by or on behalf of IPA during the Operational Period for use in the Generation Station.

4.93 **Project Component:** Any of the following: (a) Gas Unit 1 of the Generation Station, (b) Gas Unit 2 of the Generation Station, (c) the Southern Transmission System or (d) the Northern Transmission System.

4.94 **Project Indebtedness:** All monetary obligations or liabilities incurred by IPA pursuant to any Debt Instrument issued by IPA after the Effective Date to: (a) refund or refinance any bonds or other indebtedness of IPA issued for the Project and outstanding as of the Effective Date; (b) finance or refinance the costs of Capital Improvements; or (c) finance or refinance Retirement Costs or deposits into the Retirement Reserve Fund.

4.95 **Project Manager:** The entity (Los Angeles) responsible for the construction of the Project, in accordance with the Construction Management and Operating Agreement.

4.96 **Project Water Rights:** All water rights, well rights, shares or ownership interests in water companies, or other rights, titles or interests in or to riparian, underground or other water owned by IPA and acquired for the Project.

4.97 **Proposed Removal From Service Date:** Shall have the meaning set forth in Section 23.1.

4.98 **Prudent Utility Practice:** Any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts (including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto) known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition, taking into account the fact that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts that could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Utility Practice includes due regard for manufacturers' warranties and the requirements of governmental agencies of competent jurisdiction and shall apply not only to functional parts of the Project, but also to appropriate structures, landscaping, painting, signs, lighting, other facilities and public relations programs reasonably designed to promote public enjoyment, understanding and acceptance of the Project.

4.99 **Purchaser:** Shall have the meaning set forth in Section 1 and, as the context requires, shall also refer to each of the other Purchasers individually.

4.100 **Purchase Percentage:** Shall have the meaning set forth in the Excess Renewal Power Sales Agreement.

4.101 **Purchaser Representative:** Shall have the meaning set forth in the Excess Renewal Power Sales Agreement.

4.102 **Purchasers:** Those entities, other than IPA, executing Renewal Power Sales Contracts, together with their respective successors and assigns and any entity to which a Purchaser's rights and obligations may be transferred pursuant to Section 17.4. Appendix A and Appendix B attached hereto, listing all Purchasers, shall be completed, revised, replaced and furnished by IPA to all Purchasers in accordance with Section 26 and may thereafter be replaced from time to time as provided in this Contract.

4.103 **Qualified Independent Engineer:** An independent engineer or firm of independent engineers, selected by IPA, of national reputation generally recognized to be well qualified in matters relating to electric power systems.

4.104 **Regulatory Contract Approvals:** All governmental regulatory approvals, consents and authorizations required or necessary for the execution and delivery of

this Contract by Purchaser or IPA, the performance by Purchaser or IPA of its duties and obligations hereunder for this Contract to become the legal, valid and binding obligation of Purchaser or IPA (including, but not limited to, such applicable approvals, consents or authorizations by a public service commission or utility regulatory authority).

4.105 **Renewal Contract Coordinating Committee:** The committee established pursuant to Section 6.1 of this Contract and the other Renewal Power Sales Contracts.

4.106 **Renewal Contract Final Termination Date:** The earlier of (a) June 15, 2077, (b) the latest date to which the term of the Contract may extend under the Act (as the Act may be amended from time to time to increase the permissible period for which the term of a contract under the Act may extend) or (c) the Final Retirement Date of the Project Component that results in the Final Retirement Date having occurred with respect to all of the Project Components.

4.107 **Renewal Contract Project Indebtedness:** (a) Project Indebtedness that is incurred by IPA on or after the Transition Date; and (b) the portion of any Transition Project Indebtedness that, by its terms, is scheduled to become due and payable on or after the Transition Date; provided, however, that Renewal Contract Project Indebtedness shall not, in any event, include Debt Service on any Transition Project Indebtedness for any period prior to the Transition Date.

4.108 **Renewal Contract Term:** The period beginning on the Effective Date and ending on the Renewal Contract Final Termination Date.

4.109 **Renewal Offer:** The offer made by IPA pursuant to Section 33 of the Original Power Sales Contracts to each of the Original Purchasers to renew their Original Purchaser Entitlements and any offers of Orphan Original Purchaser Entitlements thereafter made by IPA to Committed Original Purchasers in accordance with the terms and provisions set forth in Section 26 of the Renewal Power Sales Contracts and consisting of the First Round Offer, the Second Round Offer, if necessary, and the Final Offer, if necessary.

4.110 **Renewal Power Sales Contracts:** This Contract and any contract with terms that shall be determined by IPA to be similar in substance to the terms of this Contract and that may contain such variations or differences from the terms of this Contract as shall be approved by IPA as not deviating from the substance of this Contract, entered into pursuant to the Renewal Offer by IPA and a Purchaser, together with amendments and supplements thereto.

4.111 **Retirement Actions**: Shall have the meaning set forth in Section 23.9.1.

4.112 **Retirement Consultant:** An independent consultant or other appropriate professional person or firm selected by IPA that is acceptable to the Coordinating Committee, and that has a nationwide and favorable reputation for skill and experience in the retirement and decommissioning of electric generating and transmission facilities similar to those of the Project, including, without limitation, in the identification of tasks, actions and other matters involved in the retirement and decommissioning of such facilities and the estimation of

the costs thereof. Inasmuch as Section 23.4 contemplates that a Retirement Consultant may be retained at various times during the Renewal Contract Term, it is recognized that IPA and the Renewal Contract Coordinating Committee may not, for various reasons, necessarily select the same independent consultant or other professional person or firm each time a Retirement Consultant is to be retained.

4.113 **Retirement Cost Debt Instruments:** Shall have the meaning set forth in Section 15.2.3.

4.114 **Retirement Cost Deficiency:** Shall have the meaning set forth in Section 23.9.3.

4.115 **Retirement Cost Report:** Shall have the meaning set forth in Section 23.4.

4.116 **Retirement Costs:** With respect to any Project Component, the amounts payable with respect to the "asset retirement costs" associated with the Project Component as determined pursuant to FAS 143. Such asset retirement costs shall include, without limitation, all Retirement Actions. In determining such asset retirement costs, to the extent that FAS 143 requires that any probability be assigned to one or more elements of determining such costs (e.g., the degree of the decommissioning and remediation obligation and the potential costs for performing that obligation), a probability of 100% shall be assigned to the potential outcome that results in the highest potential asset retirement cost. The funds received from salvage of the Project Component shall be credited as provided in FAS 143 for purposes of calculating such asset retirement costs.

4.117 **Retirement Election:** Shall have the meaning set forth in Section 23.1.

4.118 **Retirement Reserve Fund:** The Retirement Reserve Fund established pursuant to Section 22.1 which includes a separate account for each Project Component.

4.119 **Retirement Salvage Proceeds:** With respect to any particular Project Component or any facility or portion of such Project Component, the proceeds IPA actually realizes from the sale or other disposition of the property or property rights constituting a part of such Project Component on or after the Permanent Removal From Service Date of such Project Component; provided, however, that (a) with respect to any IPA Retained Facility other than Project Water Rights, the Retirement Salvage Proceeds of such IPA Retained Facility shall be deemed to be the estimated Retirement Salvage Proceeds thereof determined by the Retirement Consultant pursuant to Section 23.4, and shall not include any proceeds or revenues IPA may realize from any subsequent sale or other disposition by IPA of such IPA Retained Facility or any portion thereof; and (b) with respect to Project Water Rights that become an IPA Retained Facility pursuant to Section 24.1, the Retirement Salvage Proceeds of such Project Water Rights shall be deemed to be the amount determined pursuant to Section 24.2.

4.120 **Second Amendatory Power Sales Contract:** The Second Amendatory Power Sales Contract, dated as of _____, 201___, entered into by IPA with each Original Purchaser, together with any amendments thereof and supplements thereto.

4.121 **Second Round Offer Acceptance Date:** Such date specified in the Offer Letter by IPA with respect to the Second Round Offer, as such date may be extended by IPA.

4.122 **Second Round Offer:** IPA's continued Renewal Offer pursuant to Section 26.3 hereof.

4.123 **Section 39 Facilities:** Section 39 Facilities shall mean rights, properties, facilities and appurtenances that pursuant to and as provided in Section 39 of the Renewal Power Sales Contracts are to be or have been sold, leased or otherwise made available by IPA for the construction or operation of any generating unit or units, transmission facilities or other facilities or properties at the Project site that shall not be part of the Project.

4.124 **Section 39 Facilities Agreement:** Section 39 Facilities Agreement shall mean any agreement or arrangement pursuant to which IPA sells, leases or otherwise makes available Section 39 Facilities in accordance with Section 39 of the Renewal Power Sales Contracts for any generating unit or units, transmission facilities or other facilities or properties located at the Project site but not constituting part of the Project.

4.125 **Southern Transmission Cost Share:** As to any particular Purchaser, the share (expressed as a percentage) set forth for such Purchaser in Appendix A attached hereto, as adjusted pursuant to Section 26, with respect to the costs associated with the Southern Transmission System that are to be allocated among the Purchasers with the Point of Delivery on the Southern Transmission System under the Renewal Power Sales Contracts. Each Purchaser's Southern Transmission Cost Share shall be equal to the quotient obtained by dividing that portion of such Purchaser's Generation Entitlement Share that is to be delivered at the Point of Delivery on the Southern Transmission System by the aggregate of those portions of all Purchasers' Generation Entitlement Shares that are to be delivered at the Point of Delivery on the Southern Transmission System.

4.126 **Southern Transmission System:** The transmission system by that name set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.127 **Subscription Generation Cost Share:** Purchaser's Subscription Generation Cost Share as initially established pursuant to Section 26, as increased from time to time, if applicable, pursuant to Section 26.

4.128 **Subscription Generation Entitlement Share:** Purchaser's Subscription Generation Entitlement Share as initially established pursuant to Section 26, as increased from time to time, if applicable, pursuant to Section 26.

4.129 **Substantially Equal Aggregate Debt Service:** For any period of Fiscal Years and with respect to all series, issues or tranches of a specified Project Indebtedness, shall mean that the greatest Aggregate Debt Service for any Fiscal Year in such period is not in excess of one hundred ten percent (110%) of the Aggregate Debt Service for any preceding Fiscal Year in such period.

4.130 **Substantially Equal Debt Service:** For any period of Fiscal Years and with respect to any particular series, issue or tranche of any specified Project Indebtedness, shall mean that the greatest Debt Service for any Fiscal Year in such period is not in excess of one hundred ten percent (110%) of the smallest Debt Service for any Fiscal Year in such period.

4.131 **Switchyard:** The switchyard as described in Appendix C that comprises part of the Generation Station.

4.132 **Tax Equivalent Payment Differential:** For any Power Supply Year, the difference, if any, between the amount of Tax Equivalent Payments and the amount of Augmented Tax Equivalent Payments with respect to such Power Supply Year.

4.133 **Tax Equivalent Payments:** All ad valorem property taxes or payments in lieu of ad valorem property taxes imposed with respect to the Project or any portion thereof by all taxing agencies of the State of Utah.

4.134 **Terminated and Reduced Purchaser Entitlements:** With respect to the California Purchaser or the California Purchasers, if any, that terminate its or their Renewal Power Sales Contracts or reduce its or their Generation Entitlement Shares pursuant to Section 42, the total of such terminated entitlements, and such reduction of entitlements with respect to its or their Generation Entitlement Shares and Generation Cost Shares under the Renewal Power Sales Contracts, together with its or their transmission entitlements and Transmission Cost Shares under the Renewal Power Sales Contracts.

4.135 **Transfer:** Shall have the meaning set forth in Section 20.2.

4.136 **Transition Bond Resolution:** Any Bond Resolution adopted prior to the Transition Date under which Transition Project Indebtedness is incurred or issued by IPA.

4.137 **Transition Date:** June 16, 2027; provided, however, that if the date upon which the Original Power Sales Contracts terminate is extended pursuant to Section 26.1 of the Original Power Sales Contracts, then the Transition Date shall be the date that is next succeeding the date upon which the Original Power Sales Contracts terminate in accordance with their terms.

4.138 **Transition Debt Instruments:** Any Debt Instrument issued by IPA prior to the Transition Date by which Transition Project Indebtedness is incurred or evidenced.

4.139 **Transition Project Indebtedness:** Project Indebtedness that is incurred by IPA prior to the Transition Date and that, by its terms, is scheduled to remain outstanding after the Transition Date, provided that no such Project Indebtedness shall be incurred or authorized on or prior to the Entitlement Determination Date.

4.140 **Transmission Cost Share:** With respect to any Purchaser, shall mean, the Northern Transmission Cost Share or the Southern Transmission Cost Share, as applicable.

4.141 **Reserved**

4.142 **Uncontrollable Forces:** Any cause beyond the control of IPA that by the exercise of due diligence IPA is unable to prevent or overcome, including, but not limited to, failure or refusal of any other person or entity (including any Purchaser) to comply with any of the then existing contracts, an act of God, fire, flood, explosion, strike, sabotage, pestilence, an act of the public enemy, terrorist act, civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction, insurrection or riot, an act of the elements, failure of equipment, inability of IPA or any person or entity engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers, or the inability of IPA to sell or issue its Debt Instruments.

4.143 **Uniform System of Accounts:** The "Uniform Systems of Accounts prescribed for Class A and B Public Utilities and Licensees" as prescribed and, from time to time, as amended or modified or substitution therefor made by the Federal Energy Regulatory Commission or its successor, whether or not IPA is subject to Federal Energy Regulatory Commission jurisdiction.

4.144 **Unsubscribed Original Purchaser Entitlements:** The Original Purchaser Entitlements as to which, prior to the First Round Offer Acceptance Date, there has not been an Offer Acceptance.

4.145 **Utah Committed Original Purchasers:** The Original Utah Purchasers that are Committed Original Purchasers.

4.146 **Utah Municipal Purchasers:** The Purchasers that are political subdivisions of the State of Utah.

4.146A **Utah Orphan Entitlement Allocation Document:** A written document signed by all the Utah Committed Original Purchasers, as set forth under Section 26.3.1.1, providing for the allocation to and acceptance by those Utah Committed Original Purchasers designated in such document of the then remaining Utah Orphan Original Purchaser Entitlements; provided that together with such document such designated Utah Committed Original Purchasers shall provide Offer Acceptances with respect to the Utah Orphan Original Purchaser Entitlements allocated to such designated Utah Committed Original Purchasers, respectively, in such document and such document shall be filed with IPA.

4.146B **Utah Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original Utah Purchasers, Utah Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA by one or more Original Utah Purchasers, (ii) in the case of an acceptance of the First Round Offer by any of the Original Utah Purchasers in part, that part of such Original Utah Purchasers' Original Purchaser Entitlements that is not accepted and not included under such Original Utah Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original Utah Purchasers), and (iii) in the case where one or more of the Original Utah Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline, reject or

otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original Utah Purchasers' Original Purchase Entitlements.

4.146C **Utah Purchasers:** The Utah Municipal Purchasers and the Cooperative Purchasers.

4.147 **Voting Rights:** Shall have the meaning set forth in Section 6.1.9.

4.148 **Willful Action:**

4.148.1 Action taken or not taken by a party to this Contract at the direction of its directors or other governing body, officers or employees having management or administrative responsibility affecting its performance under this Contract and that:

4.148.1.1 Is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with the intent that injury or damage would result therefrom;

4.148.1.2 Has been determined by a final arbitration award or judgment or judicial decree to be a material default under this Contract, and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default; or

4.148.1.3 Is knowingly or intentionally taken or not taken with the knowledge that such action so taken or not taken is a material default under this Contract.

4.148.1.4 As used in this definition:

(a) "Willful Action" does not include any act or failure to act that is merely involuntary, accidental or negligent.

(b) The phrase "employees having management or administrative responsibility" means those employees of a party to this Contract who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling or supervising such party's performance under this Contract.

4.149 **Zero Net Load:** The electric load upon a generating unit when such generating unit's gross electric energy output equals its allocated General Service Requirements.

## 5. OBLIGATIONS OF IPA AND PURCHASER:

5.1 **Project Output During Operational Period:** During the Operational Period of each Project Component, IPA shall provide to Purchaser and Purchaser shall take its share of capacity and energy and associated services from such Project Component pursuant to the terms of this Contract. IPA will be responsible for planning, negotiating, designing, financing, constructing, insuring, contracting for, administering, operating and maintaining the Project to effectuate during the Operational Period each respective Project Component and the delivery and sale of such share of capacity and energy and associated services thereof to Purchaser.

5.2 **Project Manager and Operating Agent:** IPA has appointed Los Angeles as Project Manager and Operating Agent to construct, operate and maintain the Project during the Operational Period of each respective Project Component in accordance with the Construction Management and Operating Agreement.

5.3 **Project Covenants:** IPA covenants for the benefit of Purchaser and each of the other Purchasers that during the period beginning on the Effective Date and ending on the day prior to the Transition Date, it will comply with the provisions of the Original Power Sales Contracts relating to the acquisition, construction, maintenance and operation of the Project, including without limitation, the provisions of Section 44 of the Original Power Sales Contracts. IPA will also operate and maintain the Project in such a manner, and make such replacements and repairs thereto, as and to the extent necessary to keep the Project in at least as good a condition as IPA has agreed with the Original Purchasers to keep the Project pursuant to the Original Power Sales Contracts. It is the intention of the parties that this covenant obligate IPA to render the Project, as of the Transition Date, in as good a condition as it would be had IPA fully performed each of its operation, maintenance, repair and replacement obligations with respect to the Project under the Original Power Sales Contracts during the term thereof, but not impose upon IPA any duties or obligations with respect to the operation, maintenance, repair and replacement of the Project that are more extensive or onerous than, or that otherwise exceed the scope of, IPA's duties and obligations with respect to such matters under the Original Power Sales Contracts.

5.4 **Annual Budget:**

5.4.1 IPA will prepare and submit to Purchaser and the other Purchasers a proposed Annual Budget at least two hundred forty (240) days prior to the beginning of each Power Supply Year. In connection with the preparation of each such Annual Budget, IPA shall incorporate therein the Operating Budget (including provisions for the payment of Retirement Costs) for such Power Supply Year as prepared by the Operating Agent pursuant to the Construction Management and Operating Agreement and approved by the Renewal Contract Coordinating Committee and an estimate of all credits, if any, to be granted for such Power Supply Year to each Utah Municipal Purchaser pursuant to Section 7.6. Purchaser and the other Purchasers may then submit to IPA, at any time until the Annual Budget is adopted, any matters or suggestions relating to the Annual Budget. IPA shall adopt the Annual Budget not less than thirty (30) nor more than sixty (60) days prior to the beginning of each such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to

Purchaser and the other Purchasers. As required from time to time during any Power Supply Year, after thirty (30) days prior notice to Purchaser and all other Purchasers, IPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year. The Annual Budget shall set forth a detailed estimate of the Monthly Power Costs and all revenues, income or other funds to be applied to such costs for the applicable Power Supply Year, shall establish the basis for the billing of the minimum cost components of Monthly Power Costs and shall establish the rate of billing for the variable cost component, all as hereinafter provided.

5.4.2 In addition to the matters set forth in Section 5.4.1, the Annual Budget for the first Power Supply Year shall include the matters set forth in Section 5.13.

5.5 **Reports:** During the Operational Period, IPA will prepare and issue, or have prepared and issued, to Purchaser and the other Purchasers the following reports each Month of each Power Supply Year:

5.5.1 Financial and operating statements relating to the Project.

5.5.2 Status of the Annual Budget.

5.5.3 Status of any budget for a Major Capital Improvement.

5.5.4 Analysis of operations relating to the Project.

5.6 **Records and Accounts:** During the Operational Period of each Project Component, IPA will keep accurate records and accounts of each of the facilities comprising the Project as well as of the operations of IPA in a manner similar to the Uniform System of Accounts. Said accounts shall be audited annually by an independent firm of certified public accountants selected by IPA, experienced in electric utility accounting; provided, however, that IPA shall not be required to duplicate any of the audits conducted by the Renewal Contract Coordinating Committee under Section 6.5. Such audit shall be completed and submitted to IPA within one hundred twenty (120) days after the close of each Power Supply Year. All transactions of IPA relating to the Project with respect to each Power Supply Year shall be subject to such an audit. IPA shall promptly furnish to Purchaser and the other Purchasers complete copies of all such audits. Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable prior written notice to IPA during regular business hours.

5.7 **Adjustment of Billing:** Within 30 days following the submission to IPA of the audit conducted pursuant to Section 5.6 and no later than one hundred fifty (150) days after the end of each Power Supply Year, IPA will submit to Purchaser and the other Purchasers a detailed statement of the actual aggregate Monthly Power Costs with respect to each Purchaser and other amounts payable hereunder, including credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Power Costs and other amounts payable hereunder, if any, for such Power Supply Year or any prior Power Supply Year, based on the annual audit of accounts provided for in Section 5.6. If, on the basis of the statement submitted as provided in this Section 5.7, the actual aggregate Monthly Power

Costs and other amounts payable for any Power Supply Year exceed the amount thereof that Purchaser and the other Purchasers have been billed, Purchaser and the other Purchasers shall pay IPA promptly the amount to which IPA is entitled. If, on the basis of the statement submitted pursuant to this Section 5.7, the actual aggregate Monthly Power Costs or other amounts payable for any Power Supply Year are less than the amount thereof that Purchaser and the other Purchasers have been billed and paid, IPA shall credit such excess against Purchaser's and the other Purchasers' next monthly payment or payments until such credit has been fully applied. If the failure of Purchaser to make its payments in accordance with this Contract shall have resulted in the application of amounts in any reserve or working fund under any Bond Resolution to the payment of costs payable from such reserve or working fund and the other Purchasers shall have made up the deficiency created by such application or paid additional amounts into such reserve or working fund, amounts thereafter paid to IPA by Purchaser for application to such past due payments, including interest thereon, shall be credited on the Billing Statements of such other Purchasers in the next Month or Months as shall be appropriate.

5.8 **Disputed Monthly Billing Statement:** In case any portion of any Billing Statement received by Purchaser from IPA shall be in bona fide dispute, Purchaser shall pay IPA the full amount of such Billing Statement, and, upon determination of the correct amount, the difference between such correct amount and such full amount so paid by Purchaser, if any, including interest thereon at the General Interest Rate on any overpayment, will be credited to Purchaser by IPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by IPA and returned to Purchaser by the fifth (5th) day following the later of receipt by IPA of the disputed overpayment or receipt by IPA of written notification by Purchaser of such dispute. If any Billing Statement is in dispute, IPA will give consideration to such dispute and will advise Purchaser with regard to IPA's position relative thereto within thirty (30) days following written notification by Purchaser of such dispute.

5.9 **Source of Payments:** The obligations of Purchaser to make the payments to IPA required under this Contract shall constitute a cost of purchased electric capacity and energy and an operating expense of such Purchaser payable solely from its electric revenue funds, and Purchaser will annually in each and every fiscal year of Purchaser during the Renewal Contract Term include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system sufficient to satisfy all the payments required to be made in such fiscal year under this Contract until all payments required under this Contract have been paid in full.

5.10 **Information to be Supplied:** Purchaser agrees to supply IPA, upon request, with such information and documentation as IPA shall reasonably determine to be requisite and necessary with respect to the financing, design, construction, operation and maintenance of the Project, including information reasonably available to allow IPA to respond to requests for such information from any Federal, state or local regulatory or other authority.

5.11 **Availability of Consultants:** IPA shall make available to the Renewal Contract Coordinating Committee at the latter's request, all consultants and advisors on financial matters, including, but not limited to, financial advisors and bond counsel (but excluding the general legal counsel of IPA), that are retained by IPA and such consultants and advisors shall be authorized to consult with and advise the Renewal Contract Coordinating Committee on financial matters.

5.12 **Rate Covenant:** Purchaser will establish, maintain and collect rates and charges for the electric service of its electric system so as to provide revenues sufficient, together with available electric system reserves and other available funds, to enable Purchaser to pay to IPA all amounts payable when due under this Contract and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

5.13 **Initial Funding of Certain Reserves:**

5.13.1 IPA, the Renewal Contract Coordinating Committee and the Purchasers shall provide for the establishment and initial funding, upon or immediately after the Transition Date, of reserves for Project operations, maintenance, renewals, replacements and contingencies (collectively, "Operational Reserves") in accordance with this Section 5.13. In connection with the preparation of the Annual Budget for the first Power Supply Year pursuant to Section 5.4, IPA shall identify all Operational Reserves required to be maintained by IPA, and the minimum amounts required to be on deposit therein pursuant to any Bond Resolution or other contractual obligation of IPA (such minimum amounts being referred to as the "Minimum Reserve Funding Amount"). Thereupon, IPA and the Renewal Contract Coordinating Committee, by their mutual approval, shall determine whether any Operational Reserves, other than contractually required Operational Reserves in the Minimum Reserve Funding Amount, should be established and the appropriate minimum funding levels of such Operational Reserves. Based upon such determination, IPA shall include in the Annual Budget for the first Power Supply Year, as Monthly Power Costs, the full amounts required to initially fund all such Operational Reserves at the levels so determined; and, in the case of contractually required Operational Reserves, at the Minimum Reserve Funding Amount required by the applicable Bond Resolution or other contractual obligation if IPA and the Renewal Contract Coordinating Committee shall not have determined to fund such Operational Reserves at higher levels.

5.13.2 The amounts included for Operational Reserves in the Annual Budget for the first Power Supply Year pursuant to Section 5.13.1 shall constitute Monthly Power Costs for the first Month of such Power Supply Year. As such, those amounts shall be allocated among the Purchasers pursuant to Sections 7.1 and 7.2 and each Purchaser's full allocated share thereof shall be included in the Billing Statement for such Month issued to such Purchaser pursuant to Section 7.4.2 and shall be due and payable in full on or before the due date of such Billing Statement. Each Purchaser shall receive a credit against such Billing Statement for any amounts available to such Purchaser that it directs IPA to transfer to such Operational Reserves from its share, if any, of the reserves held by IPA pursuant to the Original Power Sales Contracts.

5.13.3 Except as otherwise may be required pursuant to the applicable Bond Resolution, any amounts held by IPA as debt service reserve funds for Project

Indebtedness at the end of the term of the Original Power Sales Contracts shall continue to be held by IPA after the Transition Date in accordance with, and applied as set forth in, the provisions of the applicable Bond Resolution. Except as IPA may be directed pursuant to Section 5.13.2, IPA shall have no obligation to make amounts held by it as reserves pursuant to the Original Power Sales Contracts available for the funding of Operational Reserves on or after the Transition Date.

5.14 **Project Developments: Amendment of Original Power Sales Contract:** The Purchaser and the other Purchasers recognize that prior to the Operational Period the Project will be operated and maintained, and, subject to compliance with the applicable provisions of Section 15.1, Capital Improvements may be undertaken, acquired and constructed, and the Project may include contractual arrangements all of which shall be performed, provided for and entered into under and in accordance with Section 36 of the Original Power Sales Contract and other terms and provisions of the Original Power Sales Contracts; provided, however, that the Original Power Sales Contracts shall not be further amended or supplemented subsequent to the Effective date in any manner that adversely affects the rights or interests of the Purchaser and the other Purchasers. Accordingly, IPA hereby agrees not to enter into any amendment or supplement to the Original Power Sales Contracts after the Effective Date that adversely affects the rights or interests of the Purchaser or any of the other Purchasers without obtaining the prior consent to such amendment and supplement to the Original Power Sales Contracts by each of the Purchasers.

6. **ADMINISTRATION**:

6.1 **Renewal Contract Coordinating Committee; Appointment of Representatives:** The Renewal Contract Coordinating Committee shall be established in order to provide for the effective cooperation and interchange of information and to provide coordination on a prompt and orderly basis among the Purchasers and IPA in connection with the various administrative, technical and other matters that may arise from time to time in connection with the Project. The representatives on the Renewal Contract Coordinating Committee shall be appointed as follows:

6.1.1 One (1) representative shall be appointed by IPA, which representative shall at all times serve as the Chairman of the Renewal Contract Coordinating Committee. Such representative shall have no Voting Rights. IPA may also appoint an alternate representative who shall be entitled to act in place of its regular representative in the event of the absence of the regular representative.

6.1.2 Each California Purchaser shall be entitled to appoint one (1) representative; provided, however, that if more than one California Purchaser has Voting Rights of less than one and four-tenths percent (1.40%), then all such California Purchasers having Voting Rights of less than one and four-tenths percent (1.40%) shall, as a group, be entitled to appoint one (1) representative, which representative shall be elected by a weighted majority vote of all such California Purchasers having Voting Rights of less than one and four-tenths percent (1.40%) based on their respective Voting Rights.

6.1.3 Each Purchaser, other than the California Purchasers, that has Voting Rights of one and four-tenths percent (1.40%) or more shall be entitled to appoint one (1) representative.

6.1.4 One (1) representative shall be collectively appointed by the Utah Municipal Purchasers who are not individually entitled to appoint a representative pursuant to Section 6.1.3, which representative shall be elected by a weighted majority vote, based on their respective Voting Rights, of all such Utah Municipal Purchasers not individually entitled to appoint a representative.

6.1.5 One (1) representative shall be collectively appointed by the Cooperative Purchasers who are not individually entitled to appoint a representative pursuant to Section 6.1.3, which representative shall be elected by a weighted majority vote, based on their respective Voting Rights, of all such Cooperative Purchasers not individually entitled to appoint a representative.

6.1.6 **Reserved**

6.1.7 All Purchasers who are entitled to individually appoint a representative to the Renewal Contract Coordinating Committee pursuant to Sections 6.1.2 or 6.1.3 shall give the Chairman of the Renewal Contract Coordinating Committee written notice of their initial appointments (and any initial alternates thereafter) and of any change in the appointment of their representative, or alternates, which appointments and changes shall be effective immediately upon receipt of such notice by the Chairman. Each group of Purchasers who are entitled to collectively appoint a representative to the Renewal Contract Coordinating Committee pursuant to Sections 6.1.2, 6.1.4 or 6.1.5 shall hold an election within thirty (30) days after the Entitlement Determination Date, and thereafter within the first sixty (60) days of the first calendar year following the date of this Contract and within the first sixty (60) days of each fifth (5th) calendar year thereafter, to elect its representative (and any alternates) to the Renewal Contract Coordinating Committee. Within thirty (30) days after each such election, the Purchasers within such group shall certify in writing to the Chairman of the Renewal Contract Coordinating Committee the results of such election and the name of the representative (and any alternates) so appointed to the Renewal Contract Coordinating Committee.

6.1.8 In addition, each group of Purchasers entitled to collectively appoint a representative to the Renewal Contract Coordinating Committee pursuant to this Section 6.1 may remove any representative (or any alternate) previously appointed. Any vacancy so created, or any vacancy created by the death or resignation of any representative (or any alternate), shall be filled by the group of Purchasers that appointed such representative (or alternate, as the case may be), and the Purchasers within such group shall certify in writing to the Chairman of the Renewal Contract Coordinating Committee the results of such election and the name of the group's replacement representative (and any additional alternates that may at any time be appointed) on the Renewal Contract Coordinating Committee.

6.1.9 For purposes of this Contract, at any particular time on or after the Entitlement Determination Date and with respect to any Purchaser, "Voting Rights" shall

mean such Purchaser's Generation Entitlement Share in effect at such time under its Renewal Power Sales Contract.

6.1.10 Procedures of the Renewal Contract Coordinating Committee shall include:

6.1.10.1 Alternate representatives appointed by any Purchaser or group of Purchasers shall be entitled to act on behalf of such Purchaser or group of Purchasers in the absence of the regular representative, or to act on specified occasions with respect to specified matters. An alternate representative may attend all meetings of the Renewal Contract Coordinating Committee or any committee or sub-committee thereof but may vote only if the representative for which he or she serves as alternate is absent from such meeting. No party's representative(s) shall exercise any greater authority than permitted by the party or parties that he or she represents.

6.1.10.2 The Chairman of the Renewal Contract Coordinating Committee shall be responsible for calling and presiding over the meetings of the Renewal Contract Coordinating Committee. The Chairman shall promptly call a meeting of the Renewal Contract Coordinating Committee at the written request of any representative. All action taken by the Renewal Contract Coordinating Committee shall require an affirmation of representatives of Purchasers having Voting Rights aggregating at least eighty percent (80%), except as otherwise provided in Section 23.1, with respect to the retirement from service of the Northern Transmission System or the Southern Transmission System, or in Section 6.2.10, with respect to approval of the Fuel Management Practices and Procedures, and action may be taken by vote given in an assembled meeting of the representatives or by telephone, telefax, videophone, e-mail, nationally recognized overnight courier service, certified or registered letter or by any combination thereof; provided, however, that if two or more of the City of Burbank, the City of Glendale, the City of Pasadena and the City of Riverside (such cities being, collectively, the "Other California Purchasers"), hold, collectively, Generation Entitlement Shares totaling at least 15%, then, at any time prior to August 3, 2019, the approval of an Alternative Repowering (as defined in the Original Power Sales Contracts) requested of the Renewal Contract Coordinating Committee shall require an affirmation of representatives of Purchasers having Voting Rights aggregating at least eighty percent (80%), including, without limitation, the affirmation of at least one of the representatives of the Other California Purchasers.

6.1.10.3 The Renewal Contract Coordinating Committee shall be organized within thirty (30) days after the Entitlement Determination Date; provided, however, that except as specifically set forth under Sections 6.3, 6.4 or 15.1, the Renewal Contract Coordinating

Committee shall have no responsibilities, duties or rights under the Renewal Power Sales Contracts prior to the Transition Date.

6.2 **Renewal Contract Coordinating Committee Responsibilities:** From and after the Transition Date, the Renewal Contract Coordinating Committee shall have the following responsibilities:

6.2.1 To the extent not finalized or effective on the Transition Date, review, modify and approve specifications, proposals, bid evaluations and contracts, and any other business as determined by the Renewal Contract Coordinating Committee.

6.2.2 Provide liaison among IPA and the Purchasers at the management level with respect to the operation of the Project and any construction thereof then or thereafter ongoing.

6.2.3 Exercise general supervision over the committees or sub-committees established pursuant to Section 6.6.

6.2.4 Review, discuss and attempt to resolve any disputes among IPA and the Purchasers or other parties relating to the Project; provided, however, that such responsibility shall not impose on IPA or its legal counsel any obligation to waive attorney-client privilege, attorney work product privilege or other privilege or disclose any confidential information.

6.2.5 Make recommendations to the Project Manager and Operating Agent with respect to the operation of the Project or any then ongoing or future construction.

6.2.6 Review, modify and approve written statistical and administrative reports and information and other similar records to be furnished to the Renewal Contract Coordinating Committee by the Project Manager or Operating Agent.

6.2.7 Review, modify and approve the practices and procedures formulated by the Operating Agent to be followed by the Purchasers for the scheduling and controlling of capacity and energy of the Project.

6.2.8 Review, modify and approve the schedule of planned maintenance outages formulated by the Operating Agent, including the policies for selection and utilization of third party maintenance contractors included in the budgets with respect to the Project; in approving such schedules, consideration shall be given to each Purchaser's system conditions that may prevail during such planned maintenance outages.

6.2.9 Review, modify and approve procedures formulated by the Operating Agent for starting up and shutting down each Gas Unit of the Generation Station.

6.2.10 Review, modify and approve practices and procedures formulated by the Operating Agent for the management of fuel for the Project, including (i) programs and policies for the procurement of Project Fuel, the hedging of Project Fuel costs and determining values, quantities, expenses and costs of Project Fuel; (ii) procedures for billing

Project Fuel acquisition costs and for billing Project Fuel transmission or transportation costs, which may modify, implement or supplement the costs of such Project Fuel acquisition as provided for under Section 4.67.1.5.5, and costs of transmission or transportation of Project Fuel as provided for under Section 4.67.1.5.6, provided however, to the extent that any such procedure modifies the payment responsibility of any of the Purchasers for costs of Project Fuel acquisition or the costs of Project Fuel transmission or transportation, as then determined pursuant to the Renewal Power Sales Contracts, such procedure shall require affirmation by Renewal Contract Coordinating Committee representatives of Purchasers having Voting Rights totaling one hundred percent (100%); (iii) procedures providing the conditions for and the arrangements under which a Purchaser is permitted to procure its own fuel for use in the Generation Station to generate its Generation Entitlement Share consistent with the applicable provisions of the Renewal Power Sales Contract; (iv) practices and procedures with respect to the amount of Project Fuel for active storage and the rate of Project Fuel consumption for General Service Requirements and the costs of startup; (v) practices and procedures for the emergency purchases of Project Fuel in recognition of the needs of each Purchaser; and (vi) such other practices and procedures as may be necessary or appropriate for the management of fuel for the Project.

6.2.11 Review, modify and approve all budgets and revisions thereof prepared and submitted by the Project Manager or Operating Agent pursuant to the Construction Management and Operating Agreement.

6.2.12 Review, modify and approve the practices and procedures formulated by the Project Manager or Operating Agent under the Construction Management and Operating Agreement and review and approve all Project interconnection agreements or arrangements and all amendments and supplements to the Construction Management and Operating Agreement.

6.2.13 Review, modify and approve other recommendations of the Project Manager or Operating Agent made pursuant to the provisions of the Construction Management and Operating Agreement.

6.2.14 Review, modify and approve all administrative and general costs to be included in the Annual Budget related to the conduct of the business of IPA with respect to the Project, and all payments and contributions by IPA to the counties, municipalities and school districts affected by the Project other than such payments and contributions as are mandated, and the amount of which is specified (whether by formula, assessment criteria or otherwise) by Utah law.

6.2.15 Review, modify and approve all Capital Improvements (other than Essential Capital Improvements) and the budgets or other provisions for the payment or financing thereof.

6.2.16 Approve all consultants or advisors with respect to Project matters that may be retained by IPA, including, but not limited to, financial advisors and bond counsel (but excluding any Qualified Independent Engineer retained by IPA as provided in Section 6.2.22 and the general legal counsel of IPA); provided, however, that the failure of the

Renewal Contract Coordinating Committee to act within forty five (45) days after written notice by IPA of an intent to retain any such consultant or advisor shall constitute a waiver of the right of approval.

6.2.17 Review, modify and approve, consistent with the terms of Section 33, IPA's insurance program, including, without limitation, a self-insurance program.

6.2.18 Formulate practices and procedures for the use of the unutilized operating capabilities of the transmission facilities of the Project among the Purchasers entitled to schedule, without regard to source or origin, the use of such operating capabilities.

6.2.19 Make recommendations with respect to and review and approve the revisions by IPA of the Description of the Project attached hereto as Appendix C, (i) as such Description of the Project shall be revised by IPA at the commencement of the Operational Period to conform such Description of the Project to the Project as it shall then exist, and (ii) as such Description of the Project shall be thereafter modified by IPA to conform such Description of the Project to the actual Project as it evolves and changes during the Operational Period; provided that all such revisions of the Description of the Project shall be in accordance with Prudent Utility Practice, and IPA shall cause Appendix C attached hereto to be revised, with such approval of the Renewal Contract Coordinating Committee, as necessary so that the Description of the Project set forth in Appendix C shall conform to the actual Project.

6.2.20 In connection with the budgeting process set forth in Section 5.4, establish minimum balances for the various IPA reserve funds and accounts and the amounts of the contributions to be made to each such fund or account from billings to Purchasers during each Power Supply Year; provided, however, that in the case of reserve funds and accounts required under any Bond Resolution, the amounts of such reserve funds and accounts shall comply with any requirements regarding the establishment, minimum balance levels, maintenance, funding and investment of such reserve funds and accounts.

6.2.21 Review, require (as a condition to approval, but not otherwise) modifications with respect to, and approve any Bond Resolution adopted or entered into by IPA after the Transition Date, including any amendments or supplements thereto, and any amendment or supplement adopted or entered into by IPA after the Transition Date with respect to any Bond Resolution that was adopted or entered into by IPA on or prior to the Transition Date; provided, however, such approval shall not be required, and this Section 6.2.21 shall not apply with respect to any supplement to any such Bond Resolution with respect to Designated Project Indebtedness as to which the Renewal Contract Coordinating Committee is entitled to make recommendations pursuant to Section 6.2.22.

6.2.22 With respect to any Project Indebtedness issued or incurred after the Transition Date that constitutes Designated Project Indebtedness, make recommendations to IPA, in a timely manner, with respect to: (a) each supplement to any Bond Resolution or other instrument authorizing the issuance or sale of or providing the security for any such Project Indebtedness and the contract of purchase under which the Debt Instruments evidencing such Project Indebtedness are to be sold, (b) the contract of purchase under which such Debt Instruments are to be sold, (c) the selection of the managing underwriter(s) for such

Debt Instruments and the selection of any Qualified Independent Engineer to provide services in connection with the issuance of such Debt Instruments, (d) the manner and timing of marketing and the amounts of such Debt Instruments and (e) the manner and timing of marketing and amounts of notes or other evidences of indebtedness issued in anticipation of the issuance of such Debt Instruments. The recommendations, if any, made pursuant to this Section 6.2.22 shall not be legally binding on IPA and, if the Renewal Contract Coordinating Committee fails to make any such recommendations, action by IPA with respect to such matters shall not be precluded.

6.2.23 With respect to any Project Indebtedness issued or incurred after the Transition Date that does not constitute Designated Project Indebtedness: (a) approve each supplement to any Bond Resolution or other instrument authorizing the issuance of or providing the security for any such Project Indebtedness pursuant to Section 6.2.21, (b) approve the terms and provisions of the contract of purchase under which the Debt Instruments relating to such Project Indebtedness are to be sold, and (c) make recommendations to IPA, in a timely manner, with respect to the selection of the managing underwriter(s), if any, for each series of publicly-issued Debt Instruments relating to such Project Indebtedness and the manner and timing of marketing and amounts of each series of Debt Instruments relating to such Project Indebtedness. The recommendations, if any, made pursuant to the immediately preceding clause (c) shall not be legally binding on IPA and, if the Renewal Contract Coordinating Committee fails to make any such recommendations, action by IPA with respect to such matters shall not be precluded.

6.2.24 Perform such other functions and duties as may be provided for under this Contract or as may be necessary or appropriate to carry out its duties and powers as provided for under this Contract.

6.3 **Required Approvals Prior to Transition Date:** Prior to the Transition Date, IPA shall obtain the approval, which shall not be unreasonably withheld, conditioned or delayed, of the Renewal Contract Coordinating Committee with respect to each of the following:

6.3.1 The incurrence of any Project Indebtedness to the extent such Project Indebtedness expressly requires the approval of the Renewal Contract Coordinating Committee pursuant to Section 15.1.

6.3.2 The adoption or entering into by IPA of any Bond Resolution or amendment or supplement thereto, to the extent, and only to the extent, it authorizes the issuance or sale of or provides for the security for any Transition Project Indebtedness, provided, no such approval shall be required with respect to any such Bond Resolution, amendment or supplement to the extent it relates to Transition Project Indebtedness for the Gas Repowering or for an Essential Capital Improvement so long as the requirements of the proviso in Section 15.1.2 are satisfied; provided further that, notwithstanding any other provision of this Contract, in no event shall any Renewal Contract Project Indebtedness be issued, nor shall the issuance thereof be approved by the Renewal Contract Coordinating Committee, prior to November 1, 2019.

6.3.3 Any reduction in the design capacity of a Gas Unit or Gas Units of the Gas Repowering pursuant to Section 44.1 of the Original Power Sales Contract as added by the Second Amendatory Power Sales Contract.

6.3.4 Any other matter arising after the Entitlement Determination Date and prior to the Transition Date as to which Renewal Contract Coordinating Committee approval is required pursuant to any other provision of this Contract and the other Renewal Power Sales Contracts.

6.4 **Consultation Matters:** Prior to the Transition Date, IPA shall consult with, inform or provide, as indicated below, the Renewal Contract Coordinating Committee with regard to the following matters, but shall have no obligation to obtain any approval of or recommendations from the Renewal Contract Coordinating Committee with respect to any such matter:

6.4.1 Consult and inform the Renewal Contract Coordinating Committee with regard to Transition Project Indebtedness to finance the Gas Repowering or Essential Capital Improvements and meeting the requirements of the proviso in Section 15.1.2.

6.4.2 Provide to the Renewal Contract Coordinating Committee IPA's annual financial statements and periodic operating reports to the extent such items are provided in the ordinary course of business to the Original Coordinating Committee.

6.5 **Audits:** The following shall apply with respect to each Power Supply Year beginning on or after the Transition Date:

6.5.1 The Renewal Contract Coordinating Committee shall arrange for annual audits by independent auditors of the books and cost records of IPA, the Project Manager and the Operating Agent, and, to the extent the Renewal Contract Coordinating Committee determines necessary or appropriate, any consultant or cost reimbursable contractor retained by IPA, the Project Manager or the Operating Agent in connection with the operation of the Project or any construction then ongoing and relating thereto; provided, however, that the Renewal Contract Coordinating Committee shall not be required to duplicate any of the audits conducted by IPA under Section 5.6 or conducted at the request of any representative or representatives on the Renewal Contract Coordinating Committee pursuant to Section 6.5.2.

6.5.2 At the request of any representative or representatives on the Renewal Contract Coordinating Committee, IPA, under the direction of the Renewal Contract Coordinating Committee, shall arrange for audits by independent auditors in addition to those required under Section 6.5.1 of the books and cost records of IPA, the Project Manager, the Operating Agent, and any consultant or cost reimbursable contractor retained by IPA, the Project Manager or the Operating Agent in connection with the operation of the Project or any construction then ongoing and relating thereto. If representatives of Purchasers having Voting Rights in excess of fifty percent (50%) request any such audit, the costs of such audit shall constitute Monthly Power Costs and shall be paid by all of the Purchasers in accordance with the terms and conditions of the Renewal Power Sales Contracts. If a representative or representatives of Purchasers with Voting Rights that do not exceed fifty percent (50%) request

any such audit, such Purchasers shall pay the full cost of such audit, including, without limitation, the costs of the entity or entities that are the subject of such audit in responding thereto, and it shall be a condition precedent to the Renewal Contract Coordinating Committee's obligation to arrange for such audit, that Purchaser or the Purchasers represented by the representative or representatives requesting the same provide assurances, reasonably satisfactory to the Renewal Contract Coordinating Committee, for the payment of such costs.

6.5.3 IPA shall, and shall cause the Project Manager and the Operating Agent to, cooperate with any audit provided for in this Section 6.5. In addition, IPA shall, to the extent reasonable and consistent with customary business practices, use its reasonable best efforts to cause its consultants and contractors to cooperate with each such audit.

6.5.4 The Renewal Contract Coordinating Committee shall promptly furnish Purchaser and each of the other Purchasers with copies of all such audits.

6.6 **Committees:** The Renewal Contract Coordinating Committee shall establish an Engineering and Operating Committee, a Fuel Management Committee, and a Risk Management Committee and shall assign to each such Committee such responsibilities as the Renewal Contract Coordinating Committee deems appropriate. The Renewal Contract Coordinating Committee may establish other committees including, but not limited to, auditing, legal, financial, insurance, environmental and public information committees or sub-committees. Each committee or sub-committee established by the Renewal Contract Coordinating Committee shall be responsible and report to the Renewal Contract Coordinating Committee.

6.7 **Minutes:** All actions, resolutions, determinations and reports made by the Renewal Contract Coordinating Committee, as required by this Contract shall be set forth in its minutes, except when made by a telephone call or videophone pursuant to Section 6.1, whereupon a written record thereof will be made as soon as possible.

6.8 **Costs of Consultants:** Costs of consultants and others employed or appointed by the Renewal Contract Coordinating Committee to perform the duties hereunder shall be included in the Monthly Power Costs and shall be billed to IPA, the Project Manager or the Operating Agent, as appropriate.

6.9 **Expenses of Representatives:** Except as provided in Section 4.67.1.5, any expenses incurred by any representative of any Purchaser or group of Purchasers serving on the Renewal Contract Coordinating Committee or any committee or sub-committee in connection with his or her duties in connection therewith shall be paid by Purchaser or the Purchasers that he or she represents and shall not be included in Monthly Power Costs.

6.10 **Disputed Matters:** The parties hereto recognize that if the Renewal Contract Coordinating Committee is unable or fails to agree with respect to any matter or dispute that it is authorized to determine, resolve, approve or otherwise act upon after a reasonable opportunity to do so, or within the time limits specified in the Construction Management and Operating Agreement, then the Project Manager or the Operating Agent, as appropriate, is authorized to take such action, in a manner consistent with Prudent Utility

Practice, as in its discretion is necessary for its timely performance under the Construction Management and Operating Agreement pending the resolution of any such inability or failure to agree; provided, however, that nothing herein shall be construed to allow the Project Manager or the Operating Agent to act in violation of the express terms of the Construction Management and Operating Agreement or this Contract.

6.11 **Compliance with Bond Resolution:** The planning, financing, construction, acquisition, operation and maintenance of the Project must comply in all respects with the requirements of any Bond Resolution in effect from time to time and all licenses, permits and regulatory provisions necessary for such planning, financing, construction, acquisition, operation and maintenance. Therefore, the parties hereto agree that, notwithstanding Section 6.10 or any other provision of this Contract, no action by the Renewal Contract Coordinating Committee, the Project Manager or the Operating Agent shall require IPA to act in any manner inconsistent with any such requirements or to refrain from acting as thereby required, and if the Renewal Contract Coordinating Committee, the Project Manager or the Operating Agent shall fail to make recommendations or to act with respect to any matter in connection with which action is required to be taken pursuant to any of the foregoing, IPA shall take such action as is appropriate to assure compliance therewith.

7. **CHARGES AND BILLINGS**:

7.1 **Account Allocations:** For the purpose of determining the payments to be made by Purchaser pursuant to Section 7.2 and by each of the other Purchasers, the total amount of the Monthly Power Costs shall be allocated by IPA among four (4) accounts, as follows:

7.1.1 Minimum cost component associated with the Generation Station.

7.1.2 Minimum cost component associated with the Northern Transmission System.

7.1.3 Minimum cost component associated with the Southern Transmission System.

7.1.4 Variable cost component as defined in Section 4.67.2.

7.2 **Payments to IPA**: From and after the Transition Date, the amount to be paid by Purchaser to IPA for any Month shall be the sum of the following, less, if Purchaser is a Utah Municipal Purchaser, any credit to which Purchaser is entitled under Section 7.6:

7.2.1 Purchaser's Generation Cost Share multiplied by the minimum cost component of Monthly Power Costs for such Month associated with the Generation Station; provided that, in the event any one or more Purchasers shall have elected to procure its or their own fuel under Section 9.11 for a Month or Months, (i) the amount of the minimum cost component of Monthly Power Costs as set forth in Sections 4.67.1.5.1, 4.67.1.5.5 and 4.67.1.5.6 for such Month or Months shall be payable on a pro rata basis by Purchaser (if it shall not have elected to procure its own fuel) and each of the other Purchasers that has not elected to procure

its own fuel, with Purchaser paying the share thereof that is in the same proportion as its Generation Cost Share bears to the Generation Cost Shares of all such Purchasers that have not elected to procure their own fuel, and (ii) the amount of the minimum cost component of Monthly Power Costs, as set forth in Sections 4.67.1.5.2, 4.67.1.5.3 and 4.67.1.5.4 for such Month or Months shall remain payable by Purchaser and each of the other Purchasers (including each Purchaser that has elected to procure its own fuel) by multiplying a Purchaser's Generation Cost Share by the amount of such minimum cost component.

7.2.2 Purchaser's Northern Transmission Cost Share multiplied by the minimum cost component of Monthly Power Costs for such Month associated with the Northern Transmission System.

7.2.3 Purchaser's Southern Transmission Cost Share multiplied by the minimum cost component of Monthly Power Costs for such Month associated with the Southern Transmission System.

7.2.4 If and to the extent that Purchaser's Generation Entitlement Share shall have been generated by use of Project Fuel, the variable cost component of Monthly Power Costs for such Month, as determined under Section 4.67.2, multiplied by a fraction, the numerator of which is the kilowatt hours generated by use of Project Fuel as provided in Section 4.67.2 and delivered from the Generation Station to Purchaser during such Month, and the denominator of which is the kilowatt hours generated by use of Project Fuel as provided in Section 4.67.2 and delivered from the Generation Station to all Purchasers during such Month, unless the Renewal Contract Coordinating Committee shall have determined otherwise pursuant to Section 6.2.10, in which case, the variable cost component of Monthly Power Costs for such Month shall be as so determined by the Renewal Contract Coordinating Committee. For avoidance of doubt, in the event that Purchaser shall have elected in accordance with the Fuel Management Practices and Procedures to procure its own fuel for such Month, such variable cost component of Monthly Power Costs shall not apply to Purchaser or the cost of the fuel procured by Purchaser and used in the Generation Station for the generation of Purchaser's Generation Entitlement Share during such Month as provided under Section 9.11.

7.3 **Monthly Billings:** For billing purposes, the amount of the minimum cost component of Monthly Power Costs to be paid by Purchaser each Month pursuant to Sections 7.2.1 through 7.2.3, shall be billed in advance and shall be based on the then current Annual Budget. The amount of the variable cost component of Monthly Power Costs to be paid by Purchaser each Month pursuant to Section 7.2.4 shall be billed the Month following the Month the Project Fuel associated with such variable cost component was used.

7.4 **Billing Statements:**

7.4.1 By the fifth (5th) day of each Month during each Power Supply Year, IPA shall bill Purchaser for the amount of (a) the minimum cost component of Monthly Power Costs for the current Month, and (b) the variable cost component of Monthly Power Costs to be paid by Purchaser for the preceding Month, by providing Purchaser with a Billing Statement providing for the charges established pursuant to the provisions of this Contract. Such Billing Statements shall detail the matters covered in Section 4.67, shall set forth, among other

things, the amounts due for such Months from Purchaser with respect to the items of Monthly Power Costs and shall set forth, as a deduction from such amounts due, any credit to which Purchaser may be entitled under Section 7.6 if Purchaser is a Utah Municipal Purchaser. Purchaser shall pay IPA the amounts billed to it pursuant to each such Billing Statement on or before the twentieth (20th) day after receipt of such Billing Statement.

7.4.2 Notwithstanding anything in Section 7.3 or Section 7.4.1 to the contrary, the first Billing Statement for the first Power Supply Year shall be issued by IPA to Purchaser by the twentieth (20th) day prior to the Transition Date and Purchaser shall pay the amounts billed to it pursuant to such Billing Statement on or before the Transition Date. Such Billing Statement shall cover the minimum cost component of Monthly Power Costs for the first Month of the first Power Supply Year (or for the entire first Power Supply Year if it is less than one Month in length) and shall also cover all amounts required to be paid by Purchaser pursuant to Section 5.13.2.

7.4.3 While Retirement Actions are being conducted for any Project Component, IPA may, in its discretion, issue Billing Statements to Purchaser at any time and from time to time (but not more frequently than once each Month) for Purchaser's payment obligations under Section 23.9.3. Purchaser shall pay IPA the amounts billed to it pursuant to each such Billing Statement on or before the twentieth (20th) day after receipt of such Billing Statement.

7.4.4 IPA shall apply the amounts paid pursuant to the Billing Statements or cause the same to be applied to Monthly Power Costs as provided for in the then current Annual Budget.

7.5 **Interest on Late Payments:** If Purchaser fails to pay any Billing Statement when due, Purchaser shall pay to IPA interest on such late payment at a per annum rate equal to the Default Interest Rate on the unpaid amount thereof until paid.

7.6 **Credits to Utah Municipal Purchasers:** If Purchaser is a Utah Municipal Purchaser, it shall be entitled to a credit to reflect the Tax Equivalent Payment Differential, if any, attributable to Purchaser under Utah law. Such credit shall be applied, in calculating the amounts owed by Purchaser under Section 7.2, by providing Purchaser, each Month, one-twelfth (1/12th) of the estimated credit to which Purchaser will be entitled for the Power Supply Year, as set forth in the Annual Budget. Such credit shall be subject to adjustment pursuant to Section 5.7 and to reflect increases or decreases in the Tax Equivalent Payment Differential attributable to Purchaser under Utah law that may result from the outcome of any appeals or challenges against or negotiated settlements with the applicable taxing jurisdictions and bodies.

7.7 **Commencement of Payment Obligations:** Notwithstanding anything in this Section 7 to the contrary, the obligation of Purchaser to make payments pursuant to this Section 7, including, without limitation, payments with respect to Renewal Contract Project Indebtedness (without regard to when such Renewal Contract Project Indebtedness was incurred), payments into the Retirement Reserve Fund and to pay Retirement Costs and any other payments expressly required to be made by Purchaser under this Contract, shall apply

only with respect to Monthly Power Costs incurred or attributable to any period on or after the Transition Date.

8. **PAYMENT OBLIGATIONS:** Purchaser shall pay IPA the amounts of Monthly Power Costs set forth in the Billing Statements submitted by IPA in accordance with the provisions of Section 7, whether or not the Project or any part thereof is operating or operable and whether or not its output is suspended, interrupted, interfered with, reduced, curtailed or terminated, in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or non-performance by any party of any agreement for any cause whatever.

9. **GENERATION STATION CAPACITY AND ENERGY ENTITLEMENTS**:

9.1 **Scheduling of Energy:** At all times during the Operational Period of the Generation Station, Purchaser shall be entitled to schedule for its account energy (other than test energy) from the Generation Station up to an amount equal to the product of its Generation Entitlement Share multiplied by the Available Generating Capability of the Generation Station.

9.2 **Abnormal Operating Conditions:** At all times during the Operational Period of the Generation Station, upon the occurrence of abnormal operating conditions on Purchaser's system, and upon the written request of Purchaser, the Operating Agent shall increase or decrease Purchaser's schedule of energy allocation consistent with Prudent Utility Practice. Such increase or decrease shall not cause Purchaser's schedule of energy to exceed the amounts of capacity and energy provided for Purchaser in Sections 9.1, 9.3 or 9.4 and shall not be detrimental to any other Purchaser.

9.3 **Start-Up Power-Purchaser Requested:** When Purchaser requests delivery of capacity and energy, and such delivery requires the start-up of a Gas Unit, Purchaser shall, unless otherwise agreed in writing by IPA, schedule for its account an amount of capacity and energy at least equal to its Generation Entitlement Share multiplied by the Minimum Generating Capability established for such Gas Unit. At any time when Purchaser has so scheduled from such Gas Unit an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such Gas Unit, each of the non-requesting Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product of the remaining unscheduled Minimum Generating Capability and the ratio that its Generation Entitlement Share bears to the sum of the Generation Entitlement Shares of the non-requesting Purchasers.

9.4 **Start-Up Power-Another Purchaser's Request:** When another Purchaser requests delivery of capacity and energy, and such delivery requires the start-up of a Gas Unit, Purchaser shall, unless otherwise agreed to in writing by IPA, schedule for its account an amount of capacity and energy at least equal to its Generation Entitlement Share multiplied by the Minimum Generating Capability established for such Gas Unit. At any time when a Purchaser has so scheduled from such Gas Unit an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such Gas Unit, Purchaser shall only be obligated to schedule for its account an amount of capacity and energy equal to the product of the remaining unscheduled Minimum Generating Capability

and the ratio that its Generation Entitlement Share bears to the sum of its Generation Entitlement Share and the Generation Entitlement Shares of the other non-requesting Purchasers.

9.5 **Outages, Curtailments and Emergencies:** Operation of any Gas Unit by the Operating Agent shall be subject to scheduled outages or curtailments, operating emergencies and unscheduled outages or curtailments of such Gas Unit.

9.6 **Scheduling of Energy:** The capacity and energy of the Generation Station shall be scheduled or controlled by the Purchasers under practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.

9.7 **No Diminishment of Rights:** The capacity and energy of the Generation Station shall be controlled in a manner that shall not diminish the rights of Purchaser to receive its entitlement of capacity and energy.

9.8 **Capacity for Start-Up:** Purchaser shall be obligated, in proportion to its Generation Entitlement Share, to provide for capacity and energy requirements for starting up and shutting down each Gas Unit in compliance with the procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.9.

9.9 **Points of Delivery:** The Point of Delivery of Purchaser's capacity and energy is set forth in Appendix B attached hereto. IPA shall provide for and Purchaser shall take delivery of its capacity and energy at its Point of Delivery. Purchaser is responsible for arranging for transmission of its capacity and energy from such Point of Delivery to its system. A Purchaser may not designate a Point of Delivery under this Contract that is different from its Point of Delivery in the Original Power Sales Contracts.

9.10 **Disposal of Energy:** Nothing herein shall prevent Purchaser from disposing of its energy under this Contract; provided, however, that such disposal shall not affect any of the obligations of Purchaser under this Contract.

9.11 **Procurement of Fuel by Purchaser:** Purchaser may elect to procure its own fuel in accordance with the provisions of the Fuel Management Practices and Procedures for use in the Generation Station for the generation of its Generation Entitlement Share, except that Project Fuel shall be utilized for purposes of providing for the fuel storage for the Project for use by Purchaser and the other Purchasers.

10. **TRANSMISSION SYSTEM ENTITLEMENTS**:

10.1 **Southern Transmission System Entitlement:** During the Operational Period of the Southern Transmission System, each Purchaser with a Point of Delivery on the Southern Transmission System shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Southern Transmission System. Such entitlement shall constitute a right to capacity in the Southern Transmission System and shall be determined by dividing (i) such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at its Point of Delivery

on the Southern Transmission System, by (ii) the aggregate Generation Entitlement Shares of all Purchasers specified in Appendix B to be delivered at a Point of Delivery on the Southern Transmission System.

10.2 **Northern Transmission System Entitlement:** During the Operational Period of the Northern Transmission System, each Purchaser with a Point of Delivery on the Northern Transmission System shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.7 the use and operating capabilities of the Northern Transmission System. Such entitlement shall constitute a right to capacity in the Northern Transmission System and shall be determined by dividing (i) such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at its Point of Delivery on the Northern Transmission System by (ii) the sum of the aggregate Generation Entitlement Shares of all Purchasers specified in Appendix B to be delivered at Points of Delivery on the Northern Transmission System. For the avoidance of doubt, a Purchaser with a Point of Delivery on the Northern Transmission System shall be entitled to schedule, from time to time, on the segment of the Northern Transmission System that connects the Generation Station to such Purchaser's Point of Delivery, that amount of capacity at least equal to the amount of such Purchaser's Generation Entitlement Share.

10.3 **Curtailment of Energy Flows:** If it is necessary to curtail scheduled energy flows over all or any part of either the Southern Transmission System or the Northern Transmission System, each affected Purchaser shall be allocated a portion of the transmission capabilities remaining in service in the ratio that such Purchaser's Generation Entitlement Share scheduled over such affected transmission system (or part thereof) bears to the Generation Entitlement Shares scheduled over such affected transmission system (or part thereof) of all affected Purchasers.

10.4 **Excess Energy Requirements:** Any Purchaser desiring to schedule capacity and energy in excess of its rights pursuant to Sections 10.1 or 10.2 may make appropriate arrangements with another Purchaser having rights to unused transmission capacity. Each Purchaser so involved shall notify the Operating Agent of such arrangements and provide for proper schedules to accommodate such arrangements.

10.5 **Right to Schedule:** Notwithstanding the provisions of Sections 10.1, 10.2 and 10.4, each Purchaser's right to schedule the use of the operating capabilities of the Northern Transmission System or the Southern Transmission System and to schedule capacity and energy in excess of its rights pursuant to this Section 10 shall be limited to the extent that no Purchaser may act in such a manner as shall adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Debt Instruments that have been or may in the future be issued by IPA.

11. **SWITCHYARD USAGE**:

11.1 **Right to Switchyard**: During the Operational Period of any Project Component, each Purchaser with a Point of Delivery on the Northern Transmission System, each Purchaser with a Point of Delivery on the Southern Transmission System and any

Purchaser having designated the Project bus as its Point of Delivery shall have the right to use the Switchyard, if it is also operational, for its Generation Entitlement Share of the Available Generating Capability.

11.2 **Right to Switchyard for Energy Flows**: Each of the Purchasers and IPA, and their respective successors and assigns, shall have the right to use the Switchyard for any energy flows on any transmission lines that it has the right to use that are connected to the Switchyard, unless such use interferes with any entitlement of any Purchaser pursuant to Section 11.1; provided, however, that such use may not adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on Debt Instruments that have been or may in the future be issued by IPA.

12. **METERING:** Pursuant to this Contract and the Construction Management and Operating Agreement, IPA will provide for the installation of meters and will provide or cause to be provided all necessary metering equipment for determining the quantity of energy delivered by IPA; provided, however, that any Purchaser may make arrangements with the Operating Agent and at its own cost check the existing metering equipment or, with the prior written approval of the Renewal Contract Coordinating Committee, install additional metering equipment, provided that any such Purchaser-installed metering equipment does not have any adverse impact on the Project.

13. **PLEDGE OF PAYMENTS:** All payments required to be made by Purchaser in accordance with or pursuant to any provision of this Contract may be pledged by IPA to secure the payment of Renewal Contract Project Indebtedness, subject to the application thereof to such purposes and on such terms as provided in any Bond Resolution securing such Renewal Contract Project Indebtedness and as required by the Act; provided, however, that payments made by Purchaser (or any other Purchasers) for deposit into the Retirement Reserve Fund may not be so pledged after such monies have been deposited into the Retirement Reserve Fund.

14. **CAPITAL IMPROVEMENTS**:

14.1 **Capital Improvement Costs:** IPA agrees that on and after the Transition Date, Capital Improvements approved by the Renewal Contract Coordinating Committee shall be undertaken, acquired and constructed in accordance with the Construction Management and Operating Agreement. Costs for such Capital Improvements that are Ordinary Capital Improvements shall be approved by the Renewal Contract Coordinating Committee and shall be set forth in the Operating Budget and included in the Annual Budget payable as Monthly Power Costs, except to the extent payable from the proceeds of any Renewal Contract Project Indebtedness. Costs for such Capital Improvements that are Major Capital Improvements shall be approved by the Renewal Contract Coordinating Committee and shall be included in a budget for each such Major Capital Improvement payable from the proceeds of Renewal Contract Project Indebtedness, except to the extent included in the Operating Budget payable as Monthly Power Costs.

14.2 **Performance by Operating Agent and Project Manager:** Each Ordinary Capital Improvement shall be undertaken, acquired and constructed by the Operating Agent and each Major Capital Improvement shall be undertaken, acquired and constructed by

the Project Manager, all in accordance with the Construction Management and Operating Agreement.

14.3 **Recommendations and Cash Requirements:** On and after the Transition Date the recommendations made by the Project Manager under the Construction Management and Operating Agreement with respect to each Major Capital Improvement and the recommendations made by the Operating Agent under the Construction Management and Operating Agreement with respect to each Ordinary Capital Improvement shall be submitted to IPA for its information simultaneously with the submission of such respective recommendations to the Renewal Contract Coordinating Committee for its review, modification and approval. In addition, in accordance with the Construction Management and Operating Agreement, the Operating Agent shall submit to the Renewal Contract Coordinating Committee for its review, modification and approval and simultaneously to IPA for its information, forecasts of cash requirements for each Ordinary Capital Improvement, and the Project Manager shall submit to the Renewal Contract Coordinating Committee for its review, medication and approval and simultaneously to IPA for its information, forecasts of cash requirements for each Major Capital Improvement.

14.4 **Certification upon Completion:** On and after the Transition Date, as soon as practicable after the completion of an Ordinary Capital Improvement or a Major Capital Improvement, IPA shall cause the Operating Agent or Project Manager, as applicable, to submit a certification to the Renewal Contract Coordinating Committee stating (a) that such Capital Improvement has been completed in accordance with the plans and specifications applicable thereto and in accordance with this Contract and the Construction Management and Operating Agreement, (b) the date of such completion and (c) the amount, if any, required for the payment of any remaining part of the cost of such Capital Improvement.

14.5 **Project Component:** Each Capital Improvement shall constitute a part of the Project Component to which it relates as shall be provided by the Renewal Contract Coordinating Committee in connection with its approval of such Capital Improvement.

14.6 **Alternative Repowering**: As of the date of the approval of an Alternative Repowering, if any, by IPA, the Coordinating Committee and, in accordance with Section 6.1.10.2 of this Contract, the Renewal Contract Coordinating Committee, (a) as used in this Contract, the term "Gas Repowering" shall mean such Alternative Repowering, (b) such Alternative Repowering shall constitute the source for electric generation for the Project, (c) such Alternative Repowering shall replace any prior plan for repowering the Project, (d) such Alternative Repowering shall constitute a Capital Improvement determined to be necessary or desirable by the Original Coordinating Committee and the Renewal Contract Coordinating Committee and (e) without the need for consent of Purchaser (other than the affirmation, if any, of Purchaser's representative that may be necessary for the Original Coordinating Committee or the Renewal Contract Coordinating Committee to take action to approve the revising of this Contract as described in the remainder of this Section 14.6), this Contract shall be revised to the extent determined by IPA, the Coordinating Committee and the Renewal Contract Coordinating Committee (simultaneous with or prior to the approval of such Alternative Repowering) to be necessary to describe such Alternative Repowering as the source or sources of electric generation for the Project.

15. **PROJECT INDEBTEDNESS**:

15.1 **Project Indebtedness Issued Prior to Transition Date:** The following provisions shall apply with respect to the incurrence by IPA of Project Indebtedness prior to the Transition Date:

15.1.1 IPA shall not be required to obtain any approval or consent of the Renewal Contract Coordinating Committee or the Purchasers to incur any Project Indebtedness that is not Transition Project Indebtedness.

15.1.2 If, prior to the Transition Date, IPA issues or incurs any Transition Project Indebtedness, IPA shall obtain the prior approval of the Renewal Contract Coordinating Committee for the incurrence of such Transition Project Indebtedness; provided, however, that no such prior approval shall be required if either (A) (i) such Transition Project Indebtedness is being issued or incurred to finance the Gas Repowering, including any modification thereof or addition thereto, or an Essential Capital Improvement; (ii) such Transition Project Indebtedness shall have Substantially Equal Debt Service for each Fiscal Year such Transition Project Indebtedness is scheduled to be outstanding (using in the case of any such Transition Project Indebtedness sold by competitive bidding an average interest rate therefor as estimated by IPA), provided that there shall not be taken into account any Fiscal Year in which all or any portion of the interest on such Transition Project Indebtedness is to be paid through capitalized interest funded with proceeds of such Transition Project Indebtedness or any Fiscal Year during which such Transition Project Indebtedness is scheduled to be outstanding for only part of such Fiscal Year; and (iii) IPA and the Original Coordinating Committee determine, in each case, in their sole but reasonable discretion and in reliance upon advice provided by a Qualified Independent Engineer with expertise in the relevant subject matters, that the period during which such Transition Project Indebtedness is scheduled to be outstanding will end not later than the earliest of (a) the end of the estimated useful life of the Gas Repowering or Essential Capital Improvement, as applicable, as to which the associated Capital Improvement Acquisition and Construction Costs relate, (b) in the case of an Essential Capital Improvement the end of the useful life of the Project Component as to which such Essential Capital Improvement is to become a part, as then estimated and used for the purposes of Section 22, or (c) forty (40) years; or (B) such Transition Project Indebtedness shall be issued or incurred to refund or refinance any outstanding Transition Project Indebtedness where (i) upon the issuance of such refunding Transition Project Indebtedness, the Transition Project Indebtedness being refunded or refinanced shall be defeased and no longer outstanding in accordance with the terms of the Bond Resolution under which such Transition Project Indebtedness was issued or incurred and (ii) and the Aggregate Debt Service for the then current and each future Fiscal Year with respect to all Transition Project Indebtedness outstanding immediately after the date of issuance or incurrence of such refunding Transition Project Indebtedness is not greater than the Aggregate Debt Service for each Fiscal Year with respect to all Transition Project Indebtedness (including such refunding Transition Project Indebtedness) outstanding immediately prior to the issuance or incurrence of such refunding Transition Project Indebtedness.

15.1.3 Except as otherwise provided in Section 15.1.2, IPA shall obtain the prior approval of the Renewal Contract Coordinating Committee before incurring any

Transition Project Indebtedness, including, without limitation, Renewal Contract Project Indebtedness incurred to refund or refinance outstanding Project Indebtedness.

15.2 **Renewal Contract Project Indebtedness Issued After Transition Date:** The following provisions shall apply with respect to the incurrence by IPA of Renewal Contract Project Indebtedness on or after the Transition Date:

15.2.1 Renewal Contract Project Indebtedness may be incurred by IPA in accordance with this Contract and the provisions of any Bond Resolution at any time and from time to time after the Transition Date to provide funds to finance Capital Improvements, and, at the request of the Renewal Contract Coordinating Committee, IPA shall use its reasonable commercial efforts to provide funding for such Capital Improvements by issuing Renewal Contract Project Indebtedness.

15.2.2 If Monthly Power Costs may be reduced by the refunding or refinancing of any outstanding Renewal Contract Project Indebtedness, or if it shall otherwise be advantageous, in the opinion of IPA, to refund or refinance any outstanding Renewal Contract Project Indebtedness, IPA may issue and sell Debt Instruments to refund or refinance such Renewal Contract Project Indebtedness.

15.2.3 IPA may issue Debt Instruments ("Retirement Cost Debt Instruments") in accordance with this Contract to pay for any Retirement Cost Deficiencies with respect to any Project Component, and, at the request of the Renewal Contract Coordinating Committee, IPA shall use its reasonable commercial efforts to provide funding for such Retirement Cost Deficiencies by issuing Retirement Cost Debt Instruments.

15.2.4 IPA shall obtain the approval of the Renewal Contract Coordinating Committee for the authorization and sale of any Renewal Contract Project Indebtedness described in this Section 15.2 and the terms and provisions thereof prior to issuing such Renewal Contract Project Indebtedness if and to the extent required to do so under Section 6.2.21 or 6.2.23.

15.3 **Information and Documentation:** Purchaser agrees to supply IPA, upon request, with such information and documentation, including opinions of counsel for Purchaser, as IPA shall reasonably determine to be necessary to facilitate the issuance of Renewal Contract Project Indebtedness for the purposes described in this Section 15.

15.4 **Certain Financing Covenants of IPA:**

15.4.1 IPA shall not adopt any Transition Bond Resolution or other Bond Resolution, or issue any Debt Instrument that imposes any covenants or obligations on IPA that would prevent or hinder IPA from performing its duties and obligations under this Contract, or that would prevent Purchaser or the other Purchasers from realizing the benefits to be provided to them under their respective Renewal Power Sales Contracts upon the performance by them of their respective duties and obligations thereunder.

15.4.2 The Renewal Contract Project Indebtedness evidenced by Debt Instruments issued by IPA that, by their terms, will be outstanding after the Transition Date, shall be allocated to the Project Component to which it relates so that only the Renewal Contract Project Indebtedness relating to a particular Project Component shall be required to be discharged in order to comply with Section 23.6.3 upon the retirement of such Project Component.

16. **ADJUSTMENTS DUE TO EXCESS PROCEEDS OF PROJECT INDEBTEDNESS**:

16.1 **Excess Proceeds of Renewal Contract Project Indebtedness:** Except as provided in Section 16.2 with respect to Transition Project Indebtedness, if the proceeds derived from the sale of any Debt Instruments evidencing Renewal Contract Project Indebtedness exceed the aggregate required for the purposes for which such Debt Instruments were issued, the amount of such excess shall be used to make up a deficiency, if any, existing in any funds or accounts under the applicable Bond Resolution pursuant to which such Debt Instruments were issued, in the manner therein provided, and any remaining excess shall be used to (a) retire, by purchase or redemption in advance of maturity, the Debt Instruments from which such proceeds were derived; or (b) reduce the payments of Monthly Power Costs by Purchaser and the other Purchasers required pursuant to Section 8. The Renewal Contract Coordinating Committee shall determine whether the excess proceeds will be applied pursuant to clause (a) above, clause (b) above or some combination thereof. Based on such determinations by the Renewal Contract Coordinating Committee, IPA shall determine, in a manner consistent with this Section 16, the specific Debt Instruments to be purchased or redeemed or the elements of Monthly Power Costs that will be reduced and shall take the actions necessary to implement such determinations. Notwithstanding anything in this Section 16 to the contrary, IPA shall not apply any such proceeds in a manner that would adversely affect any tax exempt status of any of its Debt Instruments.

16.2 **Excess Proceeds of Transition Project Indebtedness:** In the case of any issue, tranche or series of Transition Project Indebtedness, if the proceeds derived from the sale of any Transition Debt Instruments evidencing such Transition Project Indebtedness exceed the aggregate required for the purposes for which such Transition Debt Instruments were issued, the amount of such excess shall be used to retire, by purchase or redemption in advance of maturity, Transition Debt Instruments of such Transition Project Indebtedness so that there shall be, as nearly as practicable, a pro rata reduction in Debt Service thereon for each Fiscal Year.

17. **DEFAULT**:

17.1 **IPA's Rights upon Purchaser Default:** If Purchaser shall be unable to perform or shall default in the performance of any of its obligations under this Contract, IPA may (a) if any payment due under this Contract remains unpaid subsequent to the due date thereof, upon one hundred twenty (120) days' prior written notice to Purchaser, discontinue the delivery of capacity and energy and the use of all other Project facilities to Purchaser under this Contract during the period of such default, without reduction of the obligation of Purchaser to make payments under this Contract except to the extent provided in Section 17.4; (b) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any

covenant, agreement or obligation of Purchaser; or (c) take any action permitted by applicable law to enforce its rights under this Contract or recover damages for breach hereof.

17.2 **Purchaser Default under Original Power Sales Contract:** If, as an Original Purchaser, Purchaser (after taking into account any applicable cure period) breaches or defaults in the performance of any of its duties or obligations under its Original Power Sales Contract, such breach or default shall constitute a breach or default by Purchaser under this Contract, and shall entitle IPA to: (a) cancel this Contract; (b) take the actions set forth under Section 17.4 of this Contract with respect to the transfer of Purchaser's rights and entitlements to the Project under this Contract if IPA takes the actions set forth under Section 17.3 of Purchaser's Original Power Sales Contract; (c) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any covenant, agreement or obligation of Purchaser; or (d) take any action permitted by applicable law to enforce its rights under this Contract or recover damages for breach hereof. The rights and remedies of IPA under this Section 17.2 are in addition to any other rights or remedies to which IPA may be entitled under Purchaser's Original Power Sales Contract or otherwise as the result of such breach or default.

17.3 **Limitation of Remedies Against IPA:** IPA shall not be liable for its own non-performance under this Contract resulting from any default by a Purchaser, or for its failure to perform any of its obligations hereunder, as a result thereof, except in the case of Willful Action by IPA, in which case the remedy shall include specific performance and other applicable legal or equitable remedies; provided, however, that any claim for damages shall not include loss of profits or consequential damages; and provided further, however, that no such default or non-performance by IPA shall relieve Purchaser from its obligation to make its payments required under this Contract and such payments shall not be subject to any reduction, whether by offset, counterclaim or otherwise.

17.4 **Transfer of Defaulting Purchaser's Rights:** In the event of a default by Purchaser and the discontinuance, pursuant to Section 17.1(a), of the delivery of capacity and energy and of the use of all other Project facilities, IPA shall transfer on a pro rata basis to all requesting Purchasers that are not in default, the defaulting Purchaser's rights and entitlements under this Contract to the delivery of Project capacity and energy, including without limitation, its rights under Section 9.11, and to the use of all other Project facilities that shall have been discontinued by reason of such default, and such requesting Purchasers shall assume the defaulting Purchaser's obligations under this Contract with respect to such rights and entitlements so transferred, and, to the extent any portion of the defaulting Purchaser's rights and entitlements with respect to the Project are not so transferred, IPA shall, to the extent possible, dispose of such remaining portion on the best terms readily available in accordance with the procedures formulated by the Renewal Contract Coordinating Committee; provided, however, that IPA may not transfer or dispose of such defaulting Purchaser's rights and entitlements in such a manner as shall adversely affect the eligibility for any tax exemption with respect to Federal income taxes of the interest paid, or to be paid, on the Debt Instruments issued or to be issued by IPA unless such a transfer or disposal of such defaulting Purchaser's rights and entitlements is approved by the Renewal Contract Coordinating Committee and provision is made for the remediation pursuant to federal tax laws and regulations of such adverse effect on such tax exemption of interest on the Debt Instruments issued by IPA; and provided further, however, that the obligation of the defaulting Purchaser to pay IPA the costs

incurred by it related to such default and transfer, shall be reduced to the extent that payments are received by IPA for that portion of the defaulting Purchaser's rights and entitlements with respect to the Project that are so transferred or disposed of.

18. **CHARACTER, CONTINUITY OF SERVICE AND INTERCONNECTIONS**:

18.1 **Temporary Interruptions of Capacity:** The Operating Agent may temporarily interrupt or curtail deliveries of capacity and energy to Purchaser and the other Purchasers in proportion to their respective Generation Entitlement Shares if the Operating Agent determines that such interruption or curtailment is necessary in case of emergencies, in order to install new equipment or make repairs to or replacements of existing equipment, conduct investigations and/or inspections, or to perform other maintenance work on the Project facilities; provided, however, that such interruption or curtailment shall not relieve Purchaser or any of the other Purchasers of their obligations to make payments under their respective Renewal Power Sales Contracts. After informing Purchaser and the other Purchasers regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, the Operating Agent will, to the best of its ability, schedule such interruption or curtailment at a time that will cause the least interference with the operations of Purchaser and the other Purchasers.

18.2 **Uncontrollable Forces:** IPA shall not be required to provide, and neither IPA nor the Operating Agent shall be liable for failing to provide, service under this Contract when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of IPA to obtain any required governmental approval to enable it to acquire, construct or operate any Project facilities; provided, however, that neither Purchaser nor any of the other Purchasers shall thereby be relieved of their obligations to make payments under its respective Renewal Power Sales Contract.

18.3 **Electrical Interconnections:** Where there is to be an electrical interconnection of the Project with the electric system of Purchaser, the design and construction with respect to such interconnection and the operating procedures adopted for the Project will not be such so as to jeopardize the electrical operation of the electric system of Purchaser; provided, however, that this provision shall have no application after the interconnection has been established where the jeopardy with respect to the electric system of Purchaser shall be the result of changes made or to be made by Purchaser in its system operation or facilities. The parties hereto shall use their best efforts to cooperate and coordinate their planning and actions so that each such electrical interconnection is operated in accordance with Prudent Utility Practice and the operations of the Project and those of the electric system of Purchaser shall continue to be compatible.

19. **LIABILITY:** Except for failure to pay money pursuant to a provision of a Renewal Power Sales Contract, IPA, Purchaser and each of the other Purchasers shall be solely responsible and liable for performance under their respective Renewal Power Sales Contracts and for the maintenance and operation of their respective properties, and each party thereto shall indemnify and save harmless the other party thereto, the Project Manager and the Operating Agent from all liability and expense on account of any and all damages, claims or actions,

including, but not limited to, injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused, in whole or in part, by the Willful Action of the other party or any indemnified party; provided, however, that any liability that is incurred by IPA through the operation and maintenance of the Project and that is not covered, or not covered sufficiently, by insurance, shall be paid solely from the revenues and reserves of IPA, subject to any prior pledge of or limitation on the use of such revenues or reserves under any Bond Resolution, and any payments made by IPA to satisfy any such liability shall become part of the Annual Budget.

20. **RESTRICTIONS ON DISPOSITION**:

20.1 **Restrictions on Sale:** During the Renewal Contract Term, Purchaser shall not, at any time, sell, lease or otherwise dispose of all or substantially all of its electric system except on ninety (90) days' prior written notice to IPA and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions are met: (a) Purchaser shall assign this Contract and all of its rights and interests hereunder to such purchaser or lessee of said electric system, and such purchaser or lessee shall assume for the full term of this Contract, pursuant to a written assumption agreement in form and substance acceptable to IPA, in its reasonable discretion, all of the obligations of Purchaser under this Contract; (b) the senior debt of such purchaser or lessee is rated in one of the three (3) highest rating categories by at least one nationally-recognized bond rating agency; (c) a Qualified Independent Engineer shall deliver an opinion to IPA, which may be based on assumptions deemed reasonable by such a Qualified Independent Engineer, that such purchaser or lessee is reasonably able to charge and collect rates and charges in the then current year and each future year for the electric service of its electric system as shall be required to meet its obligations under this Contract; and (d) IPA shall by resolution determine (which determination shall not be unreasonably withheld) that such sale, lease or other disposition will not adversely affect the value of this Contract as security for the payment of the Project Indebtedness and the interest thereon and will not adversely affect the eligibility for any exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness or Debt Instruments then outstanding or that IPA may incur or issue thereafter (taking into account any undertakings of such purchaser or lessee of said electric system to bear the economic cost of any remedial action necessary to maintain such eligibility for exemption). Upon a sale, lease or other disposal of all or substantially all of Purchaser's electric system and the satisfaction of all of the conditions set forth in clauses (a), (b), (c) and (d) of this Section 20.1, Purchaser shall be released of its duties, obligations and liabilities under this Contract, provided, however, Purchaser shall remain fully liable to IPA, and such release shall not apply, with respect to any accrued or unpaid obligation of such Purchaser existing at the time of such release or any breach or default on the part of Purchaser under this Contract occurring prior to such sale, lease or other disposition of Purchaser's electric system; and provided further, however, that such release of Purchaser shall not, in any way or to any extent, diminish, limit or extinguish the obligation of the purchaser or lessee of Purchaser's electric system to fully perform all duties and obligations and satisfy all liabilities under this Contract assumed by such purchaser or lessee.

20.2 **Restrictions on Assignments or Sales:** Notwithstanding anything in this Contract to the contrary, Purchaser shall not sell, assign or otherwise dispose of (a

"Transfer") all or any portion of its Generation Entitlement Share, including, without limitation, its rights under Section 9.11, or its capacity rights granted under this Contract in the Northern Transmission System or the Southern Transmission System, as the case may be, unless IPA shall have by resolution determined (which determination shall not be unreasonably withheld) that such Transfer will not adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness or Debt Instruments then outstanding or that IPA may incur or issue thereafter (taking into account any undertakings of the purchaser, assignee or transferee of any such Generation Entitlement Share or capacity rights to bear the economic cost of any remedial action necessary to maintain such eligibility for exemption).

20.3 **No Release:** Except as otherwise provided in Section 20.1, no Transfer by Purchaser in accordance with the provisions of this Section 20 shall release Purchaser from any of its duties, obligations and liabilities under this Contract and Purchaser shall continue to be fully liable under this Contract for the performance of all such duties, obligations and liabilities even though the same are to be performed by any such purchaser, assignee or transferee on its behalf.

20.4 **Transfer by IPA:** Without limiting any other right IPA may have to sell, assign or otherwise dispose of all or any portion of its right, title or interest under this Contract, IPA may assign the payments by Purchaser under this Contract to secure Debt Instruments to which such payments relate.

21. **ASSIGNMENT OF CONTRACT:** This Contract shall inure to the benefit of and be binding upon the respective successors of the parties hereto and the respective purchasers, assignees or transferees of the Purchaser pursuant to Sections 17 or 20.

22. **RETIREMENT RESERVE**:

22.1 **Establishment of Retirement Reserve Fund:** As of the Transition Date, IPA shall establish a Retirement Reserve Fund (the "Retirement Reserve Fund"), to provide for the accumulation of funds to pay Retirement Costs. The Retirement Reserve Fund shall consist of four separate accounts, designated respectively as the Gas Unit 1 Retirement Account, the Gas Unit 2 Retirement Account, the Northern Transmission System Retirement Account and the Southern Transmission System Retirement Account, each of which accounts shall be used for the accumulation of funds to pay Retirement Costs with respect to each of the respective Project Components, as indicated by the name of the account. The Retirement Reserve Fund shall be held and administered by IPA and, except as otherwise provided in Sections 23.5 and 23.9.3 of this Contract and the other Renewal Power Sales Contracts, be used solely to pay Retirement Costs. All earnings from the investment of amounts on deposit in any account of the Retirement Reserve Fund shall be deposited into and become a part of such account.

22.2 **Funding of Retirement Reserve Fund:** Purchaser and each of the other Purchasers agree that by the end of the useful life of each Project Component, the account of the Retirement Reserve Fund designated for such Project Component shall be funded with sufficient funds to pay all Retirement Costs with respect to such Project Component, taking into

account the expected Retirement Salvage Proceeds of such Project Component and any Operational Reserves expected to be made available for deposit into such account, upon the removal from service of such Project Component. IPA, Purchaser and each of the other Purchasers also agree that each such account shall be funded in such amounts and during such period or periods as determined with respect to each Project Component from time to time by IPA and the Renewal Contract Coordinating Committee based on recommendations of a Retirement Consultant provided for under Section 22.3, and that each Annual Budget during such period provide for such amount to be included in Monthly Power Costs to provide for such contributions on a monthly basis. IPA shall also deposit into the account for each Project Component within the Retirement Reserve Fund, in addition to all payments made by the Purchasers for deposit therein: (i) all Retirement Salvage Proceeds realized with respect to such Project Component; and (ii) the portion of IPA's Operational Reserves that the IPA Board of Directors and the Renewal Contract Coordinating Committee determine, based upon the recommendation of the Operating Agent, will no longer be needed, upon the Permanent Removal From Service Date of such Project Component, taking into account any other Project Components as to which the Operational Period will not have then ended and any Auxiliary Facilities that will remain in service.

22.3 **Periodic Retirement Consultant Recommendations:** Promptly after the Transition Date, IPA shall retain a Retirement Consultant to prepare recommendations, based upon Prudent Utility Practice, as to the amounts, if any, that should be deposited each Power Supply Year into each account of the Retirement Reserve Fund to achieve the objectives set forth in Section 22.2. Unless otherwise determined by IPA and the Renewal Contract Coordinating Committee, at approximate five (5) year intervals thereafter, IPA shall retain a Retirement Consultant to review, revise and supplement such recommendations. IPA and the Renewal Contract Coordinating Committee shall use such recommendations as a basis for determining the amounts that must be included in each Annual Budget and included in Monthly Power Costs to accumulate amounts in each account of the Retirement Reserve Fund consistent with Section 22.2.

## 23. RETIREMENT OF PROJECT COMPONENTS:

23.1 **Retirement Election:** The Renewal Contract Coordinating Committee may elect to permanently retire any Project Component (a "Retirement Election") by taking action (i) by representatives of Purchasers that have Voting Rights aggregating at least eighty percent (80%) of all Voting Rights pursuant to Section 6.1 in the case of a Retirement Election as to Gas Unit 1 or Gas Unit 2, (ii) by representatives of Purchasers with entitlements in the Northern Transmission that have Voting Rights aggregating at least eighty percent (80%) of the Voting Rights of all such Purchasers with entitlements in the Northern Transmission System, in the case of a Retirement Election as to the Northern Transmission System, and (iii) by representatives of Purchasers with entitlements in the Southern Transmission System that have Voting Rights aggregating at least eighty percent (80%) of the Voting Rights of all such Purchasers with entitlements in the Southern Transmission System, in the case of a Retirement Election as to the Southern Transmission System. In connection with the making of each such Retirement Election, such Renewal Contract Coordinating Committee action shall specify a date for the removal from service of such Project Component which date shall not be earlier than three (3) years after the Renewal Contract Coordinating Committee makes such election;

provided, however, such Renewal Contract Coordinating Committee action may specify an earlier date, without regard to such three (3) year limitation, for the removal from service of such Project Component upon the approving vote of representatives of all Purchasers entitled as provided above to vote on the removal from service of such Project Component. The date so specified by such Renewal Contract Coordinating Committee action for the removal from service of such Project Component is referred to in this Contract as the "Proposed Removal From Service Date" with respect to such Project Component, and the date upon which such Project Component is permanently removed from service (which removal from service shall also be deemed to occur in the event that such Project Component or portion thereof shall become, and upon its becoming, an IPA Retained Facility) pursuant to and upon the satisfaction of the terms and conditions set forth in Sections 23.6 and 23.7, is referred to in this Contract as the "Permanent Removal From Service Date" with respect to such Project Component.

23.2 **Requests for Project Consultant and Preliminary Report:** The Purchasers entitled as provided in Section 23.1 to vote on the retirement from service of a Project Component may, in connection with their consideration of whether to make a Retirement Election with respect to such Project Component, request IPA by vote as provided above to retain a Retirement Consultant prior to making such Retirement Election to provide information to assist in such consideration. If such Purchasers make such a request, IPA shall promptly retain a Retirement Consultant and direct it to provide a preliminary report setting forth all or a portion, as requested, of the matters to be set forth in the Retirement Consultant's report pursuant to Section 22.4. Such Purchasers by vote as provided above may also request, in connection with their consideration of whether to make such a Retirement Election, that the Operating Agent prepare, on a preliminary basis, a report describing the work and materials to be performed and acquired in connection with the retirement from service of such Project Component, in which case, IPA shall cause the Operating Agent to promptly prepare and provide to such Purchasers such report.

23.3 **Identification of Auxiliary Facilities, Allocable Project Water Rights and Unneeded Operational Reserves:** Upon the making of a Retirement Election with respect to any Project Component, IPA shall cause the Operating Agent to prepare a report (the "Auxiliary Facilities Report") setting forth each of the following: (i) a description of the portions of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component as to which the Operational Period has not ended or as to Additional Non-Project Facilities; (ii) a description of the portions of any other Project Component that constitute Auxiliary Facilities with respect to such Project Component; (iii) recommendations as to actions to be taken to maintain in operation the Auxiliary Facilities described in clause (i) above; (iv) a determination as to whether, upon the removal from service of such Project Component, any of the Auxiliary Facilities described in clause (ii) above may also be removed from service and, if so, recommendations as to the actions to be taken to so remove them from service; (v) a recommendation as to the amount of Project Water Rights allocable to such Project Component (which shall be at least the amount of Project Water Rights necessary to operate and maintain such Project Component at maximum capacity); and (vi) a recommendation as to the Operational Reserves, or portions thereof, that will no longer be necessary or appropriate upon the Permanent Removal From Service Date of such Project Component. Promptly upon the completion of the Auxiliary Facilities Report, IPA shall submit such report to the Renewal Contract Coordinating Committee and upon approval thereof by the

Renewal Contract Coordinating Committee the Auxiliary Facilities Report and the determinations as to Auxiliary Facilities and the other recommendations therein shall become final for the purposes of this Contract.

23.4 **Retirement Consultant:** Upon the making of a Retirement Election with respect to any Project Component, as provided in Section 23.1, IPA shall promptly retain a Retirement Consultant, which shall, if a Retirement Consultant was retained pursuant to Section 23.2, be the same Retirement Consultant unless such Retirement Consultant is no longer able or willing to serve or IPA and the Purchasers entitled under Section 23.1 to vote on such Retirement Election by vote as provided in Section 23.1 agree to the retention of another Retirement Consultant. Such Retirement Consultant shall be directed to perform a study and prepare a written report (the "Retirement Cost Report"), taking into account any report of the Operating Agent furnished as provided in Section 23.2 that describes the work and materials to be performed and acquired for the retirement of such Project Component, and any Auxiliary Facilities identified and the recommendations of the Operating Agent set forth in the report referenced in Section 23.3, and setting forth each of the following items, together with information and materials reasonably supporting and justifying each such item: (i) a description of the work and materials required to accomplish the actions described in Section 23.9.1 for a Project Component with respect to which a Retirement Election has been made (i.e., the work and materials required to retire such Project Component) and a reasonable timeline for performing such work; (ii) an estimate of the Retirement Costs (the "Estimated Retirement Costs") that will be incurred or need to be incurred by IPA in connection with the retirement of such Project Component; (iii) an estimate as to the portion of the Operational Reserves expected to be held by IPA on the Permanent Removal From Service Date of such Project Component that will no longer be needed upon the removal from service of such Project Component, taking into account any other Project Components as to which the Operational Period will not have then ended and any Auxiliary Facilities that will remain in service (the "Estimated Reserve Free-up Amount"); (iv) an estimate of the Retirement Salvage Proceeds that can be realized with respect to such Project Component, which estimate shall provide detail as to the estimate of the Retirement Salvage Proceeds of each significant facility, improvement or asset constituting a part of such Project Component (the "Estimated Retirement Salvage Proceeds"); (v) an estimate of the amount that will be on deposit in the account for such Project Component within the Retirement Reserve Fund, taking into account a reasonable estimate of interest that may be earned during any relevant period on amounts on deposit in such account, but not taking into account the payments to be made by Purchasers for deposit in such account pursuant to Section 23.5 (the "Estimated Retirement Account Balance"); and (vi) the calculation, as applicable, of either (A) an amount (the "Estimated Retirement Account Deficiency") equal to the Estimated Retirement Costs as set forth in clause (ii), less the sum of: (a) the Estimated Reserve Free-up Amount as set forth in clause (iii), (b) the estimated Retirement Salvage Proceeds as set forth in clause (iv), and (c) the Estimated Retirement Account Balance as set forth in clause (v), or (B) an amount (the "Estimated Retirement Account Surplus") equal to the Estimated Retirement Account Balance as set forth in clause (v), less the remainder resulting from the subtraction of the sum of the Estimated Reserve Free-up Amount as set forth in clause (iii) plus the estimated Retirement Salvage Proceeds as set forth in clause (iv) from the Estimated Retirement Costs as set forth in clause (ii). The Retirement Consultant shall be directed to provide the Retirement Cost Report to IPA, and, promptly upon IPA's receipt thereof, IPA shall distribute a copy to each of the Purchasers entitled under Section 23.1 to vote

on its Retirement Election with respect to such Project Component. Within 60 days after the Retirement Cost Report is provided to IPA by the Retirement Consultant, IPA or any such Purchaser may submit to the Retirement Consultant, in writing, any objections it may have to the estimates and conclusions set forth in the Retirement Cost Report, a copy of which objections shall be provided to each of such Purchasers and IPA. Upon consideration of any such objections, the Retirement Consultant may, in its sole discretion, revise the Retirement Cost Report to take into account or respond to any such objections, but otherwise, the Retirement Cost Report of the Retirement Consultant, as so revised, if applicable, shall be final for all purposes of this Contract and shall not be subject to challenge or appeal by IPA or any such Purchaser; provided, however, if both IPA and such Purchasers by vote as provided in Section 23.1 determine at any time that an update of the Retirement Cost Report should be done, then the Retirement Consultant shall be retained to perform such an update, and the final report shall include such update; and further provided, however, that such Retirement Cost Report may be revised, if necessary, pursuant to Section 24.1.5.

23.5 **Payment of Estimated Retirement Account Deficiency or Surplus:** Promptly after the issuance of the final Retirement Cost Report with respect to any Project Component pursuant to Section 23.4, and (i) in the event of the calculation of an Estimated Retirement Account Deficiency, the Annual Budget for the then current Power Supply Year shall be amended to provide, and each Annual Budget for each Power Supply Year thereafter to and including the Power Supply Year in which the Proposed Removal From Service Date falls shall provide, for amounts to be included in Monthly Power Costs with respect to such Project Component sufficient to provide to IPA for deposit into the account for such Project Component within the Retirement Reserve Fund on or before the Proposed Removal From Service Date an amount equal to: (a) the Estimated Retirement Account Deficiency, plus (b) any other amounts required to satisfy the conditions set forth in Section 23.6.1; or (ii) in the event of the calculation of an Estimated Retirement Account Surplus there shall be refunded to the Purchasers that were eligible to vote on the Retirement Election for such Project Component in proportion to their respective Cost Shares applicable to such Project Component on or before the Proposed Removal from Service Date an amount equal to the Estimated Retirement Account Surplus. The provisions of this Section with respect to funding of an Estimated Retirement Account Deficiency are in addition to the obligations to fund Retirement Costs provided by Section 23.9.3 which shall continue to be applicable.

23.6 **Conditions to End of Operational Period:** Following the making of a Retirement Election pursuant to Section 23.1 with respect to any Project Component, the Operational Period for the Project Component to which such Retirement Election relates shall end, with the consequences set forth in Section 23.7, upon, and only upon, the satisfaction of each of the following terms and conditions:

23.6.1 There shall be on deposit in the account for such Project Component in the Retirement Reserve Fund, taking into account the amount IPA is required to deposit therein from Operational Reserves pursuant to Section 23.4, an amount equal to the Estimated Retirement Costs less the Estimated Salvage Proceeds for such Project Component, as such amounts are set forth in the report of the Retirement Consultant referenced in Section 23.4.

23.6.2 IPA and the Operating Agent shall be reasonably satisfied that the permanent removal from service of such Project Component will not have a material adverse effect on any other Project Component as to which its Operational Period has not ended.

23.6.3 There shall have been paid in full or fully defeased all Renewal Contract Project Indebtedness (other than Retirement Cost Debt Instruments) that is allocated to such Project Component pursuant to Section 15.4.2.

23.6.4 The Proposed Removal From Service Date shall have occurred.

23.7 **End of Operational Period of Project Component:** Upon the end of the Operational Period for any Project Component, such Project Component shall be removed from service, except for any IPA Retained Facility constituting a portion thereof and any portions thereof constituting Auxiliary Facilities to any other Project Component as to which the Operational Period has not ended, or to any IPA Retained Facility or any Additional Non-Project Facilities as to which such Auxiliary Facilities are to be provided or to be made available, and thereupon: (a) except as specifically provided in Section 23.9.1, IPA shall have no duties or obligations to Purchaser or any of the other Purchasers with respect to such Project Component; (b) neither Purchaser nor any of the other Purchasers shall have any further right whatsoever to the output, capacity, energy or use of such Project Component; and (c) except as specifically provided in Section 23.9, neither Purchaser nor any of the other Purchasers shall have any further duties or obligations to IPA under their respective Renewal Power Sales Contracts with respect to such Project Component.

23.8 **Treatment of Auxiliary Facilities:** Notwithstanding anything in this Section 23 to the contrary, the retirement of any Project Component shall not result in the retirement or removal from service of any facilities or portion of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component as to which the Operational Period has not ended or with respect to any Additional Non-Project Facilities. Upon the Permanent Removal From Service Date of any Project Component, the facilities or portion of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component or Project Components as to which the Operational Period has not ended shall become part of such other Project Component or Project Components.

23.9 **Retirement of Project Component:** The following provisions shall apply with respect to each Project Component as to which the Permanent Removal From Service Date has occurred, excluding a Project Component, or any portion thereof, that constitutes an IPA Retained Facility:

23.9.1 IPA shall make reasonable commercial efforts to: (i) sell or otherwise dispose of the marketable property and rights constituting a portion of the Project Component, upon terms and conditions that are economically favorable to IPA and consistent with Prudent Utility Practice; (ii) render such Project Component in a condition that complies with all then applicable laws and all contractual obligations of IPA with respect thereto; (iii) dismantle and remove such Project Component thereof so as to restore the area impacted thereby, (iv) render such Project Component in a condition that, in IPA's reasonable discretion, is secure, safe, sanitary and sightly; and (v) insure or otherwise protect IPA from claims and

liabilities that may arise with respect to such Project Component. The actions described in this Section 23.9.1 are referred to in this Contract as the "Retirement Actions" with respect to such Project Component.

23.9.2 IPA shall apply the amounts on deposit in the account in the Retirement Reserve Fund relating to such Project Component to pay the Retirement Costs with respect thereto.

23.9.3 Notwithstanding that the Operational Period with respect to any Project Component (other than an IPA Retained Facility) shall have ended, and notwithstanding anything in this Contract to the contrary, if, at any time or from time to time, IPA incurs Retirement Costs in connection with the Retirement Actions relating to such Project Component in excess of the amount on deposit in the account for such Project Component within the Retirement Reserve Fund and any amounts in the then current Annual Budget for the payment of Retirement Costs for such Project Component (the amount of such excess being referred to as the "Retirement Cost Deficiency"), there shall be provided in the Annual Budget (in addition to any such amounts in the then current Annual Budget), or an amendment thereto, for the Power Supply Year in which such Retirement Cost Deficiency is incurred or expected to be incurred, as Monthly Power Costs with respect to such Project Component, the amount of such Retirement Cost Deficiency, it being intended that IPA shall be entitled to bill, as Monthly Power Costs, amounts it incurs for Retirement Costs for which inadequate funds are available as and when such excess Retirement Costs are incurred. If, upon the completion by IPA of all Retirement Actions with respect to such Project Component and the payment of all costs of such Retirement Actions, amounts remain on deposit in the account relating to such Project Component within the Retirement Reserve Fund, IPA shall refund such remaining balance to the Purchasers in proportion to their respective Cost Shares applicable to such Project Component.

23.9.4 There shall also be included in Retirement Costs and Monthly Power Costs with respect to such Project Component, all Debt Service on Retirement Cost Debt Instruments issued to fund Retirement Costs of such Project Component as provided in Section 15.2.3.

23.9.5 Upon the completion of all Retirement Actions with respect to such Project Component and upon the payment or defeasance in full of all Retirement Cost Debt Instruments with respect thereto: (i) such Project Component shall no longer constitute a part of the Project for purposes of this Contract; and (ii), subject to Section 23.9.6, neither IPA nor Purchaser shall have any duties or obligations to the other with respect to such Project Component.

23.9.6 Nothing in Sections 23.7(c) or 23.9.5(ii) shall relieve Purchaser or any other Purchaser of any duty or obligation of such Purchaser under its respective Renewal Power Sales Contracts as to which such Purchaser is in breach or default.

23.10 **Completion of Retirement of Facilities:** For the avoidance of doubt, in the event that Retirement Actions (used as defined in the Original Power Sales Contracts) have not been performed and completed as provided in the Section 44 Retirement Plan (used as defined in the Original Power Sales Contracts) by the Transition Date with respect to: (i) any

rights, properties, facilities, structures, equipment, assets and appurtenances constituting a portion of the Project as of, or added to after, the effective date of the Second Amendatory Power Sales Contracts that are part of the Project immediately prior to the Transition Date, and (ii) any generating unit or units and related facilities and properties replaced by or no longer used or useful due to the construction or operation of the Gas Repowering, then such Retirement Actions (as so defined in the Original Power Sales Contracts) with respect thereto shall be continued and completed by the Project Manager under the Renewal Power Sales Contracts and amounts reserved therefor by IPA pursuant to the Original Power Sales Contracts shall be applied to the payment of the Retirement Costs (as defined in the Original Power Sales Contracts) thereof, all as contemplated by Section 44.2 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts.

24. **IPA RETAINED FACILITY**:

24.1 **IPA Election to Retain Project Component:** Subject to the terms and conditions of this Section 24.1, IPA may elect, but shall not be required, to retain, as its sole and exclusive property, free and clear of any obligation it may have to any Purchaser under any Renewal Power Sales Contract, any Project Component or any portion thereof as to which a Retirement Election has been made pursuant to Section 23.1. In order to retain any such Project Component or portion thereof, IPA shall provide to the Purchasers that were entitled to make such Retirement Election, on or prior to the date that is six (6) months after the Renewal Contract Coordinating Committee makes such Retirement Election or, if later, the date that is three (3) months prior to the Proposed Removal From Service Date for such Project Component, written notice of its election to retain such Project Component or portion thereof. IPA may make such an election only with respect to a complete Project Component (exclusive of any portion thereof constituting Auxiliary Facilities as provided in Section 23.3 with respect to any other Project Component or Additional Non-Project Facilities), or any portion thereof that constitutes an integrated and substantial facility, or all or any portion of the allocable Project Water Rights, and may only make such election as to a Project Component or portion thereof that IPA does not intend to resell or transfer other than to one or more IPA Members, any entity formed under the Act of which any IPA Member is a member, or any other joint powers or joint action agency or business entity of which an IPA Member is a member or owner, for such IPA Member's or such entity's own use or the use of its customers or constituents. Any Project Component, or portion thereof, as to which IPA makes the election set forth in this Section 24.1, together with the rights of IPA or any successor or assign of IPA under any Section 39 Facilities Agreement that may be consummated with respect to such Project Component or portion thereof pursuant to Section 24.1.6, is referred to in this Contract as an "IPA Retained Facility". If IPA elects to so retain any Project Component, or portion thereof, then the following provisions shall apply with respect to such Project Component or portion thereof:

24.1.1 On and after the Permanent Removal From Service Date of such Project Component, IPA shall have full and exclusive ownership and control, free and clear of any obligation to Purchaser or any of the other Purchasers under their respective Renewal Power Sales Contracts or otherwise, of the IPA Retained Facility (other than any obligations arising under a Section 39 Facilities Agreement entered into as provided in Section 24.1.6.)

24.1.2 IPA shall be entitled, as its sole and exclusive property, free and clear of any obligation to Purchaser or any of the other Purchasers, to the funds in the account for such Project Component within the Retirement Reserve Fund allocated or designated for such IPA Retained Facility, including the deposit therein from Operational Reserves with respect to such Project Component pursuant to Section 23.6.1.

24.1.3 Except as set forth in Section 24.1.2, neither Purchaser, nor any other Purchaser, shall have any duty or obligation to pay Retirement Costs with respect to such IPA Retained Facility, but the obligations of Purchasers with respect to any Retirement Cost Debt Instruments shall not be affected.

24.1.4 Such IPA Retained Facility shall no longer, as of the Permanent Removal From Service Date of the Project Component of which it is a part, constitute a part of the Project or be subject to the terms and conditions of this Contract or any of the other Renewal Power Sales Contracts.

24.1.5 Promptly following any election by IPA under this Section 24.1 to retain any Project Component or portion thereof, the Retirement Consultant who prepared or is preparing the report referenced in Section 23.4 with respect to such Project Component shall be instructed to take into account in the preparation of such report, and to revise such report if necessary, to take into account such election and the effect it may have on the information set forth in such report.

24.1.6 If any Project Component or portion thereof that IPA elects to retain pursuant to this Section 24.1 is of a nature that its proper or economic use or operation requires that any property, rights, equipment or facilities constituting a part of the Project be made available with respect thereto, then the Renewal Contract Coordinating Committee and IPA shall use their reasonable efforts to reach agreement with respect to a Section 39 Facilities Agreement whereby such property, rights, equipment or facilities would be made available to IPA and its successors and assigns for such purpose. In addition to any other provisions of this Contract that may be applicable to such Section 39 Facilities Agreement, the following provisions shall apply to the negotiation, establishment, terms and conditions of such Section 39 Facilities Agreement:

24.1.6.1 The Section 39 Facilities Agreement shall only provide for any such property, rights, equipment or facilities to be made available to the extent the same have excess capacity, after taking into account their use for the needs of the Project and for IPA to perform its obligations under any other Section 39 Facilities Agreement then in effect.

24.1.6.2 The Section 39 Facilities Agreement shall not contain any provisions or create any rights in favor of IPA or its successors and assigns that, in the reasonable determination of the Renewal Contract Coordinating Committee, would create a significant risk of any material adverse impact on the Project, and shall contain such provisions and limitations as the Renewal Contract Coordinating Committee reasonably determines are necessary to protect the Project

from a material adverse risk as to the Project. Such provisions may include requirements that IPA and each of its successors and assigns obtain the approval of the Renewal Contract Coordinating Committee prior to assigning or transferring to any other party any interest in the Section 39 Facilities Agreement, provided, however, such approval would not be withheld unless the assignment or transfer would cause or create a significant risk of a material adverse impact on the Project.

24.1.6.3 The Section 39 Facilities Agreement shall contain economic terms that would fully require all costs of making such property, rights, equipment or facilities available for such purpose, including, without limitation, a fair allocation of depreciation and overhead, to be fully covered by sources other than Project funds or billings of Monthly Power Costs to the Purchasers; provided, however, such economic terms shall not include or result in any direct or indirect profit component to the Project or the Purchasers.

24.1.6.4 IPA and the Renewal Contract Coordinating Committee shall use their reasonable efforts to determine the form of the Section 39 Facilities Agreement, including the necessary parties thereto.

24.1.6.5 Although the final form and substance of the Section 39 Facilities Agreement shall be subject to the approval of the Renewal Contract Coordinating Committee, one or more Purchasers may be designated by the Renewal Contract Coordinating Committee to act on its behalf in negotiations with IPA and may make recommendations to the Renewal Contract Coordinating Committee regarding the terms and provisions of the Section 39 Facilities Agreement, and the Renewal Contract Coordinating Committee may determine to authorize such Purchaser or Purchasers to enter into the Section 39 Facilities Agreement on behalf of and for the benefit of the Purchasers.

24.2 **Valuation of Project Water Rights:** In determining the Retirement Salvage Proceeds of Project Water Rights allocable to a Project Component pursuant to Section 23.3 as to which IPA makes an election under Section 24.1, IPA shall issue a request for proposals to water users within the basin or watershed to which such water rights relate for the purchase or other acquisition of such water rights. Such request for proposals shall state that IPA is not obligated to sell or otherwise dispose of such Project Water Rights, but rather, may elect to do so based upon the purchase or other acquisition proposals submitted in respect thereto. For purposes of this Contract, the Retirement Salvage Proceeds of any such Project Water Rights shall be deemed to be the cash amount of the highest bona fide bid therefor submitted in response to such request for proposals and such amount shall constitute the Retirement Salvage Proceeds for purposes of Sections 23.4 and 23.5 with respect to such Project Component, notwithstanding any provision thereof to the contrary. In order to constitute a bona fide bid, a bid must be a firm, cash bid, legally binding and subject only to reasonable title assurances to the buyer, and submitted by a party that is reasonably able to pay the amount so bid.

## 25. TERM OF CONTRACT:

25.1 **Term:** The term of this Contract shall begin on the Effective Date and, unless this Contract is terminated earlier as provided in Section 17, 31 or 42, the term of this Contract shall end on the Renewal Contract Final Termination Date.

25.2 **Regulatory Contract Approvals:** Purchaser and IPA, respectively, shall each obtain any and all required Regulatory Contract Approvals as confirmed by its counsel's legal opinion provided pursuant to Section 25.3. For the avoidance of doubt this Contract shall be void and any and all energy deliveries and any other rights or services under this Contract shall be terminated no later than the effective date of any denial of a required Regulatory Contract Approval, including, without limitation, a decision of the California Energy Commission.

25.3 **Legal Opinions:** Upon the Effective Date and upon the Entitlement Determination Date if different than the Effective Date, (a) Purchaser shall provide to IPA a written opinion of counsel to Purchaser, such counsel to be reasonably acceptable to IPA, addressed to IPA concerning this Contract, including receipt by Purchaser of any and all required Regulatory Contract Approvals, in form and substance reasonably acceptable to IPA, and (b) IPA shall provide to Purchaser a written legal opinion of counsel to IPA addressed to Purchaser concerning this Contract, including receipt by IPA of any and all required Regulatory Contract Approvals, in form and substance reasonably acceptable to Purchaser.

25.4 **Purchaser's Rights:** Notwithstanding anything in this Contract to the contrary, except as provided in any Original Power Sales Contract to which Purchaser is a party, Purchaser shall have: (a) no rights or benefits with respect to the output, capacity, energy or use of the Project prior to the Transition Date; (b) no duty or obligation to pay Monthly Power Costs with respect to any period prior to the Transition Date; and (c) except as expressly stated in Sections 6.3 or 15, no right prior to the Transition Date, either directly or through the Renewal Contract Coordinating Committee, to approve, consent to or direct the business or affairs of IPA, the Project Manager or the Operating Agent and thereafter shall have such rights only to the extent granted pursuant to this Contract.

## 26. RENEWAL OFFER AND SALE OF ENTIRE PROJECT OUTPUT:

26.1 **Renewal Offer and Renewal Power Sales Contracts; Effectiveness of Offer Acceptance:**

26.1.1 The Renewal Offer shall be made by IPA pursuant to Offer Letters to all Original Purchasers in accordance with the provisions of Section 33 of the Original Power Sales Contracts. IPA shall use its reasonable commercial efforts in accordance with the terms of the Renewal Offer to: (i) obtain Offer Acceptances with respect to Unsubscribed Original Purchaser Entitlements and any Orphan Original Purchaser Entitlements before the Entitlement Determination Date; and (ii) enter into Renewal Power Sales Contracts with Purchasers that have provided Offer Acceptances in accordance with the Renewal Offer and Section 26.2.

26.1.2 To be effective for purposes of this Contract each Offer Acceptance by Purchaser shall be submitted by Purchaser to IPA and shall be received by IPA in accordance with the terms of the Renewal Offer and this Contract; and such Offer Acceptance, including the specified entitlements and other terms thereof that are then set forth in Appendix A and Appendix B of this Contract in accordance with the applicable provisions of Section 26.2 hereof, shall have been duly authorized by Purchaser and Purchaser shall have obtained any and all Regulatory Contract Approvals applicable thereto.

26.2 **First Round Offer; Establishment of Generation Entitlement Shares and Cost Shares; Completion of Appendices A and B; Effectiveness of Renewal Power Sales Contracts:**

26.2.1 As of the First Round Offer Acceptance Date, if the Offer Acceptances by Purchaser and the other Original Purchasers of the First Round Offer do not permit compliance with Section 26.2.2, IPA shall prepare and shall execute and deliver to Purchaser for execution and delivery by Purchaser the Renewal Power Sales Contract with Purchaser, which shall include (i) Appendix A thereof setting forth Purchaser's Subscription Generation Cost Share and its applicable Transmission Cost Share in accordance with such Offer Acceptance by Purchaser, together with the Generation Cost Shares and applicable Transmission Cost Shares of the other Committed Original Purchasers submitting such Offer Acceptances, and (ii) Appendix B thereof setting forth Purchaser's Subscription Generation Entitlement Share and its Point of Delivery in accordance with such Offer Acceptance by Purchaser, together with the respective Generation Entitlement Shares and Points of Delivery of such other Committed Original Purchasers submitting such Offer Acceptances. Upon the execution by Purchaser of the Renewal Power Sales Contract and its delivery to IPA, and upon the receipt by Purchaser and IPA of any and all required Regulatory Contract Approvals and IPA and Purchaser furnishing, each to the other, the required legal opinions pursuant to Section 25.3, such Renewal Power Sales Contract shall become effective as of the First Round Offer Acceptance Date and IPA and Purchaser shall comply with the provisions of 26.3 and 26.4.

26.2.2 If, as of the First Round Offer Acceptance Date, there shall have been Offer Acceptances by Purchaser and the other Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project, then such First Round Offer Acceptance Date shall constitute the Entitlement Determination Date; and IPA shall provide Purchaser and the other Original Purchasers with Appendix A for the Renewal Power Sales Contracts which shall set forth the Generation Cost Shares of Purchaser and the other Original Purchasers, as provided in their respective applicable Transmission Cost Shares, and Appendix B for the Renewal Power Sales Contracts which shall set forth the Generation Entitlement Shares of Purchaser and the other Original purchasers, as provided in their respective Offer Acceptances and the applicable Point of Delivery of Purchaser and the other Original Purchasers; and IPA shall enter into the Renewal Power Sales Contracts with the Purchaser and the other Original Purchasers. Upon receipt by Purchaser and the other Original Purchasers and by IPA of any and all required Regulatory Contract Approvals and upon IPA and Purchaser and the other Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, such Renewal Power Sales Contract by IPA and Purchaser, together with the Renewal

Power Sales Contracts by IPA with all other Original Purchasers, shall be effective, all as of such Entitlement Determination Date.

26.3 **Second Round Offer; Increase of Generation Entitlement Shares and Cost Shares; Replacement of Appendices A and B:**

26.3.1 In the event that Offer Acceptances by the Purchaser and the other Committed Original Purchasers of the First Round Offer do not permit compliance with Section 26.2.2, then IPA shall continue the Renewal Offer by providing the Second Round Offer to the Committed Original Purchasers. Upon the Renewal Power Sales Contracts becoming effective for purposes of the continuation of the Renewal Offer as provided in Section 26.2.1, IPA shall proceed with the Second Round Offer to the Committed Original Purchasers as follows:

26.3.1.1 If, as of the First Round Offer Acceptance Date, any remaining Orphan Original Purchaser Entitlements consist of Utah Orphan Original Purchaser Entitlements, then IPA shall pursuant to its Offer Letter for the Second Round Offer to each of the Utah Committed Original Purchasers provide that (i) the Utah Committed Original Purchasers shall have the right to provide to IPA a Utah Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (ii) if the Utah Committed Original Purchasers fail to provide to IPA a Utah Orphan Entitlement Allocation Document as provided in (i) above, such remaining Utah Orphan Purchaser Entitlements shall then be offered to each of the Utah Committed Original Purchasers in proportion to their respective Subscription Generation Entitlement Shares (as a fraction of the Subscription Generation Entitlement Shares for all Utah Committed Original Purchasers) as then set forth in Appendix B of their respective Renewal Power Sales Contracts; and

26.3.1.2 If, as of the First Round Offer Acceptance Date, any remaining Orphan Original Purchaser Entitlements consist of California Orphan Original Purchaser Entitlements, then, IPA shall pursuant to its Offer Letter for the Second Round Offer to each of the California Committed Original Purchasers provide that (i) the California Committed Original Purchasers shall have the right to provide to IPA a California Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (ii) if the California Committed Original Purchasers fail to provide to IPA a California Orphan Entitlement Allocation Document as provided in (i) above, such remaining California Orphan Purchaser Entitlements shall then be offered to each of the California Committed Original Purchasers in proportion to their respective Subscription Generation Entitlement Shares (as a fraction of the Subscription Generation Entitlement Shares for all California Committed Original Purchasers) as then set forth in Appendix B of their respective Renewal Power Sales Contracts.

26.3.2 If, as of the Second Round Offer Acceptance Date, the Offer Acceptances by the Utah Committed Original Purchasers and the California Committed Original Purchasers, respectively, do not permit compliance with Section 26.3.3 or Section 26.3.4, Purchaser's and such other Committed Original Purchasers' Subscription Generation Cost Shares and Subscription Generation Entitlement Shares shall be increased by IPA pursuant to any such Offer Acceptances of the Second Round Offer and their respective Transmission Cost Shares shall be adjusted, if necessary, to reflect such increases, and IPA shall provide Purchasers with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Transmission Cost Shares and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Points of Delivery. Upon the receipt by Purchaser and IPA of any and all required Regulatory Contract Approvals and upon IPA and Purchaser furnishing, each to the other, the required legal opinions pursuant to Section 25.3, such Renewal Power Sales Contract shall be effective as of the Second Round Offer Acceptance Date for purposes of the continuation of the Renewal Offer as provided in Section 26.4.

26.3.3 If, as of the Second Round Offer Acceptance Date, (i) the Offer Acceptances, if any, by the Utah Committed Original Purchasers under Section 26.3.1.1 shall be for all of the remaining Utah Orphan Original Purchaser Entitlements, if any, and (ii) the Offer Acceptances, if any, by the California Committed Original Purchasers under Section 26.3.1.2 shall be for all of the remaining California Original Purchaser Entitlements, if any, then Purchaser’s and such other Committed Original Purchasers’ Subscription Generation Cost Shares and Subscription Generation Entitlement Shares shall be increased by IPA pursuant to such Offer Acceptances and their respective Transmission Cost Shares shall be adjusted, if necessary, to reflect such increases, then, such Second Round Offer Acceptance Date shall constitute the Entitlement Determination Date; and IPA shall provide Purchaser with a replacement Appendix A for Purchaser’s Renewal Power Sales Contract which shall set forth the Generation Cost Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Transmission Cost Shares, and a replacement Appendix B for Purchaser’s Renewal Power Sales Contract which shall set forth the Generation Entitlement Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers. Upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Regulatory Contract Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination Date.

26.3.4 In the event that Offer Acceptances under the continued Second Round Offer do not permit compliance with Section 26.3.3, then if, as of the Second Round Offer Acceptance Date, the additional Offer Acceptances, if any, by Committed Original Purchasers of the Second Round Offer for Orphan Original Purchaser Entitlements, together with

the prior Offer Acceptances of the Committed Original Purchasers under the Renewal Offer, provide Offer Acceptances under the Renewal Offer for at least eighty-five percent (85%), but less than one hundred percent (100%), of the aggregate Original Purchaser Entitlements, then, effective as of the Second Round Offer Acceptance Date, (i) Purchaser's Subscription Generation Cost Share, as set forth on Appendix A of Purchaser's Renewal Power Sales Contract, shall be increased to include that portion of the then remaining amount of the applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Cost Share then set forth in such Appendix A bears to the Subscription Generation Cost Shares then set forth in such Appendix A for all Committed Original Purchasers that are parties to Renewal Power Sales Contracts; (ii) Purchaser's Subscription Generation Entitlement Share, as set forth in Appendix B of Purchaser's Renewal Power Sales Contract, shall be increased to include that portion of the then remaining amount of the applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Entitlement Share then set forth in such Appendix B bears to the Subscription Generation Entitlement Shares then set forth in such Appendix B of all Committed Original Purchasers that are parties to the Renewal Power Sales Contracts; and (iii) Purchaser's Transmission Cost Share shall be adjusted if necessary to reflect such increase in Purchaser's Subscription Generation Entitlement Share. Thereupon, such Second Round Offer Acceptance Date shall constitute the Entitlement Determination Date, and IPA shall provide Purchaser with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Share of Purchaser and the Generation Cost Shares of such other Committed Original Purchasers (all as increased in the same manner as above provided) and the applicable Transmission Cost Shares of Purchaser and such other Committed Original Purchasers, and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Share of Purchaser and the Generation Entitlement Shares of such other Committed Original Purchasers (all as increased in the same manner as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers. Upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Regulatory Contract Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination Date.

26.4 **Final Offer; Increase of Generation Entitlement Shares and Cost Shares; Replacement of Appendices A and B:**

26.4.1 In the event that Offer Acceptances under the continued Second Round Offer do not permit compliance with Section 26.3.3 or Section 26.3.4, then IPA shall continue the Renewal Offer by providing the Final Offer to Purchaser and the other Committed Original Purchasers.

26.4.2 If, as of the Final Offer Acceptance Date, there shall have been additional Offer Acceptances of the Final Offer by or one or more of the Committed Original Purchasers for all of the remaining outstanding Orphan Original Purchaser Entitlements, and

such Committed Original Purchaser's or Committed Original Purchasers' Subscription Generation Cost Share or Shares, as applicable, and Subscription Generation Entitlement Share or Shares, as applicable, shall be increased to include such remaining amount of Orphan Original Purchaser Entitlements and their respective Transmission Cost Shares shall be adjusted if necessary to reflect such increases, then, such Final Offer Acceptance Date shall constitute the Entitlement Determination Date, and IPA shall provide Purchaser with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Share of Purchaser and the Generation Cost Shares of such other Committed Original Purchasers (all as including the applicable increase as provided above) and the applicable Transmission Cost Shares of Purchaser and such other Committed Original Purchasers, and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Share of Purchaser and the Generation Entitlement Shares of such other Committed Original Purchasers (all as including the applicable increase as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers; and upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Contract Regulatory Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination Date.

26.4.3 Unless there shall have been compliance with Section 26.4.2, if as of the Final Offer Acceptance Date, there shall have been additional Offer Acceptances of the Final Offer by one or more of the Committed Original Purchasers, of Orphan Original Purchaser Entitlements which, together with the prior Offer Acceptances of the Committed Original Purchasers under the Renewal Offer, provide Offer Acceptances under the Renewal Offer of at least eighty-five percent (85%), but less than one hundred percent (100%), of the aggregate Original Purchaser Entitlements, then, effective as of the Final Offer Acceptance Date, (i) Purchaser's Subscription Generation Cost Share, as set forth in Appendix A of Purchaser's Renewal Power Sales Contract shall be increased to include that portion of the then remaining amount of the applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Cost Share then set forth in Appendix A bears to the Subscription Generation Cost Shares then set forth in Appendix A for all such Committed Original Purchasers; (ii) Purchaser's Subscription Generation Entitlement Share, as set forth in Appendix B of Purchaser's Renewal Power Sales Contract, shall be increased to include such portion of the then remaining applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Entitlement Share then set forth in Appendix B bears to the Subscription Generation Entitlement Shares then set forth in Appendix B for all such Committed Original Purchasers; and (iii) Purchaser's Transmission Cost Share shall be adjusted if necessary to reflect such increase in Purchaser's Subscription Generation Entitlement Share. Thereupon, such Final Offer Acceptance Date shall constitute the Entitlement Determination Date, and IPA shall provide Purchaser with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Share of Purchaser and the Generation Cost Shares of such other Committed Original Purchasers (all as including the applicable increase as provided) and the applicable Transmission Cost Shares of

Purchaser and such other Committed Original Purchasers, and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Share of Purchaser and the Generation Entitlement Shares of such other Committed Original Purchasers (all as increased as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers. Upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Contract Regulatory Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination date.

26.5 **Final Generation Cost Share, Generation Entitlement Share and Transmission Cost Share:** Effective from and after the Entitlement Determination Date, Purchaser's Generation Cost Share, as then set forth on Appendix A attached hereto, Purchaser's Generation Entitlement Share, as then set forth on Appendix B attached hereto, and Purchaser's applicable Transmission Cost Share, as then set forth on such Appendix A, all as determined in accordance with the Renewal Offer and the provisions of this Section 26, shall constitute Purchaser's Generation Cost Share and its Generation Entitlement Share, respectively, and its applicable Transmission Cost Share, under this Contract.

26.6 **Excess Renewal Power Sales Agreement; Performance by IPA:**

26.6.1 Each Utah Purchaser entering into a Renewal Power Sales Contract may elect to enter into the Excess Renewal Power Sales Agreement. Such election shall be made by such Utah Purchaser by furnishing to IPA within forty-five (45) days following the Entitlement Determination Date a written notice of such election. Such notice furnished by such Utah Purchaser shall also specify its Excess Entitlement Share. Each of the California Purchasers that enters into a Renewal Power Sales Contract, other than Los Angeles, may elect to enter into the Excess Renewal Power Sales Agreement and thereby be a California Excess Power Purchase thereunder. Such election shall be made by such California Purchaser by furnishing to IPA within forty-five (45) days immediately following the Utah Purchasers' election period as set forth above, a written notice of its election to enter into the Excess Renewal Power Sales Agreement, which notice shall designate such California Purchaser's Purchase Percentage (which shall not exceed its Maximum Purchase Percentage). Los Angeles shall be a California Excess Power Purchaser and its Purchase Percentage shall be that Purchase Percentage which, when added to the Purchaser Percentages of all such other California Purchasers electing to enter into the Excess Renewal Power Sales Agreement, shall equal 100%. IPA shall provide each of the Purchasers, and the Purchaser's Representative for the California Excess Power Purchasers copies of each such notice received by it from such Utah Purchasers and such California Purchasers that elect to enter into the Excess Renewal Power Sales Agreement.

26.6.2 Promptly following the end of the period set forth in Section 26.6.1 for such California Purchasers to furnish notice of their election to enter into the Excess Renewal Power Sales Agreement, IPA shall complete Appendix A and Appendix B of the

Excess Renewal Power Sales Agreement by listing each such Utah Purchaser that has elected to enter into the Excess Renewal Power Sales Agreement and listing each California Excess Power Purchaser and setting forth its Purchase Percentage and shall otherwise prepare the Excess Renewal Power Sales Agreement for execution by such Utah Purchasers, the California Excess Power Purchasers, the Purchaser Representative for the California Excess Power Purchasers and IPA. Such Excess Renewal Power Sales Agreement shall be executed by the parties thereto and copies thereof delivered to each of the parties, and the Excess Renewal Power Sales Agreement shall become effective in accordance with its terms. The Excess Entitlement Share of each of such Utah Purchasers that entered into the Excess Renewal Power Sales Agreement shall be set forth in Appendix A of the Excess Renewal Power Sales Agreement as provided in Section 5.1 thereof and shall be revised thereafter as provided in Section 5.2 thereof.

26.6.3 During the term of the Excess Renewal Power Sales Agreement IPA shall provide the services, take the actions and perform its other obligations under the Excess Renewal Power Sales Agreement that are applicable to the Utah Purchasers that are parties to the Excess Renewal Power Sales Agreement; provided that such provision of services, taking of actions or performance of its obligations by IPA shall not interfere with or adversely affect the performance by IPA of any of its obligations under this Renewal Power Sales Contract. IPA's costs of providing such services, taking such actions and performing such obligations shall constitute Monthly Power Costs under this Renewal Power Sales Contract .

27. **RENEWAL OFFER OBLIGATION:** Purchaser and IPA hereby agree and acknowledge that as of the Entitlement Determination Date IPA shall have satisfied its obligation under Section 33 of the Original Power Sales Contract to offer the Original Purchasers participation in the rights and benefits of the Project on and after the Transition Date.

28. **CONTRACT SUBJECT TO EACH BOND RESOLUTION:** The parties hereto recognize that IPA, in undertaking the planning, financing, construction, acquisition, operation and maintenance of the Project, must comply with the requirements of each Bond Resolution and all licenses, permits and regulatory approvals necessary for such planning, financing, construction, acquisition, operation and maintenance, and it is therefore agreed that this Contract is made subject to the provisions of any Bond Resolution and all such licenses, permits and regulatory approvals.

29. **COVENANT TO COMPLY WITH EACH BOND RESOLUTION:** IPA covenants and agrees, for the benefit of Purchaser, to comply in all material respects with all terms, conditions and covenants of each Bond Resolution that may be in effect from time to time and all licenses, permits and regulatory approvals relating to the Project; provided, however, that IPA shall not be prevented from contesting the validity or applicability of any thereof in good faith by appropriate proceedings.

30. **SEVERABILITY:** In case any one or more of the provisions of this Contract shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but that this Contract shall be construed and enforced as if such illegal or invalid provision had not been contained herein (unless a court of competent jurisdiction holds

that the provision(s) held to be illegal or invalid are not separable from all other provisions of this Contract).

31. **TERMINATION OR AMENDMENT**:

31.1 **Project Indebtedness Outstanding:** So long as any Renewal Contract Project Indebtedness is outstanding or until adequate provision for the payment thereof has been made in accordance with the provisions of the applicable Bond Resolution, this Contract shall not be terminated, amended, modified or otherwise altered in any manner (a) that will reduce the payments pledged as security for the Debt Instruments evidencing such Renewal Contract Project Indebtedness or extend the time of such payments provided herein, or (b) that will in any manner impair or adversely affect the rights of the holders from time to time of the Debt Instruments.

31.2 **Restrictions on Termination and Amendment:** None of the Renewal Power Sales Contracts may be terminated as to any one or more of the Purchasers or be amended as to any one or more of the Purchasers so as to provide terms and conditions materially different from those herein contained, except, subject to the provisions of Section 31.1 and consistent with each Bond Resolution, upon written notice to and written consent or waiver by each of the other Purchasers and upon a substantially similar amendment being made to the Renewal Power Sales Contract of any other Purchaser requesting such amendment after receipt by such Purchaser of notice of such amendment.

31.3 **Termination:**

31.3.1 Notwithstanding anything in this Contract to the contrary:

31.3.1.1 This Contract shall be automatically terminated if on or prior to the Final Offer Acceptance Date, IPA has not entered into Renewal Power Sales Contracts with Purchasers that have entered into Offer Acceptances as to at least eight-five percent (85%) of the aggregate Original Purchaser Entitlements and associated transmission entitlements and the Entitlement Determination Date shall not have occurred as provided by the applicable provisions of Section 26.

31.3.1.2 This Contract shall be automatically terminated, without any action required to be taken by either IPA or the Purchaser, if, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, the Gas Repowering shall not be undertaken.

31.3.2 Upon termination of this Contract, neither Purchaser nor IPA shall have any further obligation under this Contract (including, without limitation, with respect to Retirement Costs) from and after the effectiveness of such termination but such termination shall not release either IPA or Purchaser, respectively, from any of such party's obligations and liabilities under this Contract that have accrued prior to the effectiveness of such termination.

31.4 **Bond Resolution Changes:** IPA shall not, without the written consent of Purchaser and each of the other Purchasers, amend, modify, supplement or otherwise change any Bond Resolution if such amendment, modification, supplement or change would adversely affect the rights or obligations of Purchaser or the other Purchasers under their respective Renewal Power Sales Contracts; provided that this Section 31.4 shall not limit the power or authority of IPA to supplement any such Bond Resolution in accordance with the terms and provisions of this Contract to provide for the issuance of a series of Debt Instruments for any of the purposes permitted under Section 15.

32. **GOVERNING LAW:** This Contract shall be interpreted, governed by and construed under the laws of the State of Utah.

33. **ARBITRATION:** If a dispute arises between the parties under this Contract that is not resolved by the Renewal Contract Coordinating Committee, the parties to such dispute may submit the dispute to arbitration.

34. **NOTICES:** Notices, demands or requests shall be effected as follows:

34.1 **Manner of Giving of Notice:** Any notice, demand or request provided for in this Contract shall be in writing and shall be deemed properly served, given or made shall be effective if (a) delivered in person; (b) sent by registered or certified mail, postage prepaid; (c) sent by fax to the fax number below; or (d) sent by e-mail to the address indicated below, and to the attention of the person specified below:

34.1.1 Intermountain Power Agency
c/o General Manager
10653 South River Front Parkway, Suite 120
South Jordan, Utah 84095
Phone: (801) 938-1333
Fax: (801) 983-1330
E-mail: jim@ipautah.com

34.1.2 [NAME OF PURCHASER]
[Title of Official to Receive Notice]
[Street Address of the Purchaser]
[City, State Zip Code of Purchaser]
Phone: [(____) ____-_____]
Fax: [(____) ____-_____]
E-mail: [_____]

34.2 **Change of Delivery Information:** By giving written notice to the other party in the manner set forth in Section 34.1, either party to this Contract may, from time to time, change its address, fax number or e-mail address for purposes of this Section 34, and upon such notice being properly given, Section 34.1.1 or 34.1.2, as the case may be, shall be deemed amended to reflect the change.

35. **USE OF PROJECT DOCUMENTS**:

35.1 **Non-Assignable License:** Upon the request of any one or more of the Purchasers, IPA will grant on a non-exclusive basis to such Purchasers or an entity acting on their behalf a non-assignable license to use reproductions of any or all documents, drawings, contracts and systems relating to the Project for use by such Purchaser or Purchasers or such entity in constructing or operating electric generation or transmission facilities at a site designated by such Purchaser, Purchasers or entity; provided, however, that no such license shall be granted if it would adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on any Project Indebtedness.

35.2 **Charge for Reproductions:** IPA shall charge, and such Purchaser, Purchasers or entity shall pay, an amount for such license based on one-half (1/2) of the savings to such person or entity using such reproductions, as determined by the Renewal Contract Coordinating Committee and IPA, or shall make payment based on such other considerations as shall be acceptable to the Renewal Contract Coordinating Committee and IPA.

36. **INTERCONNECTION AGREEMENTS:** Purchaser hereby agrees that IPA may comply with the requirements of any agreement or arrangement approved by the Original Contract Coordinating Committee or the Renewal Contract Coordinating Committee with respect to furnishing start-up and black start power from the Project. All amounts received by IPA for furnishing such service after the Transition Date shall be applied as a credit against Monthly Power Costs pursuant to the Renewal Power Sales Contracts.

37. **INSURANCE PROVISIONS:** IPA shall take reasonable and prudent steps in the interest and for the protection of all Purchasers to maintain, or cause to be maintained, properly designed and properly underwritten Project property and casualty insurance programs for each Project Component during the Operational Period and for each Capital Improvement during the construction phase thereof and, as determined by IPA, fiduciary liability insurance for directors and officers of IPA. Such insurance programs shall provide the broadest coverage economically feasible. IPA shall make every economically feasible effort to incorporate into the Project such insurance, including without limitation, property insurance program extra-expense and business interruption coverage tied to all perils covered by the property insurance program, automobile liability insurance, insurance against risk of liability under environmental laws and regulations and insurance covering losses resulting from failure or interruption of the Project Fuel supply for the Project.

38. **PAYMENTS-IN-AID OF CONSTRUCTION**:

38.1 **Project Components:** Subject to compliance with the conditions contained in this Section 38:

38.1.1 If and to the extent requested by IPA, any one or more Purchasers or an entity acting on behalf of one or more Purchasers may agree to make payments-in-aid of construction for the Generation Station.

38.1.2 The California Purchasers or an entity acting on their behalf may agree to make payments-in-aid of construction for the Southern Transmission System.

38.1.3 The Utah Purchasers or an entity acting on their behalf may agree to make payments-in-aid of construction for the Northern Transmission System.

38.2 **Construction Aid Agreement:** Any payments-in-aid of construction provided for by this Section 38 shall be made in accordance with an agreement entered into between such Purchasers or entity acting on their behalf and IPA (the "Construction Aid Agreement"). The Construction Aid Agreement shall set forth the procedures for the making of such payments, and such other matters relating thereto as shall be consistent with applicable IPA agreements and which shall be agreed to by the parties.

38.3 **Application of Payments:** All payments-in-aid of construction made pursuant to the provisions of this Section 38 shall be deposited in a construction fund account relating to the facility with respect to which such payments are being made. Subject to the lien and pledge of and the covenants under any Bond Resolution with respect to such fund, IPA agrees to use such deposits for payment of the cost of acquisition and construction with respect to such facility.

38.4 **Recognition of Benefits:** No such payments-in-aid of construction shall change or otherwise affect IPA's ownership of such facility or of the Project or any of the rights and obligations of IPA or the Purchasers under this Contract. It is recognized, however, that under this Contract, to the extent that payments-in-aid of construction are received and applied to the payment of costs of a facility of the Project, IPA would not be obligated to issue bonds for the payment of such costs and consequently, to that extent, the minimum cost component allocated to such facility pursuant to Section 7 will be less, reflecting the application of such payments-in-aid of construction to the payment of such costs of such facility instead of the issuance of bonds or other obligations therefor and the allocation of the debt service on such bonds or other obligations thereto.

38.5 **Bond Counsel Opinion:** No arrangement made in connection therewith shall become effective until IPA's bond counsel shall have rendered an opinion that such agreement or arrangement is in compliance with applicable IPA agreements entered into in accordance with the terms and provisions of this Contract.

## 39. USE AND DISPOSITION OF CERTAIN FACILITIES:

39.1 **Project Common Facilities:** It is hereby recognized that on or after the Transition Date, the Project may consist of certain rights, properties, facilities and appurtenances that could be used or useful in connection with the construction, reconstruction, use and operation at the Project site of additional generating units or transmission facilities or other facilities or properties associated therewith.

39.2 **No Adverse Effect; Receipt of Value:** Subject to Section 39.3, on or after the Transition Date, IPA may, with the approval of the Renewal Contract Coordinating Committee, sell, lease, dispose of or otherwise make available to another entity such rights, properties, facilities and appurtenances for such construction or operation of other units, facilities or properties at the Project site; provided, however, such sale, lease, disposition or availability arrangement shall comply with all laws and governmental regulations applicable to

IPA or to any Purchaser, and shall not have a material adverse effect on the revenues or operations of IPA or any Purchaser, and provided further that no such disposition shall interfere with the operation of the Project or adversely affect the eligibility for any exemption from Federal income taxes of the interest paid, or to be paid, on Debt Instruments issued or to be issued by IPA. No such arrangement shall be entered into unless IPA shall receive fair value therefor, as determined by IPA and the Renewal Contract Coordinating Committee, and all amounts received shall be credited against Monthly Power Costs pursuant to the Renewal Power Sales Contracts. Section 39 Facilities Agreements providing for such an arrangement with respect to the availability, transfer and use of such rights, properties, facilities and appurtenances may be entered into by IPA, upon approval of the Renewal Contract Coordinating Committee, with an entity or entities, including, without limitation, one or more members of IPA or any entity formed under the Act which includes one or more members of IPA. IPA shall use its reasonable efforts to enter into such Section 39 Facilities Agreements pursuant to this Section 39 to provide for, among other matters, the selling, leasing and/or making available to the other parties to such Section 39 Facilities Agreements of the rights, properties, facilities and appurtenances that are not to be used for the generation or transmission of power pursuant to the Renewal Power Sales Contracts.

39.3 **Effectiveness:** The obligations, limitations and requirements imposed on IPA pursuant to Section 39.2 shall be effective only with respect to dealings, transactions or arrangements made or occurring on or after the Transition Date and involving rights, properties, facilities or appurtenances described in Section 39.1 owned or held by IPA on or after the Transition Date. Except to the extent the obligations of IPA under Section 5.14 or Section 6.3 may apply, nothing in this Contract shall require IPA to obtain the approval of the Renewal Contract Coordinating Committee, or otherwise limit or impose obligations or requirements on IPA, with respect to dealings, transactions or arrangements in which IPA may engage or become a party pursuant to Section 36 of the Original Power Sales Contracts. Neither Purchaser nor any of the other Purchasers shall have any right, under their respective Renewal Power Sales Contracts, to any credit against Monthly Power Costs or otherwise have any rights or interests with respect to any revenues or proceeds IPA may receive pursuant to any dealings, transactions or arrangements referenced in the preceding sentence.

## 40. EXPANSION OF TRANSMISSION SYSTEMS:

40.1 **Expansion of Southern Transmission System:** Following the Transition Date, any other provision of this Contract to the contrary notwithstanding, any proposal for a major expansion of or addition to the Southern Transmission System shall be initiated by the Renewal Contract Coordinating Committee. Such proposal shall comply with applicable IPA agreements entered into in accordance with the terms and provisions of this Contract and shall provide that, subject to compliance with the laws of Utah, the Purchasers having entitlements in the Southern Transmission System shall have the right to participate in the additional capacity of such expansion or addition in proportion to their respective entitlement shares. Upon approval of any such proposal by IPA and the Renewal Contract Coordinating Committee, IPA shall use its best efforts to proceed, subject to compliance with the laws of Utah and such applicable IPA agreements, with the development of such expansion or addition. The foregoing procedures may be modified with the approval of IPA and the Renewal Contract Coordinating Committee.

40.2 **Expansion of Northern Transmission System:** Following the Transition Date, any other provision of this Contract to the contrary notwithstanding, any proposal for a major expansion of or addition to the Northern Transmission System shall be initiated by the Renewal Contract Coordinating Committee. Such proposal shall comply with applicable IPA agreements entered into in accordance with the terms and provisions of this Contract and shall provide that, subject to compliance with the laws of Utah, the Purchasers having entitlements in the Northern Transmission System shall have the right to participate in the additional capacity of such expansion or addition in proportion to their respective entitlement shares. Upon approval of any such proposal by IPA and the Renewal Contract Coordinating Committee, IPA shall use its best efforts to proceed, subject to compliance with the laws of Utah and such applicable IPA agreements, with the development of such expansion or addition. The foregoing procedures may be modified with the approval of IPA and the Renewal Contract Coordinating Committee.

41. **NORTHERN TRANSMISSION SYSTEM TRANSMISSION SERVICE**:

41.1 **Unused Capacity:** Subject to contractual rights with respect to the Northern Transmission System, IPA may schedule the unused capacity of such System for transmission service for other utilities pursuant to procedures prescribed by the Operating Agent.

41.2 **Application of Payments:** All amounts received by IPA after the Transition Date as payments for any such transmission service pursuant to this Section 41 shall be applied as a credit against Monthly Power Costs with respect to the Northern Transmission System pursuant to the Renewal Power Sales Contracts.

42. **RIGHTS OF CERTAIN PURCHASERS TO TERMINATE THEIR RENEWAL POWER SALES CONTRACTS OR REDUCE THEIR GENERATION ENTITLEMENT SHARES**:

42.1 **Termination of Renewal Power Sales Contracts or Reduction of Generation Entitlements.** From and after the Entitlement Determination Date, each of the California Purchasers, other than Los Angeles, shall have the right to terminate its Renewal Power Sales Contract or to reduce its Generation Entitlement Share and its Generation Cost Share, respectively, by an amount not exceeding twenty (20%) percent thereof, effective November 1, 2019, by providing written notice to IPA of such termination of its Renewal Power Sales Contract or such reduction of its Generation Entitlement Share and Generation Cost Share, as applicable, at least ninety (90) days prior to November 1, 2019. Such a notice by such a California Purchaser with respect to a reduction of its Generation Entitlement Share and Generation Cost Share shall specify the portion thereof (not exceeding twenty (20%) percent thereof) to be reduced. IPA agrees to inform each of the other Purchasers of its receipt of such a notice or notices from each such California Purchaser. Effective on November 1, 2019, (i) the Renewal Power Sales Contract of each such California Purchaser providing such notice of the termination thereof shall terminate, and the Generation Entitlement Share and Generation Cost Share of each such California Purchaser providing such notice of reduction thereof shall be reduced (as specified in such notice) under the Renewal Power Sales Contracts; and (ii) except as otherwise provided in Section 42.3, the respective Generation Entitlement Share and

Generation Cost Share of each remaining Purchaser (other than any such California Purchaser that provides such notice to IPA) shall be increased to include that portion of the amount of the Terminated and Reduced Entitlements as determined in accordance with the ratio that such remaining Purchaser's Generation Entitlement Share bears to the total of the Generation Entitlement Shares of all such remaining Purchasers.

42.2 **Replacement of Appendices A and B.** In the event of the termination by one or more of the California Purchasers (excluding Los Angeles) of its or their Renewal Power Sales Contracts or the reduction by one or more of such California Purchasers of its or their Generation Entitlement Shares and Generation Cost Shares, in each case as provided in Section 42.1, IPA, except as otherwise provided in Section 42.3, shall on or prior to November 1, 2019 furnish each of the Purchasers (including Los Angeles) that remains a party to its Renewal Power Sales Contract with replacements of Appendix A and Appendix B of its Renewal Power Sales Contract providing for the following:

42.2.1 The removal from Appendix A and Appendix B of such California Purchaser or California Purchasers that shall have terminated its or their Renewal Power Sales Contracts and the deletion from Appendix A and Appendix B of its or their applicable Cost Shares and Generation Entitlement Shares.

42.2.2 The increase of the Generation Cost Share of each remaining Purchaser under its Renewal Power Sales Contract to include that portion of the amount of the Terminated and Reduced Purchaser Entitlements determined in accordance with the ratio that each such remaining Purchaser's Generation Cost Share set forth in Appendix A bears to the total of the Generation Cost Shares set forth in such Appendix A for all remaining Purchasers.

42.2.3 The increase of the Generation Entitlement Share of each remaining Purchaser under its Renewal Power Sales Contracts to include that portion of the amount of the Terminated and Reduced Purchaser Entitlements determined in accordance with the ratio that each such remaining Purchaser's Generation Entitlement Share set forth in Appendix B bears to the total of the Generation Entitlement Shares set forth in Appendix B for all remaining Purchasers.

42.2.4 The adjustment, if necessary, of the Transmission Cost Share of each such remaining Purchaser to reflect the increase of each such remaining Purchaser's Generation Entitlement Share as provided for under Section 42.2.3.

42.3 **Separate Agreement By Los Angeles.** In the event, however, of the termination by one or more of the California Purchasers (excluding Los Angeles) of its or their Renewal Power Sales Contracts or the reduction by one or more of such California Purchasers of its or their Generation Entitlement Shares and Generation Cost Shares, in each case as provided in Section 42.1 and the separate agreement under the Renewal Power Sales Contracts by Los Angeles prior to November 1, 2019 to increase its Generation Entitlement Share and its Generation Cost Share to include the amount of the Terminated and Reduced Purchaser Entitlements, or any portion thereof, and to the adjustment of its Southern Transmission Cost Share to reflect such increase of its Generation Entitlement Share, then IPA shall furnish each of such remaining Purchasers (including Los Angeles) with replacements of Appendix A and

Appendix B of its Renewal Power Sales Contract. In addition to the removal from such replacements of Appendix A and Appendix B of each such California Purchaser or California Purchasers that shall have terminated its or their Renewal Power Sales Contracts and the deletion therefrom of its or their Generation Entitlement Shares and Cost Shares, such replacements of Appendix A and Appendix B shall provide for such increase, as agreed to by Los Angeles, of its Generation Entitlement Share and its Generation Cost Share by the amount of such Terminated and Reduced Purchaser Entitlements, or such portion thereof, and for such adjustment of Los Angeles' Southern Transmission Cost Share to reflect such increase in its Generation Entitlement Share. Any remaining portion of such Terminated and Reduced Purchaser Entitlements that is not included under such agreement by Los Angeles shall be allocated to such remaining Purchasers, including Los Angeles, in the manner provided in Section 42.2; and IPA shall provide in such replacement Appendix A and replacement Appendix B for such allocation of the remaining Terminated and Reduced Purchaser Entitlements to such remaining Purchasers, including Los Angeles.

42.4 **Reduction of Design Capacity of Gas Units by Terminated and Reduced Purchaser Entitlements.** Except to the extent that Los Angeles shall agree to the allocation to it of the Terminated and Reduced Purchaser Entitlements, or a portion thereof, as provided in Section 42.3, the design capacity of the Gas Units under Section 44.1 of the Original Power Sales Contracts, as added by the Second Amendatory Power Sales Contracts, shall be reduced by that amount of the generating capacity of the terminated and reduced Generation Entitlement Shares included in the Terminated and Reduced Purchaser Entitlements that is not included in any Generation Entitlement Share of Los Angeles as adjusted pursuant to Section 42.3.

IN WITNESS WHEREOF, the parties hereto have duly caused this Renewal Power Sales Contract to be executed on their respective behalves on the date first above provided.

**INTERMOUNTAIN POWER AGENCY**,
a political subdivision of the State of Utah

By:_____

Its: _____

**[NAME OF PURCHASER]**

By:_____

Its: _____

## APPENDIX A

## SCHEDULE OF GENERATION COST SHARES AND TRANSMISSION COST SHARES

| Purchaser | Generation Cost Share | Northern Transmission Cost Share | Southern Transmission Cost Share |
|---|---|---|---|
| | % | % | % |

## APPENDIX B

## SCHEDULE OF GENERATION ENTITLEMENT SHARES AND POINTS OF DELIVERY

| Purchaser | Generation Entitlement Share % | Point of Delivery % |
|---|---|---|

## APPENDIX C

## DESCRIPTION OF PROJECT

The following description of the Project, as authorized under the Original Power Sales Contracts, shall be revised by IPA at the commencement of the Operational Period, and shall be revised thereafter by IPA, from time to time, as is necessary to reflect the actual Project description as the Project evolves and changes, provided that each such revision shall be subject to approval of the Renewal Contract Coordinating Committee as provided under Section 6.2.19 of the Renewal Power Sales Contracts; provided further, that IPA cannot by such action change the aggregate Maximum Generating Capability of the Generation Station, unless such change shall have received the prior approval of the Renewal Contract Coordinating Committee.

C.1. GENERATION STATION: The Generation Station shall consist of the following:

C.1.1. Land and rights in land in the State of Utah used or to be used in connection with the construction and operation of the Generation Station.

C.1.2. Two natural gas combined cycle power blocks, consisting of Gas Unit 1 and Gas Unit 2, respectively, each with a design capacity of approximately 600 MW (or such lesser capacity as determined pursuant to Section 44.1 of the Original Power Sales Contracts) and each with a power block including natural gas-fired combustion turbine generating units, four heat recovery steam generators and two steam turbines, heat exchangers, zero liquid discharge systems and all equipment and facilities ancillary to such combined cycle power blocks, including potential use of mechanical draft cooling towers, re-circulating water system and auxiliary cooling water; provided that upon authorization pursuant to Section 44.1 of the Original Power Sales Contract (i) one of such combined cycle power blocks may be modified to include the existing steam turbine generator, or (ii) an addition to such combined cycle power blocks and related facilities may be installed consisting of selective catalytic reduction pollution control systems and related facilities for such combined cycle power blocks.

C.1.3. All auxiliary equipment associated with such power blocks.

C.1.4. A switchyard of a basic breaker and one-half design including the high voltage busses, power circuit breakers, disconnect switches, control house and other structures, facilities and appurtenances which shall be necessary or incidental in the useful construction or operation of the switchyard.

C.1.5. An administration building, machine shop and warehouse to be located adjacent to the power plant.

C.1.6. A water supply system consisting of all facilities necessary to store, pump and convey water to the power plant and an allocable portion of the supply of water for the Project.

C.1.7. Generation transformers and all equipment associated therewith.

C.1.8. General service transformers and all equipment associated therewith.

C.1.9. Plant control and communication facilities and associated buildings and equipment.

C.1.10. Natural gas transmission delivery facilities extending from the interconnection with the gas transmission system to the power plant including related facilities and equipment.

C.1.11. Natural gas storage facilities.

C.1.12 An allocable portion of services, structures, equipment, supplies, other facilities and other costs necessary for IPA to conduct the business of financing, designing, constructing, operating and maintaining the Project.

C.1.13. An allocable portion of all assistance to local communities in providing for facilities and impact alleviation expenses required for personnel involved with the construction and operation of the Project.

C.1.14. An allocable portion of a microwave communications system.

C.1.15. All other land, rights-of-way, buildings, structures, facilities, appurtenances, services and contract rights, or such allocable portion of the foregoing which shall be necessary or incidental in the useful construction or operation of the Generation Station. The limits of the Generation Station for the purpose of this Power Sales Contract shall be at the connection of the Northern Transmission System and Southern Transmission System leads to the high voltage switchrack.

C.2. NORTHERN TRANSMISSION SYSTEM: The Northern Transmission System, which shall consist of the A.C. transmission facilities necessary to deliver capacity and energy from the Generation Station to the points of delivery at Mona and Gonder, shall include:

C.2.1 Two 345 kv transmission lines from the Generation Station to Mona terminating at appropriate switchracks, together with contractual rights to use the Mona Substation and the obligation to pay the costs of such rights and use.

C.2.2. One 230 kv transmission line from the Generation Station to Gonder terminating at appropriate switchracks, together with ownership or contractual rights in the Gonder Substation and the obligation to pay the costs of such ownership or rights and such use.

C.2.3. An allocable portion of services, structures, equipment, supplies, other facilities and other costs necessary for IPA to conduct the business of financing, designing, constructing, operating and maintaining the Project.

C.2.4. An allocable portion of a microwave communications system.

C.2.5. All other land, rights-of-way, buildings, structures, facilities, appurtenances, services and contract rights, or such allocable portion of the foregoing, which shall be necessary or incidental in the useful construction or operation of the Northern Transmission System.

C.3. SOUTHERN TRANSMISSION SYSTEM: The Southern Transmission System, which shall consist of D.C. transmission and conversion facilities necessary to deliver capacity and energy from the Generation Station to the point of delivery at Adelanto, shall include:

C.3.1. A single bipole ±500 kv DC transmission line with an AC-DC converter station at each end, together with ownership or contractual rights in any substation and the obligation to pay the costs of such ownership or rights and such use.

C.3.2. An allocable portion of the supply of water for the Project.

C.3.3. An allocable portion of services, structures, equipment, supplies, other facilities and other costs necessary for IPA to conduct the business of financing, designing, constructing, operating and maintaining the Project.

C.3.4. An allocable portion of all assistance to local communities in providing for facilities and impact alleviation expenses required for personnel involved with the construction and operation of the Project.

C.3.5. An allocable portion of a microwave communication system.

C.3.6. All other land, rights-of-way, buildings, structures, facilities, appurtenances, services and contracts, or such allocable portion of any of the foregoing, which shall be necessary or incidental in the useful construction or operation of the Southern Transmission System.

All property that will remain attached to and incorporated into the Project throughout the useful life of the Project or such property is an integral part of the Project and constitutes real property.

# APPENDIX D

## FORM OF AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

[See attached]

AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

AMONG

EACH SELLER NAMED HEREIN

and

CALIFORNIA PURCHASERS NAMED HEREIN

and

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, as Representative of the California Purchasers

and

INTERMOUNTAIN POWER AGENCY

_____

Dated: _____ __, 201___

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AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

1. PARTIES. This Agreement made and entered into as of the _____ day of _____, 201___, among each Seller named on Appendix B hereto (each, a "Seller" and collectively, the "Sellers"), each California Purchaser named on Appendix B hereto (each, a "California Purchaser" and collectively, the "California Purchasers"), the Department of Water and Power of the City of Los Angeles ("LADWP"), as representative of the California Purchasers, and Intermountain Power Agency ("IPA").

2. RECITALS.

2.1 Each Seller and each of the California Purchasers are purchasers under certain Power Sales Contracts with IPA entered into as of September 28, 1978 (for the Sellers) and August 6, 1980 (for the California Purchasers), as amended, for the purchase of electric power and transmission capacity from the Intermountain Power Project from IPA (the "Original Power Sales Contracts"); and

2.2 Certain of the Sellers and certain of the California Purchasers are parties to the Excess Power Sales Agreement, entered into as of December 1, 1980, as amended, for the purchase by such California Purchasers of certain excess electric capacity and associated energy of the Project from such Sellers during the term of the Original Power Sales Contracts; and

2.3 Each of the Sellers has entered into a Renewal Power Sales Contract, dated as of _____, 201___, by and between it and IPA (together with substantially similar contracts by IPA with other participants in the Project, the "Renewal Power Sales Contracts") providing to each Seller a Generation Entitlement Share and entitling such Seller, commencing upon the expiration of the Original Power Sales Contracts, to schedule electric capacity and energy from each generating facility of the Project and to use the operating capabilities of the Northern Transmission System of the Project; and

2.4 Each Seller will determine the amount, if any, of Project electric capacity and associated energy to which it is entitled pursuant to its Renewal Power Sales Contract with IPA that will be in excess of its electric requirements; and

2.5 Each Seller desires to sell, and the California Purchasers desire to purchase, on the terms and conditions set forth in this Agreement any such excess Project electric capacity and associated energy of such Seller under its Renewal Power Sales Contract; and

2.6 Each Seller has further determined that a portion of its Northern Transmission System capacity entitlement will be excess to its needs.

3. AGREEMENT. For and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is agreed by and among the parties hereto as follows:

4. DEFINITIONS. In addition to the terms defined in the Recitals hereof, the following terms, whether in the singular or in the plural, when used herein and in the Appendices hereto and initially capitalized, shall have the meanings specified:

4.1 "Agreement": This Agreement for Sale of Renewal Excess Power, as the same may be amended from time to time in accordance with the terms hereof.

4.2 "Annual Budget", "Available Generating Capability", "Bond Resolution", "California Excess Power Purchasers", "Coordinating Committee", "Construction Management and Operating Agreement", "Fuel Management Practices and Procedures", "Gas Repowering", "Generation Entitlement Share", "Generation Cost Share", "General Service Requirements", "Generation Station", "Los Angeles", "Minimum Generating Capability", "Month", "Monthly Power Costs", "Northern Transmission System", "Operating Agent", "Point of Delivery", "Project", "Project Fuel", "Project Indebtedness", "Prudent Utility Practice", "Purchasers", "Switchyard", "Uncontrollable Forces", "Uniform System of Accounts" and "Willful Action" shall have the respective meanings given thereto in the Renewal Power Sales Contracts.

4.3 "Appendix A": The Initial Appendix A and each Revised Appendix A.

4.4 "Assigned Northern Transmission System Entitlement": That portion of the Northern Transmission System entitlement of each Seller (as determined pursuant to Section 10.2 of such Seller's Renewal Power Sales Contract) that is equal to fifty percent (50%) of such Seller's Excess Northern Transmission System Entitlement.

4.5 "Assignment Share": With respect to each Seller and a particular California Purchaser, that portion of such Seller's Assigned Northern Transmission System Entitlement determined by multiplying such California Purchaser's Purchase Percentage by such Seller's Assigned Northern Transmission System Entitlement.

4.6 "California Purchasers": Los Angeles and each of the other California Excess Power Purchasers so denominated on Appendix B, together with any successor to any such entity.

4.7 "Complete Outage": A Complete Outage shall, for purposes of this Agreement, be deemed to have occurred if during the Operational Period the condition shall exist that, for other than normal maintenance, no generating facility of the Project produces power at the high voltage side of its generating transformers in excess of its allocated General Service Requirements and any such Complete Outage shall be deemed to continue in effect until such time after the commencement thereof as a generating facility of the Project first produces power at the high voltage side

of its generating transformers in excess of its allocated General Service Requirements.

4.8 "Effective Date": Shall have the meaning ascribed thereto in Section 20.1 hereof.

4.9 "Excess Entitlement Share": As of any date of determination and for each Seller, the percentage entitlement of such Seller in the electric capacity and associated energy of each generating facility of the Project as then set forth for Summer Seasons or Winter Seasons, respectively, in Appendix A which shall have been designated by such Seller as excess to its electric requirements. Such entitlement is derived from such Seller's Generation Entitlement Share; provided, however, that at no time shall the Excess Entitlement Share for such Seller with respect to Summer Seasons or Winter Seasons exceed its Generation Entitlement Share.

4.10 "Excess Entitlement Share Effective Date": The date on which the Excess Entitlement Share for Summer Seasons or for Winter Seasons (or any revision of such Excess Entitlement Share in accordance with Section 5) shall become effective as provided in Sections 5.1 and 5.2 hereof.

4.11 "Excess Northern Transmission System Entitlement": That portion of a particular Seller's entitlement to schedule the operating capabilities of the Northern Transmission System under its Renewal Power Sales Contract, without regard to source or origin, constituting such Seller's rights to the capacity thereof, which is equal to the difference between such Seller's entitlement to capacity of the Northern Transmission System determined pursuant to Section 10.2 of its Renewal Power Sales Contract and the amount of such capacity of the Northern Transmission System required for delivery of such Seller's Generation Entitlement Share of Project capacity and associated energy to such Seller's Point of Delivery.

4.12 "Excess Power Obligation": At any time and as to any particular California Purchaser and as to a particular Seller, the percentage obtained by multiplying the Summer Excess Entitlement Share or Winter Excess Entitlement Share of such Seller in effect at such time as shown on the then effective Appendix A, by the Purchase Percentage (expressed as a decimal) of such California Purchaser. The Excess Power Obligation with respect to a particular California Purchaser and a particular Seller shall change each time the Summer Excess Entitlement Share or the Winter Excess Entitlement Share, as applicable, of such Seller shall change.

4.13 "Excess Power Supply Year": The twelve (12) Month period commencing at 12:01 a.m. on July 1 of each year during the Operational Period and ending at 12:01 a.m. on the following July 1; provided, however, that (a) if the Operational Period Commencement Date does not occur on July 1 of any year, then the first Excess Power Supply Year shall begin at 12:01 a.m. on the Operational Period Commencement Date and shall end at 12:01 a.m. on the next following July 1, and (b) if the Operational Period does not end on June 30 of any year, then the last Excess Power Supply Year shall begin at 12:01 a.m. on the July 1 immediately

preceding the last day of the Operational Period and shall end at 12:01 a.m. on the last day of the Operational Period.

4.14 "Initial Appendix A": The Appendix A attached to this Agreement at its Effective Date, which shall set forth the Purchase Percentage of each California Purchaser and subsequently shall set forth, as provided in Section 5.1 hereof, the Excess Entitlement Share of each of the Sellers.

4.15 "Operational Period": The period beginning on the Operational Period Commencement Date and ending upon the date that all Renewal Power Sales Contracts shall terminate.

4.16 "Operational Period Commencement Date": June 16, 2027; provided, however, that if the date upon which the Original Power Sales Contracts terminate is extended pursuant to Section 26.1 of the Original Power Sales Contracts, then the Operational Period Commencement Date shall be the date that is next succeeding the date upon which the Original Power Sales Contracts terminate in accordance with their terms.

4.17 "Primary Purchasers": Those entities (other than IPA) executing Renewal Power Sales Contracts, together in each case with their respective successors or assigns.

4.18 "Purchase Percentage": As to each California Purchaser, the percentage set forth in Appendix A with respect to such California Purchaser of the Summer Excess Entitlement Share and the Winter Excess Entitlement Share, respectively, of each Seller as in effect from time to time which such California Purchaser has agreed to purchase pursuant to this Agreement. The Purchase Percentage of each California Purchaser shall be, and shall continue to be throughout the term of this Agreement, the percentage indicated on Appendix A.

4.19 "Purchasers' Representative": Los Angeles which is hereby designated by the California Purchasers to carry out the duties and responsibilities set forth in this Agreement for the Purchasers' Representative.

4.20 "Remaining NTS Entitlement": With respect to a particular Seller, such Seller's entitlement in the Northern Transmission System, as calculated under and in accordance with Section 10.2 of its Renewal Power Sales Contract, less such Seller's Assigned Northern Transmission System Entitlement.

4.21 "Renewal Power Sales Contracts": The Renewal Power Sales Contracts defined in Section 2.3 hereof, together with all amendments and supplements hereafter entered into.

4.22 "Retained Generation Entitlement Share": means, with respect to a particular Seller, during a particular Season, such Seller's Generation Entitlement Share less its Summer Excess Entitlement Share or its Winter Excess Entitlement Share, as applicable, then in effect as set forth in Appendix A.

4.23 "Revised Appendix A": Shall have the meaning ascribed thereto in Section 5.2 hereof.

4.24 "Season": A Summer Season or a Winter Season provided, however, that (a) if the Operational Period Commencement Date does not occur on the first day of a Summer Season or a Winter Season, as the case may be, then the first Summer Season or the first Winter Season shall begin at 12:01 a.m. on the Operational Period Commencement Date and shall end at 12:01 a.m. on the last day of such Summer Season or such Winter Season, as applicable, and (b) if the Operational Period does not end on the last day of a Summer Season or on the last day of a Winter Season, then the last Summer Season or the last Winter Season, as applicable, of the Operational Period shall end at 12:01 a.m. on the last day of the Operational Period.

4.25 "Sellers": Each of the entities so denominated on Appendix B, together with any successor to any such entity.

4.26 "Summer Excess Entitlement Share": The Excess Entitlement Share then in effect for Summer Seasons.

4.27 "Summer Season": The four-month period commencing at 12:01 a.m. on June 1 of each Excess Power Supply Year and ending at 12:01 a.m. on October 1 of the immediately following Excess Power Supply Year; provided that the first Summer Season or the last Summer Season of the Operational Period may have less than a four-month period as provided by Section 4.24.

4.28 "Total Excess Entitlement Share": At any time during a Summer Season, the aggregate of the Summer Excess Entitlement Shares of all Sellers as then in effect, and at any time during a Winter Season, the aggregate of the Winter Excess Entitlement Shares of all Sellers as then in effect.

4.29 "Winter Excess Entitlement Share": The Excess Entitlement Share then in effect for Winter Seasons.

4.30 "Winter Season": The eight-month period commencing at 12:01 a.m. on October 1 of each Excess Power Supply Year and ending at 12:01 a.m. on June 1 of the same Excess Power Supply Year provided that the first Winter Season or the last Winter Season of the Operational Period may have less than an eight-month period as provided in Section 4.24.

5. APPENDIX A AND REVISIONS THERETO; DECREASE OR INCREASE OF EXCESS ENTITLEMENT SHARE.

5.1 At the Effective Date the Initial Appendix A attached to this Agreement shall set forth the Purchase Percentage of each of the California Purchasers; provided that, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, the Initial Appendix A shall be

revised by IPA so as to allocate to Los Angeles under this Agreement the terminated Purchase Percentage of such California Purchaser or the terminated Purchase Percentages of such California Purchasers, as the case may be, that shall have terminated its or their Renewal Power Sales Contracts, and copies of such revised Initial Appendix A shall be furnished to each of the Sellers and to each of the California Purchasers, including Los Angeles, that remain parties to this Agreement. At least twelve (12) Months prior to the Operational Period Commencement Date each Seller shall furnish written notice to each of the California Purchasers and IPA of such Seller's Excess Entitlement Share for each Season; and IPA shall set forth in the Initial Appendix A (as the same may have been revised as provided hereinabove) the Excess Entitlement Share of each such Seller for each Season as specified in its notice furnished as above provided. Thereupon the Excess Entitlement Share of each Seller for each Season shall become effective and IPA shall furnish copies of such Initial Appendix A to each of the Sellers and each of the California Purchasers. The Initial Appendix A shall remain in effect for purposes of this Agreement until such time as a Revised Appendix A is prepared and furnished in accordance with Section 5.2 hereof.

5.2 Subject to Sections 5.2.1, 5.2.2 and 5.2.3, on and after the Operational Period Commencement Date each Seller shall have the right to revise (whether by decreasing or increasing) its Summer Excess Entitlement Share (other than for the first Summer Season of the Operational Period) as then set forth in Appendix A, or its Winter Excess Entitlement Share (other than for the first Winter Season of the Operational Period) as then set forth in Appendix A.

5.2.1. A Seller may elect to increase or decrease its Summer Excess Entitlement Share or its Winter Excess Entitlement Share by furnishing to each of the California Purchasers and IPA a written notice specifying such increased or decreased Excess Entitlement Share. In the case of an increase or decrease of its Summer Excess Entitlement Share, Seller must furnish such notice at least twelve (12) months prior to the first day of the Summer Season for which such increased or decreased Summer Excess Entitlement Share shall become effective. In the case of the increase or decrease of its Winter Excess Entitlement Share, Seller must furnish such notice at least twelve (12) Months prior to the first day of the Winter Season for which such increased or decreased Winter Excess Entitlement Share shall become effective. Such increased or decreased Excess Entitlement Share shall become effective on the date of commencement of the Season for which such notice is given. Prior to such Excess Entitlement Share Effective Date, IPA shall prepare a revision of Appendix A (a "Revised Appendix A") which shall set forth the increased or decreased Summer Excess Entitlement Share or the increased or decreased Winter Excess Entitlement Share of such Seller with respect to which such Seller has provided timely notice pursuant to this Section 5.2.1 and furnish such Revised Appendix A to each of the Sellers and to each of the California Purchasers. On such Excess Entitlement Share Effective Date such Revised Appendix A shall replace the then current Appendix A

and shall thereupon become effective for the purposes of this Agreement until such time as a Revised Appendix A is thereafter prepared and furnished in accordance with this Section 5.2.1.

5.2.2. If a Seller elects to decrease its Summer Excess Entitlement Share or its Winter Excess Entitlement Share, the amount of such decrease shall remain in effect for at least the three (3) consecutive twelve-month periods commencing on the Excess Entitlement Share Effective Date for such Summer Excess Entitlement Share or such Winter Excess Entitlement Share. Notwithstanding such three (3) consecutive twelve-month periods required for the amount of such decrease of the Summer Excess Entitlement Share or the Winter Excess Entitlement Share, Seller shall have the right by providing notice in accordance with Section 5.2.1 to further decrease such Summer Excess Entitlement Share or such Winter Excess Entitlement Share, as the case may be; provided that the amount of such further decrease shall remain in effect for at least the three (3) consecutive twelve-month periods commencing on the Excess Entitlement Share Effective Date with respect to such further decrease of such Excess Entitlement Share. No decrease in a Seller's Summer Excess Entitlement Share or Winter Excess Entitlement Share shall cause such Excess Entitlement Share to be less than zero.

5.2.3. (a) If a Seller elects, in accordance with Section 5.2.1, to increase its Summer Excess Entitlement Share or its Winter Excess Entitlement Share and such increase is the first increase following the commencement of the Operational Period or the first increase following any decrease in such Excess Entitlement Share, then, subject to compliance with the requirements of Section 5.2.2 with respect to the period that the amount of any decrease of an Excess Entitlement Share shall remain in effect, Seller, upon providing notice in accordance with Section 5.2.1, may increase (such increase being an "Initial Increase") such Summer Excess Entitlement Share or such Winter Excess Entitlement Share by up to fifty percent (50%) of such Seller's Retained Generation Entitlement Share that will be in effect for the next Summer Season (if such increase is to the Summer Excess Entitlement Share) or the next Winter Season (if such increase is to the Winter Excess Entitlement Share) following such notice (the first day of such next Season as of which the Retained Generation Entitlement Share is determined to be in effect being the "Retained Generation Entitlement Share Reference Date").

(b) If a Seller elects, in accordance with Section 5.2.1, to increase its Summer Excess Entitlement Share or Winter Excess Entitlement Share otherwise than as provided under (a) above (such an increase being a "Further Increase"), then, subject to compliance with the requirements of Section 5.2.2 with respect to the period that the amount of any decrease of an Excess Entitlement Share shall remain in effect, Seller, upon providing notice in accordance with Section 5.2.1, may increase such Summer

Excess Entitlement Share or such Winter Excess Entitlement Share by up to fifty percent (50%) of its Retained Generation Entitlement Share that was in effect at the most recent Retained Generation Entitlement Share Reference Date as determined pursuant to (a) above with respect to the most recent Initial Increase, so that such Initial Increase, together with such Further Increase or Further Increases of the Summer Excess Entitlement Share or Winter Excess Entitlement Share that occur after such Initial Increase and prior to the next decrease of such Summer Excess Entitlement Share or such Winter Excess Entitlement Share, shall not exceed such Retained Generation Entitlement Share of Seller that was in effect on such most recent Retained Generation Entitlement Share Reference Date as determined pursuant to (a) above.

(c) No increase in a Seller's Excess Entitlement Share shall cause such Seller's Excess Entitlement Share to exceed its Generation Entitlement Share.

## 6. EXCESS CAPACITY AND ENERGY ENTITLEMENTS; USE OF SWITCHYARD

6.1 Beginning with the Season that commences on the Operational Period Commencement Date, and during each Summer Season and Winter Season thereafter, (i) each Seller shall sell, assign and provide to each California Purchaser the Excess Power Obligation applicable to such California Purchaser during such Season of capacity and energy from the Project, and (ii) each California Purchaser shall purchase and take from such Seller the Excess Power Obligation applicable to such California Purchaser during such Season of the capacity and energy from the Project. Such sale and assignment by Seller to each California Purchaser with respect to Seller's Excess Power Obligation applicable to such California Purchaser shall include Seller's right under Section 9.11 of the Renewal Power Sales Contract to elect to procure its own fuel in accordance with the provisions of the Fuel Management Practices and Procedures for use in the Generation Station for the generation of its Excess Entitlement Share to the extent of such Excess Power Obligation, and such California Purchaser shall therefore have such right to elect to bring its own fuel in accordance with the Fuel Management Practices and Procedures for use in the Generation Station for generation of such Excess Power Obligation. For purposes of this Agreement, energy delivered to any California Purchaser from the Project shall be deemed to have been delivered first (up to its entitlement thereunder) pursuant to such California Purchaser's Renewal Power Sales Contract, and thereafter pursuant to this Agreement. Such California Purchaser shall pay for such capacity and energy and associated rights as provided in Section 9 hereof.

6.2 At all times on and after the Operational Period Commencement Date, each California Purchaser during a Summer Season or a Winter Season shall be entitled to schedule for its account, with respect to each Seller, capacity and energy (other than test energy) from each generating facility of the Project up to an amount equal to the product of the Available Generation Capability of such generating

facility multiplied by the Excess Power Obligation applicable to such California Purchaser and such Seller during such Season. Upon the occurrence of abnormal operating conditions on a California Purchaser's system, upon the request of such California Purchaser, the Operating Agent shall increase or decrease such California Purchaser's schedule consistent with Prudent Utility Practice. Such increase or decrease shall not cause the schedule of such California Purchaser to exceed the amounts of capacity and energy to which such California Purchaser is entitled as provided for in this Section 6.2 or in Sections 6.3, 6.4 or 6.5 hereof and shall not be detrimental to any other California Purchaser or Primary Purchaser.

6.3 When any Seller requests delivery during a Summer Season or a Winter Season of capacity and energy under its Renewal Power Sales Contract, and such delivery requires the start-up of a generating facility of the Project, each California Purchaser shall, unless otherwise agreed, schedule for its account an amount of capacity and energy at least equal to the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and by multiplying such product times the Minimum Generating Capability established for such generating facility. At any time when such Seller has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such generating facility, then each of the California Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying (a) the remaining unscheduled amount of Minimum Generating Capability times (b) the Total Excess Entitlement Share then in effect (expressed as a decimal) times (c) the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all California Purchasers.

6.4 When a Primary Purchaser (other than a Seller) requests delivery during a Summer Season or a Winter Season of capacity and energy under its Renewal Power Sales Contract, and such delivery requires the start-up of a Project generating facility, each California Purchaser shall, unless otherwise agreed, schedule for its account an amount of capacity and energy at least equal to the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and multiplying such product times the Minimum Generating Capability established for such generating facility. At any time when a Primary Purchaser has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such generating facility, then each of the California Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying (a) the remaining unscheduled amount of Minimum Generating Capability times (b) the Total Excess Entitlement Share then in effect (expressed as a decimal) times (c) the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all California Purchasers.

6.5 When a California Purchaser requests delivery during a Summer Season or a Winter Season of capacity and energy under this Agreement, and such delivery requires the start-up of a generating facility of the Project, each other California Purchaser and each Seller shall, unless otherwise agreed, schedule for their respective accounts an amount of capacity and energy equal to (i) in the case of each such other California Purchaser, the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and multiplying such product times the Minimum Generating Capability established for such generating facility and (ii) in the case of each Seller, the product obtained by multiplying the difference between its Generation Entitlement Share and its Excess Entitlement Share then in effect (expressed as a decimal) by the Minimum Generating Capability established for such generating facility. At any time when such requesting California Purchaser has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Purchase Percentage (expressed as a decimal) and the Total Excess Entitlement Share then in effect (expressed as a decimal) and the Minimum Generating Capability of such generating facility, then (x) each other California Purchaser shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying the remaining unscheduled amount of Minimum Generating Capability times the Total Excess Entitlement Share then in effect (expressed as a decimal) times the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all such other California Purchasers and (y) each Seller shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying the remaining unscheduled amount of Minimum Generating Capability times the ratio which the difference between its Generation Entitlement Share then in effect and its Excess Entitlement Share then in effect bears to the difference between the total of the Generation Entitlement Shares of all Sellers and the Total Excess Entitlement Share then in effect.

6.6 Operation of any generating facility of the Project shall be subject to scheduled outages or curtailments, operating emergencies and unscheduled outages or curtailments of such facility.

6.7 The capacity and energy of the Generation Station shall be controlled in a manner which shall not diminish the rights of any California Purchaser to receive its entitlement of capacity and energy under this Agreement.

6.8 Each California Purchaser shall be obligated during a Summer Season or a Winter Season to the extent of its Purchase Percentage (expressed as a decimal) times the Total Excess Entitlement Share in existence during such Season to provide for capacity and energy requirements for starting up and shutting down each generating facility in compliance with procedures approved pursuant to the Renewal Power Sales Contracts.

6.9 The point of delivery of each California Purchaser's capacity and energy under this Agreement shall be the Generation Station bus. It is the obligation of each California Purchaser to arrange for transmission of its capacity and energy from such point to its system.

6.10 Each Seller and each California Purchaser shall furnish to IPA and the Operating Agent, as applicable, such notices, instructions or advice and take such other action as shall be necessary to give effect to this Agreement.

6.11 Notwithstanding anything to the contrary contained herein, (i) a California Purchaser shall be entitled to schedule with the Operating Agent the aggregate of the capacity and energy to which it is from time to time entitled hereunder, as opposed to having to individually schedule with respect to each Seller the capacity and energy to which such Purchaser is entitled from such Seller and (ii) the Purchaser's Representative shall, on behalf of each California Purchaser, make all schedules and changes therein required or permitted to be made by this Agreement by such California Purchaser.

6.12 Seller hereby sells and assigns to each California Purchaser, and each California Purchaser shall have the right to use, the Switchyard for its Excess Power Obligation of the Available Generating Capability.

6.13 IPA hereby acknowledges the sale and assignment pursuant to this Agreement to each California Purchaser by each Seller of the Excess Power Obligation, applicable to such California Purchaser and such Seller of capacity and energy from the Project and the associated Switchyard rights, together with the provision by such Seller of associated Northern Transmission System rights as provided for in Section 7.1 hereof and certifies that it has made the determination with respect to such sale and assignment provided for in Section 20.2 of the Renewal Power Sales Contract with such Seller. Payments made by such California Purchaser for such Excess Power Obligation of capacity and energy and associated Switchyard rights and for such associated Northern Transmission System rights shall be in addition to and shall not affect such California Purchaser's obligations under Section 8.1 hereof or under its Renewal Power Sales Contract.

6.14 Except as provided in Section 17 hereof, a California Purchaser shall not sell or assign to a purchaser or assignee the Excess Power Obligation or any portion thereof, applicable to such California Purchaser and each Seller of capacity and energy from the Project and associated Switchyard rights and associated Northern Transmission System rights, except on prior written notice to such Seller and IPA; provided that (i) such California Purchaser shall remain obligated to make the payments provided in Section 9 and otherwise to comply with the applicable provisions of this Agreement, and such California Purchaser shall be discharged from such payments and otherwise relieved from such compliance only if and to the extent of such payments made and such compliance performed by such purchaser or assignee; and (ii) such sale or assignment will not adversely affect

the eligibility for exemption from Federal income taxes of the interest on Project Indebtedness then outstanding or to be incurred by IPA.

7. USE OF NORTHERN TRANSMISSION SYSTEM WITH RESPECT TO EXCESS POWER

7.1 Pursuant to this Agreement, each Seller having a right pursuant to its Renewal Power Sales Contract to use the Northern Transmission System hereby agrees to permit and to provide the rights to each California Purchaser to schedule from time to time, without regard to source or origin, and in accordance with the Renewal Power Sales Contracts, the use of the operating capabilities of the Northern Transmission System up to an amount equal to (i) the Excess Power Obligation in effect for such California Purchaser and such Seller at the time of such scheduling, (ii) divided by the Generation Entitlement Share of such Seller, (iii) times such Seller's Remaining NTS Entitlement. Such California Purchaser shall pay for such use of the Northern Transmission System as provided in Section 9 hereof.

7.2 If it is necessary to curtail scheduled power flows over all or any part of the Northern Transmission System, then each California Purchaser shall have the right to use the Northern Transmission System in an amount determined by multiplying that portion of the total amount of the Remaining NTS Entitlements of all Sellers that then remains available by the ratio (expressed as a decimal) which the Total Excess Entitlement Share at the time bears to the Total Generation Entitlement Shares of the Sellers, and by then multiplying the resultant product by the ratio (expressed as a decimal) that the aggregate of the capacity scheduled over the Northern Transmission System or part thereof by such California Purchaser pursuant to its rights provided by all the Sellers under Section 7.1 hereof bears to the aggregate of the capacity scheduled over the Northern Transmission System or part thereof by all California Purchasers pursuant to their rights provided by all the Sellers under Section 7.1 hereof.

7.3 Any California Purchaser desiring to schedule the use of the operating capabilities of the Northern Transmission System in excess of its rights under this Agreement may make appropriate arrangements with another California Purchaser having rights to unused transmission capability. It is the responsibility of each California Purchaser so involved to notify the Operating Agent of such arrangements and to provide for proper schedules to accommodate such arrangements. Notwithstanding anything to the contrary contained herein, each California Purchaser's right to schedule the use of the operating capabilities of the Northern Transmission System pursuant to Section 7.1 hereof and to schedule such capability in excess of its rights under the Agreement as provided in this Section 7.3 shall be limited to the extent that such California Purchaser may not act in such a manner that adversely affects the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness outstanding or to be incurred by IPA.

7.4 Scheduling by the California Purchasers of the use of the operating capability of the Northern Transmission System pursuant to Sections 7.1, 7.2 or 7.3 of this Agreement shall not interfere with the use of the Northern Transmission System to transmit Generation Entitlement Shares under Renewal Power Sales Contracts of any Primary Purchaser having a Point of Delivery thereon.

8. ASSIGNMENT OF CERTAIN NORTHERN TRANSMISSION SYSTEM RIGHTS.

8.1 Effective from and after the Operational Period Commencement Date, each Seller hereby assigns and transfers to each California Purchaser, and each such California Purchaser hereby accepts such assignment and transfer of that portion of each such Seller's entitlement to the Northern Transmission System under Section 10.2 of its Renewal Power Sales Contract that is equal to such California Purchaser's Purchase Percentage of such Seller's Assigned Northern Transmission System Entitlement. Such assignment and transfer shall be in effect for the Operational Period under this Agreement. Each Seller shall furnish to each California Purchaser information as to the amount of Northern Transmission System costs payable each Month by such Seller under its Renewal Power Sales Contract (including such costs payable by such California Purchaser pursuant to Section 9.1.2 hereof) and any adjustments of such costs pursuant to Section 5.7 of the Renewal Power Sales Contracts. Each California Purchaser shall pay directly to IPA each Month at the time required for payment thereof by each of the Sellers under its Renewal Power Sales Contract the Assignment Share with respect to such Seller and such California Purchaser of such costs with respect to the Northern Transmission System payable by such Seller under its Renewal Power Sales Contract (including any adjustments with respect to such costs pursuant to Section 5.7 thereof). Such payments received by IPA shall be applied in discharge of such Seller's obligation under its Renewal Power Sales Contract to pay such costs, which shall be discharged only to the extent of such receipt. Except as discharged as herein provided, the obligation of each Seller to pay costs with respect to the Northern Transmission System payable by it under its Renewal Power Sales Contract shall continue and shall not otherwise be affected by the provisions of Section 8 hereof.

8.2 IPA hereby acknowledges the assignment and transfer pursuant to Section 8.1 hereof by each Seller to each California Purchaser of such California Purchaser's Purchase Percentage of the Assigned Northern Transmission System Entitlement with respect to such Seller and certifies that it has made the determination with respect to such assignment and transfer provided for in Section 20.2 of its Renewal Power Sales Contract with such Seller.

8.3 Except as provided in Section 17 hereof, a California Purchaser shall not sell, assign or transfer to any purchaser, assignee or transferee thereof the Northern Transmission System entitlement, or any portion thereof, assigned or transferred to it by a Seller under Section 8.1, except on prior written notice to such Seller and IPA; provided that (i) such California Purchaser shall remain obligated to make the payments and otherwise comply with the provisions of this Section 8

and shall be discharged from such payments and otherwise relieved from such compliance only if and to the extent of such payments shall be made and such compliance performed by such purchaser, assignee or transferee; and (ii) such sale, assignment or transfer will not adversely affect the eligibility for exemption from Federal income taxes of the interest on Project Indebtedness then outstanding or to be incurred by IPA.

9. CHARGES AND BILLINGS FOR EXCESS POWER AND NORTHERN TRANSMISSION SYSTEM RIGHTS.

9.1 The amount payable by a particular California Purchaser for any Month during an Excess Power Supply Year for the account of each Seller with respect to the minimum cost component of Monthly Power Costs shall be the sum of the following:

9.1.1. The Excess Power Obligation in effect for such Month with respect to such Seller and such California Purchaser times the minimum cost component of Monthly Power Costs for such Month associated with the Generation Station as computed under and in accordance with Section 7.1.1 of the Renewal Power Sales Contracts; plus

9.1.2. In consideration of such California Purchaser's right to schedule a portion of the entitlement of such Seller in the Northern Transmission System granted by Section 7.1 of this Agreement, an amount equal to the Excess Power Obligation in effect for such Month with respect to such California Purchaser and such Seller divided by the Generation Entitlement Share of such Seller times the amount for such Month (or portion thereof) of costs in respect of the Northern Transmission System that such Seller is obligated to pay pursuant to its Renewal Power Sales Contract (which for purposes of calculation shall include the total of the Assignment Shares of such Northern Transmission System costs payable by the California Purchasers as provided for in Section 8.1 hereof).

In the event that payments are due under this Section 9.1 for only a portion of a Month, the above computations shall be made so as to allocate the above-mentioned costs for such Month equally among the days of such Month and to take into account the number of days in such Month such Excess Power Obligation was in effect.

9.2 The amount payable by a particular California Purchaser for any Month during an Excess Power Supply Year for the account of all Sellers with respect to the variable cost component of Monthly Power Costs, shall be the product obtained by multiplying the variable cost component of Monthly Power Costs for such Month, as computed under and in accordance with Section 7.1.4 of the Renewal Power Sales Contracts, by a fraction the numerator of which is the kilowatt hours generated by the use of Project Fuel as provided in Section 4.67.2 of the Renewal Power Sales Contracts and delivered at the Project bus from the Generation

Station to such California Purchaser pursuant to this Agreement and the denominator of which is all kilowatt hours generated by the use of Project Fuel as provided in Section 4.67.2 of the Renewal Power Sales Contract and delivered at the Project bus during such Month. The amount so to be paid by such California Purchaser shall be allocated to each Seller in proportion to the ratio which its Excess Entitlement Share for such Month bears to the Total Excess Entitlement Share for such Month.

9.3 RESERVED

9.4 For billing purposes, the amount of the minimum cost component of the Monthly Power Costs to be paid by each California Purchaser each Month in amounts pursuant to Sections 9.1.1 and 9.1.2 hereof shall be billed in advance and shall be based on the then current Annual Budget. The amount of the variable cost component of the Monthly Power Costs to be paid by each California Purchaser each Month pursuant to Section 9.2 hereof shall be billed the Month following the Month such variable cost was incurred and shall be based on the cost of the Project Fuel and associated costs (determined under Section 4.67.2 of the Renewal Power Sales Contracts) during such Month.

9.5 By the fifth calendar day of each Month for which payments are required by Sections 9.1 or 9.2 hereof, IPA on behalf of the Sellers shall bill each California Purchaser for the amount of the minimum cost component of the Monthly Power Costs to be paid by such California Purchaser to each Seller hereunder for the current Month, and for the amount of the variable cost component of the Monthly Power Costs to be paid by such California Purchaser hereunder for the preceding Month (in the case of amounts payable pursuant to Section 9.2 hereof) by providing such California Purchaser with a copy to each of the Sellers with a billing statement in accordance with the charges established pursuant to the provisions of this Agreement. Such billing statement shall detail the matters covered in Section 4.67.2 of the Renewal Power Sales Contracts (in the case of amounts payable pursuant to Section 9.2 hereof).and shall set forth, among other things, the amounts due for such Months by such California Purchaser with respect to the items of Monthly Power Costs set forth in Section 9.1 or Section 9.2 hereof. The amounts set forth on such billing statement shall be paid to IPA for the account of each of the Sellers by such California Purchaser on or before 20 days after receipt of such billing statement.

9.6 If a California Purchaser fails to pay any bill when due, interest shall accrue at a rate of one percent per Month on the unpaid amount of the billing statement.

9.7 Within 30 days following the submission to IPA, the California Purchasers, and each of the Sellers of the audit conducted pursuant to Section 13 hereof and no later than 150 days after the end of each Excess Power Supply Year, IPA will submit to each California Purchaser a detailed statement of the actual aggregate amounts payable hereunder by such California Purchaser for the account of each Seller, including credits thereto, for all of the Months of such Excess Power

Supply Year, and the adjustments of the aggregate Monthly Power Costs payable by such California Purchaser hereunder, if any, for any prior Excess Power Supply Year, based on the annual audit of accounts provided for in Section 13. If, on the basis of the statement submitted as provided in this Section 9.7, the actual aggregate amounts payable hereunder by a particular California Purchaser to a particular Seller for any Excess Power Supply Year exceeds the amount thereof which such California Purchaser has been billed in respect of such Seller, such California Purchaser shall promptly pay IPA for the account of such Seller the amount to which such Seller is entitled. If, on the basis of the statement submitted pursuant to this Section 9.7, the actual aggregate amounts payable hereunder for any Excess Power Supply Year by a particular California Purchaser to a particular Seller are less than the amount therefor which such California Purchaser has been billed IPA for the account of such Seller shall credit such excess against such California Purchaser's next monthly payment due in respect of such Seller.

9.8 If, in any billing statement received by a California Purchaser from IPA an amount shown thereon as being due by such California Purchaser to a particular Seller shall be in bona fide dispute, such California Purchaser shall pay such amount in full, and, upon determination of the correct amount, the difference between such correct amount and such amount paid, if any, including interest at one percent per Month on any overpayment, will be credited, in respect of such Seller, to such California Purchaser by IPA after such determination, provided, however that such interest shall not accrue on any overpayment that is acknowledged by IPA and returned to such California Purchaser by the fifth day following the receipt by IPA of the disputed overpayment. In the event any such amount is in dispute, IPA will give consideration to the California Purchaser's position relative thereto within 30 days following written notification by such California Purchaser of such dispute.

9.9 Amounts paid by the California Purchasers to IPA shall be applied as follows:

9.9.1. IPA shall, promptly upon receipt of the amounts payable pursuant to Section 9.1 hereof by a particular California Purchaser for the account of a particular Seller, apply such amounts for the account of such Seller.

9.9.2. IPA shall, promptly upon receipt of the amounts payable pursuant to Section 9.2 hereof by a particular California Purchaser, as allocated pursuant to Section 9.2 to a particular Seller, apply such allocated amount for the account of such Seller.

9.10 Payments made to IPA pursuant to Sections 9.9.1 and 9.9.2 hereof for the account of a particular Seller shall be applied in discharge of such Seller's obligations to pay such amounts payable by it under its Renewal Power Sales Contract, and such Seller's obligation to pay such amounts shall be discharged only to the extent of receipt thereof by IPA. Except as discharged as herein provided, the obligations

of each Seller to pay amounts under its Renewal Power Sales Contract shall continue and shall not otherwise be affected by the provisions of this Section 9.

9.11 The provisions of this Section 9 shall not be applicable to payments required by each California Purchaser to be made to IPA pursuant to Section 8.1 hereof and such payments shall be governed by the provisions of Section 8 hereof.

10. PAYMENTS. Each California Purchaser shall pay the amounts set forth in the billing statements submitted by IPA to such California Purchaser in accordance with the provisions of Section 9 hereof, whether or not the Project or any part thereof is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part.

11. SOURCE OF PAYMENTS. The obligation of each California Purchaser to make the payments under this Agreement to IPA for the account of each of the Sellers shall constitute a cost of purchased electric capacity and energy and an operating expense of such California Purchaser payable solely from its electric system revenue funds. Each California Purchaser will annually in each and every fiscal year of such California Purchaser during the term of this Agreement include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.

12. RATE COVENANT. Each California Purchaser will establish, maintain, and collect rates and charges for the electric service of its electric system so as to provide revenues sufficient, together with available electric system reserves, to enable such California Purchaser to pay all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

13. RECORDS AND ACCOUNTS. To the extent not kept pursuant to the Renewal Power Sales Contracts, IPA will keep or cause to be kept accurate records and accounts concerning the matters contemplated by this Agreement in a manner similar to the Uniform System of Accounts. Said accounts shall be audited annually by an independent firm of certified public accountants experienced in electric utility accounting and selected by IPA , which firm may be the same firm hired pursuant to the provisions of Section 5.6 of the Renewal Power Sales Contracts. Such audit shall be completed and submitted to IPA , the California Purchasers and each of the Sellers within 120 days after the close of each Excess Power Supply Year. All transactions of IPA , the California Purchasers and the Sellers relating to this Agreement with respect to each Excess Power Supply Year shall be subject to such an audit. Each California Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice and during regular business hours.

14. INFORMATION AND DOCUMENTS. Each California Purchaser agrees to supply IPA and any Seller upon request, such information and documentation as IPA or such Seller shall reasonably determine to be requisite to and necessary for the accomplishment of the

matters contemplated by this Agreement including information reasonably available to allow IPA or such Seller to respond to requests for such information from any federal, state or local regulatory or other authority.

15. METERING. IPA will be responsible for providing or causing to be provided all necessary metering equipment for determining the quantity of energy delivered by each Seller hereunder; provided, however, that such obligation of IPA may, in IPA's discretion, be discharged by IPA's use of the meters provided pursuant to the Renewal Power Sales Contracts. Notwithstanding the foregoing, any California Purchaser may by arrangements with the Operating Agent and at its own cost check existing metering or, with approval of the Coordinating Committee, install additional metering equipment.

16. CHARACTER AND CONTINUITY OF SERVICE.

16.1 The Operating Agent may temporarily interrupt or curtail deliveries of capacity and energy under this Agreement to the California Purchasers in proportion to their respective Purchase Percentages if it determines that such interruption or curtailment is necessary in case of emergencies or in order to install equipment in or make repairs to or replacements, investigations, and inspections of or to perform other maintenance work on the Project facilities, provided, however, that such interruption or curtailment shall not relieve any California Purchaser of its obligation to make payments under this Agreement. After informing the California Purchasers regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, IPA on behalf of each of the Sellers will, to the best of its ability, cause the scheduling of such interruption or curtailment at a time which will cause the least interference with the operations of the California Purchasers.

16.2 A Seller shall not be required to provide, and shall not be liable for failure to provide, service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of IPA, or such Seller to obtain any required governmental approvals to enable IPA or such Seller to accomplish the purposes of this Agreement, provided however that the California Purchasers shall not thereby be relieved of their obligations to make payments under this Agreement.

17. RESTRICTIONS ON DISPOSITION. No California Purchaser shall sell, lease or otherwise dispose of all or substantially all of its electric utility system except on 90 days prior written notice to IPA and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions shall be met: (i) such California Purchaser shall assign this Agreement and its rights and interest hereunder to such purchaser, lessee or transferee of said electric system, and such purchaser, lessee or transferee shall assume all obligations of such California Purchaser under this Agreement; (ii) the senior debt of such purchaser, lessee or transferee is rated in one of the two highest rating categories by at least one nationally-recognized bond rating agency; (iii) an independent engineer or engineering firm of national reputation generally recognized to be well qualified in matters relating to electric power and energy systems, selected by IPA, shall deliver an

opinion, which may be based on assumptions deemed reasonable by such engineer or engineering firm, that such purchaser, lessee or transferee is reasonably able to charge and collect rates and charges in the then current and each future year for the electric service of its electric system as shall be required to meet its obligations under this Agreement; and (iv) such California Purchaser has complied with the requirements of its Renewal Power Sales Contract with respect to such sale, lease or other disposition. IPA shall deliver to the Sellers each notice received by IPA from a California Purchaser pursuant to this Section 17 with respect to a proposed sale, lease or other disposal of such California Purchaser's electric utility system.

18. DEFAULT.

18.1 If a California Purchaser shall be unable to perform or shall default in the performance of any of its obligations under this Agreement, (i) in the event any payment due under this Agreement remains unpaid subsequent to the due date thereof, upon 120 days written notice to such California Purchaser, at the request of any Seller, IPA may cause the delivery of capacity and energy to such California Purchaser and the use of the other Project facilities by such California Purchaser under this Agreement to be discontinued during the period of such default, without reduction of the obligation of such California Purchaser to make payments under this Agreement except to the extent provided in Section 18.3 hereof, and (ii) any Seller may (a) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any covenant, agreement or obligation against such California Purchaser, or (b) take any action permitted by law to enforce its rights under this Agreement or recover damages for breach thereof.

18.2 Neither any Seller nor IPA shall be liable for nonperformance resulting from default, or from the failure to perform any of its obligations under this Agreement, except in the case of Willful Action by such Seller or IPA in which case the remedy shall include specific performance and other applicable legal or equitable remedies; provided, however, that any claim for damages shall not include loss of profits or consequential damages; and provided, further, that no such default by any Seller or IPA shall relieve any California Purchaser from its obligations to make its payments required under this Agreement.

18.3 In the event of a default by a California Purchaser and the discontinuance, pursuant to Section 18.1(i) hereof, of the delivery of capacity and energy and of the use of all other Project facilities under this Agreement, IPA , on behalf of the Sellers, shall transfer on a pro rata basis to all requesting California Purchasers which are not in default, the defaulting California Purchaser's rights to the delivery of capacity and energy and the use of all other Project facilities under this Agreement, including, without limitation, its rights under Section 6.1 hereof, which shall have been discontinued by reason of such default, and such requesting California Purchasers shall assume the defaulting California Purchaser's obligations with respect to such rights so transferred, and if any of the defaulting California Purchaser's rights with respect to the Project are not so transferred,

IPA shall, to the extent possible, dispose of such remaining portion on the best terms readily available; provided, however, that IPA may not so transfer or dispose of such defaulting California Purchaser's rights and obligations in such a manner as shall adversely affect the eligibility for tax exemption for Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness of IPA, and further provided that the obligation of the defaulting California Purchaser to pay IPA for the accounts of the Sellers amounts due hereunder including the costs to IPA or any Seller related to such default, transfer and sale, shall be reduced to the extent that payments are received by IPA for the accounts of the Sellers for that portion of the defaulting California Purchaser's rights with respect to the Project which are so transferred or disposed, with any such reduction being made pro rata among all Sellers in accordance with such amounts due with respect to each Seller.

18.4 IPA shall have the remedies available under the law to enforce its rights under this Agreement.

19. LIABILITY. IPA, each Seller, the Purchasers' Representative and each California Purchaser shall be solely responsible and liable for performance of their respective obligations under this Agreement and for the maintenance and operation of their respective properties and each shall indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance, and operation of the property and equipment of the indemnifying party and not caused in whole or in part by the Willful Action of the other party or IPA. The covenants, obligations and liabilities of the parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to one or more of the parties. No party shall be under the control of or shall be deemed to control any other party. No party shall be the agent of or have a right or power to bind any other party without its express written consent, except as expressly provided in this Agreement.

20. EFFECTIVE DATE AND TERM; EARLY TERMINATION.

20.1 This Agreement shall become effective on the date (the "Effective Date") as to each Seller, IPA , the Purchasers' Representative, and each of the California Purchasers (i) when it has been duly executed and delivered by and among IPA, the Purchasers' Representative, each California Purchaser and each Seller, (ii) each such party shall have received all required governmental regulatory approvals, and (iii) the Renewal Power Sales Contracts shall be fully effective in accordance with their terms for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and applicable Transmission Cost Shares of the Project; provided that this Agreement shall be void and any and all energy deliveries and any other rights or services under this Agreement shall be terminated no later than the effective date of any denial of a required governmental regulatory approval including, without limitation, a decision by the

California Energy Commission. The term of this Agreement shall continue until the date upon which all Renewal Power Sales Contracts shall terminate, unless this Agreement shall be earlier terminated in accordance with its terms. For the avoidance of doubt, unless earlier terminated, this Agreement shall terminate, without any action required to be taken by any of the parties hereto, in the event that, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, dated as of _____, by and among IPA and the purchasers thereunder, the Gas Repowering shall not be undertaken. This Agreement shall constitute a binding obligation of each of the Sellers, IPA , each of the California Purchasers and the Purchasers' Representative from and after the Effective Date in accordance with this Section 20.1.

20.2 Except as provided in Section 20.3 hereof, this Agreement shall terminate as soon after the earlier to occur of the following as all payments required to be made under this Agreement by the California Purchasers through the date of such occurrence have been made:

20.2.1. The last day of the Excess Power Supply Year during which a Complete Outage shall have been in effect for a period longer than 18 Months.

20.2.2. The last day of the end of the six-month period next following the Excess Power Supply Year for which Appendix A sets forth the Total Excess Entitlement Share as zero with respect to both the Summer Season and the Winter Season.

20.3 The provisions of Section 8 hereof shall survive any termination of this Agreement pursuant to Sections 20.2.1 and 20.2.2 hereof, and Section 8 hereof and the provisions of this Agreement related thereto shall terminate only upon the date upon which all Renewal Power Sales Contracts shall terminate.

20.4 Notwithstanding any other provision of this Agreement, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, such California Purchaser or California Purchasers, as applicable, shall be removed as a party or as parties, as the case may be, under this Agreement effective November 1, 2019 and shall no longer be entitled to any benefits or subject to any obligations under this Agreement, and the Purchase Percentage of Los Angeles shall be increased by the Purchase Percentage or Purchase Percentages, as applicable, of such California Purchaser or California Purchasers that shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 thereof.

21. SEVERABILITY. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such

illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.

22. PERFORMANCE BY IPA. IPA provides such services, takes such actions and performs its other obligations under this Agreement as part of its duties and responsibilities under its Renewal Power Sales Contracts with the Primary Purchasers, and IPA shall not be deemed to act, and nothing in this Agreement shall deemed to provide that IPA shall act, as the agent or a fiduciary for any of the Sellers or any other parties to this Agreement.

23. ASSIGNMENT BY SELLERS. This Agreement shall inure to the benefit of and shall be binding upon the Sellers and their respective successors and assigns. Any Seller may assign its respective interests in this Agreement as part of any sale or other disposition of such Seller's electric utility system or Generation Entitlement Share made in compliance with the provisions of such Seller's Renewal Power Sales Contract.

24. COMPLIANCE WITH OTHER AGREEMENTS. Notwithstanding anything contained in this Agreement, all scheduling, purchasing, sales, deliveries and all other actions taken pursuant to this Agreement shall be subject to, and shall comply with, the applicable provisions, limitations, requirements, priorities and restrictions contained in the Renewal Power Sales Contracts, the Bond Resolution and the Construction Management and Operating Agreement.

25. GOVERNING LAW. This Agreement shall be interpreted, governed by and construed under the laws of the State of Utah.

26. ARBITRATION. If a dispute arises between the parties under this Agreement, the parties to such dispute may submit the dispute to arbitration.

27. NOTICES. Notices, demands or requests shall be affected as follows:

27.1 Any notice, demand, or request provided for in this Agreement shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, as follows:

27.1.1. If to IPA:

Intermountain Power Agency
c/o General Manager
10653 South River Front Parkway, Suite 120
South Jordan, Utah 84095
Phone: (801) 938-1333
Fax: (801) 983-1330
E-mail: jim@ipautah.com

27.1.2. If to the Purchasers' Representative:

Senior Assistant General Manager - Power
Los Angeles Department of Water & Power

111 North Hope Street, Rm 921
Los Angeles, California 90012

27.1.3. If to a particular Seller or California Purchaser, to such Seller or California Purchaser at its address set forth on Appendix B hereto.

27.2 A party may, at any time, by written notice to each other party, designate different or additional persons or different addresses for giving of notices hereunder.

28. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed as follows:

**INTERMOUNTAIN POWER AGENCY**

**By:**_____

**Its:**_____

**DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, AS A CALIFORNIA PURCHASER AND AS PURCHASERS' REPRESENTATIVE**

**By:**_____

**Its:**_____

**The counterpart for each Seller and, other than Department of Water and Power of the City of Los Angeles, each California Purchaser that has elected to be a party to this Agreement is attached hereto and incorporated herein by this reference.**

**SELLER COUNTERPART TO AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

**[Name of Seller]**

**By:_____**

**Its:_____**

**CALIFORNIA PURCHASER COUNTERPART TO AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

**[Name of California Purchaser]**

**By:_____**

**Its:_____**

**APPENDIX A**
**SELLERS' EXCESS ENTITLEMENT SHARES AND**
**CALIFORNIA PURCHASERS' PURCHASE PERCENTAGES**

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| **Sellers** | **Excess Entitlement Share – Summer Seasons** |
|---|---|
| [Insert Name of Each Seller] | [Insert % Share for Each Seller in accordance with Sections 5.1 and 5.2 of the Agreement] |
| | **Excess Entitlement Share – Winter Seasons** |
| | [Insert % Share for Each Seller in accordance with Sections 5.1 and 5.2 of the Agreement] |

| **California Purchasers** | **Purchase Percentage** |
|---|---|
| [Insert Name of Each California Purchaser] | [Insert % Share for Each California Purchaser] |

**APPENDIX B**

**SELLERS AND CALIFORNIA PURCHASERS**

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**[Insert Name and Address of Each Seller]**

**[Insert Name and Address of Each California Purchaser]**

# RENEWAL POWER SALES CONTRACT

**BETWEEN**

**INTERMOUNTAIN POWER AGENCY**

**AND**

**[NAME OF PURCHASER]**

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# RENEWAL POWER SALES CONTRACT

1. **PARTIES:** This Renewal Power Sales Contract (this "Contract"), is made and entered into as of this _____ day of _____, 201___, by and between INTERMOUNTAIN POWER AGENCY, a political subdivision of the State of Utah ("IPA"), created under the provisions of the Act, and [NAME OF PURCHASER] ("Purchaser").

2. **RECITALS:** This Contract is made with reference to the following facts, among others:

2.1 IPA is the owner of the Project.

2.2 Pursuant to the Original Power Sales Contracts, IPA has sold to the Original Purchasers, and the Original Purchasers have purchased from IPA, all of the generation and transmission capacity of the Project.

2.3 The Original Power Sales Contracts were last amended by the Second Amendatory Power Sales Contracts which provide for the construction and installation of natural gas-fired combined cycle power blocks and related equipment and facilities as a Capital Improvement of the Project which upon completion, will replace the existing coal-fired generating units of the Project.

2.4 The term of each of the Original Power Sales Contracts is to end on June 15, 2027.

2.5 Section 33 of each of the Original Power Sales Contracts, as amended by the Second Amendatory Power Sales Contract, provides for IPA to make the Renewal Offer to the Original Purchasers which is to include offers to renew, and under certain circumstances may include offers to increase, the entitlements of Original Purchasers to the generation and, as applicable, transmission capacity of the Project for a term subsequent to June 15, 2027, all upon the terms set forth or described in such Section 33.

2.6 By its terms each of the Second Amendatory Power Sales Contracts is subject to termination if the Renewal Offer is not accepted by the Original Purchasers by entering into the Renewal Power Sales Contracts with IPA for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and applicable Transmission Cost Shares of the Project, all in accordance with the terms of the Renewal Offer including the provisions of Section 26 of the Renewal Power Sales Contracts.

2.7 IPA has made the initial Renewal Offer to the Original Purchasers, including the Purchaser, and by execution and delivery of this Contract, Purchaser has accepted on the terms set forth in this Contract the Renewal Offer made to Purchaser by IPA with respect to the Generation Entitlement Share and Point of Delivery set forth in Appendix B hereto and the Generation Cost Share and the Transmission Cost Share, as applicable, set forth in Appendix A hereto, as the same may be increased as provided in Section 26 of this Contract.

2.8 IPA and Purchaser are entering into this Contract in conjunction with the execution and delivery of Renewal Power Sales Contracts between IPA and other Purchasers, in order to set forth the terms and conditions upon which IPA shall sell to Purchaser, and Purchaser shall purchase from IPA, a portion of the generation and the applicable transmission capacity of the Project after June 15, 2027.

3. **AGREEMENT:** For and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows:

4. **DEFINITIONS:** All references herein to a "Section" shall refer to the referenced Section of this Contract unless otherwise specifically provided herein. The following terms, whether in the singular or in the plural, when used in this Contract, including the Recitals hereof and the Appendices attached hereto, which are initially capitalized, shall have the meanings specified below:

4.1 **Act:** The Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated, 1953, as amended.

4.2 **Additional Non-Project Facilities:** (a) Any Additional Non-Project Generating Facilities; (b) any transmission facilities that may be constructed at the Project site that do not constitute a part of the Northern Transmission System or the Southern Transmission System; and (c) any other improvements or facilities that do not constitute a part of the Project and that are constructed or installed in connection with or to provide support to any Additional Non-Project Generating Facilities or any transmission facilities described in the preceding clause (b).

4.3 **Additional Non-Project Generating Facilities:** Any generating unit or units that may be acquired, constructed, reconstructed or installed at the site of the Generation Station in addition to Gas Unit 1 and Gas Unit 2, and may include, without limitation, the renewal, modification, reconstruction, improvement or utilization of surplus generating properties, facilities and related equipment of the Project or interests therein and rights pertaining thereto that have been transferred from the Project; provided that such generating unit or units and related properties, facilities and equipment shall not constitute part of the Project.

4.4 **Aggregate Debt Service:** For any period and with respect to all series, issues or tranches of any specified Project Indebtedness, shall mean, as of any date of calculation, the sum of the amounts of Debt Service for such period with respect to all such series, issues or tranches of such Project Indebtedness.

4.5 **Annual Budget:** A budget for any Power Supply Year or portion thereof adopted by IPA pursuant to Section 5.4.

4.6 **Augmented Tax Equivalent Payments:** The amount of Tax Equivalent Payments imposed for any period with respect to the Project, together with the additional amount of Tax Equivalent Payments, if any, that would have been so imposed for such period but for any exemption, deduction or credit granted by the Act or under any other Utah law

based upon the status of any Utah Municipal Purchaser as a municipality or political subdivision of the State of Utah.

4.7 **Auxiliary Facilities:** As of any particular point in time, all property, rights, equipment and facilities, or any rights or interests therein, that constituted a part of any Project Component as to which the Permanent Removal From Service Date has then occurred to the extent: (a) such property, rights, equipment or facilities are necessary or desirable to operate or maintain in accordance with Prudent Utility Practice any Project Component as to which the Permanent Removal From Service Date has not then occurred; or (b) IPA has agreed to provide or make the same available to support any Additional Non-Project Facilities or any IPA Retained Facility pursuant to any Section 39 Facilities Agreement.

4.8 **Auxiliary Facilities Report:** Shall have the meaning set forth in Section 23.2.

4.9 **Available Generating Capability:** The capability at any time of each Gas Unit of the Generation Station to produce power at the high voltage side of its generation transformers, less (a) allocated General Service Requirements and (b) any capacity and energy scheduled by IPA in order to furnish black start or start-up power to PacifiCorp, Deseret Generation & Transmission Co-operative or other utilities pursuant to agreements or arrangements entered into prior to the Transition Date approved by the Original Coordinating Committee or agreements or arrangements entered into on or after the Transition Date that are approved by the Renewal Contract Coordinating Committee.

4.10 **Billing Statement:** The written statement prepared or caused to be prepared each Month by IPA setting forth the monthly amount to be paid to IPA by Purchaser pursuant to such statement in accordance with the provisions of Section 7.

4.11 **Billing Statement Amount:** The total amount due and owing by a Purchaser to IPA for any Month, as set forth in such Purchaser's Billing Statement for such Month.

4.12 **Bond Resolution:** The Original Bond Resolution and any other bond resolution, indenture, loan agreement or other document, including any amendment thereof or supplement thereto, setting forth the terms and conditions or providing for the security of any Project Indebtedness issued or incurred by IPA.

4.13 **Business Day:** A day other than Saturday, Sunday or any day on which banks located in Salt Lake City, Utah are authorized or obligated to close.

4.13A **California Committed Original Purchasers:** The Original California Purchasers that are Committed Original Purchasers.

4.14 **California Purchasers:** The Purchasers who provide electric service primarily in the State of California.

4.15 **California Excess Power Purchasers:** The California Purchaser or California Purchasers that shall authorize and enter into the Excess Renewal Power Sales

Agreement pursuant to Section 26; provided that in any event the California Excess Power Purchasers shall include Los Angeles.

4.15A **California Orphan Entitlement Allocation Document:** A written document signed by all the California Committed Original Purchasers, as set forth under Section 26.3.1.2, providing for the allocation to and acceptance by those California Committed Original Purchasers designated in such document of the then remaining California Orphan Original Purchaser Entitlements; provided that together with such document such designated California Committed Original Purchasers shall provide Offer Acceptances with respect to the California Orphan Original Purchaser Entitlements allocated to such designated California Committed Original Purchasers, respectively, in such document and such document shall be filed with IPA.

4.15B **California Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original California Purchasers, California Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA by one or more Original California Purchasers, (ii) in the case of an acceptance of the First Round Offer by any of the Original California Purchasers in part, that part of such Original California Purchasers' Original Purchaser Entitlements that is not accepted and not included under such Original California Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original California Purchasers), and (iii) in the case where one or more of the Original California Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline, reject or otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original California Purchasers' Original Purchaser Entitlements.

4.16 **Capital Improvement Acquisition and Construction Costs:** With respect to any particular Capital Improvement, all costs of planning, designing, acquiring, constructing and installing such Capital Improvement, including, without limitation, costs of labor, materials, equipment, supplies, interests in real or personal property, taxes, reasonable operating, repair or replacement reserves relating to such Capital Improvement, and any Issuance and Financing Costs associated with any Project Indebtedness issued or to be issued to pay any such costs.

4.17 **Capital Improvements:** All renewals or replacements of or repairs, additions, improvements, modifications or betterments to the Project or any interest in the Project, including, without limitation, the acquisition of natural gas production wells or interests therein and related facilities and properties and gas transmission or transportation facilities for the Project, and the prepayment for the purchase of natural gas supplies for the Project, that are (a) consistent with Prudent Utility Practice and determined to be necessary or desirable by the Original Coordinating Committee, or, if such Capital Improvement is made after the Transition Date, by the Renewal Contract Coordinating Committee, in order to keep the Project or any interest in the Project in good operating condition, to prevent a loss of revenue therefrom, or to increase the capacity, reliability or usefulness of the Project or any interest therein, (b) required by any governmental agency having jurisdiction over the Project, (c) required by the

Construction Management and Operating Agreement, or (d) required by any Bond Resolution; provided, however, that Capital Improvements shall not include any generating unit added to the Project in addition to those included in the Project which continue to generate electric capacity and energy of the Project. Capital Improvements shall consist of Ordinary Capital Improvements and Major Capital Improvements. Each Capital Improvement constitutes a part of the Project Component to which it relates.

4.18 **Committed Original Purchaser:** An Original Purchaser that has (i) accepted its Renewal Offer by entering into an Offer Acceptance as to all of its Original Purchaser Entitlement or (ii) accepted its Renewal Offer by entering into an Offer Acceptance as to part of its Original Purchaser Entitlement and declined, rejected or otherwise relinquished in writing and to the reasonable satisfaction of IPA the Renewal Offer as to the remainder of its Original Purchaser Entitlement, or deemed to have so declined, rejected or otherwise relinquished the same as provided in this Contract.

4.19 **Construction Aid Agreement:** Shall have the meaning set forth in Section 38.2.

4.20 **Construction Management and Operating Agreement:** The Intermountain Power Project Amended and Restated Construction Management and Operating Agreement, dated as of _____, 201___, by and between Los Angeles and IPA relating to the construction and operation of the Project during the term of the Original Power Sales Contracts and the term of the Renewal Power Sales Contracts and any replacements or renewals thereof, as such Agreement, or such replacements or renewals thereof, may from time to time be amended and supplemented.

4.21 **Contract:** Shall have the meaning set forth in Section 1 and is one of the Renewal Power Sales Contracts.

4.22 **Cooperative Purchasers:** The Purchasers that are incorporated and organized as cooperative corporations and provide electric energy to retail customers in any of the States of Utah, Nevada or Wyoming. The Cooperative Purchasers shall not include any of the California Purchasers or the Utah Municipal Purchasers.

4.23 **Cost Shares:** With respect to a Purchaser, shall mean its Generation Cost Share and its Northern Transmission Cost Share or Southern Transmission Cost Share, as applicable.

4.24 **Debt Instruments:** All bonds, notes and other instruments evidencing IPA's obligation to pay or repay Project Indebtedness.

4.25 **Debt Service:** For any period shall mean, as of any date of calculation and with respect to any particular series, issue or tranche of any specified Project Indebtedness an amount equal to the sum of (i) interest accruing during such period on such series, issue or tranche of Project Indebtedness, except to the extent that such interest is to be paid through capitalized interest funded with the proceeds thereof and (ii) that portion of each principal installment (including any unsatisfied balance of a sinking fund installment) with respect to such series, issue or tranche of Project Indebtedness which would accrue during such period if such

principal installment were deemed to accrue daily in equal amounts from the next preceding principal installment due date, for such series, issue or tranche of Project Indebtedness (or, if there shall be no such preceding principal installment due date, from a date one year preceding the due date of such principal installment or from the date of issuance or incurrence of such Project Indebtedness, whichever date is later). Such interest and principal installments for such Project Indebtedness shall be calculated on the assumption that no such Project Indebtedness outstanding at the date of calculation will cease to be outstanding except by reason of the payment of each principal installment on the due date thereof.

4.26 **Reserved**

4.27 **Default Interest Rate:** A variable per annum interest rate equal to 300 basis points above the current General Interest Rate, which interest rate shall be adjusted as of the close of business on the first Business Day of each Month.

4.28 **Designated Project Indebtedness:** Project Indebtedness (other than Project Indebtedness any portion of which bears a variable rate of interest) that is issued or incurred (a) to finance a Capital Improvement where (i) the date of the last maturity of such Project Indebtedness is on or about the end of the estimated useful life of such Capital Improvement as determined by IPA and the Renewal Contract Coordinating Committee, in each case based upon advice provided by a Qualified Independent Engineer with expertise in the relevant subject matter, and (ii) either (x) such Project Indebtedness has Substantially Equal Debt Service for each Fiscal Year such Project Indebtedness is scheduled to be outstanding or (y) there is Substantially Equal Aggregate Debt Service with respect to all Designated Project Indebtedness, including such Project Indebtedness being issued or incurred, for each Fiscal Year such Designated Project Indebtedness is scheduled to be outstanding (using in each case where such Project Indebtedness being issued or incurred is to be sold by competitive bidding, an average interest rate therefor as estimated by IPA), provided that, there shall not be taken into account in the case of either (ii) (x) or (ii) (y) above any Fiscal Year in which all or any portion of the interest on such Project Indebtedness or Designated Project Indebtedness is to be paid through capitalized interest funded with the proceeds thereof or any Fiscal Year during which such Project Indebtedness or Designated Project Indebtedness is scheduled to be outstanding for only a part of such Fiscal Year; or (b) to refund or refinance any outstanding Designated Project Indebtedness where (i) upon the issuance of such Project Indebtedness the Designated Project Indebtedness being refunded or refinanced is defeased and no longer outstanding under the terms of the Bond Resolution under which such Designated Project Indebtedness was issued or incurred and (ii) the Aggregate Debt Service for the then current and each future Fiscal Year with respect to all Designated Project Indebtedness (including such Project Indebtedness being issued or incurred) outstanding immediately after the issuance or incurrence of such Project Indebtedness being issued or incurred, is not greater than the Aggregate Debt Service for each such Fiscal Year with respect to all Designated Project Indebtedness outstanding immediately prior to the issuance or incurrence of such Project Indebtedness being issued or incurred.

4.29 **Effective Date:** The First Round Offer Acceptance Date on which this Contract shall be executed and delivered by or on behalf of IPA and Purchaser and all Regulatory Contract Approvals have been obtained by Purchaser and IPA, respectively, and Purchaser and IPA have each provided the legal opinions as set forth in Section 25.3.

4.30 **Entitlement Determination Date:** Such date, as determined in accordance with the provisions of Section 26, upon which Offer Acceptances shall have been received by IPA that result in Renewal Power Sales Contracts becoming effective for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project.

4.31 **Essential Capital Improvement:** A Capital Improvement approved by the Original Coordinating Committee and designated as either a Major Capital Improvement or an Ordinary Capital Improvement that is determined by IPA to be (a) reasonably necessary for the operation or maintenance of the Project or any interest in the Project in accordance with Prudent Utility Practice, (b) required to prevent a loss of revenues of the Project, (c) required by any applicable law or regulation, (d) required by the Bond Resolution, or (e) required by the Construction Management and Operating Agreement; provided, however, that an Essential Capital Improvement shall not include any Capital Improvement that is undertaken primarily for the purpose of effecting an increase in the rated capacity of any Project Component.

4.32 **Estimated Reserve Free-up Amount:** Shall have the meaning set forth in Section 23.4.

4.33 **Estimated Retirement Account Balance:** Shall have the meaning set forth in Section 23.4.

4.34 **Estimated Retirement Account Deficiency:** Shall have the meaning set forth in Section 23.4.

4.35 **Estimated Retirement Account Surplus:** Shall have the meaning set forth in Section 23.4.

4.36 **Estimated Retirement Costs:** Shall have the meaning set forth in Section 23.4.

4.37 **Estimated Retirement Salvage Proceeds:** Shall have the meaning set forth in Section 23.4.

4.37A **Excess Entitlement Share:** Shall have the meaning set forth in the Excess Renewal Power Sales Agreement.

4.38 **Excess Renewal Power Sales Agreement:** The Agreement for Sale of Renewal Excess Power in substantially the form included in Appendix D to the Renewal Power Sales Contracts and completed and entered into pursuant to Section 26.6 of the Renewal Power Sales Contracts.

4.39 **FAS 143:** The Statement of Financial Accounting Standards No. 143 issued by the FASB, as further affected or interpreted by additional FASB statements or FASB interpretations.

4.40 **FASB:** The Financial Accounting Standards Board or any successor organization thereto.

4.41 **Final Offer:** IPA's continued Renewal Offer, if necessary as provided in Section 26.4.1, with respect to the then remaining Orphan Original Purchaser Entitlements to each of the Committed Original Purchasers in the order of their respective Subscription Generation Entitlement Shares, beginning with the Committed Original Purchaser with the highest Subscription Generation Entitlement Share, as then set forth in Appendix B of the Renewal Power Sales Contracts, and continuing with the Committed Original Purchasers in descending order of values of their Subscription Generation Entitlement Shares under Appendix B; provided that such Final Offer shall cease to be offered any further upon the first to occur of the receipt of an Offer Acceptance by a Committed Original Purchaser that complies with Section 26.4.2 or such an Offer Acceptance that complies with Section 26.4.3.

4.42 **Final Offer Acceptance Date:** Such date as specified in the Offer Letter by IPA with respect to the Final Offer, as such date may be thereafter extended by IPA.

4.43 **Final Retirement Date:** With respect to any particular Project Component, the date upon which all conditions set forth in Section 23.9 have been satisfied as to such Project Component.

4.44 **First Round Offer:** The initial offer under IPA's Renewal Offer offering to each Original Purchaser the renewal, in whole or in part, of its Original Purchaser Entitlements as provided in Section 26.2.

4.45 **First Round Offer Acceptance Date:** _____, 201___, as such date may be extended by IPA.

4.46 **Fiscal Year:** Any period commencing on July 1 of any calendar year and ending on June 30 of the next succeeding calendar year.

4.47 **Fuel Management Practices and Procedures:** The fuel management practices and procedures approved by the Renewal Contract Coordinating Committee as provided in Section 6.2.10.

4.48 **Gas Repowering:** The construction and installation of Gas Unit 1 and Gas Unit 2 as provided in Section 44.1 of the Original Power Sales Contract, together with the decommissioning and retirement of existing generating units and related facilities and properties as provided in Section 44.2 of the Original Power Sales Contracts.

4.49 **Gas Unit:** Includes:

4.49.1 **Gas Unit 1:** The natural gas-fired combined cycle power block and related facilities and properties constituting a part of the Generation Station and referred to as Intermountain Power Project Unit 1, as shall be set forth in the Description of Project attached hereto as Appendix C, together with any Auxiliary Facilities of such generating unit as set forth in Section 23.8.

4.49.2 **Gas Unit 2:** The natural gas-fired combined cycle power block and related facilities and properties constituting a part of the Generation Station and referred to as Intermountain Power Project Unit 2, as shall be set forth in the Description of

Project attached hereto an Appendix C, together with any Auxiliary Facilities of such generating unit as set forth in Section 23.8

4.50 **General Interest Rate:** A variable per annum interest rate equal to 100 basis points less than the Prime Rate; provided, however, that if the Prime Rate cannot be identified for an applicable Business Day in a publication reasonably available to IPA, then the General Interest Rate shall be equal to 100 points above the yield on thirty-day (30-day) notes issued by a corporation specified by IPA, which corporation must (x) be incorporated and headquartered in the United States and (y) have outstanding senior, unsecured debt rated by Standard & Poor's in its highest credit rating category. If Standard & Poor's is no longer issuing credit ratings or, in IPA's reasonable determination, has ceased to be a reliable source of credit information, then IPA shall specify a comparable corporation with outstanding senior, unsecured debt rated in a similar credit rating category by a nationally recognized credit rating agency other than Standard & Poor's.

4.51 **General Service Requirements:** The capacity and energy required for operation of all generating facilities and other equipment and systems used or required at the Generation Station in connection with the operation and maintenance of the Generation Station.

4.52 **Generation Cost Share:** The share (expressed as a percentage) of each Purchaser as set forth in Appendix A attached hereto, as such share may be adjusted from time to time pursuant to Section 26 or other applicable provisions of this Contract, with respect to the costs associated with the Generation Station. A Purchaser's Generation Cost Share shall at all times be the same as its Generation Entitlement Share.

4.53 **Generation Entitlement Share:** The percentage entitlement of each Purchaser in each generating unit of the Project, as set forth in Appendix B attached hereto, as adjusted from time to time pursuant to Section 26 or other applicable provisions of this Contract.

4.54 **Generation Station:** The Generation Station as set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.55 **Reserved**

4.56 **Investment Securities:** Means and includes any of the following securities with maturities consistent with the needs by IPA for such funds: (a) any bonds or other obligations that as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America; (b) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency; (c) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the Laws of any state of the United States of America or any national banking association, provided that such certificates of deposit shall be purchased directly from such bank, trust company or national banking association and shall be continuously and fully insured by the Federal Deposit Insurance Corporation; (d) any repurchase

agreement or reverse repurchase agreement with any bank or trust company organized under the Laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by any Federal Reserve Bank, which agreement is secured by any of the securities described in clause (a) above, and (e) to the extent approved by IPA and the Renewal Contract Coordinating Committee (i) any deposit or investment permitted for public funds under Utah's State Money Management Act, Utah Code Title 51, Chapter 7 and (ii) any securities, bonds, obligations, certificates, deposits or investments permitted under the Bond Resolution.

4.57 **IPA:** Shall have the meaning set forth in Section 1.

4.58 **IPA Member:** Any party to the IPA Organization Agreement dated May 10, 1977, as such Agreement has been or may hereafter be amended from time to time.

4.59 **IPA Retained Facility:** Shall have the meaning set forth in Section 24.

4.60 **Issuance and Financing Costs:** With respect to any particular issue, series or tranche of Project Indebtedness, all capitalized interest, debt service funds or accounts and debt service reserve funds or accounts financed with such Project Indebtedness, and all underwriters' or brokers' discounts or fees, bond insurance premiums, rating agency fees, attorneys' fees and other issuance costs of any type or nature associated with such Project Indebtedness.

4.61 **Los Angeles:** The Department of Water and Power of the City of Los Angeles, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California.

4.62 **Major Capital Improvements:** All Capital Improvements that are approved by the Original Coordinating Committee or Renewal Contract Coordinating Committee, as applicable, and designated thereby as "Major Capital Improvements." All Major Capital Improvements shall be undertaken, acquired and constructed as provided under Section 14. For the avoidance of doubt, the Gas Repowering constitutes a Major Capital Improvement.

4.63 **Maximum Generating Capability:** The maximum net capability of each generating facility of the Generation Station to produce power, determined at the high side of its generation transformer, for sustained periods under conditions existing from time to time.

4.63A **Maximum Purchase Percentage:** with respect to a particular California Purchaser, the percentage obtained by dividing (i) such California Purchaser's Generation Entitlement Share by (ii) the sum of the Generation Entitlement Shares of all California Purchasers.

4.64 **Minimum Generating Capability:** The lowest net capability of each Gas Unit of the Generation Station to produce power, as determined at the high side of its generation transformer, at which such Gas Unit can be maintained in service reliably on a continuous basis under automatic control.

4.65 **Minimum Reserve Funding Amount:** Shall have the meaning set forth in Section 5.13.1.

4.66 **Month:** A calendar month.

4.67 **Monthly Power Costs:** From and after the Transition Date all of IPA's costs, to the extent not paid or to be paid from the proceeds of Debt Instruments, resulting from or attributable to the ownership, operation and maintenance of and renewals and replacements to the Project, together with any Tax Equivalent Payment Differential, all Retirement Costs constituting or payable as Monthly Power Costs, and Debt Service with respect to Renewal Contract Project Indebtedness. IPA shall apply as a credit against Monthly Power Costs, Ordinary Salvage Receipts and interest earned on or after the Transition Date on investments, other than the investment of amounts on deposit in any account in the Retirement Reserve Fund. Monthly Power Costs shall consist of a minimum cost component and a variable cost component and shall include, but not be limited to, the items of cost and expense referred to in this Section 4.67 that are accrued or paid by IPA during each Month of each Power Supply Year. If any Power Supply Year shall include fewer than twelve (12) Months, the fraction expressed in Sections 4.67.1.3, 4.67.1.4, 4.67.1.5, 4.67.1.6 and 4.67.1.7 shall be adjusted accordingly, and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to Sections 4.67.1.3, 4.67.1.4, 4.67.1.5, 4.67.1.6, 4.67.1.7 and 4.67.1.8 shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to said Sections shall be evenly apportioned over the remaining Months of such Power Supply Year.

4.67.1 The minimum cost component of Monthly Power Costs shall consist of:

4.67.1.1 Debt Service with respect to Renewal Contract Project Indebtedness for which amounts are not payable from or have not been previously paid or deposited into any fund or account referenced in Section 4.67.1.2.

4.67.1.2 The amounts that IPA is required under any Bond Resolution to pay or deposit during such Month into any funds or accounts established by such Bond Resolution for Debt Service or Debt Service reserve with respect to Renewal Contract Project Indebtedness or for any other reserve requirements for such Debt Service.

4.67.1.3 One-twelfth (1/12th) of the amount (not otherwise included under any item in this Section 4.67.1 or in Section 4.67.2) that IPA is required under any Bond Resolution to pay or deposit during such Power Supply Year into any fund or account established by such Bond Resolution, and shall include, without limitation, any amounts required to make up a deficiency in any fund required or permitted by such Bond Resolution whether or not resulting from a default in payments by any Purchaser of amounts due under any Renewal Power Sales Contract.

4.67.1.4 To the extent not included in any item referenced in Section 4.67.1.3, one-twelfth (1/12th) of the amount set forth in the Annual Budget for such Power Supply Year to be deposited into any reserve established by IPA from time to time for operation, maintenance, renewal or replacement costs, contingencies, or for general reserves, together with any amounts set forth in any amended Annual Budget to replenish amounts used from such reserves, or into any account in the Retirement Reserve Fund.

4.67.1.5 One-twelfth (1/12th) of the cost of producing and delivering capacity and energy during such Power Supply Year, including, but not limited to, (a) water costs, operation and maintenance costs, administrative and general costs, insurance costs (including amounts to fund any self-insurance program), overhead costs and any other costs payable by IPA in connection with the output of the Project; and (b) all costs related to conducting the business of IPA with respect to the Project, including personnel compensation, fees for legal, engineering, financial and other services, expenses of members of the IPA Board of Directors incurred in connection with attendance at meetings of the IPA Board of Directors or any committee thereof and meetings of the Renewal Contract Coordinating Committee, costs attributable to performance by IPA under the Excess Renewal Power Sales Agreement as provided under Section 26.6, and all other expenses properly related to the conduct of such affairs of IPA; provided, however, that minimum costs included under this Section 4.67.1.5 shall with respect to fuel costs include only the fixed costs of fuel, as follows:

4.67.1.5.1 The cost of the Project Fuel associated with Zero Net Load;

4.67.1.5.2 The labor and labor loading expenses for fuel handling;

4.67.1.5.3 The cost of fuel oil delivered to the plant site;

4.67.1.5.4 The cost associated with providing or increasing any Project Fuel storage;

4.67.1.5.5 The cost associated with contract payments under minimum or guaranteed payment provisions that are determined by the Renewal Contract Coordinating Committee to constitute costs of Project Fuel to be included in the minimum cost component;

4.67.1.5.6 The cost of transmission or transportation of Project Fuel unless otherwise determined

by the Renewal Contract Coordinating Committee pursuant to Section 6.2.10;

Provided further that in the event that any one or more Purchasers shall elect to procure its or their own fuel under Section 9.11, Monthly Power Costs applicable to any such Purchaser for the period during which it procures its own fuel shall include such minimum costs of fuel as provided in Sections 4.67.1.5.2, 4.67.1.5.3 and 4.67.5.4 and shall not include costs relating to Project Fuel provided for in Sections 4.67.1.5.1, 4.67.1.5.5, or 4.67.1.5.6.

4.67.1.6 One-twelfth (1/12th) of the amount necessary during such Power Supply Year to pay or provide reserves for payments (a) pursuant to the Act by IPA to the counties, municipalities and school districts affected by the Project, (b) of all Tax Equivalent Payments and (c) of all taxes required to be paid by IPA.

4.67.1.7 One-twelfth (1/12th) of the Tax Equivalent Payment Differential for such Power Supply Year.

4.67.1.8 Any amounts (not otherwise included under any item in this Section 4.67.1 or Section 4.67.2) constituting Monthly Power Costs pursuant to Sections 5.13, 23.9.3 or 23.9.4.

4.67.2 The variable cost component of the Monthly Power Costs with respect to any Month shall be based upon the costs referenced below associated with the Project Fuel actually used during such Month and shall include:

4.67.2.1 The cost of Project Fuel not otherwise included under Section 4.67.1.5.

4.67.2.2 If and to the extent so determined by the Renewal Contract Coordinating Committee pursuant to Section 6.2.10, the cost of transmission or transportation of Project Fuel other than such transmission or transportation referenced in Section 4.67.1.5.6.

Provided that, for the avoidance of doubt, such variable cost component of Monthly Power Costs shall not be applicable to any Purchaser that elects to procure its own fuel under Section 9.11 for the period during which it procures its own fuel.

4.68 **Northern Transmission Cost Share:** As to any particular Purchaser, the share (expressed as a percentage) set forth for such Purchaser in Appendix A attached hereto, as adjusted pursuant to Section 26, with respect to the costs associated with the Northern Transmission System that are to be allocated among the Purchasers with Points of Delivery on the Northern Transmission System, under the Renewal Power Sales Contracts. Each Purchaser's Northern Transmission Cost Share shall be equal to the quotient obtained by dividing that portion of such Purchaser's Generation Entitlement Share that is to be delivered at a Point of Delivery on the Northern Transmission System by the aggregate of those portions of all Purchasers' Generation Entitlement Shares that are to be delivered at Points of Delivery on the Northern Transmission System.

4.69 **Northern Transmission System:** The A.C. transmission system as set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.70 **Offer Acceptance:** The acceptance by an Original Purchaser of a Renewal Offer which shall be effective as provided by Section 26 hereof.

4.71 **Offer Letter:** The letter by IPA that makes the First Round Offer, the Second Round Offer, if necessary, or the Final Offer, if necessary, as the case may be.

4.72 **Operating Agent:** The entity (Los Angeles) responsible for the operation and maintenance of the Project, in accordance with the Construction Management and Operating Agreement.

4.73 **Operating Budget:** The annual operating budget for each Power Supply Year prepared by the Operating Agent pursuant to the Construction Management and Operating Agreement and approved by the Renewal Contract Coordinating Committee that is incorporated by IPA in the Annual Budget for such Power Supply Year as provided by Section 5.4.1.

4.74 **Operational Period:** With respect to any particular Project Component, the period beginning on the Transition Date and ending on the Permanent Removal From Service Date of such Project Component.

4.75 **Operational Reserves:** Shall have the meaning set forth in Section 5.13.1.

4.76 **Operational Term:** The period beginning on the Transition Date and ending on the Renewal Contract Final Termination Date.

4.77 **Ordinary Capital Improvements:** All Capital Improvements other than Major Capital Improvements that are approved by the Original Coordinating Committee or Renewal Contract Coordinating Committee, as applicable, and designated thereby as an Ordinary Capital Improvement. All Ordinary Capital Improvements shall be undertaken, acquired and constructed as provided under Section 14.

4.78 **Ordinary Salvage Receipts:** All receipts, revenues and other moneys actually received by IPA from the sale or other disposition after the Transition Date of surplus equipment, materials and supplies; provided, however, that Ordinary Salvage Receipts shall not include any receipts, revenues or other moneys received by IPA in connection with the sale or other disposition of equipment, materials or supplies constituting all or part of any Project Component on or after the Permanent Removal From Service Date of such Project Component.

4.79 **Organization Agreement:** That certain Intermountain Power Agency Organization Agreement dated as of May 10, 1977 providing for the creation of IPA, as amended and supplemented.

4.80 **Original Bond Resolution:** The Amended and Restated Power Supply Revenue Bond Resolution adopted by the IPA Board of Directors on August 28, 1998, and effective on July 20, 2007, as it has previously been, and as it may hereafter be, supplemented or amended.

4.80A **Original California Purchasers:** The Original Purchasers that are California Purchasers as California Purchasers is defined in the Original Power Sales Contracts.

4.81 **Original Coordinating Committee:** The committee established pursuant to Section 6.1 of each of the Original Power Sales Contracts.

4.82 **Original Power Sales Contracts:** The Power Sales Contracts between IPA and each of the thirty-six (36) Original Purchasers, pursuant to which IPA has sold and will continue to sell the capacity and energy of the Project through June 15, 2027, as such Contracts have been heretofore amended or supplemented, including without limitation by the Second Amendatory Power Sales Contract, and as such Contracts may hereafter be amended or supplemented.

4.83 **Original Purchaser Entitlements:** As to a particular Original Purchaser, its Generation Entitlement Share (as defined in the Original Power Sales Contracts) and its Generation Cost Share (as defined in the Original Power Sales Contracts) under its Original Power Sales Contract and its transmission entitlement and Transmission Cost Share (as defined in the Original Power Sales Contracts) under its Original Power Sales Contract, all as to which it is entitled to receive a Renewal Offer.

4.84 **Original Purchasers:** Each party, including Purchaser, other than IPA, to an Original Power Sales Contract; provided that in the event any such party shall have assigned its Original Purchaser Entitlement (including its rights as to the IPA renewal offer under Section 33 of such Original Power Sales Contract) in accordance with Section 19.2 of such Original Power Sales Contract prior to the acceptance or rejection by such party of the Renewal Offer, such assignee shall be deemed to be the Original Purchaser with respect to such assigned Original Purchaser Entitlement for the purposes of this Contract.

4.84A **Original Utah Purchasers**: The Original Purchasers that are Utah Purchasers as Utah Purchasers is defined in the Original Power Sales Contracts.

4.85 **Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original Purchasers, Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA, (ii) in the case of an acceptance of the First Round Offer by any of the Original Purchasers in part, that part of such Original Purchasers' Entitlements that is not accepted and not included under such Original Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original Purchasers), and (iii) in the case where any of the Original Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline,

reject or otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original Purchaser Entitlements; and all Orphan Original Purchaser Entitlements shall continue as such under the continued Renewal Offer except to the extent subsequently accepted (in whole or in part) by an Offer Acceptance.

4.86 **Reserved**

4.87 **Permanent Removal From Service Date:** Shall have the meaning set forth in Section 23.1.

4.88 **Point of Delivery:** The point at which each Purchaser is entitled to take delivery of electric energy associated with its Generation Entitlement Share, which point, as to each Purchaser, is set forth on Appendix B attached hereto.

4.89 **Power Supply Year:** The twelve (12) month period commencing at 12:01 a.m. on July 1 of each year during the Operational Term and ending at 12:01 a.m. on the following July 1; provided, however, that (a) if the Transition Date does not occur on July 1 of any year, then the first Power Supply Year shall begin at 12:01 a.m. on the Transition Date and shall end at 12:01 a.m. on the immediately following July 1, and (b) if the Operational Term does not end on June 30 of any year, then the last Power Supply Year shall begin at 12:01 a.m. on the July 1 immediately preceding the last day of the Operational Term and shall end at 12:01 a.m. on the last day of the Operational Term.

4.90 **Prime Rate:** The interest rate per annum for the United States as published on the first Business Day of each Month in the Wall Street Journal under the sub-caption "Prime Rates" under the caption "Money Rates", which interest rate shall be adjusted as of the close of business on the first Business Day of each Month, or, if the Wall Street Journal fails to publish the Prime Rate for the United States on such Business Day, IPA shall select a comparable publication for determination of the Prime Rate.

4.91 **Project:** Means (a) as applicable at any time on and after the Transition Date, the Generation Station, the Southern Transmission System, the Northern Transmission System and the Capital Improvements, and (b) as applicable at any time prior to the Transition Date, the "Project" as defined in the Original Power Sales Contracts.

4.92 **Project Fuel**: The natural gas procured or acquired by or on behalf of IPA during the Operational Period for use in the Generation Station.

4.93 **Project Component:** Any of the following: (a) Gas Unit 1 of the Generation Station, (b) Gas Unit 2 of the Generation Station, (c) the Southern Transmission System or (d) the Northern Transmission System.

4.94 **Project Indebtedness:** All monetary obligations or liabilities incurred by IPA pursuant to any Debt Instrument issued by IPA after the Effective Date to: (a) refund or refinance any bonds or other indebtedness of IPA issued for the Project and outstanding as of the Effective Date; (b) finance or refinance the costs of Capital Improvements; or (c) finance or refinance Retirement Costs or deposits into the Retirement Reserve Fund.

4.95 **Project Manager:** The entity (Los Angeles) responsible for the construction of the Project, in accordance with the Construction Management and Operating Agreement.

4.96 **Project Water Rights:** All water rights, well rights, shares or ownership interests in water companies, or other rights, titles or interests in or to riparian, underground or other water owned by IPA and acquired for the Project.

4.97 **Proposed Removal From Service Date:** Shall have the meaning set forth in Section 23.1.

4.98 **Prudent Utility Practice:** Any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts (including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto) known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition, taking into account the fact that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts that could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Utility Practice includes due regard for manufacturers' warranties and the requirements of governmental agencies of competent jurisdiction and shall apply not only to functional parts of the Project, but also to appropriate structures, landscaping, painting, signs, lighting, other facilities and public relations programs reasonably designed to promote public enjoyment, understanding and acceptance of the Project.

4.99 **Purchaser:** Shall have the meaning set forth in Section 1 and, as the context requires, shall also refer to each of the other Purchasers individually.

4.100 **Purchase Percentage:** Shall have the meaning set forth in the Excess Renewal Power Sales Agreement.

4.101 **Purchaser Representative:** Shall have the meaning set forth in the Excess Renewal Power Sales Agreement.

4.102 **Purchasers:** Those entities, other than IPA, executing Renewal Power Sales Contracts, together with their respective successors and assigns and any entity to which a Purchaser's rights and obligations may be transferred pursuant to Section 17.4. Appendix A and Appendix B attached hereto, listing all Purchasers, shall be completed, revised, replaced and furnished by IPA to all Purchasers in accordance with Section 26 and may thereafter be replaced from time to time as provided in this Contract.

4.103 **Qualified Independent Engineer:** An independent engineer or firm of independent engineers, selected by IPA, of national reputation generally recognized to be well qualified in matters relating to electric power systems.

4.104 **Regulatory Contract Approvals:** All governmental regulatory approvals, consents and authorizations required or necessary for the execution and delivery of

this Contract by Purchaser or IPA, the performance by Purchaser or IPA of its duties and obligations hereunder for this Contract to become the legal, valid and binding obligation of Purchaser or IPA (including, but not limited to, such applicable approvals, consents or authorizations by a public service commission or utility regulatory authority).

4.105 **Renewal Contract Coordinating Committee:** The committee established pursuant to Section 6.1 of this Contract and the other Renewal Power Sales Contracts.

4.106 **Renewal Contract Final Termination Date:** The earlier of (a) June 15, 2077, (b) the latest date to which the term of the Contract may extend under the Act (as the Act may be amended from time to time to increase the permissible period for which the term of a contract under the Act may extend) or (c) the Final Retirement Date of the Project Component that results in the Final Retirement Date having occurred with respect to all of the Project Components.

4.107 **Renewal Contract Project Indebtedness:** (a) Project Indebtedness that is incurred by IPA on or after the Transition Date; and (b) the portion of any Transition Project Indebtedness that, by its terms, is scheduled to become due and payable on or after the Transition Date; provided, however, that Renewal Contract Project Indebtedness shall not, in any event, include Debt Service on any Transition Project Indebtedness for any period prior to the Transition Date.

4.108 **Renewal Contract Term:** The period beginning on the Effective Date and ending on the Renewal Contract Final Termination Date.

4.109 **Renewal Offer:** The offer made by IPA pursuant to Section 33 of the Original Power Sales Contracts to each of the Original Purchasers to renew their Original Purchaser Entitlements and any offers of Orphan Original Purchaser Entitlements thereafter made by IPA to Committed Original Purchasers in accordance with the terms and provisions set forth in Section 26 of the Renewal Power Sales Contracts and consisting of the First Round Offer, the Second Round Offer, if necessary, and the Final Offer, if necessary.

4.110 **Renewal Power Sales Contracts:** This Contract and any contract with terms that shall be determined by IPA to be similar in substance to the terms of this Contract and that may contain such variations or differences from the terms of this Contract as shall be approved by IPA as not deviating from the substance of this Contract, entered into pursuant to the Renewal Offer by IPA and a Purchaser, together with amendments and supplements thereto.

4.111 **Retirement Actions**: Shall have the meaning set forth in Section 23.9.1.

4.112 **Retirement Consultant:** An independent consultant or other appropriate professional person or firm selected by IPA that is acceptable to the Coordinating Committee, and that has a nationwide and favorable reputation for skill and experience in the retirement and decommissioning of electric generating and transmission facilities similar to those of the Project, including, without limitation, in the identification of tasks, actions and other matters involved in the retirement and decommissioning of such facilities and the estimation of

the costs thereof. Inasmuch as Section 23.4 contemplates that a Retirement Consultant may be retained at various times during the Renewal Contract Term, it is recognized that IPA and the Renewal Contract Coordinating Committee may not, for various reasons, necessarily select the same independent consultant or other professional person or firm each time a Retirement Consultant is to be retained.

4.113 **Retirement Cost Debt Instruments:** Shall have the meaning set forth in Section 15.2.3.

4.114 **Retirement Cost Deficiency:** Shall have the meaning set forth in Section 23.9.3.

4.115 **Retirement Cost Report:** Shall have the meaning set forth in Section 23.4.

4.116 **Retirement Costs:** With respect to any Project Component, the amounts payable with respect to the "asset retirement costs" associated with the Project Component as determined pursuant to FAS 143. Such asset retirement costs shall include, without limitation, all Retirement Actions. In determining such asset retirement costs, to the extent that FAS 143 requires that any probability be assigned to one or more elements of determining such costs (e.g., the degree of the decommissioning and remediation obligation and the potential costs for performing that obligation), a probability of 100% shall be assigned to the potential outcome that results in the highest potential asset retirement cost. The funds received from salvage of the Project Component shall be credited as provided in FAS 143 for purposes of calculating such asset retirement costs.

4.117 **Retirement Election:** Shall have the meaning set forth in Section 23.1.

4.118 **Retirement Reserve Fund:** The Retirement Reserve Fund established pursuant to Section 22.1 which includes a separate account for each Project Component.

4.119 **Retirement Salvage Proceeds:** With respect to any particular Project Component or any facility or portion of such Project Component, the proceeds IPA actually realizes from the sale or other disposition of the property or property rights constituting a part of such Project Component on or after the Permanent Removal From Service Date of such Project Component; provided, however, that (a) with respect to any IPA Retained Facility other than Project Water Rights, the Retirement Salvage Proceeds of such IPA Retained Facility shall be deemed to be the estimated Retirement Salvage Proceeds thereof determined by the Retirement Consultant pursuant to Section 23.4, and shall not include any proceeds or revenues IPA may realize from any subsequent sale or other disposition by IPA of such IPA Retained Facility or any portion thereof; and (b) with respect to Project Water Rights that become an IPA Retained Facility pursuant to Section 24.1, the Retirement Salvage Proceeds of such Project Water Rights shall be deemed to be the amount determined pursuant to Section 24.2.

4.120 **Second Amendatory Power Sales Contract:** The Second Amendatory Power Sales Contract, dated as of _____, 201___, entered into by IPA with each Original Purchaser, together with any amendments thereof and supplements thereto.

4.121 **Second Round Offer Acceptance Date:** Such date specified in the Offer Letter by IPA with respect to the Second Round Offer, as such date may be extended by IPA.

4.122 **Second Round Offer:** IPA's continued Renewal Offer pursuant to Section 26.3 hereof.

4.123 **Section 39 Facilities:** Section 39 Facilities shall mean rights, properties, facilities and appurtenances that pursuant to and as provided in Section 39 of the Renewal Power Sales Contracts are to be or have been sold, leased or otherwise made available by IPA for the construction or operation of any generating unit or units, transmission facilities or other facilities or properties at the Project site that shall not be part of the Project.

4.124 **Section 39 Facilities Agreement:** Section 39 Facilities Agreement shall mean any agreement or arrangement pursuant to which IPA sells, leases or otherwise makes available Section 39 Facilities in accordance with Section 39 of the Renewal Power Sales Contracts for any generating unit or units, transmission facilities or other facilities or properties located at the Project site but not constituting part of the Project.

4.125 **Southern Transmission Cost Share:** As to any particular Purchaser, the share (expressed as a percentage) set forth for such Purchaser in Appendix A attached hereto, as adjusted pursuant to Section 26, with respect to the costs associated with the Southern Transmission System that are to be allocated among the Purchasers with the Point of Delivery on the Southern Transmission System under the Renewal Power Sales Contracts. Each Purchaser's Southern Transmission Cost Share shall be equal to the quotient obtained by dividing that portion of such Purchaser's Generation Entitlement Share that is to be delivered at the Point of Delivery on the Southern Transmission System by the aggregate of those portions of all Purchasers' Generation Entitlement Shares that are to be delivered at the Point of Delivery on the Southern Transmission System.

4.126 **Southern Transmission System:** The transmission system by that name set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.127 **Subscription Generation Cost Share:** Purchaser's Subscription Generation Cost Share as initially established pursuant to Section 26, as increased from time to time, if applicable, pursuant to Section 26.

4.128 **Subscription Generation Entitlement Share:** Purchaser's Subscription Generation Entitlement Share as initially established pursuant to Section 26, as increased from time to time, if applicable, pursuant to Section 26.

4.129 **Substantially Equal Aggregate Debt Service:** For any period of Fiscal Years and with respect to all series, issues or tranches of a specified Project Indebtedness, shall mean that the greatest Aggregate Debt Service for any Fiscal Year in such period is not in excess of one hundred ten percent (110%) of the Aggregate Debt Service for any preceding Fiscal Year in such period.

4.130 **Substantially Equal Debt Service:** For any period of Fiscal Years and with respect to any particular series, issue or tranche of any specified Project Indebtedness, shall mean that the greatest Debt Service for any Fiscal Year in such period is not in excess of one hundred ten percent (110%) of the smallest Debt Service for any Fiscal Year in such period.

4.131 **Switchyard:** The switchyard as described in Appendix C that comprises part of the Generation Station.

4.132 **Tax Equivalent Payment Differential:** For any Power Supply Year, the difference, if any, between the amount of Tax Equivalent Payments and the amount of Augmented Tax Equivalent Payments with respect to such Power Supply Year.

4.133 **Tax Equivalent Payments:** All ad valorem property taxes or payments in lieu of ad valorem property taxes imposed with respect to the Project or any portion thereof by all taxing agencies of the State of Utah.

4.134 **Terminated and Reduced Purchaser Entitlements:** With respect to the California Purchaser or the California Purchasers, if any, that terminate its or their Renewal Power Sales Contracts or reduce its or their Generation Entitlement Shares pursuant to Section 42, the total of such terminated entitlements, and such reduction of entitlements with respect to its or their Generation Entitlement Shares and Generation Cost Shares under the Renewal Power Sales Contracts, together with its or their transmission entitlements and Transmission Cost Shares under the Renewal Power Sales Contracts.

4.135 **Transfer:** Shall have the meaning set forth in Section 20.2.

4.136 **Transition Bond Resolution:** Any Bond Resolution adopted prior to the Transition Date under which Transition Project Indebtedness is incurred or issued by IPA.

4.137 **Transition Date:** June 16, 2027; provided, however, that if the date upon which the Original Power Sales Contracts terminate is extended pursuant to Section 26.1 of the Original Power Sales Contracts, then the Transition Date shall be the date that is next succeeding the date upon which the Original Power Sales Contracts terminate in accordance with their terms.

4.138 **Transition Debt Instruments:** Any Debt Instrument issued by IPA prior to the Transition Date by which Transition Project Indebtedness is incurred or evidenced.

4.139 **Transition Project Indebtedness:** Project Indebtedness that is incurred by IPA prior to the Transition Date and that, by its terms, is scheduled to remain outstanding after the Transition Date, provided that no such Project Indebtedness shall be incurred or authorized on or prior to the Entitlement Determination Date.

4.140 **Transmission Cost Share:** With respect to any Purchaser, shall mean, the Northern Transmission Cost Share or the Southern Transmission Cost Share, as applicable.

4.141 **Reserved**

4.142 **Uncontrollable Forces:** Any cause beyond the control of IPA that by the exercise of due diligence IPA is unable to prevent or overcome, including, but not limited to, failure or refusal of any other person or entity (including any Purchaser) to comply with any of the then existing contracts, an act of God, fire, flood, explosion, strike, sabotage, pestilence, an act of the public enemy, terrorist act, civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction, insurrection or riot, an act of the elements, failure of equipment, inability of IPA or any person or entity engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers, or the inability of IPA to sell or issue its Debt Instruments.

4.143 **Uniform System of Accounts:** The "Uniform Systems of Accounts prescribed for Class A and B Public Utilities and Licensees" as prescribed and, from time to time, as amended or modified or substitution therefor made by the Federal Energy Regulatory Commission or its successor, whether or not IPA is subject to Federal Energy Regulatory Commission jurisdiction.

4.144 **Unsubscribed Original Purchaser Entitlements:** The Original Purchaser Entitlements as to which, prior to the First Round Offer Acceptance Date, there has not been an Offer Acceptance.

4.145 **Utah Committed Original Purchasers:** The Original Utah Purchasers that are Committed Original Purchasers.

4.146 **Utah Municipal Purchasers:** The Purchasers that are political subdivisions of the State of Utah.

4.146A **Utah Orphan Entitlement Allocation Document:** A written document signed by all the Utah Committed Original Purchasers, as set forth under Section 26.3.1.1, providing for the allocation to and acceptance by those Utah Committed Original Purchasers designated in such document of the then remaining Utah Orphan Original Purchaser Entitlements; provided that together with such document such designated Utah Committed Original Purchasers shall provide Offer Acceptances with respect to the Utah Orphan Original Purchaser Entitlements allocated to such designated Utah Committed Original Purchasers, respectively, in such document and such document shall be filed with IPA.

4.146B **Utah Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original Utah Purchasers, Utah Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA by one or more Original Utah Purchasers, (ii) in the case of an acceptance of the First Round Offer by any of the Original Utah Purchasers in part, that part of such Original Utah Purchasers' Original Purchaser Entitlements that is not accepted and not included under such Original Utah Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original Utah Purchasers), and (iii) in the case where one or more of the Original Utah Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline, reject or

otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original Utah Purchasers' Original Purchase Entitlements.

4.146C **Utah Purchasers:** The Utah Municipal Purchasers and the Cooperative Purchasers.

4.147 **Voting Rights:** Shall have the meaning set forth in Section 6.1.9.

4.148 **Willful Action:**

4.148.1 Action taken or not taken by a party to this Contract at the direction of its directors or other governing body, officers or employees having management or administrative responsibility affecting its performance under this Contract and that:

4.148.1.1 Is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with the intent that injury or damage would result therefrom;

4.148.1.2 Has been determined by a final arbitration award or judgment or judicial decree to be a material default under this Contract, and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default; or

4.148.1.3 Is knowingly or intentionally taken or not taken with the knowledge that such action so taken or not taken is a material default under this Contract.

4.148.1.4 As used in this definition:

(a) "Willful Action" does not include any act or failure to act that is merely involuntary, accidental or negligent.

(b) The phrase "employees having management or administrative responsibility" means those employees of a party to this Contract who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling or supervising such party's performance under this Contract.

4.149 **Zero Net Load:** The electric load upon a generating unit when such generating unit's gross electric energy output equals its allocated General Service Requirements.

## 5. OBLIGATIONS OF IPA AND PURCHASER:

5.1 **Project Output During Operational Period:** During the Operational Period of each Project Component, IPA shall provide to Purchaser and Purchaser shall take its share of capacity and energy and associated services from such Project Component pursuant to the terms of this Contract. IPA will be responsible for planning, negotiating, designing, financing, constructing, insuring, contracting for, administering, operating and maintaining the Project to effectuate during the Operational Period each respective Project Component and the delivery and sale of such share of capacity and energy and associated services thereof to Purchaser.

5.2 **Project Manager and Operating Agent:** IPA has appointed Los Angeles as Project Manager and Operating Agent to construct, operate and maintain the Project during the Operational Period of each respective Project Component in accordance with the Construction Management and Operating Agreement.

5.3 **Project Covenants:** IPA covenants for the benefit of Purchaser and each of the other Purchasers that during the period beginning on the Effective Date and ending on the day prior to the Transition Date, it will comply with the provisions of the Original Power Sales Contracts relating to the acquisition, construction, maintenance and operation of the Project, including without limitation, the provisions of Section 44 of the Original Power Sales Contracts. IPA will also operate and maintain the Project in such a manner, and make such replacements and repairs thereto, as and to the extent necessary to keep the Project in at least as good a condition as IPA has agreed with the Original Purchasers to keep the Project pursuant to the Original Power Sales Contracts. It is the intention of the parties that this covenant obligate IPA to render the Project, as of the Transition Date, in as good a condition as it would be had IPA fully performed each of its operation, maintenance, repair and replacement obligations with respect to the Project under the Original Power Sales Contracts during the term thereof, but not impose upon IPA any duties or obligations with respect to the operation, maintenance, repair and replacement of the Project that are more extensive or onerous than, or that otherwise exceed the scope of, IPA's duties and obligations with respect to such matters under the Original Power Sales Contracts.

5.4 **Annual Budget:**

5.4.1 IPA will prepare and submit to Purchaser and the other Purchasers a proposed Annual Budget at least two hundred forty (240) days prior to the beginning of each Power Supply Year. In connection with the preparation of each such Annual Budget, IPA shall incorporate therein the Operating Budget (including provisions for the payment of Retirement Costs) for such Power Supply Year as prepared by the Operating Agent pursuant to the Construction Management and Operating Agreement and approved by the Renewal Contract Coordinating Committee and an estimate of all credits, if any, to be granted for such Power Supply Year to each Utah Municipal Purchaser pursuant to Section 7.6. Purchaser and the other Purchasers may then submit to IPA, at any time until the Annual Budget is adopted, any matters or suggestions relating to the Annual Budget. IPA shall adopt the Annual Budget not less than thirty (30) nor more than sixty (60) days prior to the beginning of each such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to

Purchaser and the other Purchasers. As required from time to time during any Power Supply Year, after thirty (30) days prior notice to Purchaser and all other Purchasers, IPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year. The Annual Budget shall set forth a detailed estimate of the Monthly Power Costs and all revenues, income or other funds to be applied to such costs for the applicable Power Supply Year, shall establish the basis for the billing of the minimum cost components of Monthly Power Costs and shall establish the rate of billing for the variable cost component, all as hereinafter provided.

5.4.2 In addition to the matters set forth in Section 5.4.1, the Annual Budget for the first Power Supply Year shall include the matters set forth in Section 5.13.

5.5 **Reports:** During the Operational Period, IPA will prepare and issue, or have prepared and issued, to Purchaser and the other Purchasers the following reports each Month of each Power Supply Year:

5.5.1 Financial and operating statements relating to the Project.

5.5.2 Status of the Annual Budget.

5.5.3 Status of any budget for a Major Capital Improvement.

5.5.4 Analysis of operations relating to the Project.

5.6 **Records and Accounts:** During the Operational Period of each Project Component, IPA will keep accurate records and accounts of each of the facilities comprising the Project as well as of the operations of IPA in a manner similar to the Uniform System of Accounts. Said accounts shall be audited annually by an independent firm of certified public accountants selected by IPA, experienced in electric utility accounting; provided, however, that IPA shall not be required to duplicate any of the audits conducted by the Renewal Contract Coordinating Committee under Section 6.5. Such audit shall be completed and submitted to IPA within one hundred twenty (120) days after the close of each Power Supply Year. All transactions of IPA relating to the Project with respect to each Power Supply Year shall be subject to such an audit. IPA shall promptly furnish to Purchaser and the other Purchasers complete copies of all such audits. Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable prior written notice to IPA during regular business hours.

5.7 **Adjustment of Billing:** Within 30 days following the submission to IPA of the audit conducted pursuant to Section 5.6 and no later than one hundred fifty (150) days after the end of each Power Supply Year, IPA will submit to Purchaser and the other Purchasers a detailed statement of the actual aggregate Monthly Power Costs with respect to each Purchaser and other amounts payable hereunder, including credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Power Costs and other amounts payable hereunder, if any, for such Power Supply Year or any prior Power Supply Year, based on the annual audit of accounts provided for in Section 5.6. If, on the basis of the statement submitted as provided in this Section 5.7, the actual aggregate Monthly Power

Costs and other amounts payable for any Power Supply Year exceed the amount thereof that Purchaser and the other Purchasers have been billed, Purchaser and the other Purchasers shall pay IPA promptly the amount to which IPA is entitled. If, on the basis of the statement submitted pursuant to this Section 5.7, the actual aggregate Monthly Power Costs or other amounts payable for any Power Supply Year are less than the amount thereof that Purchaser and the other Purchasers have been billed and paid, IPA shall credit such excess against Purchaser's and the other Purchasers' next monthly payment or payments until such credit has been fully applied. If the failure of Purchaser to make its payments in accordance with this Contract shall have resulted in the application of amounts in any reserve or working fund under any Bond Resolution to the payment of costs payable from such reserve or working fund and the other Purchasers shall have made up the deficiency created by such application or paid additional amounts into such reserve or working fund, amounts thereafter paid to IPA by Purchaser for application to such past due payments, including interest thereon, shall be credited on the Billing Statements of such other Purchasers in the next Month or Months as shall be appropriate.

5.8 **Disputed Monthly Billing Statement:** In case any portion of any Billing Statement received by Purchaser from IPA shall be in bona fide dispute, Purchaser shall pay IPA the full amount of such Billing Statement, and, upon determination of the correct amount, the difference between such correct amount and such full amount so paid by Purchaser, if any, including interest thereon at the General Interest Rate on any overpayment, will be credited to Purchaser by IPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by IPA and returned to Purchaser by the fifth (5th) day following the later of receipt by IPA of the disputed overpayment or receipt by IPA of written notification by Purchaser of such dispute. If any Billing Statement is in dispute, IPA will give consideration to such dispute and will advise Purchaser with regard to IPA's position relative thereto within thirty (30) days following written notification by Purchaser of such dispute.

5.9 **Source of Payments:** The obligations of Purchaser to make the payments to IPA required under this Contract shall constitute a cost of purchased electric capacity and energy and an operating expense of such Purchaser payable solely from its electric revenue funds, and Purchaser will annually in each and every fiscal year of Purchaser during the Renewal Contract Term include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system sufficient to satisfy all the payments required to be made in such fiscal year under this Contract until all payments required under this Contract have been paid in full.

5.10 **Information to be Supplied:** Purchaser agrees to supply IPA, upon request, with such information and documentation as IPA shall reasonably determine to be requisite and necessary with respect to the financing, design, construction, operation and maintenance of the Project, including information reasonably available to allow IPA to respond to requests for such information from any Federal, state or local regulatory or other authority.

5.11 **Availability of Consultants:** IPA shall make available to the Renewal Contract Coordinating Committee at the latter's request, all consultants and advisors on financial matters, including, but not limited to, financial advisors and bond counsel (but excluding the general legal counsel of IPA), that are retained by IPA and such consultants and advisors shall be authorized to consult with and advise the Renewal Contract Coordinating Committee on financial matters.

5.12 **Rate Covenant:** Purchaser will establish, maintain and collect rates and charges for the electric service of its electric system so as to provide revenues sufficient, together with available electric system reserves and other available funds, to enable Purchaser to pay to IPA all amounts payable when due under this Contract and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

5.13 **Initial Funding of Certain Reserves:**

5.13.1 IPA, the Renewal Contract Coordinating Committee and the Purchasers shall provide for the establishment and initial funding, upon or immediately after the Transition Date, of reserves for Project operations, maintenance, renewals, replacements and contingencies (collectively, "Operational Reserves") in accordance with this Section 5.13. In connection with the preparation of the Annual Budget for the first Power Supply Year pursuant to Section 5.4, IPA shall identify all Operational Reserves required to be maintained by IPA, and the minimum amounts required to be on deposit therein pursuant to any Bond Resolution or other contractual obligation of IPA (such minimum amounts being referred to as the "Minimum Reserve Funding Amount"). Thereupon, IPA and the Renewal Contract Coordinating Committee, by their mutual approval, shall determine whether any Operational Reserves, other than contractually required Operational Reserves in the Minimum Reserve Funding Amount, should be established and the appropriate minimum funding levels of such Operational Reserves. Based upon such determination, IPA shall include in the Annual Budget for the first Power Supply Year, as Monthly Power Costs, the full amounts required to initially fund all such Operational Reserves at the levels so determined; and, in the case of contractually required Operational Reserves, at the Minimum Reserve Funding Amount required by the applicable Bond Resolution or other contractual obligation if IPA and the Renewal Contract Coordinating Committee shall not have determined to fund such Operational Reserves at higher levels.

5.13.2 The amounts included for Operational Reserves in the Annual Budget for the first Power Supply Year pursuant to Section 5.13.1 shall constitute Monthly Power Costs for the first Month of such Power Supply Year. As such, those amounts shall be allocated among the Purchasers pursuant to Sections 7.1 and 7.2 and each Purchaser's full allocated share thereof shall be included in the Billing Statement for such Month issued to such Purchaser pursuant to Section 7.4.2 and shall be due and payable in full on or before the due date of such Billing Statement. Each Purchaser shall receive a credit against such Billing Statement for any amounts available to such Purchaser that it directs IPA to transfer to such Operational Reserves from its share, if any, of the reserves held by IPA pursuant to the Original Power Sales Contracts.

5.13.3 Except as otherwise may be required pursuant to the applicable Bond Resolution, any amounts held by IPA as debt service reserve funds for Project

Indebtedness at the end of the term of the Original Power Sales Contracts shall continue to be held by IPA after the Transition Date in accordance with, and applied as set forth in, the provisions of the applicable Bond Resolution. Except as IPA may be directed pursuant to Section 5.13.2, IPA shall have no obligation to make amounts held by it as reserves pursuant to the Original Power Sales Contracts available for the funding of Operational Reserves on or after the Transition Date.

5.14 **Project Developments: Amendment of Original Power Sales Contract:** The Purchaser and the other Purchasers recognize that prior to the Operational Period the Project will be operated and maintained, and, subject to compliance with the applicable provisions of Section 15.1, Capital Improvements may be undertaken, acquired and constructed, and the Project may include contractual arrangements all of which shall be performed, provided for and entered into under and in accordance with Section 36 of the Original Power Sales Contract and other terms and provisions of the Original Power Sales Contracts; provided, however, that the Original Power Sales Contracts shall not be further amended or supplemented subsequent to the Effective date in any manner that adversely affects the rights or interests of the Purchaser and the other Purchasers. Accordingly, IPA hereby agrees not to enter into any amendment or supplement to the Original Power Sales Contracts after the Effective Date that adversely affects the rights or interests of the Purchaser or any of the other Purchasers without obtaining the prior consent to such amendment and supplement to the Original Power Sales Contracts by each of the Purchasers.

6. **ADMINISTRATION**:

6.1 **Renewal Contract Coordinating Committee; Appointment of Representatives:** The Renewal Contract Coordinating Committee shall be established in order to provide for the effective cooperation and interchange of information and to provide coordination on a prompt and orderly basis among the Purchasers and IPA in connection with the various administrative, technical and other matters that may arise from time to time in connection with the Project. The representatives on the Renewal Contract Coordinating Committee shall be appointed as follows:

6.1.1 One (1) representative shall be appointed by IPA, which representative shall at all times serve as the Chairman of the Renewal Contract Coordinating Committee. Such representative shall have no Voting Rights. IPA may also appoint an alternate representative who shall be entitled to act in place of its regular representative in the event of the absence of the regular representative.

6.1.2 Each California Purchaser shall be entitled to appoint one (1) representative; provided, however, that if more than one California Purchaser has Voting Rights of less than one and four-tenths percent (1.40%), then all such California Purchasers having Voting Rights of less than one and four-tenths percent (1.40%) shall, as a group, be entitled to appoint one (1) representative, which representative shall be elected by a weighted majority vote of all such California Purchasers having Voting Rights of less than one and four-tenths percent (1.40%) based on their respective Voting Rights.

6.1.3 Each Purchaser, other than the California Purchasers, that has Voting Rights of one and four-tenths percent (1.40%) or more shall be entitled to appoint one (1) representative.

6.1.4 One (1) representative shall be collectively appointed by the Utah Municipal Purchasers who are not individually entitled to appoint a representative pursuant to Section 6.1.3, which representative shall be elected by a weighted majority vote, based on their respective Voting Rights, of all such Utah Municipal Purchasers not individually entitled to appoint a representative.

6.1.5 One (1) representative shall be collectively appointed by the Cooperative Purchasers who are not individually entitled to appoint a representative pursuant to Section 6.1.3, which representative shall be elected by a weighted majority vote, based on their respective Voting Rights, of all such Cooperative Purchasers not individually entitled to appoint a representative.

6.1.6 **Reserved**

6.1.7 All Purchasers who are entitled to individually appoint a representative to the Renewal Contract Coordinating Committee pursuant to Sections 6.1.2 or 6.1.3 shall give the Chairman of the Renewal Contract Coordinating Committee written notice of their initial appointments (and any initial alternates thereafter) and of any change in the appointment of their representative, or alternates, which appointments and changes shall be effective immediately upon receipt of such notice by the Chairman. Each group of Purchasers who are entitled to collectively appoint a representative to the Renewal Contract Coordinating Committee pursuant to Sections 6.1.2, 6.1.4 or 6.1.5 shall hold an election within thirty (30) days after the Entitlement Determination Date, and thereafter within the first sixty (60) days of the first calendar year following the date of this Contract and within the first sixty (60) days of each fifth (5th) calendar year thereafter, to elect its representative (and any alternates) to the Renewal Contract Coordinating Committee. Within thirty (30) days after each such election, the Purchasers within such group shall certify in writing to the Chairman of the Renewal Contract Coordinating Committee the results of such election and the name of the representative (and any alternates) so appointed to the Renewal Contract Coordinating Committee.

6.1.8 In addition, each group of Purchasers entitled to collectively appoint a representative to the Renewal Contract Coordinating Committee pursuant to this Section 6.1 may remove any representative (or any alternate) previously appointed. Any vacancy so created, or any vacancy created by the death or resignation of any representative (or any alternate), shall be filled by the group of Purchasers that appointed such representative (or alternate, as the case may be), and the Purchasers within such group shall certify in writing to the Chairman of the Renewal Contract Coordinating Committee the results of such election and the name of the group's replacement representative (and any additional alternates that may at any time be appointed) on the Renewal Contract Coordinating Committee.

6.1.9 For purposes of this Contract, at any particular time on or after the Entitlement Determination Date and with respect to any Purchaser, "Voting Rights" shall

mean such Purchaser's Generation Entitlement Share in effect at such time under its Renewal Power Sales Contract.

6.1.10 Procedures of the Renewal Contract Coordinating Committee shall include:

6.1.10.1 Alternate representatives appointed by any Purchaser or group of Purchasers shall be entitled to act on behalf of such Purchaser or group of Purchasers in the absence of the regular representative, or to act on specified occasions with respect to specified matters. An alternate representative may attend all meetings of the Renewal Contract Coordinating Committee or any committee or sub-committee thereof but may vote only if the representative for which he or she serves as alternate is absent from such meeting. No party's representative(s) shall exercise any greater authority than permitted by the party or parties that he or she represents.

6.1.10.2 The Chairman of the Renewal Contract Coordinating Committee shall be responsible for calling and presiding over the meetings of the Renewal Contract Coordinating Committee. The Chairman shall promptly call a meeting of the Renewal Contract Coordinating Committee at the written request of any representative. All action taken by the Renewal Contract Coordinating Committee shall require an affirmation of representatives of Purchasers having Voting Rights aggregating at least eighty percent (80%), except as otherwise provided in Section 23.1, with respect to the retirement from service of the Northern Transmission System or the Southern Transmission System, or in Section 6.2.10, with respect to approval of the Fuel Management Practices and Procedures, and action may be taken by vote given in an assembled meeting of the representatives or by telephone, telefax, videophone, e-mail, nationally recognized overnight courier service, certified or registered letter or by any combination thereof; provided, however, that if two or more of the City of Burbank, the City of Glendale, the City of Pasadena and the City of Riverside (such cities being, collectively, the "Other California Purchasers"), hold, collectively, Generation Entitlement Shares totaling at least 15%, then, at any time prior to August 3, 2019, the approval of an Alternative Repowering (as defined in the Original Power Sales Contracts) requested of the Renewal Contract Coordinating Committee shall require an affirmation of representatives of Purchasers having Voting Rights aggregating at least eighty percent (80%), including, without limitation, the affirmation of at least one of the representatives of the Other California Purchasers.

6.1.10.3 The Renewal Contract Coordinating Committee shall be organized within thirty (30) days after the Entitlement Determination Date; provided, however, that except as specifically set forth under Sections 6.3, 6.4 or 15.1, the Renewal Contract Coordinating

Committee shall have no responsibilities, duties or rights under the Renewal Power Sales Contracts prior to the Transition Date.

6.2 **Renewal Contract Coordinating Committee Responsibilities:** From and after the Transition Date, the Renewal Contract Coordinating Committee shall have the following responsibilities:

6.2.1 To the extent not finalized or effective on the Transition Date, review, modify and approve specifications, proposals, bid evaluations and contracts, and any other business as determined by the Renewal Contract Coordinating Committee.

6.2.2 Provide liaison among IPA and the Purchasers at the management level with respect to the operation of the Project and any construction thereof then or thereafter ongoing.

6.2.3 Exercise general supervision over the committees or sub-committees established pursuant to Section 6.6.

6.2.4 Review, discuss and attempt to resolve any disputes among IPA and the Purchasers or other parties relating to the Project; provided, however, that such responsibility shall not impose on IPA or its legal counsel any obligation to waive attorney-client privilege, attorney work product privilege or other privilege or disclose any confidential information.

6.2.5 Make recommendations to the Project Manager and Operating Agent with respect to the operation of the Project or any then ongoing or future construction.

6.2.6 Review, modify and approve written statistical and administrative reports and information and other similar records to be furnished to the Renewal Contract Coordinating Committee by the Project Manager or Operating Agent.

6.2.7 Review, modify and approve the practices and procedures formulated by the Operating Agent to be followed by the Purchasers for the scheduling and controlling of capacity and energy of the Project.

6.2.8 Review, modify and approve the schedule of planned maintenance outages formulated by the Operating Agent, including the policies for selection and utilization of third party maintenance contractors included in the budgets with respect to the Project; in approving such schedules, consideration shall be given to each Purchaser's system conditions that may prevail during such planned maintenance outages.

6.2.9 Review, modify and approve procedures formulated by the Operating Agent for starting up and shutting down each Gas Unit of the Generation Station.

6.2.10 Review, modify and approve practices and procedures formulated by the Operating Agent for the management of fuel for the Project, including (i) programs and policies for the procurement of Project Fuel, the hedging of Project Fuel costs and determining values, quantities, expenses and costs of Project Fuel; (ii) procedures for billing

Project Fuel acquisition costs and for billing Project Fuel transmission or transportation costs, which may modify, implement or supplement the costs of such Project Fuel acquisition as provided for under Section 4.67.1.5.5, and costs of transmission or transportation of Project Fuel as provided for under Section 4.67.1.5.6, provided however, to the extent that any such procedure modifies the payment responsibility of any of the Purchasers for costs of Project Fuel acquisition or the costs of Project Fuel transmission or transportation, as then determined pursuant to the Renewal Power Sales Contracts, such procedure shall require affirmation by Renewal Contract Coordinating Committee representatives of Purchasers having Voting Rights totaling one hundred percent (100%); (iii) procedures providing the conditions for and the arrangements under which a Purchaser is permitted to procure its own fuel for use in the Generation Station to generate its Generation Entitlement Share consistent with the applicable provisions of the Renewal Power Sales Contract; (iv) practices and procedures with respect to the amount of Project Fuel for active storage and the rate of Project Fuel consumption for General Service Requirements and the costs of startup; (v) practices and procedures for the emergency purchases of Project Fuel in recognition of the needs of each Purchaser; and (vi) such other practices and procedures as may be necessary or appropriate for the management of fuel for the Project.

6.2.11 Review, modify and approve all budgets and revisions thereof prepared and submitted by the Project Manager or Operating Agent pursuant to the Construction Management and Operating Agreement.

6.2.12 Review, modify and approve the practices and procedures formulated by the Project Manager or Operating Agent under the Construction Management and Operating Agreement and review and approve all Project interconnection agreements or arrangements and all amendments and supplements to the Construction Management and Operating Agreement.

6.2.13 Review, modify and approve other recommendations of the Project Manager or Operating Agent made pursuant to the provisions of the Construction Management and Operating Agreement.

6.2.14 Review, modify and approve all administrative and general costs to be included in the Annual Budget related to the conduct of the business of IPA with respect to the Project, and all payments and contributions by IPA to the counties, municipalities and school districts affected by the Project other than such payments and contributions as are mandated, and the amount of which is specified (whether by formula, assessment criteria or otherwise) by Utah law.

6.2.15 Review, modify and approve all Capital Improvements (other than Essential Capital Improvements) and the budgets or other provisions for the payment or financing thereof.

6.2.16 Approve all consultants or advisors with respect to Project matters that may be retained by IPA, including, but not limited to, financial advisors and bond counsel (but excluding any Qualified Independent Engineer retained by IPA as provided in Section 6.2.22 and the general legal counsel of IPA); provided, however, that the failure of the

Renewal Contract Coordinating Committee to act within forty five (45) days after written notice by IPA of an intent to retain any such consultant or advisor shall constitute a waiver of the right of approval.

6.2.17 Review, modify and approve, consistent with the terms of Section 33, IPA's insurance program, including, without limitation, a self-insurance program.

6.2.18 Formulate practices and procedures for the use of the unutilized operating capabilities of the transmission facilities of the Project among the Purchasers entitled to schedule, without regard to source or origin, the use of such operating capabilities.

6.2.19 Make recommendations with respect to and review and approve the revisions by IPA of the Description of the Project attached hereto as Appendix C, (i) as such Description of the Project shall be revised by IPA at the commencement of the Operational Period to conform such Description of the Project to the Project as it shall then exist, and (ii) as such Description of the Project shall be thereafter modified by IPA to conform such Description of the Project to the actual Project as it evolves and changes during the Operational Period; provided that all such revisions of the Description of the Project shall be in accordance with Prudent Utility Practice, and IPA shall cause Appendix C attached hereto to be revised, with such approval of the Renewal Contract Coordinating Committee, as necessary so that the Description of the Project set forth in Appendix C shall conform to the actual Project.

6.2.20 In connection with the budgeting process set forth in Section 5.4, establish minimum balances for the various IPA reserve funds and accounts and the amounts of the contributions to be made to each such fund or account from billings to Purchasers during each Power Supply Year; provided, however, that in the case of reserve funds and accounts required under any Bond Resolution, the amounts of such reserve funds and accounts shall comply with any requirements regarding the establishment, minimum balance levels, maintenance, funding and investment of such reserve funds and accounts.

6.2.21 Review, require (as a condition to approval, but not otherwise) modifications with respect to, and approve any Bond Resolution adopted or entered into by IPA after the Transition Date, including any amendments or supplements thereto, and any amendment or supplement adopted or entered into by IPA after the Transition Date with respect to any Bond Resolution that was adopted or entered into by IPA on or prior to the Transition Date; provided, however, such approval shall not be required, and this Section 6.2.21 shall not apply with respect to any supplement to any such Bond Resolution with respect to Designated Project Indebtedness as to which the Renewal Contract Coordinating Committee is entitled to make recommendations pursuant to Section 6.2.22.

6.2.22 With respect to any Project Indebtedness issued or incurred after the Transition Date that constitutes Designated Project Indebtedness, make recommendations to IPA, in a timely manner, with respect to: (a) each supplement to any Bond Resolution or other instrument authorizing the issuance or sale of or providing the security for any such Project Indebtedness and the contract of purchase under which the Debt Instruments evidencing such Project Indebtedness are to be sold, (b) the contract of purchase under which such Debt Instruments are to be sold, (c) the selection of the managing underwriter(s) for such

Debt Instruments and the selection of any Qualified Independent Engineer to provide services in connection with the issuance of such Debt Instruments, (d) the manner and timing of marketing and the amounts of such Debt Instruments and (e) the manner and timing of marketing and amounts of notes or other evidences of indebtedness issued in anticipation of the issuance of such Debt Instruments. The recommendations, if any, made pursuant to this Section 6.2.22 shall not be legally binding on IPA and, if the Renewal Contract Coordinating Committee fails to make any such recommendations, action by IPA with respect to such matters shall not be precluded.

6.2.23 With respect to any Project Indebtedness issued or incurred after the Transition Date that does not constitute Designated Project Indebtedness: (a) approve each supplement to any Bond Resolution or other instrument authorizing the issuance of or providing the security for any such Project Indebtedness pursuant to Section 6.2.21, (b) approve the terms and provisions of the contract of purchase under which the Debt Instruments relating to such Project Indebtedness are to be sold, and (c) make recommendations to IPA, in a timely manner, with respect to the selection of the managing underwriter(s), if any, for each series of publicly-issued Debt Instruments relating to such Project Indebtedness and the manner and timing of marketing and amounts of each series of Debt Instruments relating to such Project Indebtedness. The recommendations, if any, made pursuant to the immediately preceding clause (c) shall not be legally binding on IPA and, if the Renewal Contract Coordinating Committee fails to make any such recommendations, action by IPA with respect to such matters shall not be precluded.

6.2.24 Perform such other functions and duties as may be provided for under this Contract or as may be necessary or appropriate to carry out its duties and powers as provided for under this Contract.

6.3 **Required Approvals Prior to Transition Date:** Prior to the Transition Date, IPA shall obtain the approval, which shall not be unreasonably withheld, conditioned or delayed, of the Renewal Contract Coordinating Committee with respect to each of the following:

6.3.1 The incurrence of any Project Indebtedness to the extent such Project Indebtedness expressly requires the approval of the Renewal Contract Coordinating Committee pursuant to Section 15.1.

6.3.2 The adoption or entering into by IPA of any Bond Resolution or amendment or supplement thereto, to the extent, and only to the extent, it authorizes the issuance or sale of or provides for the security for any Transition Project Indebtedness, provided, no such approval shall be required with respect to any such Bond Resolution, amendment or supplement to the extent it relates to Transition Project Indebtedness for the Gas Repowering or for an Essential Capital Improvement so long as the requirements of the proviso in Section 15.1.2 are satisfied; provided further that, notwithstanding any other provision of this Contract, in no event shall any Renewal Contract Project Indebtedness be issued, nor shall the issuance thereof be approved by the Renewal Contract Coordinating Committee, prior to November 1, 2019.

6.3.3 Any reduction in the design capacity of a Gas Unit or Gas Units of the Gas Repowering pursuant to Section 44.1 of the Original Power Sales Contract as added by the Second Amendatory Power Sales Contract.

6.3.4 Any other matter arising after the Entitlement Determination Date and prior to the Transition Date as to which Renewal Contract Coordinating Committee approval is required pursuant to any other provision of this Contract and the other Renewal Power Sales Contracts.

6.4 **Consultation Matters:** Prior to the Transition Date, IPA shall consult with, inform or provide, as indicated below, the Renewal Contract Coordinating Committee with regard to the following matters, but shall have no obligation to obtain any approval of or recommendations from the Renewal Contract Coordinating Committee with respect to any such matter:

6.4.1 Consult and inform the Renewal Contract Coordinating Committee with regard to Transition Project Indebtedness to finance the Gas Repowering or Essential Capital Improvements and meeting the requirements of the proviso in Section 15.1.2.

6.4.2 Provide to the Renewal Contract Coordinating Committee IPA's annual financial statements and periodic operating reports to the extent such items are provided in the ordinary course of business to the Original Coordinating Committee.

6.5 **Audits:** The following shall apply with respect to each Power Supply Year beginning on or after the Transition Date:

6.5.1 The Renewal Contract Coordinating Committee shall arrange for annual audits by independent auditors of the books and cost records of IPA, the Project Manager and the Operating Agent, and, to the extent the Renewal Contract Coordinating Committee determines necessary or appropriate, any consultant or cost reimbursable contractor retained by IPA, the Project Manager or the Operating Agent in connection with the operation of the Project or any construction then ongoing and relating thereto; provided, however, that the Renewal Contract Coordinating Committee shall not be required to duplicate any of the audits conducted by IPA under Section 5.6 or conducted at the request of any representative or representatives on the Renewal Contract Coordinating Committee pursuant to Section 6.5.2.

6.5.2 At the request of any representative or representatives on the Renewal Contract Coordinating Committee, IPA, under the direction of the Renewal Contract Coordinating Committee, shall arrange for audits by independent auditors in addition to those required under Section 6.5.1 of the books and cost records of IPA, the Project Manager, the Operating Agent, and any consultant or cost reimbursable contractor retained by IPA, the Project Manager or the Operating Agent in connection with the operation of the Project or any construction then ongoing and relating thereto. If representatives of Purchasers having Voting Rights in excess of fifty percent (50%) request any such audit, the costs of such audit shall constitute Monthly Power Costs and shall be paid by all of the Purchasers in accordance with the terms and conditions of the Renewal Power Sales Contracts. If a representative or representatives of Purchasers with Voting Rights that do not exceed fifty percent (50%) request

any such audit, such Purchasers shall pay the full cost of such audit, including, without limitation, the costs of the entity or entities that are the subject of such audit in responding thereto, and it shall be a condition precedent to the Renewal Contract Coordinating Committee's obligation to arrange for such audit, that Purchaser or the Purchasers represented by the representative or representatives requesting the same provide assurances, reasonably satisfactory to the Renewal Contract Coordinating Committee, for the payment of such costs.

6.5.3 IPA shall, and shall cause the Project Manager and the Operating Agent to, cooperate with any audit provided for in this Section 6.5. In addition, IPA shall, to the extent reasonable and consistent with customary business practices, use its reasonable best efforts to cause its consultants and contractors to cooperate with each such audit.

6.5.4 The Renewal Contract Coordinating Committee shall promptly furnish Purchaser and each of the other Purchasers with copies of all such audits.

6.6 **Committees:** The Renewal Contract Coordinating Committee shall establish an Engineering and Operating Committee, a Fuel Management Committee, and a Risk Management Committee and shall assign to each such Committee such responsibilities as the Renewal Contract Coordinating Committee deems appropriate. The Renewal Contract Coordinating Committee may establish other committees including, but not limited to, auditing, legal, financial, insurance, environmental and public information committees or sub-committees. Each committee or sub-committee established by the Renewal Contract Coordinating Committee shall be responsible and report to the Renewal Contract Coordinating Committee.

6.7 **Minutes:** All actions, resolutions, determinations and reports made by the Renewal Contract Coordinating Committee, as required by this Contract shall be set forth in its minutes, except when made by a telephone call or videophone pursuant to Section 6.1, whereupon a written record thereof will be made as soon as possible.

6.8 **Costs of Consultants:** Costs of consultants and others employed or appointed by the Renewal Contract Coordinating Committee to perform the duties hereunder shall be included in the Monthly Power Costs and shall be billed to IPA, the Project Manager or the Operating Agent, as appropriate.

6.9 **Expenses of Representatives:** Except as provided in Section 4.67.1.5, any expenses incurred by any representative of any Purchaser or group of Purchasers serving on the Renewal Contract Coordinating Committee or any committee or sub-committee in connection with his or her duties in connection therewith shall be paid by Purchaser or the Purchasers that he or she represents and shall not be included in Monthly Power Costs.

6.10 **Disputed Matters:** The parties hereto recognize that if the Renewal Contract Coordinating Committee is unable or fails to agree with respect to any matter or dispute that it is authorized to determine, resolve, approve or otherwise act upon after a reasonable opportunity to do so, or within the time limits specified in the Construction Management and Operating Agreement, then the Project Manager or the Operating Agent, as appropriate, is authorized to take such action, in a manner consistent with Prudent Utility

Practice, as in its discretion is necessary for its timely performance under the Construction Management and Operating Agreement pending the resolution of any such inability or failure to agree; provided, however, that nothing herein shall be construed to allow the Project Manager or the Operating Agent to act in violation of the express terms of the Construction Management and Operating Agreement or this Contract.

6.11 **Compliance with Bond Resolution:** The planning, financing, construction, acquisition, operation and maintenance of the Project must comply in all respects with the requirements of any Bond Resolution in effect from time to time and all licenses, permits and regulatory provisions necessary for such planning, financing, construction, acquisition, operation and maintenance. Therefore, the parties hereto agree that, notwithstanding Section 6.10 or any other provision of this Contract, no action by the Renewal Contract Coordinating Committee, the Project Manager or the Operating Agent shall require IPA to act in any manner inconsistent with any such requirements or to refrain from acting as thereby required, and if the Renewal Contract Coordinating Committee, the Project Manager or the Operating Agent shall fail to make recommendations or to act with respect to any matter in connection with which action is required to be taken pursuant to any of the foregoing, IPA shall take such action as is appropriate to assure compliance therewith.

7. **CHARGES AND BILLINGS**:

7.1 **Account Allocations:** For the purpose of determining the payments to be made by Purchaser pursuant to Section 7.2 and by each of the other Purchasers, the total amount of the Monthly Power Costs shall be allocated by IPA among four (4) accounts, as follows:

7.1.1 Minimum cost component associated with the Generation Station.

7.1.2 Minimum cost component associated with the Northern Transmission System.

7.1.3 Minimum cost component associated with the Southern Transmission System.

7.1.4 Variable cost component as defined in Section 4.67.2.

7.2 **Payments to IPA**: From and after the Transition Date, the amount to be paid by Purchaser to IPA for any Month shall be the sum of the following, less, if Purchaser is a Utah Municipal Purchaser, any credit to which Purchaser is entitled under Section 7.6:

7.2.1 Purchaser's Generation Cost Share multiplied by the minimum cost component of Monthly Power Costs for such Month associated with the Generation Station; provided that, in the event any one or more Purchasers shall have elected to procure its or their own fuel under Section 9.11 for a Month or Months, (i) the amount of the minimum cost component of Monthly Power Costs as set forth in Sections 4.67.1.5.1, 4.67.1.5.5 and 4.67.1.5.6 for such Month or Months shall be payable on a pro rata basis by Purchaser (if it shall not have elected to procure its own fuel) and each of the other Purchasers that has not elected to procure

its own fuel, with Purchaser paying the share thereof that is in the same proportion as its Generation Cost Share bears to the Generation Cost Shares of all such Purchasers that have not elected to procure their own fuel, and (ii) the amount of the minimum cost component of Monthly Power Costs, as set forth in Sections 4.67.1.5.2, 4.67.1.5.3 and 4.67.1.5.4 for such Month or Months shall remain payable by Purchaser and each of the other Purchasers (including each Purchaser that has elected to procure its own fuel) by multiplying a Purchaser's Generation Cost Share by the amount of such minimum cost component.

7.2.2 Purchaser's Northern Transmission Cost Share multiplied by the minimum cost component of Monthly Power Costs for such Month associated with the Northern Transmission System.

7.2.3 Purchaser's Southern Transmission Cost Share multiplied by the minimum cost component of Monthly Power Costs for such Month associated with the Southern Transmission System.

7.2.4 If and to the extent that Purchaser's Generation Entitlement Share shall have been generated by use of Project Fuel, the variable cost component of Monthly Power Costs for such Month, as determined under Section 4.67.2, multiplied by a fraction, the numerator of which is the kilowatt hours generated by use of Project Fuel as provided in Section 4.67.2 and delivered from the Generation Station to Purchaser during such Month, and the denominator of which is the kilowatt hours generated by use of Project Fuel as provided in Section 4.67.2 and delivered from the Generation Station to all Purchasers during such Month, unless the Renewal Contract Coordinating Committee shall have determined otherwise pursuant to Section 6.2.10, in which case, the variable cost component of Monthly Power Costs for such Month shall be as so determined by the Renewal Contract Coordinating Committee. For avoidance of doubt, in the event that Purchaser shall have elected in accordance with the Fuel Management Practices and Procedures to procure its own fuel for such Month, such variable cost component of Monthly Power Costs shall not apply to Purchaser or the cost of the fuel procured by Purchaser and used in the Generation Station for the generation of Purchaser's Generation Entitlement Share during such Month as provided under Section 9.11.

7.3 **Monthly Billings:** For billing purposes, the amount of the minimum cost component of Monthly Power Costs to be paid by Purchaser each Month pursuant to Sections 7.2.1 through 7.2.3, shall be billed in advance and shall be based on the then current Annual Budget. The amount of the variable cost component of Monthly Power Costs to be paid by Purchaser each Month pursuant to Section 7.2.4 shall be billed the Month following the Month the Project Fuel associated with such variable cost component was used.

7.4 **Billing Statements:**

7.4.1 By the fifth (5th) day of each Month during each Power Supply Year, IPA shall bill Purchaser for the amount of (a) the minimum cost component of Monthly Power Costs for the current Month, and (b) the variable cost component of Monthly Power Costs to be paid by Purchaser for the preceding Month, by providing Purchaser with a Billing Statement providing for the charges established pursuant to the provisions of this Contract. Such Billing Statements shall detail the matters covered in Section 4.67, shall set forth, among other

things, the amounts due for such Months from Purchaser with respect to the items of Monthly Power Costs and shall set forth, as a deduction from such amounts due, any credit to which Purchaser may be entitled under Section 7.6 if Purchaser is a Utah Municipal Purchaser. Purchaser shall pay IPA the amounts billed to it pursuant to each such Billing Statement on or before the twentieth (20th) day after receipt of such Billing Statement.

7.4.2 Notwithstanding anything in Section 7.3 or Section 7.4.1 to the contrary, the first Billing Statement for the first Power Supply Year shall be issued by IPA to Purchaser by the twentieth (20th) day prior to the Transition Date and Purchaser shall pay the amounts billed to it pursuant to such Billing Statement on or before the Transition Date. Such Billing Statement shall cover the minimum cost component of Monthly Power Costs for the first Month of the first Power Supply Year (or for the entire first Power Supply Year if it is less than one Month in length) and shall also cover all amounts required to be paid by Purchaser pursuant to Section 5.13.2.

7.4.3 While Retirement Actions are being conducted for any Project Component, IPA may, in its discretion, issue Billing Statements to Purchaser at any time and from time to time (but not more frequently than once each Month) for Purchaser's payment obligations under Section 23.9.3. Purchaser shall pay IPA the amounts billed to it pursuant to each such Billing Statement on or before the twentieth (20th) day after receipt of such Billing Statement.

7.4.4 IPA shall apply the amounts paid pursuant to the Billing Statements or cause the same to be applied to Monthly Power Costs as provided for in the then current Annual Budget.

7.5 **Interest on Late Payments:** If Purchaser fails to pay any Billing Statement when due, Purchaser shall pay to IPA interest on such late payment at a per annum rate equal to the Default Interest Rate on the unpaid amount thereof until paid.

7.6 **Credits to Utah Municipal Purchasers:** If Purchaser is a Utah Municipal Purchaser, it shall be entitled to a credit to reflect the Tax Equivalent Payment Differential, if any, attributable to Purchaser under Utah law. Such credit shall be applied, in calculating the amounts owed by Purchaser under Section 7.2, by providing Purchaser, each Month, one-twelfth (1/12th) of the estimated credit to which Purchaser will be entitled for the Power Supply Year, as set forth in the Annual Budget. Such credit shall be subject to adjustment pursuant to Section 5.7 and to reflect increases or decreases in the Tax Equivalent Payment Differential attributable to Purchaser under Utah law that may result from the outcome of any appeals or challenges against or negotiated settlements with the applicable taxing jurisdictions and bodies.

7.7 **Commencement of Payment Obligations:** Notwithstanding anything in this Section 7 to the contrary, the obligation of Purchaser to make payments pursuant to this Section 7, including, without limitation, payments with respect to Renewal Contract Project Indebtedness (without regard to when such Renewal Contract Project Indebtedness was incurred), payments into the Retirement Reserve Fund and to pay Retirement Costs and any other payments expressly required to be made by Purchaser under this Contract, shall apply

only with respect to Monthly Power Costs incurred or attributable to any period on or after the Transition Date.

8. **PAYMENT OBLIGATIONS:** Purchaser shall pay IPA the amounts of Monthly Power Costs set forth in the Billing Statements submitted by IPA in accordance with the provisions of Section 7, whether or not the Project or any part thereof is operating or operable and whether or not its output is suspended, interrupted, interfered with, reduced, curtailed or terminated, in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or non-performance by any party of any agreement for any cause whatever.

9. **GENERATION STATION CAPACITY AND ENERGY ENTITLEMENTS**:

9.1 **Scheduling of Energy:** At all times during the Operational Period of the Generation Station, Purchaser shall be entitled to schedule for its account energy (other than test energy) from the Generation Station up to an amount equal to the product of its Generation Entitlement Share multiplied by the Available Generating Capability of the Generation Station.

9.2 **Abnormal Operating Conditions:** At all times during the Operational Period of the Generation Station, upon the occurrence of abnormal operating conditions on Purchaser's system, and upon the written request of Purchaser, the Operating Agent shall increase or decrease Purchaser's schedule of energy allocation consistent with Prudent Utility Practice. Such increase or decrease shall not cause Purchaser's schedule of energy to exceed the amounts of capacity and energy provided for Purchaser in Sections 9.1, 9.3 or 9.4 and shall not be detrimental to any other Purchaser.

9.3 **Start-Up Power-Purchaser Requested:** When Purchaser requests delivery of capacity and energy, and such delivery requires the start-up of a Gas Unit, Purchaser shall, unless otherwise agreed in writing by IPA, schedule for its account an amount of capacity and energy at least equal to its Generation Entitlement Share multiplied by the Minimum Generating Capability established for such Gas Unit. At any time when Purchaser has so scheduled from such Gas Unit an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such Gas Unit, each of the non-requesting Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product of the remaining unscheduled Minimum Generating Capability and the ratio that its Generation Entitlement Share bears to the sum of the Generation Entitlement Shares of the non-requesting Purchasers.

9.4 **Start-Up Power-Another Purchaser's Request:** When another Purchaser requests delivery of capacity and energy, and such delivery requires the start-up of a Gas Unit, Purchaser shall, unless otherwise agreed to in writing by IPA, schedule for its account an amount of capacity and energy at least equal to its Generation Entitlement Share multiplied by the Minimum Generating Capability established for such Gas Unit. At any time when a Purchaser has so scheduled from such Gas Unit an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such Gas Unit, Purchaser shall only be obligated to schedule for its account an amount of capacity and energy equal to the product of the remaining unscheduled Minimum Generating Capability

and the ratio that its Generation Entitlement Share bears to the sum of its Generation Entitlement Share and the Generation Entitlement Shares of the other non-requesting Purchasers.

9.5 **Outages, Curtailments and Emergencies:** Operation of any Gas Unit by the Operating Agent shall be subject to scheduled outages or curtailments, operating emergencies and unscheduled outages or curtailments of such Gas Unit.

9.6 **Scheduling of Energy:** The capacity and energy of the Generation Station shall be scheduled or controlled by the Purchasers under practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.

9.7 **No Diminishment of Rights:** The capacity and energy of the Generation Station shall be controlled in a manner that shall not diminish the rights of Purchaser to receive its entitlement of capacity and energy.

9.8 **Capacity for Start-Up:** Purchaser shall be obligated, in proportion to its Generation Entitlement Share, to provide for capacity and energy requirements for starting up and shutting down each Gas Unit in compliance with the procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.9.

9.9 **Points of Delivery:** The Point of Delivery of Purchaser's capacity and energy is set forth in Appendix B attached hereto. IPA shall provide for and Purchaser shall take delivery of its capacity and energy at its Point of Delivery. Purchaser is responsible for arranging for transmission of its capacity and energy from such Point of Delivery to its system. A Purchaser may not designate a Point of Delivery under this Contract that is different from its Point of Delivery in the Original Power Sales Contracts.

9.10 **Disposal of Energy:** Nothing herein shall prevent Purchaser from disposing of its energy under this Contract; provided, however, that such disposal shall not affect any of the obligations of Purchaser under this Contract.

9.11 **Procurement of Fuel by Purchaser:** Purchaser may elect to procure its own fuel in accordance with the provisions of the Fuel Management Practices and Procedures for use in the Generation Station for the generation of its Generation Entitlement Share, except that Project Fuel shall be utilized for purposes of providing for the fuel storage for the Project for use by Purchaser and the other Purchasers.

10. **TRANSMISSION SYSTEM ENTITLEMENTS**:

10.1 **Southern Transmission System Entitlement:** During the Operational Period of the Southern Transmission System, each Purchaser with a Point of Delivery on the Southern Transmission System shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Southern Transmission System. Such entitlement shall constitute a right to capacity in the Southern Transmission System and shall be determined by dividing (i) such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at its Point of Delivery

on the Southern Transmission System, by (ii) the aggregate Generation Entitlement Shares of all Purchasers specified in Appendix B to be delivered at a Point of Delivery on the Southern Transmission System.

10.2 **Northern Transmission System Entitlement:** During the Operational Period of the Northern Transmission System, each Purchaser with a Point of Delivery on the Northern Transmission System shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.7 the use and operating capabilities of the Northern Transmission System. Such entitlement shall constitute a right to capacity in the Northern Transmission System and shall be determined by dividing (i) such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at its Point of Delivery on the Northern Transmission System by (ii) the sum of the aggregate Generation Entitlement Shares of all Purchasers specified in Appendix B to be delivered at Points of Delivery on the Northern Transmission System. For the avoidance of doubt, a Purchaser with a Point of Delivery on the Northern Transmission System shall be entitled to schedule, from time to time, on the segment of the Northern Transmission System that connects the Generation Station to such Purchaser's Point of Delivery, that amount of capacity at least equal to the amount of such Purchaser's Generation Entitlement Share.

10.3 **Curtailment of Energy Flows:** If it is necessary to curtail scheduled energy flows over all or any part of either the Southern Transmission System or the Northern Transmission System, each affected Purchaser shall be allocated a portion of the transmission capabilities remaining in service in the ratio that such Purchaser's Generation Entitlement Share scheduled over such affected transmission system (or part thereof) bears to the Generation Entitlement Shares scheduled over such affected transmission system (or part thereof) of all affected Purchasers.

10.4 **Excess Energy Requirements:** Any Purchaser desiring to schedule capacity and energy in excess of its rights pursuant to Sections 10.1 or 10.2 may make appropriate arrangements with another Purchaser having rights to unused transmission capacity. Each Purchaser so involved shall notify the Operating Agent of such arrangements and provide for proper schedules to accommodate such arrangements.

10.5 **Right to Schedule:** Notwithstanding the provisions of Sections 10.1, 10.2 and 10.4, each Purchaser's right to schedule the use of the operating capabilities of the Northern Transmission System or the Southern Transmission System and to schedule capacity and energy in excess of its rights pursuant to this Section 10 shall be limited to the extent that no Purchaser may act in such a manner as shall adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Debt Instruments that have been or may in the future be issued by IPA.

11. **SWITCHYARD USAGE**:

11.1 **Right to Switchyard**: During the Operational Period of any Project Component, each Purchaser with a Point of Delivery on the Northern Transmission System, each Purchaser with a Point of Delivery on the Southern Transmission System and any

Purchaser having designated the Project bus as its Point of Delivery shall have the right to use the Switchyard, if it is also operational, for its Generation Entitlement Share of the Available Generating Capability.

11.2 **Right to Switchyard for Energy Flows**: Each of the Purchasers and IPA, and their respective successors and assigns, shall have the right to use the Switchyard for any energy flows on any transmission lines that it has the right to use that are connected to the Switchyard, unless such use interferes with any entitlement of any Purchaser pursuant to Section 11.1; provided, however, that such use may not adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on Debt Instruments that have been or may in the future be issued by IPA.

12. **METERING:** Pursuant to this Contract and the Construction Management and Operating Agreement, IPA will provide for the installation of meters and will provide or cause to be provided all necessary metering equipment for determining the quantity of energy delivered by IPA; provided, however, that any Purchaser may make arrangements with the Operating Agent and at its own cost check the existing metering equipment or, with the prior written approval of the Renewal Contract Coordinating Committee, install additional metering equipment, provided that any such Purchaser-installed metering equipment does not have any adverse impact on the Project.

13. **PLEDGE OF PAYMENTS:** All payments required to be made by Purchaser in accordance with or pursuant to any provision of this Contract may be pledged by IPA to secure the payment of Renewal Contract Project Indebtedness, subject to the application thereof to such purposes and on such terms as provided in any Bond Resolution securing such Renewal Contract Project Indebtedness and as required by the Act; provided, however, that payments made by Purchaser (or any other Purchasers) for deposit into the Retirement Reserve Fund may not be so pledged after such monies have been deposited into the Retirement Reserve Fund.

14. **CAPITAL IMPROVEMENTS**:

14.1 **Capital Improvement Costs:** IPA agrees that on and after the Transition Date, Capital Improvements approved by the Renewal Contract Coordinating Committee shall be undertaken, acquired and constructed in accordance with the Construction Management and Operating Agreement. Costs for such Capital Improvements that are Ordinary Capital Improvements shall be approved by the Renewal Contract Coordinating Committee and shall be set forth in the Operating Budget and included in the Annual Budget payable as Monthly Power Costs, except to the extent payable from the proceeds of any Renewal Contract Project Indebtedness. Costs for such Capital Improvements that are Major Capital Improvements shall be approved by the Renewal Contract Coordinating Committee and shall be included in a budget for each such Major Capital Improvement payable from the proceeds of Renewal Contract Project Indebtedness, except to the extent included in the Operating Budget payable as Monthly Power Costs.

14.2 **Performance by Operating Agent and Project Manager:** Each Ordinary Capital Improvement shall be undertaken, acquired and constructed by the Operating Agent and each Major Capital Improvement shall be undertaken, acquired and constructed by

the Project Manager, all in accordance with the Construction Management and Operating Agreement.

14.3 **Recommendations and Cash Requirements:** On and after the Transition Date the recommendations made by the Project Manager under the Construction Management and Operating Agreement with respect to each Major Capital Improvement and the recommendations made by the Operating Agent under the Construction Management and Operating Agreement with respect to each Ordinary Capital Improvement shall be submitted to IPA for its information simultaneously with the submission of such respective recommendations to the Renewal Contract Coordinating Committee for its review, modification and approval. In addition, in accordance with the Construction Management and Operating Agreement, the Operating Agent shall submit to the Renewal Contract Coordinating Committee for its review, modification and approval and simultaneously to IPA for its information, forecasts of cash requirements for each Ordinary Capital Improvement, and the Project Manager shall submit to the Renewal Contract Coordinating Committee for its review, medication and approval and simultaneously to IPA for its information, forecasts of cash requirements for each Major Capital Improvement.

14.4 **Certification upon Completion:** On and after the Transition Date, as soon as practicable after the completion of an Ordinary Capital Improvement or a Major Capital Improvement, IPA shall cause the Operating Agent or Project Manager, as applicable, to submit a certification to the Renewal Contract Coordinating Committee stating (a) that such Capital Improvement has been completed in accordance with the plans and specifications applicable thereto and in accordance with this Contract and the Construction Management and Operating Agreement, (b) the date of such completion and (c) the amount, if any, required for the payment of any remaining part of the cost of such Capital Improvement.

14.5 **Project Component:** Each Capital Improvement shall constitute a part of the Project Component to which it relates as shall be provided by the Renewal Contract Coordinating Committee in connection with its approval of such Capital Improvement.

14.6 **Alternative Repowering**: As of the date of the approval of an Alternative Repowering, if any, by IPA, the Coordinating Committee and, in accordance with Section 6.1.10.2 of this Contract, the Renewal Contract Coordinating Committee, (a) as used in this Contract, the term "Gas Repowering" shall mean such Alternative Repowering, (b) such Alternative Repowering shall constitute the source for electric generation for the Project, (c) such Alternative Repowering shall replace any prior plan for repowering the Project, (d) such Alternative Repowering shall constitute a Capital Improvement determined to be necessary or desirable by the Original Coordinating Committee and the Renewal Contract Coordinating Committee and (e) without the need for consent of Purchaser (other than the affirmation, if any, of Purchaser's representative that may be necessary for the Original Coordinating Committee or the Renewal Contract Coordinating Committee to take action to approve the revising of this Contract as described in the remainder of this Section 14.6), this Contract shall be revised to the extent determined by IPA, the Coordinating Committee and the Renewal Contract Coordinating Committee (simultaneous with or prior to the approval of such Alternative Repowering) to be necessary to describe such Alternative Repowering as the source or sources of electric generation for the Project.

15. **PROJECT INDEBTEDNESS**:

15.1 **Project Indebtedness Issued Prior to Transition Date:** The following provisions shall apply with respect to the incurrence by IPA of Project Indebtedness prior to the Transition Date:

15.1.1 IPA shall not be required to obtain any approval or consent of the Renewal Contract Coordinating Committee or the Purchasers to incur any Project Indebtedness that is not Transition Project Indebtedness.

15.1.2 If, prior to the Transition Date, IPA issues or incurs any Transition Project Indebtedness, IPA shall obtain the prior approval of the Renewal Contract Coordinating Committee for the incurrence of such Transition Project Indebtedness; provided, however, that no such prior approval shall be required if either (A) (i) such Transition Project Indebtedness is being issued or incurred to finance the Gas Repowering, including any modification thereof or addition thereto, or an Essential Capital Improvement; (ii) such Transition Project Indebtedness shall have Substantially Equal Debt Service for each Fiscal Year such Transition Project Indebtedness is scheduled to be outstanding (using in the case of any such Transition Project Indebtedness sold by competitive bidding an average interest rate therefor as estimated by IPA), provided that there shall not be taken into account any Fiscal Year in which all or any portion of the interest on such Transition Project Indebtedness is to be paid through capitalized interest funded with proceeds of such Transition Project Indebtedness or any Fiscal Year during which such Transition Project Indebtedness is scheduled to be outstanding for only part of such Fiscal Year; and (iii) IPA and the Original Coordinating Committee determine, in each case, in their sole but reasonable discretion and in reliance upon advice provided by a Qualified Independent Engineer with expertise in the relevant subject matters, that the period during which such Transition Project Indebtedness is scheduled to be outstanding will end not later than the earliest of (a) the end of the estimated useful life of the Gas Repowering or Essential Capital Improvement, as applicable, as to which the associated Capital Improvement Acquisition and Construction Costs relate, (b) in the case of an Essential Capital Improvement the end of the useful life of the Project Component as to which such Essential Capital Improvement is to become a part, as then estimated and used for the purposes of Section 22, or (c) forty (40) years; or (B) such Transition Project Indebtedness shall be issued or incurred to refund or refinance any outstanding Transition Project Indebtedness where (i) upon the issuance of such refunding Transition Project Indebtedness, the Transition Project Indebtedness being refunded or refinanced shall be defeased and no longer outstanding in accordance with the terms of the Bond Resolution under which such Transition Project Indebtedness was issued or incurred and (ii) and the Aggregate Debt Service for the then current and each future Fiscal Year with respect to all Transition Project Indebtedness outstanding immediately after the date of issuance or incurrence of such refunding Transition Project Indebtedness is not greater than the Aggregate Debt Service for each Fiscal Year with respect to all Transition Project Indebtedness (including such refunding Transition Project Indebtedness) outstanding immediately prior to the issuance or incurrence of such refunding Transition Project Indebtedness.

15.1.3 Except as otherwise provided in Section 15.1.2, IPA shall obtain the prior approval of the Renewal Contract Coordinating Committee before incurring any

Transition Project Indebtedness, including, without limitation, Renewal Contract Project Indebtedness incurred to refund or refinance outstanding Project Indebtedness.

15.2 **Renewal Contract Project Indebtedness Issued After Transition Date:** The following provisions shall apply with respect to the incurrence by IPA of Renewal Contract Project Indebtedness on or after the Transition Date:

15.2.1 Renewal Contract Project Indebtedness may be incurred by IPA in accordance with this Contract and the provisions of any Bond Resolution at any time and from time to time after the Transition Date to provide funds to finance Capital Improvements, and, at the request of the Renewal Contract Coordinating Committee, IPA shall use its reasonable commercial efforts to provide funding for such Capital Improvements by issuing Renewal Contract Project Indebtedness.

15.2.2 If Monthly Power Costs may be reduced by the refunding or refinancing of any outstanding Renewal Contract Project Indebtedness, or if it shall otherwise be advantageous, in the opinion of IPA, to refund or refinance any outstanding Renewal Contract Project Indebtedness, IPA may issue and sell Debt Instruments to refund or refinance such Renewal Contract Project Indebtedness.

15.2.3 IPA may issue Debt Instruments ("Retirement Cost Debt Instruments") in accordance with this Contract to pay for any Retirement Cost Deficiencies with respect to any Project Component, and, at the request of the Renewal Contract Coordinating Committee, IPA shall use its reasonable commercial efforts to provide funding for such Retirement Cost Deficiencies by issuing Retirement Cost Debt Instruments.

15.2.4 IPA shall obtain the approval of the Renewal Contract Coordinating Committee for the authorization and sale of any Renewal Contract Project Indebtedness described in this Section 15.2 and the terms and provisions thereof prior to issuing such Renewal Contract Project Indebtedness if and to the extent required to do so under Section 6.2.21 or 6.2.23.

15.3 **Information and Documentation:** Purchaser agrees to supply IPA, upon request, with such information and documentation, including opinions of counsel for Purchaser, as IPA shall reasonably determine to be necessary to facilitate the issuance of Renewal Contract Project Indebtedness for the purposes described in this Section 15.

15.4 **Certain Financing Covenants of IPA:**

15.4.1 IPA shall not adopt any Transition Bond Resolution or other Bond Resolution, or issue any Debt Instrument that imposes any covenants or obligations on IPA that would prevent or hinder IPA from performing its duties and obligations under this Contract, or that would prevent Purchaser or the other Purchasers from realizing the benefits to be provided to them under their respective Renewal Power Sales Contracts upon the performance by them of their respective duties and obligations thereunder.

15.4.2 The Renewal Contract Project Indebtedness evidenced by Debt Instruments issued by IPA that, by their terms, will be outstanding after the Transition Date, shall be allocated to the Project Component to which it relates so that only the Renewal Contract Project Indebtedness relating to a particular Project Component shall be required to be discharged in order to comply with Section 23.6.3 upon the retirement of such Project Component.

16. **ADJUSTMENTS DUE TO EXCESS PROCEEDS OF PROJECT INDEBTEDNESS**:

16.1 **Excess Proceeds of Renewal Contract Project Indebtedness:** Except as provided in Section 16.2 with respect to Transition Project Indebtedness, if the proceeds derived from the sale of any Debt Instruments evidencing Renewal Contract Project Indebtedness exceed the aggregate required for the purposes for which such Debt Instruments were issued, the amount of such excess shall be used to make up a deficiency, if any, existing in any funds or accounts under the applicable Bond Resolution pursuant to which such Debt Instruments were issued, in the manner therein provided, and any remaining excess shall be used to (a) retire, by purchase or redemption in advance of maturity, the Debt Instruments from which such proceeds were derived; or (b) reduce the payments of Monthly Power Costs by Purchaser and the other Purchasers required pursuant to Section 8. The Renewal Contract Coordinating Committee shall determine whether the excess proceeds will be applied pursuant to clause (a) above, clause (b) above or some combination thereof. Based on such determinations by the Renewal Contract Coordinating Committee, IPA shall determine, in a manner consistent with this Section 16, the specific Debt Instruments to be purchased or redeemed or the elements of Monthly Power Costs that will be reduced and shall take the actions necessary to implement such determinations. Notwithstanding anything in this Section 16 to the contrary, IPA shall not apply any such proceeds in a manner that would adversely affect any tax exempt status of any of its Debt Instruments.

16.2 **Excess Proceeds of Transition Project Indebtedness:** In the case of any issue, tranche or series of Transition Project Indebtedness, if the proceeds derived from the sale of any Transition Debt Instruments evidencing such Transition Project Indebtedness exceed the aggregate required for the purposes for which such Transition Debt Instruments were issued, the amount of such excess shall be used to retire, by purchase or redemption in advance of maturity, Transition Debt Instruments of such Transition Project Indebtedness so that there shall be, as nearly as practicable, a pro rata reduction in Debt Service thereon for each Fiscal Year.

17. **DEFAULT**:

17.1 **IPA's Rights upon Purchaser Default:** If Purchaser shall be unable to perform or shall default in the performance of any of its obligations under this Contract, IPA may (a) if any payment due under this Contract remains unpaid subsequent to the due date thereof, upon one hundred twenty (120) days' prior written notice to Purchaser, discontinue the delivery of capacity and energy and the use of all other Project facilities to Purchaser under this Contract during the period of such default, without reduction of the obligation of Purchaser to make payments under this Contract except to the extent provided in Section 17.4; (b) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any

covenant, agreement or obligation of Purchaser; or (c) take any action permitted by applicable law to enforce its rights under this Contract or recover damages for breach hereof.

17.2 **Purchaser Default under Original Power Sales Contract:** If, as an Original Purchaser, Purchaser (after taking into account any applicable cure period) breaches or defaults in the performance of any of its duties or obligations under its Original Power Sales Contract, such breach or default shall constitute a breach or default by Purchaser under this Contract, and shall entitle IPA to: (a) cancel this Contract; (b) take the actions set forth under Section 17.4 of this Contract with respect to the transfer of Purchaser's rights and entitlements to the Project under this Contract if IPA takes the actions set forth under Section 17.3 of Purchaser's Original Power Sales Contract; (c) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any covenant, agreement or obligation of Purchaser; or (d) take any action permitted by applicable law to enforce its rights under this Contract or recover damages for breach hereof. The rights and remedies of IPA under this Section 17.2 are in addition to any other rights or remedies to which IPA may be entitled under Purchaser's Original Power Sales Contract or otherwise as the result of such breach or default.

17.3 **Limitation of Remedies Against IPA:** IPA shall not be liable for its own non-performance under this Contract resulting from any default by a Purchaser, or for its failure to perform any of its obligations hereunder, as a result thereof, except in the case of Willful Action by IPA, in which case the remedy shall include specific performance and other applicable legal or equitable remedies; provided, however, that any claim for damages shall not include loss of profits or consequential damages; and provided further, however, that no such default or non-performance by IPA shall relieve Purchaser from its obligation to make its payments required under this Contract and such payments shall not be subject to any reduction, whether by offset, counterclaim or otherwise.

17.4 **Transfer of Defaulting Purchaser's Rights:** In the event of a default by Purchaser and the discontinuance, pursuant to Section 17.1(a), of the delivery of capacity and energy and of the use of all other Project facilities, IPA shall transfer on a pro rata basis to all requesting Purchasers that are not in default, the defaulting Purchaser's rights and entitlements under this Contract to the delivery of Project capacity and energy, including without limitation, its rights under Section 9.11, and to the use of all other Project facilities that shall have been discontinued by reason of such default, and such requesting Purchasers shall assume the defaulting Purchaser's obligations under this Contract with respect to such rights and entitlements so transferred, and, to the extent any portion of the defaulting Purchaser's rights and entitlements with respect to the Project are not so transferred, IPA shall, to the extent possible, dispose of such remaining portion on the best terms readily available in accordance with the procedures formulated by the Renewal Contract Coordinating Committee; provided, however, that IPA may not transfer or dispose of such defaulting Purchaser's rights and entitlements in such a manner as shall adversely affect the eligibility for any tax exemption with respect to Federal income taxes of the interest paid, or to be paid, on the Debt Instruments issued or to be issued by IPA unless such a transfer or disposal of such defaulting Purchaser's rights and entitlements is approved by the Renewal Contract Coordinating Committee and provision is made for the remediation pursuant to federal tax laws and regulations of such adverse effect on such tax exemption of interest on the Debt Instruments issued by IPA; and provided further, however, that the obligation of the defaulting Purchaser to pay IPA the costs

incurred by it related to such default and transfer, shall be reduced to the extent that payments are received by IPA for that portion of the defaulting Purchaser's rights and entitlements with respect to the Project that are so transferred or disposed of.

18. **CHARACTER, CONTINUITY OF SERVICE AND INTERCONNECTIONS**:

18.1 **Temporary Interruptions of Capacity:** The Operating Agent may temporarily interrupt or curtail deliveries of capacity and energy to Purchaser and the other Purchasers in proportion to their respective Generation Entitlement Shares if the Operating Agent determines that such interruption or curtailment is necessary in case of emergencies, in order to install new equipment or make repairs to or replacements of existing equipment, conduct investigations and/or inspections, or to perform other maintenance work on the Project facilities; provided, however, that such interruption or curtailment shall not relieve Purchaser or any of the other Purchasers of their obligations to make payments under their respective Renewal Power Sales Contracts. After informing Purchaser and the other Purchasers regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, the Operating Agent will, to the best of its ability, schedule such interruption or curtailment at a time that will cause the least interference with the operations of Purchaser and the other Purchasers.

18.2 **Uncontrollable Forces:** IPA shall not be required to provide, and neither IPA nor the Operating Agent shall be liable for failing to provide, service under this Contract when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of IPA to obtain any required governmental approval to enable it to acquire, construct or operate any Project facilities; provided, however, that neither Purchaser nor any of the other Purchasers shall thereby be relieved of their obligations to make payments under its respective Renewal Power Sales Contract.

18.3 **Electrical Interconnections:** Where there is to be an electrical interconnection of the Project with the electric system of Purchaser, the design and construction with respect to such interconnection and the operating procedures adopted for the Project will not be such so as to jeopardize the electrical operation of the electric system of Purchaser; provided, however, that this provision shall have no application after the interconnection has been established where the jeopardy with respect to the electric system of Purchaser shall be the result of changes made or to be made by Purchaser in its system operation or facilities. The parties hereto shall use their best efforts to cooperate and coordinate their planning and actions so that each such electrical interconnection is operated in accordance with Prudent Utility Practice and the operations of the Project and those of the electric system of Purchaser shall continue to be compatible.

19. **LIABILITY:** Except for failure to pay money pursuant to a provision of a Renewal Power Sales Contract, IPA, Purchaser and each of the other Purchasers shall be solely responsible and liable for performance under their respective Renewal Power Sales Contracts and for the maintenance and operation of their respective properties, and each party thereto shall indemnify and save harmless the other party thereto, the Project Manager and the Operating Agent from all liability and expense on account of any and all damages, claims or actions,

including, but not limited to, injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused, in whole or in part, by the Willful Action of the other party or any indemnified party; provided, however, that any liability that is incurred by IPA through the operation and maintenance of the Project and that is not covered, or not covered sufficiently, by insurance, shall be paid solely from the revenues and reserves of IPA, subject to any prior pledge of or limitation on the use of such revenues or reserves under any Bond Resolution, and any payments made by IPA to satisfy any such liability shall become part of the Annual Budget.

20. **RESTRICTIONS ON DISPOSITION**:

20.1 **Restrictions on Sale:** During the Renewal Contract Term, Purchaser shall not, at any time, sell, lease or otherwise dispose of all or substantially all of its electric system except on ninety (90) days' prior written notice to IPA and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions are met: (a) Purchaser shall assign this Contract and all of its rights and interests hereunder to such purchaser or lessee of said electric system, and such purchaser or lessee shall assume for the full term of this Contract, pursuant to a written assumption agreement in form and substance acceptable to IPA, in its reasonable discretion, all of the obligations of Purchaser under this Contract; (b) the senior debt of such purchaser or lessee is rated in one of the three (3) highest rating categories by at least one nationally-recognized bond rating agency; (c) a Qualified Independent Engineer shall deliver an opinion to IPA, which may be based on assumptions deemed reasonable by such a Qualified Independent Engineer, that such purchaser or lessee is reasonably able to charge and collect rates and charges in the then current year and each future year for the electric service of its electric system as shall be required to meet its obligations under this Contract; and (d) IPA shall by resolution determine (which determination shall not be unreasonably withheld) that such sale, lease or other disposition will not adversely affect the value of this Contract as security for the payment of the Project Indebtedness and the interest thereon and will not adversely affect the eligibility for any exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness or Debt Instruments then outstanding or that IPA may incur or issue thereafter (taking into account any undertakings of such purchaser or lessee of said electric system to bear the economic cost of any remedial action necessary to maintain such eligibility for exemption). Upon a sale, lease or other disposal of all or substantially all of Purchaser's electric system and the satisfaction of all of the conditions set forth in clauses (a), (b), (c) and (d) of this Section 20.1, Purchaser shall be released of its duties, obligations and liabilities under this Contract, provided, however, Purchaser shall remain fully liable to IPA, and such release shall not apply, with respect to any accrued or unpaid obligation of such Purchaser existing at the time of such release or any breach or default on the part of Purchaser under this Contract occurring prior to such sale, lease or other disposition of Purchaser's electric system; and provided further, however, that such release of Purchaser shall not, in any way or to any extent, diminish, limit or extinguish the obligation of the purchaser or lessee of Purchaser's electric system to fully perform all duties and obligations and satisfy all liabilities under this Contract assumed by such purchaser or lessee.

20.2 **Restrictions on Assignments or Sales:** Notwithstanding anything in this Contract to the contrary, Purchaser shall not sell, assign or otherwise dispose of (a

"Transfer") all or any portion of its Generation Entitlement Share, including, without limitation, its rights under Section 9.11, or its capacity rights granted under this Contract in the Northern Transmission System or the Southern Transmission System, as the case may be, unless IPA shall have by resolution determined (which determination shall not be unreasonably withheld) that such Transfer will not adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness or Debt Instruments then outstanding or that IPA may incur or issue thereafter (taking into account any undertakings of the purchaser, assignee or transferee of any such Generation Entitlement Share or capacity rights to bear the economic cost of any remedial action necessary to maintain such eligibility for exemption).

20.3 **No Release:** Except as otherwise provided in Section 20.1, no Transfer by Purchaser in accordance with the provisions of this Section 20 shall release Purchaser from any of its duties, obligations and liabilities under this Contract and Purchaser shall continue to be fully liable under this Contract for the performance of all such duties, obligations and liabilities even though the same are to be performed by any such purchaser, assignee or transferee on its behalf.

20.4 **Transfer by IPA:** Without limiting any other right IPA may have to sell, assign or otherwise dispose of all or any portion of its right, title or interest under this Contract, IPA may assign the payments by Purchaser under this Contract to secure Debt Instruments to which such payments relate.

21. **ASSIGNMENT OF CONTRACT:** This Contract shall inure to the benefit of and be binding upon the respective successors of the parties hereto and the respective purchasers, assignees or transferees of the Purchaser pursuant to Sections 17 or 20.

22. **RETIREMENT RESERVE**:

22.1 **Establishment of Retirement Reserve Fund:** As of the Transition Date, IPA shall establish a Retirement Reserve Fund (the "Retirement Reserve Fund"), to provide for the accumulation of funds to pay Retirement Costs. The Retirement Reserve Fund shall consist of four separate accounts, designated respectively as the Gas Unit 1 Retirement Account, the Gas Unit 2 Retirement Account, the Northern Transmission System Retirement Account and the Southern Transmission System Retirement Account, each of which accounts shall be used for the accumulation of funds to pay Retirement Costs with respect to each of the respective Project Components, as indicated by the name of the account. The Retirement Reserve Fund shall be held and administered by IPA and, except as otherwise provided in Sections 23.5 and 23.9.3 of this Contract and the other Renewal Power Sales Contracts, be used solely to pay Retirement Costs. All earnings from the investment of amounts on deposit in any account of the Retirement Reserve Fund shall be deposited into and become a part of such account.

22.2 **Funding of Retirement Reserve Fund:** Purchaser and each of the other Purchasers agree that by the end of the useful life of each Project Component, the account of the Retirement Reserve Fund designated for such Project Component shall be funded with sufficient funds to pay all Retirement Costs with respect to such Project Component, taking into

account the expected Retirement Salvage Proceeds of such Project Component and any Operational Reserves expected to be made available for deposit into such account, upon the removal from service of such Project Component. IPA, Purchaser and each of the other Purchasers also agree that each such account shall be funded in such amounts and during such period or periods as determined with respect to each Project Component from time to time by IPA and the Renewal Contract Coordinating Committee based on recommendations of a Retirement Consultant provided for under Section 22.3, and that each Annual Budget during such period provide for such amount to be included in Monthly Power Costs to provide for such contributions on a monthly basis. IPA shall also deposit into the account for each Project Component within the Retirement Reserve Fund, in addition to all payments made by the Purchasers for deposit therein: (i) all Retirement Salvage Proceeds realized with respect to such Project Component; and (ii) the portion of IPA's Operational Reserves that the IPA Board of Directors and the Renewal Contract Coordinating Committee determine, based upon the recommendation of the Operating Agent, will no longer be needed, upon the Permanent Removal From Service Date of such Project Component, taking into account any other Project Components as to which the Operational Period will not have then ended and any Auxiliary Facilities that will remain in service.

22.3 **Periodic Retirement Consultant Recommendations:** Promptly after the Transition Date, IPA shall retain a Retirement Consultant to prepare recommendations, based upon Prudent Utility Practice, as to the amounts, if any, that should be deposited each Power Supply Year into each account of the Retirement Reserve Fund to achieve the objectives set forth in Section 22.2. Unless otherwise determined by IPA and the Renewal Contract Coordinating Committee, at approximate five (5) year intervals thereafter, IPA shall retain a Retirement Consultant to review, revise and supplement such recommendations. IPA and the Renewal Contract Coordinating Committee shall use such recommendations as a basis for determining the amounts that must be included in each Annual Budget and included in Monthly Power Costs to accumulate amounts in each account of the Retirement Reserve Fund consistent with Section 22.2.

## 23. RETIREMENT OF PROJECT COMPONENTS:

23.1 **Retirement Election:** The Renewal Contract Coordinating Committee may elect to permanently retire any Project Component (a "Retirement Election") by taking action (i) by representatives of Purchasers that have Voting Rights aggregating at least eighty percent (80%) of all Voting Rights pursuant to Section 6.1 in the case of a Retirement Election as to Gas Unit 1 or Gas Unit 2, (ii) by representatives of Purchasers with entitlements in the Northern Transmission that have Voting Rights aggregating at least eighty percent (80%) of the Voting Rights of all such Purchasers with entitlements in the Northern Transmission System, in the case of a Retirement Election as to the Northern Transmission System, and (iii) by representatives of Purchasers with entitlements in the Southern Transmission System that have Voting Rights aggregating at least eighty percent (80%) of the Voting Rights of all such Purchasers with entitlements in the Southern Transmission System, in the case of a Retirement Election as to the Southern Transmission System. In connection with the making of each such Retirement Election, such Renewal Contract Coordinating Committee action shall specify a date for the removal from service of such Project Component which date shall not be earlier than three (3) years after the Renewal Contract Coordinating Committee makes such election;

provided, however, such Renewal Contract Coordinating Committee action may specify an earlier date, without regard to such three (3) year limitation, for the removal from service of such Project Component upon the approving vote of representatives of all Purchasers entitled as provided above to vote on the removal from service of such Project Component. The date so specified by such Renewal Contract Coordinating Committee action for the removal from service of such Project Component is referred to in this Contract as the "Proposed Removal From Service Date" with respect to such Project Component, and the date upon which such Project Component is permanently removed from service (which removal from service shall also be deemed to occur in the event that such Project Component or portion thereof shall become, and upon its becoming, an IPA Retained Facility) pursuant to and upon the satisfaction of the terms and conditions set forth in Sections 23.6 and 23.7, is referred to in this Contract as the "Permanent Removal From Service Date" with respect to such Project Component.

23.2 **Requests for Project Consultant and Preliminary Report:** The Purchasers entitled as provided in Section 23.1 to vote on the retirement from service of a Project Component may, in connection with their consideration of whether to make a Retirement Election with respect to such Project Component, request IPA by vote as provided above to retain a Retirement Consultant prior to making such Retirement Election to provide information to assist in such consideration. If such Purchasers make such a request, IPA shall promptly retain a Retirement Consultant and direct it to provide a preliminary report setting forth all or a portion, as requested, of the matters to be set forth in the Retirement Consultant's report pursuant to Section 22.4. Such Purchasers by vote as provided above may also request, in connection with their consideration of whether to make such a Retirement Election, that the Operating Agent prepare, on a preliminary basis, a report describing the work and materials to be performed and acquired in connection with the retirement from service of such Project Component, in which case, IPA shall cause the Operating Agent to promptly prepare and provide to such Purchasers such report.

23.3 **Identification of Auxiliary Facilities, Allocable Project Water Rights and Unneeded Operational Reserves:** Upon the making of a Retirement Election with respect to any Project Component, IPA shall cause the Operating Agent to prepare a report (the "Auxiliary Facilities Report") setting forth each of the following: (i) a description of the portions of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component as to which the Operational Period has not ended or as to Additional Non-Project Facilities; (ii) a description of the portions of any other Project Component that constitute Auxiliary Facilities with respect to such Project Component; (iii) recommendations as to actions to be taken to maintain in operation the Auxiliary Facilities described in clause (i) above; (iv) a determination as to whether, upon the removal from service of such Project Component, any of the Auxiliary Facilities described in clause (ii) above may also be removed from service and, if so, recommendations as to the actions to be taken to so remove them from service; (v) a recommendation as to the amount of Project Water Rights allocable to such Project Component (which shall be at least the amount of Project Water Rights necessary to operate and maintain such Project Component at maximum capacity); and (vi) a recommendation as to the Operational Reserves, or portions thereof, that will no longer be necessary or appropriate upon the Permanent Removal From Service Date of such Project Component. Promptly upon the completion of the Auxiliary Facilities Report, IPA shall submit such report to the Renewal Contract Coordinating Committee and upon approval thereof by the

Renewal Contract Coordinating Committee the Auxiliary Facilities Report and the determinations as to Auxiliary Facilities and the other recommendations therein shall become final for the purposes of this Contract.

23.4 **Retirement Consultant:** Upon the making of a Retirement Election with respect to any Project Component, as provided in Section 23.1, IPA shall promptly retain a Retirement Consultant, which shall, if a Retirement Consultant was retained pursuant to Section 23.2, be the same Retirement Consultant unless such Retirement Consultant is no longer able or willing to serve or IPA and the Purchasers entitled under Section 23.1 to vote on such Retirement Election by vote as provided in Section 23.1 agree to the retention of another Retirement Consultant. Such Retirement Consultant shall be directed to perform a study and prepare a written report (the "Retirement Cost Report"), taking into account any report of the Operating Agent furnished as provided in Section 23.2 that describes the work and materials to be performed and acquired for the retirement of such Project Component, and any Auxiliary Facilities identified and the recommendations of the Operating Agent set forth in the report referenced in Section 23.3, and setting forth each of the following items, together with information and materials reasonably supporting and justifying each such item: (i) a description of the work and materials required to accomplish the actions described in Section 23.9.1 for a Project Component with respect to which a Retirement Election has been made (i.e., the work and materials required to retire such Project Component) and a reasonable timeline for performing such work; (ii) an estimate of the Retirement Costs (the "Estimated Retirement Costs") that will be incurred or need to be incurred by IPA in connection with the retirement of such Project Component; (iii) an estimate as to the portion of the Operational Reserves expected to be held by IPA on the Permanent Removal From Service Date of such Project Component that will no longer be needed upon the removal from service of such Project Component, taking into account any other Project Components as to which the Operational Period will not have then ended and any Auxiliary Facilities that will remain in service (the "Estimated Reserve Free-up Amount"); (iv) an estimate of the Retirement Salvage Proceeds that can be realized with respect to such Project Component, which estimate shall provide detail as to the estimate of the Retirement Salvage Proceeds of each significant facility, improvement or asset constituting a part of such Project Component (the "Estimated Retirement Salvage Proceeds"); (v) an estimate of the amount that will be on deposit in the account for such Project Component within the Retirement Reserve Fund, taking into account a reasonable estimate of interest that may be earned during any relevant period on amounts on deposit in such account, but not taking into account the payments to be made by Purchasers for deposit in such account pursuant to Section 23.5 (the "Estimated Retirement Account Balance"); and (vi) the calculation, as applicable, of either (A) an amount (the "Estimated Retirement Account Deficiency") equal to the Estimated Retirement Costs as set forth in clause (ii), less the sum of: (a) the Estimated Reserve Free-up Amount as set forth in clause (iii), (b) the estimated Retirement Salvage Proceeds as set forth in clause (iv), and (c) the Estimated Retirement Account Balance as set forth in clause (v), or (B) an amount (the "Estimated Retirement Account Surplus") equal to the Estimated Retirement Account Balance as set forth in clause (v), less the remainder resulting from the subtraction of the sum of the Estimated Reserve Free-up Amount as set forth in clause (iii) plus the estimated Retirement Salvage Proceeds as set forth in clause (iv) from the Estimated Retirement Costs as set forth in clause (ii). The Retirement Consultant shall be directed to provide the Retirement Cost Report to IPA, and, promptly upon IPA's receipt thereof, IPA shall distribute a copy to each of the Purchasers entitled under Section 23.1 to vote

on its Retirement Election with respect to such Project Component. Within 60 days after the Retirement Cost Report is provided to IPA by the Retirement Consultant, IPA or any such Purchaser may submit to the Retirement Consultant, in writing, any objections it may have to the estimates and conclusions set forth in the Retirement Cost Report, a copy of which objections shall be provided to each of such Purchasers and IPA. Upon consideration of any such objections, the Retirement Consultant may, in its sole discretion, revise the Retirement Cost Report to take into account or respond to any such objections, but otherwise, the Retirement Cost Report of the Retirement Consultant, as so revised, if applicable, shall be final for all purposes of this Contract and shall not be subject to challenge or appeal by IPA or any such Purchaser; provided, however, if both IPA and such Purchasers by vote as provided in Section 23.1 determine at any time that an update of the Retirement Cost Report should be done, then the Retirement Consultant shall be retained to perform such an update, and the final report shall include such update; and further provided, however, that such Retirement Cost Report may be revised, if necessary, pursuant to Section 24.1.5.

23.5 **Payment of Estimated Retirement Account Deficiency or Surplus:** Promptly after the issuance of the final Retirement Cost Report with respect to any Project Component pursuant to Section 23.4, and (i) in the event of the calculation of an Estimated Retirement Account Deficiency, the Annual Budget for the then current Power Supply Year shall be amended to provide, and each Annual Budget for each Power Supply Year thereafter to and including the Power Supply Year in which the Proposed Removal From Service Date falls shall provide, for amounts to be included in Monthly Power Costs with respect to such Project Component sufficient to provide to IPA for deposit into the account for such Project Component within the Retirement Reserve Fund on or before the Proposed Removal From Service Date an amount equal to: (a) the Estimated Retirement Account Deficiency, plus (b) any other amounts required to satisfy the conditions set forth in Section 23.6.1; or (ii) in the event of the calculation of an Estimated Retirement Account Surplus there shall be refunded to the Purchasers that were eligible to vote on the Retirement Election for such Project Component in proportion to their respective Cost Shares applicable to such Project Component on or before the Proposed Removal from Service Date an amount equal to the Estimated Retirement Account Surplus. The provisions of this Section with respect to funding of an Estimated Retirement Account Deficiency are in addition to the obligations to fund Retirement Costs provided by Section 23.9.3 which shall continue to be applicable.

23.6 **Conditions to End of Operational Period:** Following the making of a Retirement Election pursuant to Section 23.1 with respect to any Project Component, the Operational Period for the Project Component to which such Retirement Election relates shall end, with the consequences set forth in Section 23.7, upon, and only upon, the satisfaction of each of the following terms and conditions:

23.6.1 There shall be on deposit in the account for such Project Component in the Retirement Reserve Fund, taking into account the amount IPA is required to deposit therein from Operational Reserves pursuant to Section 23.4, an amount equal to the Estimated Retirement Costs less the Estimated Salvage Proceeds for such Project Component, as such amounts are set forth in the report of the Retirement Consultant referenced in Section 23.4.

23.6.2 IPA and the Operating Agent shall be reasonably satisfied that the permanent removal from service of such Project Component will not have a material adverse effect on any other Project Component as to which its Operational Period has not ended.

23.6.3 There shall have been paid in full or fully defeased all Renewal Contract Project Indebtedness (other than Retirement Cost Debt Instruments) that is allocated to such Project Component pursuant to Section 15.4.2.

23.6.4 The Proposed Removal From Service Date shall have occurred.

23.7 **End of Operational Period of Project Component:** Upon the end of the Operational Period for any Project Component, such Project Component shall be removed from service, except for any IPA Retained Facility constituting a portion thereof and any portions thereof constituting Auxiliary Facilities to any other Project Component as to which the Operational Period has not ended, or to any IPA Retained Facility or any Additional Non-Project Facilities as to which such Auxiliary Facilities are to be provided or to be made available, and thereupon: (a) except as specifically provided in Section 23.9.1, IPA shall have no duties or obligations to Purchaser or any of the other Purchasers with respect to such Project Component; (b) neither Purchaser nor any of the other Purchasers shall have any further right whatsoever to the output, capacity, energy or use of such Project Component; and (c) except as specifically provided in Section 23.9, neither Purchaser nor any of the other Purchasers shall have any further duties or obligations to IPA under their respective Renewal Power Sales Contracts with respect to such Project Component.

23.8 **Treatment of Auxiliary Facilities:** Notwithstanding anything in this Section 23 to the contrary, the retirement of any Project Component shall not result in the retirement or removal from service of any facilities or portion of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component as to which the Operational Period has not ended or with respect to any Additional Non-Project Facilities. Upon the Permanent Removal From Service Date of any Project Component, the facilities or portion of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component or Project Components as to which the Operational Period has not ended shall become part of such other Project Component or Project Components.

23.9 **Retirement of Project Component:** The following provisions shall apply with respect to each Project Component as to which the Permanent Removal From Service Date has occurred, excluding a Project Component, or any portion thereof, that constitutes an IPA Retained Facility:

23.9.1 IPA shall make reasonable commercial efforts to: (i) sell or otherwise dispose of the marketable property and rights constituting a portion of the Project Component, upon terms and conditions that are economically favorable to IPA and consistent with Prudent Utility Practice; (ii) render such Project Component in a condition that complies with all then applicable laws and all contractual obligations of IPA with respect thereto; (iii) dismantle and remove such Project Component thereof so as to restore the area impacted thereby, (iv) render such Project Component in a condition that, in IPA's reasonable discretion, is secure, safe, sanitary and sightly; and (v) insure or otherwise protect IPA from claims and

liabilities that may arise with respect to such Project Component. The actions described in this Section 23.9.1 are referred to in this Contract as the "Retirement Actions" with respect to such Project Component.

23.9.2 IPA shall apply the amounts on deposit in the account in the Retirement Reserve Fund relating to such Project Component to pay the Retirement Costs with respect thereto.

23.9.3 Notwithstanding that the Operational Period with respect to any Project Component (other than an IPA Retained Facility) shall have ended, and notwithstanding anything in this Contract to the contrary, if, at any time or from time to time, IPA incurs Retirement Costs in connection with the Retirement Actions relating to such Project Component in excess of the amount on deposit in the account for such Project Component within the Retirement Reserve Fund and any amounts in the then current Annual Budget for the payment of Retirement Costs for such Project Component (the amount of such excess being referred to as the "Retirement Cost Deficiency"), there shall be provided in the Annual Budget (in addition to any such amounts in the then current Annual Budget), or an amendment thereto, for the Power Supply Year in which such Retirement Cost Deficiency is incurred or expected to be incurred, as Monthly Power Costs with respect to such Project Component, the amount of such Retirement Cost Deficiency, it being intended that IPA shall be entitled to bill, as Monthly Power Costs, amounts it incurs for Retirement Costs for which inadequate funds are available as and when such excess Retirement Costs are incurred. If, upon the completion by IPA of all Retirement Actions with respect to such Project Component and the payment of all costs of such Retirement Actions, amounts remain on deposit in the account relating to such Project Component within the Retirement Reserve Fund, IPA shall refund such remaining balance to the Purchasers in proportion to their respective Cost Shares applicable to such Project Component.

23.9.4 There shall also be included in Retirement Costs and Monthly Power Costs with respect to such Project Component, all Debt Service on Retirement Cost Debt Instruments issued to fund Retirement Costs of such Project Component as provided in Section 15.2.3.

23.9.5 Upon the completion of all Retirement Actions with respect to such Project Component and upon the payment or defeasance in full of all Retirement Cost Debt Instruments with respect thereto: (i) such Project Component shall no longer constitute a part of the Project for purposes of this Contract; and (ii), subject to Section 23.9.6, neither IPA nor Purchaser shall have any duties or obligations to the other with respect to such Project Component.

23.9.6 Nothing in Sections 23.7(c) or 23.9.5(ii) shall relieve Purchaser or any other Purchaser of any duty or obligation of such Purchaser under its respective Renewal Power Sales Contracts as to which such Purchaser is in breach or default.

23.10 **Completion of Retirement of Facilities:** For the avoidance of doubt, in the event that Retirement Actions (used as defined in the Original Power Sales Contracts) have not been performed and completed as provided in the Section 44 Retirement Plan (used as defined in the Original Power Sales Contracts) by the Transition Date with respect to: (i) any

rights, properties, facilities, structures, equipment, assets and appurtenances constituting a portion of the Project as of, or added to after, the effective date of the Second Amendatory Power Sales Contracts that are part of the Project immediately prior to the Transition Date, and (ii) any generating unit or units and related facilities and properties replaced by or no longer used or useful due to the construction or operation of the Gas Repowering, then such Retirement Actions (as so defined in the Original Power Sales Contracts) with respect thereto shall be continued and completed by the Project Manager under the Renewal Power Sales Contracts and amounts reserved therefor by IPA pursuant to the Original Power Sales Contracts shall be applied to the payment of the Retirement Costs (as defined in the Original Power Sales Contracts) thereof, all as contemplated by Section 44.2 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts.

24. **IPA RETAINED FACILITY**:

24.1 **IPA Election to Retain Project Component:** Subject to the terms and conditions of this Section 24.1, IPA may elect, but shall not be required, to retain, as its sole and exclusive property, free and clear of any obligation it may have to any Purchaser under any Renewal Power Sales Contract, any Project Component or any portion thereof as to which a Retirement Election has been made pursuant to Section 23.1. In order to retain any such Project Component or portion thereof, IPA shall provide to the Purchasers that were entitled to make such Retirement Election, on or prior to the date that is six (6) months after the Renewal Contract Coordinating Committee makes such Retirement Election or, if later, the date that is three (3) months prior to the Proposed Removal From Service Date for such Project Component, written notice of its election to retain such Project Component or portion thereof. IPA may make such an election only with respect to a complete Project Component (exclusive of any portion thereof constituting Auxiliary Facilities as provided in Section 23.3 with respect to any other Project Component or Additional Non-Project Facilities), or any portion thereof that constitutes an integrated and substantial facility, or all or any portion of the allocable Project Water Rights, and may only make such election as to a Project Component or portion thereof that IPA does not intend to resell or transfer other than to one or more IPA Members, any entity formed under the Act of which any IPA Member is a member, or any other joint powers or joint action agency or business entity of which an IPA Member is a member or owner, for such IPA Member's or such entity's own use or the use of its customers or constituents. Any Project Component, or portion thereof, as to which IPA makes the election set forth in this Section 24.1, together with the rights of IPA or any successor or assign of IPA under any Section 39 Facilities Agreement that may be consummated with respect to such Project Component or portion thereof pursuant to Section 24.1.6, is referred to in this Contract as an "IPA Retained Facility". If IPA elects to so retain any Project Component, or portion thereof, then the following provisions shall apply with respect to such Project Component or portion thereof:

24.1.1 On and after the Permanent Removal From Service Date of such Project Component, IPA shall have full and exclusive ownership and control, free and clear of any obligation to Purchaser or any of the other Purchasers under their respective Renewal Power Sales Contracts or otherwise, of the IPA Retained Facility (other than any obligations arising under a Section 39 Facilities Agreement entered into as provided in Section 24.1.6.)

24.1.2 IPA shall be entitled, as its sole and exclusive property, free and clear of any obligation to Purchaser or any of the other Purchasers, to the funds in the account for such Project Component within the Retirement Reserve Fund allocated or designated for such IPA Retained Facility, including the deposit therein from Operational Reserves with respect to such Project Component pursuant to Section 23.6.1.

24.1.3 Except as set forth in Section 24.1.2, neither Purchaser, nor any other Purchaser, shall have any duty or obligation to pay Retirement Costs with respect to such IPA Retained Facility, but the obligations of Purchasers with respect to any Retirement Cost Debt Instruments shall not be affected.

24.1.4 Such IPA Retained Facility shall no longer, as of the Permanent Removal From Service Date of the Project Component of which it is a part, constitute a part of the Project or be subject to the terms and conditions of this Contract or any of the other Renewal Power Sales Contracts.

24.1.5 Promptly following any election by IPA under this Section 24.1 to retain any Project Component or portion thereof, the Retirement Consultant who prepared or is preparing the report referenced in Section 23.4 with respect to such Project Component shall be instructed to take into account in the preparation of such report, and to revise such report if necessary, to take into account such election and the effect it may have on the information set forth in such report.

24.1.6 If any Project Component or portion thereof that IPA elects to retain pursuant to this Section 24.1 is of a nature that its proper or economic use or operation requires that any property, rights, equipment or facilities constituting a part of the Project be made available with respect thereto, then the Renewal Contract Coordinating Committee and IPA shall use their reasonable efforts to reach agreement with respect to a Section 39 Facilities Agreement whereby such property, rights, equipment or facilities would be made available to IPA and its successors and assigns for such purpose. In addition to any other provisions of this Contract that may be applicable to such Section 39 Facilities Agreement, the following provisions shall apply to the negotiation, establishment, terms and conditions of such Section 39 Facilities Agreement:

24.1.6.1 The Section 39 Facilities Agreement shall only provide for any such property, rights, equipment or facilities to be made available to the extent the same have excess capacity, after taking into account their use for the needs of the Project and for IPA to perform its obligations under any other Section 39 Facilities Agreement then in effect.

24.1.6.2 The Section 39 Facilities Agreement shall not contain any provisions or create any rights in favor of IPA or its successors and assigns that, in the reasonable determination of the Renewal Contract Coordinating Committee, would create a significant risk of any material adverse impact on the Project, and shall contain such provisions and limitations as the Renewal Contract Coordinating Committee reasonably determines are necessary to protect the Project

from a material adverse risk as to the Project. Such provisions may include requirements that IPA and each of its successors and assigns obtain the approval of the Renewal Contract Coordinating Committee prior to assigning or transferring to any other party any interest in the Section 39 Facilities Agreement, provided, however, such approval would not be withheld unless the assignment or transfer would cause or create a significant risk of a material adverse impact on the Project.

24.1.6.3 The Section 39 Facilities Agreement shall contain economic terms that would fully require all costs of making such property, rights, equipment or facilities available for such purpose, including, without limitation, a fair allocation of depreciation and overhead, to be fully covered by sources other than Project funds or billings of Monthly Power Costs to the Purchasers; provided, however, such economic terms shall not include or result in any direct or indirect profit component to the Project or the Purchasers.

24.1.6.4 IPA and the Renewal Contract Coordinating Committee shall use their reasonable efforts to determine the form of the Section 39 Facilities Agreement, including the necessary parties thereto.

24.1.6.5 Although the final form and substance of the Section 39 Facilities Agreement shall be subject to the approval of the Renewal Contract Coordinating Committee, one or more Purchasers may be designated by the Renewal Contract Coordinating Committee to act on its behalf in negotiations with IPA and may make recommendations to the Renewal Contract Coordinating Committee regarding the terms and provisions of the Section 39 Facilities Agreement, and the Renewal Contract Coordinating Committee may determine to authorize such Purchaser or Purchasers to enter into the Section 39 Facilities Agreement on behalf of and for the benefit of the Purchasers.

24.2 **Valuation of Project Water Rights:** In determining the Retirement Salvage Proceeds of Project Water Rights allocable to a Project Component pursuant to Section 23.3 as to which IPA makes an election under Section 24.1, IPA shall issue a request for proposals to water users within the basin or watershed to which such water rights relate for the purchase or other acquisition of such water rights. Such request for proposals shall state that IPA is not obligated to sell or otherwise dispose of such Project Water Rights, but rather, may elect to do so based upon the purchase or other acquisition proposals submitted in respect thereto. For purposes of this Contract, the Retirement Salvage Proceeds of any such Project Water Rights shall be deemed to be the cash amount of the highest bona fide bid therefor submitted in response to such request for proposals and such amount shall constitute the Retirement Salvage Proceeds for purposes of Sections 23.4 and 23.5 with respect to such Project Component, notwithstanding any provision thereof to the contrary. In order to constitute a bona fide bid, a bid must be a firm, cash bid, legally binding and subject only to reasonable title assurances to the buyer, and submitted by a party that is reasonably able to pay the amount so bid.

## 25. TERM OF CONTRACT:

25.1 **Term:** The term of this Contract shall begin on the Effective Date and, unless this Contract is terminated earlier as provided in Section 17, 31 or 42, the term of this Contract shall end on the Renewal Contract Final Termination Date.

25.2 **Regulatory Contract Approvals:** Purchaser and IPA, respectively, shall each obtain any and all required Regulatory Contract Approvals as confirmed by its counsel's legal opinion provided pursuant to Section 25.3. For the avoidance of doubt this Contract shall be void and any and all energy deliveries and any other rights or services under this Contract shall be terminated no later than the effective date of any denial of a required Regulatory Contract Approval, including, without limitation, a decision of the California Energy Commission.

25.3 **Legal Opinions:** Upon the Effective Date and upon the Entitlement Determination Date if different than the Effective Date, (a) Purchaser shall provide to IPA a written opinion of counsel to Purchaser, such counsel to be reasonably acceptable to IPA, addressed to IPA concerning this Contract, including receipt by Purchaser of any and all required Regulatory Contract Approvals, in form and substance reasonably acceptable to IPA, and (b) IPA shall provide to Purchaser a written legal opinion of counsel to IPA addressed to Purchaser concerning this Contract, including receipt by IPA of any and all required Regulatory Contract Approvals, in form and substance reasonably acceptable to Purchaser.

25.4 **Purchaser's Rights:** Notwithstanding anything in this Contract to the contrary, except as provided in any Original Power Sales Contract to which Purchaser is a party, Purchaser shall have: (a) no rights or benefits with respect to the output, capacity, energy or use of the Project prior to the Transition Date; (b) no duty or obligation to pay Monthly Power Costs with respect to any period prior to the Transition Date; and (c) except as expressly stated in Sections 6.3 or 15, no right prior to the Transition Date, either directly or through the Renewal Contract Coordinating Committee, to approve, consent to or direct the business or affairs of IPA, the Project Manager or the Operating Agent and thereafter shall have such rights only to the extent granted pursuant to this Contract.

## 26. RENEWAL OFFER AND SALE OF ENTIRE PROJECT OUTPUT:

26.1 **Renewal Offer and Renewal Power Sales Contracts; Effectiveness of Offer Acceptance:**

26.1.1 The Renewal Offer shall be made by IPA pursuant to Offer Letters to all Original Purchasers in accordance with the provisions of Section 33 of the Original Power Sales Contracts. IPA shall use its reasonable commercial efforts in accordance with the terms of the Renewal Offer to: (i) obtain Offer Acceptances with respect to Unsubscribed Original Purchaser Entitlements and any Orphan Original Purchaser Entitlements before the Entitlement Determination Date; and (ii) enter into Renewal Power Sales Contracts with Purchasers that have provided Offer Acceptances in accordance with the Renewal Offer and Section 26.2.

26.1.2 To be effective for purposes of this Contract each Offer Acceptance by Purchaser shall be submitted by Purchaser to IPA and shall be received by IPA in accordance with the terms of the Renewal Offer and this Contract; and such Offer Acceptance, including the specified entitlements and other terms thereof that are then set forth in Appendix A and Appendix B of this Contract in accordance with the applicable provisions of Section 26.2 hereof, shall have been duly authorized by Purchaser and Purchaser shall have obtained any and all Regulatory Contract Approvals applicable thereto.

26.2 **First Round Offer; Establishment of Generation Entitlement Shares and Cost Shares; Completion of Appendices A and B; Effectiveness of Renewal Power Sales Contracts:**

26.2.1 As of the First Round Offer Acceptance Date, if the Offer Acceptances by Purchaser and the other Original Purchasers of the First Round Offer do not permit compliance with Section 26.2.2, IPA shall prepare and shall execute and deliver to Purchaser for execution and delivery by Purchaser the Renewal Power Sales Contract with Purchaser, which shall include (i) Appendix A thereof setting forth Purchaser's Subscription Generation Cost Share and its applicable Transmission Cost Share in accordance with such Offer Acceptance by Purchaser, together with the Generation Cost Shares and applicable Transmission Cost Shares of the other Committed Original Purchasers submitting such Offer Acceptances, and (ii) Appendix B thereof setting forth Purchaser's Subscription Generation Entitlement Share and its Point of Delivery in accordance with such Offer Acceptance by Purchaser, together with the respective Generation Entitlement Shares and Points of Delivery of such other Committed Original Purchasers submitting such Offer Acceptances. Upon the execution by Purchaser of the Renewal Power Sales Contract and its delivery to IPA, and upon the receipt by Purchaser and IPA of any and all required Regulatory Contract Approvals and IPA and Purchaser furnishing, each to the other, the required legal opinions pursuant to Section 25.3, such Renewal Power Sales Contract shall become effective as of the First Round Offer Acceptance Date and IPA and Purchaser shall comply with the provisions of 26.3 and 26.4.

26.2.2 If, as of the First Round Offer Acceptance Date, there shall have been Offer Acceptances by Purchaser and the other Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project, then such First Round Offer Acceptance Date shall constitute the Entitlement Determination Date; and IPA shall provide Purchaser and the other Original Purchasers with Appendix A for the Renewal Power Sales Contracts which shall set forth the Generation Cost Shares of Purchaser and the other Original Purchasers, as provided in their respective applicable Transmission Cost Shares, and Appendix B for the Renewal Power Sales Contracts which shall set forth the Generation Entitlement Shares of Purchaser and the other Original purchasers, as provided in their respective Offer Acceptances and the applicable Point of Delivery of Purchaser and the other Original Purchasers; and IPA shall enter into the Renewal Power Sales Contracts with the Purchaser and the other Original Purchasers. Upon receipt by Purchaser and the other Original Purchasers and by IPA of any and all required Regulatory Contract Approvals and upon IPA and Purchaser and the other Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, such Renewal Power Sales Contract by IPA and Purchaser, together with the Renewal

Power Sales Contracts by IPA with all other Original Purchasers, shall be effective, all as of such Entitlement Determination Date.

26.3 **Second Round Offer; Increase of Generation Entitlement Shares and Cost Shares; Replacement of Appendices A and B:**

26.3.1 In the event that Offer Acceptances by the Purchaser and the other Committed Original Purchasers of the First Round Offer do not permit compliance with Section 26.2.2, then IPA shall continue the Renewal Offer by providing the Second Round Offer to the Committed Original Purchasers. Upon the Renewal Power Sales Contracts becoming effective for purposes of the continuation of the Renewal Offer as provided in Section 26.2.1, IPA shall proceed with the Second Round Offer to the Committed Original Purchasers as follows:

26.3.1.1 If, as of the First Round Offer Acceptance Date, any remaining Orphan Original Purchaser Entitlements consist of Utah Orphan Original Purchaser Entitlements, then IPA shall pursuant to its Offer Letter for the Second Round Offer to each of the Utah Committed Original Purchasers provide that (i) the Utah Committed Original Purchasers shall have the right to provide to IPA a Utah Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (ii) if the Utah Committed Original Purchasers fail to provide to IPA a Utah Orphan Entitlement Allocation Document as provided in (i) above, such remaining Utah Orphan Purchaser Entitlements shall then be offered to each of the Utah Committed Original Purchasers in proportion to their respective Subscription Generation Entitlement Shares (as a fraction of the Subscription Generation Entitlement Shares for all Utah Committed Original Purchasers) as then set forth in Appendix B of their respective Renewal Power Sales Contracts; and

26.3.1.2 If, as of the First Round Offer Acceptance Date, any remaining Orphan Original Purchaser Entitlements consist of California Orphan Original Purchaser Entitlements, then, IPA shall pursuant to its Offer Letter for the Second Round Offer to each of the California Committed Original Purchasers provide that (i) the California Committed Original Purchasers shall have the right to provide to IPA a California Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (ii) if the California Committed Original Purchasers fail to provide to IPA a California Orphan Entitlement Allocation Document as provided in (i) above, such remaining California Orphan Purchaser Entitlements shall then be offered to each of the California Committed Original Purchasers in proportion to their respective Subscription Generation Entitlement Shares (as a fraction of the Subscription Generation Entitlement Shares for all California Committed Original Purchasers) as then set forth in Appendix B of their respective Renewal Power Sales Contracts.

26.3.2 If, as of the Second Round Offer Acceptance Date, the Offer Acceptances by the Utah Committed Original Purchasers and the California Committed Original Purchasers, respectively, do not permit compliance with Section 26.3.3 or Section 26.3.4, Purchaser's and such other Committed Original Purchasers' Subscription Generation Cost Shares and Subscription Generation Entitlement Shares shall be increased by IPA pursuant to any such Offer Acceptances of the Second Round Offer and their respective Transmission Cost Shares shall be adjusted, if necessary, to reflect such increases, and IPA shall provide Purchasers with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Transmission Cost Shares and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Points of Delivery. Upon the receipt by Purchaser and IPA of any and all required Regulatory Contract Approvals and upon IPA and Purchaser furnishing, each to the other, the required legal opinions pursuant to Section 25.3, such Renewal Power Sales Contract shall be effective as of the Second Round Offer Acceptance Date for purposes of the continuation of the Renewal Offer as provided in Section 26.4.

26.3.3 If, as of the Second Round Offer Acceptance Date, (i) the Offer Acceptances, if any, by the Utah Committed Original Purchasers under Section 26.3.1.1 shall be for all of the remaining Utah Orphan Original Purchaser Entitlements, if any, and (ii) the Offer Acceptances, if any, by the California Committed Original Purchasers under Section 26.3.1.2 shall be for all of the remaining California Original Purchaser Entitlements, if any, then Purchaser’s and such other Committed Original Purchasers’ Subscription Generation Cost Shares and Subscription Generation Entitlement Shares shall be increased by IPA pursuant to such Offer Acceptances and their respective Transmission Cost Shares shall be adjusted, if necessary, to reflect such increases, then, such Second Round Offer Acceptance Date shall constitute the Entitlement Determination Date; and IPA shall provide Purchaser with a replacement Appendix A for Purchaser’s Renewal Power Sales Contract which shall set forth the Generation Cost Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Transmission Cost Shares, and a replacement Appendix B for Purchaser’s Renewal Power Sales Contract which shall set forth the Generation Entitlement Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers. Upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Regulatory Contract Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination Date.

26.3.4 In the event that Offer Acceptances under the continued Second Round Offer do not permit compliance with Section 26.3.3, then if, as of the Second Round Offer Acceptance Date, the additional Offer Acceptances, if any, by Committed Original Purchasers of the Second Round Offer for Orphan Original Purchaser Entitlements, together with

the prior Offer Acceptances of the Committed Original Purchasers under the Renewal Offer, provide Offer Acceptances under the Renewal Offer for at least eighty-five percent (85%), but less than one hundred percent (100%), of the aggregate Original Purchaser Entitlements, then, effective as of the Second Round Offer Acceptance Date, (i) Purchaser's Subscription Generation Cost Share, as set forth on Appendix A of Purchaser's Renewal Power Sales Contract, shall be increased to include that portion of the then remaining amount of the applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Cost Share then set forth in such Appendix A bears to the Subscription Generation Cost Shares then set forth in such Appendix A for all Committed Original Purchasers that are parties to Renewal Power Sales Contracts; (ii) Purchaser's Subscription Generation Entitlement Share, as set forth in Appendix B of Purchaser's Renewal Power Sales Contract, shall be increased to include that portion of the then remaining amount of the applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Entitlement Share then set forth in such Appendix B bears to the Subscription Generation Entitlement Shares then set forth in such Appendix B of all Committed Original Purchasers that are parties to the Renewal Power Sales Contracts; and (iii) Purchaser's Transmission Cost Share shall be adjusted if necessary to reflect such increase in Purchaser's Subscription Generation Entitlement Share. Thereupon, such Second Round Offer Acceptance Date shall constitute the Entitlement Determination Date, and IPA shall provide Purchaser with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Share of Purchaser and the Generation Cost Shares of such other Committed Original Purchasers (all as increased in the same manner as above provided) and the applicable Transmission Cost Shares of Purchaser and such other Committed Original Purchasers, and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Share of Purchaser and the Generation Entitlement Shares of such other Committed Original Purchasers (all as increased in the same manner as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers. Upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Regulatory Contract Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination Date.

26.4 **Final Offer; Increase of Generation Entitlement Shares and Cost Shares; Replacement of Appendices A and B:**

26.4.1 In the event that Offer Acceptances under the continued Second Round Offer do not permit compliance with Section 26.3.3 or Section 26.3.4, then IPA shall continue the Renewal Offer by providing the Final Offer to Purchaser and the other Committed Original Purchasers.

26.4.2 If, as of the Final Offer Acceptance Date, there shall have been additional Offer Acceptances of the Final Offer by or one or more of the Committed Original Purchasers for all of the remaining outstanding Orphan Original Purchaser Entitlements, and

such Committed Original Purchaser's or Committed Original Purchasers' Subscription Generation Cost Share or Shares, as applicable, and Subscription Generation Entitlement Share or Shares, as applicable, shall be increased to include such remaining amount of Orphan Original Purchaser Entitlements and their respective Transmission Cost Shares shall be adjusted if necessary to reflect such increases, then, such Final Offer Acceptance Date shall constitute the Entitlement Determination Date, and IPA shall provide Purchaser with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Share of Purchaser and the Generation Cost Shares of such other Committed Original Purchasers (all as including the applicable increase as provided above) and the applicable Transmission Cost Shares of Purchaser and such other Committed Original Purchasers, and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Share of Purchaser and the Generation Entitlement Shares of such other Committed Original Purchasers (all as including the applicable increase as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers; and upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Contract Regulatory Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination Date.

26.4.3 Unless there shall have been compliance with Section 26.4.2, if as of the Final Offer Acceptance Date, there shall have been additional Offer Acceptances of the Final Offer by one or more of the Committed Original Purchasers, of Orphan Original Purchaser Entitlements which, together with the prior Offer Acceptances of the Committed Original Purchasers under the Renewal Offer, provide Offer Acceptances under the Renewal Offer of at least eighty-five percent (85%), but less than one hundred percent (100%), of the aggregate Original Purchaser Entitlements, then, effective as of the Final Offer Acceptance Date, (i) Purchaser's Subscription Generation Cost Share, as set forth in Appendix A of Purchaser's Renewal Power Sales Contract shall be increased to include that portion of the then remaining amount of the applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Cost Share then set forth in Appendix A bears to the Subscription Generation Cost Shares then set forth in Appendix A for all such Committed Original Purchasers; (ii) Purchaser's Subscription Generation Entitlement Share, as set forth in Appendix B of Purchaser's Renewal Power Sales Contract, shall be increased to include such portion of the then remaining applicable Orphan Original Purchaser Entitlements determined in accordance with the ratio that Purchaser's Subscription Generation Entitlement Share then set forth in Appendix B bears to the Subscription Generation Entitlement Shares then set forth in Appendix B for all such Committed Original Purchasers; and (iii) Purchaser's Transmission Cost Share shall be adjusted if necessary to reflect such increase in Purchaser's Subscription Generation Entitlement Share. Thereupon, such Final Offer Acceptance Date shall constitute the Entitlement Determination Date, and IPA shall provide Purchaser with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Share of Purchaser and the Generation Cost Shares of such other Committed Original Purchasers (all as including the applicable increase as provided) and the applicable Transmission Cost Shares of

Purchaser and such other Committed Original Purchasers, and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Share of Purchaser and the Generation Entitlement Shares of such other Committed Original Purchasers (all as increased as provided above) and the applicable Points of Delivery of Purchaser and such other Committed Original Purchasers. Upon receipt by IPA and Purchaser and each of the other Committed Original Purchasers of any and all required Contract Regulatory Approvals and upon IPA and Purchaser and each of the other Committed Original Purchasers furnishing the required legal opinions pursuant to Section 25.3 of the Renewal Power Sales Contracts, the Renewal Power Sales Contracts by IPA with Purchaser and with each of the other Committed Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project shall be effective, all as of such Entitlement Determination date.

26.5 **Final Generation Cost Share, Generation Entitlement Share and Transmission Cost Share:** Effective from and after the Entitlement Determination Date, Purchaser's Generation Cost Share, as then set forth on Appendix A attached hereto, Purchaser's Generation Entitlement Share, as then set forth on Appendix B attached hereto, and Purchaser's applicable Transmission Cost Share, as then set forth on such Appendix A, all as determined in accordance with the Renewal Offer and the provisions of this Section 26, shall constitute Purchaser's Generation Cost Share and its Generation Entitlement Share, respectively, and its applicable Transmission Cost Share, under this Contract.

26.6 **Excess Renewal Power Sales Agreement; Performance by IPA:**

26.6.1 Each Utah Purchaser entering into a Renewal Power Sales Contract may elect to enter into the Excess Renewal Power Sales Agreement. Such election shall be made by such Utah Purchaser by furnishing to IPA within forty-five (45) days following the Entitlement Determination Date a written notice of such election. Such notice furnished by such Utah Purchaser shall also specify its Excess Entitlement Share. Each of the California Purchasers that enters into a Renewal Power Sales Contract, other than Los Angeles, may elect to enter into the Excess Renewal Power Sales Agreement and thereby be a California Excess Power Purchase thereunder. Such election shall be made by such California Purchaser by furnishing to IPA within forty-five (45) days immediately following the Utah Purchasers' election period as set forth above, a written notice of its election to enter into the Excess Renewal Power Sales Agreement, which notice shall designate such California Purchaser's Purchase Percentage (which shall not exceed its Maximum Purchase Percentage). Los Angeles shall be a California Excess Power Purchaser and its Purchase Percentage shall be that Purchase Percentage which, when added to the Purchaser Percentages of all such other California Purchasers electing to enter into the Excess Renewal Power Sales Agreement, shall equal 100%. IPA shall provide each of the Purchasers, and the Purchaser's Representative for the California Excess Power Purchasers copies of each such notice received by it from such Utah Purchasers and such California Purchasers that elect to enter into the Excess Renewal Power Sales Agreement.

26.6.2 Promptly following the end of the period set forth in Section 26.6.1 for such California Purchasers to furnish notice of their election to enter into the Excess Renewal Power Sales Agreement, IPA shall complete Appendix A and Appendix B of the

Excess Renewal Power Sales Agreement by listing each such Utah Purchaser that has elected to enter into the Excess Renewal Power Sales Agreement and listing each California Excess Power Purchaser and setting forth its Purchase Percentage and shall otherwise prepare the Excess Renewal Power Sales Agreement for execution by such Utah Purchasers, the California Excess Power Purchasers, the Purchaser Representative for the California Excess Power Purchasers and IPA. Such Excess Renewal Power Sales Agreement shall be executed by the parties thereto and copies thereof delivered to each of the parties, and the Excess Renewal Power Sales Agreement shall become effective in accordance with its terms. The Excess Entitlement Share of each of such Utah Purchasers that entered into the Excess Renewal Power Sales Agreement shall be set forth in Appendix A of the Excess Renewal Power Sales Agreement as provided in Section 5.1 thereof and shall be revised thereafter as provided in Section 5.2 thereof.

26.6.3 During the term of the Excess Renewal Power Sales Agreement IPA shall provide the services, take the actions and perform its other obligations under the Excess Renewal Power Sales Agreement that are applicable to the Utah Purchasers that are parties to the Excess Renewal Power Sales Agreement; provided that such provision of services, taking of actions or performance of its obligations by IPA shall not interfere with or adversely affect the performance by IPA of any of its obligations under this Renewal Power Sales Contract. IPA's costs of providing such services, taking such actions and performing such obligations shall constitute Monthly Power Costs under this Renewal Power Sales Contract .

27. **RENEWAL OFFER OBLIGATION:** Purchaser and IPA hereby agree and acknowledge that as of the Entitlement Determination Date IPA shall have satisfied its obligation under Section 33 of the Original Power Sales Contract to offer the Original Purchasers participation in the rights and benefits of the Project on and after the Transition Date.

28. **CONTRACT SUBJECT TO EACH BOND RESOLUTION:** The parties hereto recognize that IPA, in undertaking the planning, financing, construction, acquisition, operation and maintenance of the Project, must comply with the requirements of each Bond Resolution and all licenses, permits and regulatory approvals necessary for such planning, financing, construction, acquisition, operation and maintenance, and it is therefore agreed that this Contract is made subject to the provisions of any Bond Resolution and all such licenses, permits and regulatory approvals.

29. **COVENANT TO COMPLY WITH EACH BOND RESOLUTION:** IPA covenants and agrees, for the benefit of Purchaser, to comply in all material respects with all terms, conditions and covenants of each Bond Resolution that may be in effect from time to time and all licenses, permits and regulatory approvals relating to the Project; provided, however, that IPA shall not be prevented from contesting the validity or applicability of any thereof in good faith by appropriate proceedings.

30. **SEVERABILITY:** In case any one or more of the provisions of this Contract shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but that this Contract shall be construed and enforced as if such illegal or invalid provision had not been contained herein (unless a court of competent jurisdiction holds

that the provision(s) held to be illegal or invalid are not separable from all other provisions of this Contract).

31. **TERMINATION OR AMENDMENT**:

31.1 **Project Indebtedness Outstanding:** So long as any Renewal Contract Project Indebtedness is outstanding or until adequate provision for the payment thereof has been made in accordance with the provisions of the applicable Bond Resolution, this Contract shall not be terminated, amended, modified or otherwise altered in any manner (a) that will reduce the payments pledged as security for the Debt Instruments evidencing such Renewal Contract Project Indebtedness or extend the time of such payments provided herein, or (b) that will in any manner impair or adversely affect the rights of the holders from time to time of the Debt Instruments.

31.2 **Restrictions on Termination and Amendment:** None of the Renewal Power Sales Contracts may be terminated as to any one or more of the Purchasers or be amended as to any one or more of the Purchasers so as to provide terms and conditions materially different from those herein contained, except, subject to the provisions of Section 31.1 and consistent with each Bond Resolution, upon written notice to and written consent or waiver by each of the other Purchasers and upon a substantially similar amendment being made to the Renewal Power Sales Contract of any other Purchaser requesting such amendment after receipt by such Purchaser of notice of such amendment.

31.3 **Termination:**

31.3.1 Notwithstanding anything in this Contract to the contrary:

31.3.1.1 This Contract shall be automatically terminated if on or prior to the Final Offer Acceptance Date, IPA has not entered into Renewal Power Sales Contracts with Purchasers that have entered into Offer Acceptances as to at least eight-five percent (85%) of the aggregate Original Purchaser Entitlements and associated transmission entitlements and the Entitlement Determination Date shall not have occurred as provided by the applicable provisions of Section 26.

31.3.1.2 This Contract shall be automatically terminated, without any action required to be taken by either IPA or the Purchaser, if, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, the Gas Repowering shall not be undertaken.

31.3.2 Upon termination of this Contract, neither Purchaser nor IPA shall have any further obligation under this Contract (including, without limitation, with respect to Retirement Costs) from and after the effectiveness of such termination but such termination shall not release either IPA or Purchaser, respectively, from any of such party's obligations and liabilities under this Contract that have accrued prior to the effectiveness of such termination.

31.4 **Bond Resolution Changes:** IPA shall not, without the written consent of Purchaser and each of the other Purchasers, amend, modify, supplement or otherwise change any Bond Resolution if such amendment, modification, supplement or change would adversely affect the rights or obligations of Purchaser or the other Purchasers under their respective Renewal Power Sales Contracts; provided that this Section 31.4 shall not limit the power or authority of IPA to supplement any such Bond Resolution in accordance with the terms and provisions of this Contract to provide for the issuance of a series of Debt Instruments for any of the purposes permitted under Section 15.

32. **GOVERNING LAW:** This Contract shall be interpreted, governed by and construed under the laws of the State of Utah.

33. **ARBITRATION:** If a dispute arises between the parties under this Contract that is not resolved by the Renewal Contract Coordinating Committee, the parties to such dispute may submit the dispute to arbitration.

34. **NOTICES:** Notices, demands or requests shall be effected as follows:

34.1 **Manner of Giving of Notice:** Any notice, demand or request provided for in this Contract shall be in writing and shall be deemed properly served, given or made shall be effective if (a) delivered in person; (b) sent by registered or certified mail, postage prepaid; (c) sent by fax to the fax number below; or (d) sent by e-mail to the address indicated below, and to the attention of the person specified below:

34.1.1 Intermountain Power Agency
c/o General Manager
10653 South River Front Parkway, Suite 120
South Jordan, Utah 84095
Phone: (801) 938-1333
Fax: (801) 983-1330
E-mail: jim@ipautah.com

34.1.2 [NAME OF PURCHASER]
[Title of Official to Receive Notice]
[Street Address of the Purchaser]
[City, State Zip Code of Purchaser]
Phone: [(____) ____-_____]
Fax: [(____) ____-_____]
E-mail: [_____]

34.2 **Change of Delivery Information:** By giving written notice to the other party in the manner set forth in Section 34.1, either party to this Contract may, from time to time, change its address, fax number or e-mail address for purposes of this Section 34, and upon such notice being properly given, Section 34.1.1 or 34.1.2, as the case may be, shall be deemed amended to reflect the change.

35. **USE OF PROJECT DOCUMENTS**:

35.1 **Non-Assignable License:** Upon the request of any one or more of the Purchasers, IPA will grant on a non-exclusive basis to such Purchasers or an entity acting on their behalf a non-assignable license to use reproductions of any or all documents, drawings, contracts and systems relating to the Project for use by such Purchaser or Purchasers or such entity in constructing or operating electric generation or transmission facilities at a site designated by such Purchaser, Purchasers or entity; provided, however, that no such license shall be granted if it would adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on any Project Indebtedness.

35.2 **Charge for Reproductions:** IPA shall charge, and such Purchaser, Purchasers or entity shall pay, an amount for such license based on one-half (1/2) of the savings to such person or entity using such reproductions, as determined by the Renewal Contract Coordinating Committee and IPA, or shall make payment based on such other considerations as shall be acceptable to the Renewal Contract Coordinating Committee and IPA.

36. **INTERCONNECTION AGREEMENTS:** Purchaser hereby agrees that IPA may comply with the requirements of any agreement or arrangement approved by the Original Contract Coordinating Committee or the Renewal Contract Coordinating Committee with respect to furnishing start-up and black start power from the Project. All amounts received by IPA for furnishing such service after the Transition Date shall be applied as a credit against Monthly Power Costs pursuant to the Renewal Power Sales Contracts.

37. **INSURANCE PROVISIONS:** IPA shall take reasonable and prudent steps in the interest and for the protection of all Purchasers to maintain, or cause to be maintained, properly designed and properly underwritten Project property and casualty insurance programs for each Project Component during the Operational Period and for each Capital Improvement during the construction phase thereof and, as determined by IPA, fiduciary liability insurance for directors and officers of IPA. Such insurance programs shall provide the broadest coverage economically feasible. IPA shall make every economically feasible effort to incorporate into the Project such insurance, including without limitation, property insurance program extra-expense and business interruption coverage tied to all perils covered by the property insurance program, automobile liability insurance, insurance against risk of liability under environmental laws and regulations and insurance covering losses resulting from failure or interruption of the Project Fuel supply for the Project.

38. **PAYMENTS-IN-AID OF CONSTRUCTION**:

38.1 **Project Components:** Subject to compliance with the conditions contained in this Section 38:

38.1.1 If and to the extent requested by IPA, any one or more Purchasers or an entity acting on behalf of one or more Purchasers may agree to make payments-in-aid of construction for the Generation Station.

38.1.2 The California Purchasers or an entity acting on their behalf may agree to make payments-in-aid of construction for the Southern Transmission System.

38.1.3 The Utah Purchasers or an entity acting on their behalf may agree to make payments-in-aid of construction for the Northern Transmission System.

38.2 **Construction Aid Agreement:** Any payments-in-aid of construction provided for by this Section 38 shall be made in accordance with an agreement entered into between such Purchasers or entity acting on their behalf and IPA (the "Construction Aid Agreement"). The Construction Aid Agreement shall set forth the procedures for the making of such payments, and such other matters relating thereto as shall be consistent with applicable IPA agreements and which shall be agreed to by the parties.

38.3 **Application of Payments:** All payments-in-aid of construction made pursuant to the provisions of this Section 38 shall be deposited in a construction fund account relating to the facility with respect to which such payments are being made. Subject to the lien and pledge of and the covenants under any Bond Resolution with respect to such fund, IPA agrees to use such deposits for payment of the cost of acquisition and construction with respect to such facility.

38.4 **Recognition of Benefits:** No such payments-in-aid of construction shall change or otherwise affect IPA's ownership of such facility or of the Project or any of the rights and obligations of IPA or the Purchasers under this Contract. It is recognized, however, that under this Contract, to the extent that payments-in-aid of construction are received and applied to the payment of costs of a facility of the Project, IPA would not be obligated to issue bonds for the payment of such costs and consequently, to that extent, the minimum cost component allocated to such facility pursuant to Section 7 will be less, reflecting the application of such payments-in-aid of construction to the payment of such costs of such facility instead of the issuance of bonds or other obligations therefor and the allocation of the debt service on such bonds or other obligations thereto.

38.5 **Bond Counsel Opinion:** No arrangement made in connection therewith shall become effective until IPA's bond counsel shall have rendered an opinion that such agreement or arrangement is in compliance with applicable IPA agreements entered into in accordance with the terms and provisions of this Contract.

## 39. USE AND DISPOSITION OF CERTAIN FACILITIES:

39.1 **Project Common Facilities:** It is hereby recognized that on or after the Transition Date, the Project may consist of certain rights, properties, facilities and appurtenances that could be used or useful in connection with the construction, reconstruction, use and operation at the Project site of additional generating units or transmission facilities or other facilities or properties associated therewith.

39.2 **No Adverse Effect; Receipt of Value:** Subject to Section 39.3, on or after the Transition Date, IPA may, with the approval of the Renewal Contract Coordinating Committee, sell, lease, dispose of or otherwise make available to another entity such rights, properties, facilities and appurtenances for such construction or operation of other units, facilities or properties at the Project site; provided, however, such sale, lease, disposition or availability arrangement shall comply with all laws and governmental regulations applicable to

IPA or to any Purchaser, and shall not have a material adverse effect on the revenues or operations of IPA or any Purchaser, and provided further that no such disposition shall interfere with the operation of the Project or adversely affect the eligibility for any exemption from Federal income taxes of the interest paid, or to be paid, on Debt Instruments issued or to be issued by IPA. No such arrangement shall be entered into unless IPA shall receive fair value therefor, as determined by IPA and the Renewal Contract Coordinating Committee, and all amounts received shall be credited against Monthly Power Costs pursuant to the Renewal Power Sales Contracts. Section 39 Facilities Agreements providing for such an arrangement with respect to the availability, transfer and use of such rights, properties, facilities and appurtenances may be entered into by IPA, upon approval of the Renewal Contract Coordinating Committee, with an entity or entities, including, without limitation, one or more members of IPA or any entity formed under the Act which includes one or more members of IPA. IPA shall use its reasonable efforts to enter into such Section 39 Facilities Agreements pursuant to this Section 39 to provide for, among other matters, the selling, leasing and/or making available to the other parties to such Section 39 Facilities Agreements of the rights, properties, facilities and appurtenances that are not to be used for the generation or transmission of power pursuant to the Renewal Power Sales Contracts.

39.3 **Effectiveness:** The obligations, limitations and requirements imposed on IPA pursuant to Section 39.2 shall be effective only with respect to dealings, transactions or arrangements made or occurring on or after the Transition Date and involving rights, properties, facilities or appurtenances described in Section 39.1 owned or held by IPA on or after the Transition Date. Except to the extent the obligations of IPA under Section 5.14 or Section 6.3 may apply, nothing in this Contract shall require IPA to obtain the approval of the Renewal Contract Coordinating Committee, or otherwise limit or impose obligations or requirements on IPA, with respect to dealings, transactions or arrangements in which IPA may engage or become a party pursuant to Section 36 of the Original Power Sales Contracts. Neither Purchaser nor any of the other Purchasers shall have any right, under their respective Renewal Power Sales Contracts, to any credit against Monthly Power Costs or otherwise have any rights or interests with respect to any revenues or proceeds IPA may receive pursuant to any dealings, transactions or arrangements referenced in the preceding sentence.

## 40. EXPANSION OF TRANSMISSION SYSTEMS:

40.1 **Expansion of Southern Transmission System:** Following the Transition Date, any other provision of this Contract to the contrary notwithstanding, any proposal for a major expansion of or addition to the Southern Transmission System shall be initiated by the Renewal Contract Coordinating Committee. Such proposal shall comply with applicable IPA agreements entered into in accordance with the terms and provisions of this Contract and shall provide that, subject to compliance with the laws of Utah, the Purchasers having entitlements in the Southern Transmission System shall have the right to participate in the additional capacity of such expansion or addition in proportion to their respective entitlement shares. Upon approval of any such proposal by IPA and the Renewal Contract Coordinating Committee, IPA shall use its best efforts to proceed, subject to compliance with the laws of Utah and such applicable IPA agreements, with the development of such expansion or addition. The foregoing procedures may be modified with the approval of IPA and the Renewal Contract Coordinating Committee.

40.2 **Expansion of Northern Transmission System:** Following the Transition Date, any other provision of this Contract to the contrary notwithstanding, any proposal for a major expansion of or addition to the Northern Transmission System shall be initiated by the Renewal Contract Coordinating Committee. Such proposal shall comply with applicable IPA agreements entered into in accordance with the terms and provisions of this Contract and shall provide that, subject to compliance with the laws of Utah, the Purchasers having entitlements in the Northern Transmission System shall have the right to participate in the additional capacity of such expansion or addition in proportion to their respective entitlement shares. Upon approval of any such proposal by IPA and the Renewal Contract Coordinating Committee, IPA shall use its best efforts to proceed, subject to compliance with the laws of Utah and such applicable IPA agreements, with the development of such expansion or addition. The foregoing procedures may be modified with the approval of IPA and the Renewal Contract Coordinating Committee.

41. **NORTHERN TRANSMISSION SYSTEM TRANSMISSION SERVICE**:

41.1 **Unused Capacity:** Subject to contractual rights with respect to the Northern Transmission System, IPA may schedule the unused capacity of such System for transmission service for other utilities pursuant to procedures prescribed by the Operating Agent.

41.2 **Application of Payments:** All amounts received by IPA after the Transition Date as payments for any such transmission service pursuant to this Section 41 shall be applied as a credit against Monthly Power Costs with respect to the Northern Transmission System pursuant to the Renewal Power Sales Contracts.

42. **RIGHTS OF CERTAIN PURCHASERS TO TERMINATE THEIR RENEWAL POWER SALES CONTRACTS OR REDUCE THEIR GENERATION ENTITLEMENT SHARES**:

42.1 **Termination of Renewal Power Sales Contracts or Reduction of Generation Entitlements.** From and after the Entitlement Determination Date, each of the California Purchasers, other than Los Angeles, shall have the right to terminate its Renewal Power Sales Contract or to reduce its Generation Entitlement Share and its Generation Cost Share, respectively, by an amount not exceeding twenty (20%) percent thereof, effective November 1, 2019, by providing written notice to IPA of such termination of its Renewal Power Sales Contract or such reduction of its Generation Entitlement Share and Generation Cost Share, as applicable, at least ninety (90) days prior to November 1, 2019. Such a notice by such a California Purchaser with respect to a reduction of its Generation Entitlement Share and Generation Cost Share shall specify the portion thereof (not exceeding twenty (20%) percent thereof) to be reduced. IPA agrees to inform each of the other Purchasers of its receipt of such a notice or notices from each such California Purchaser. Effective on November 1, 2019, (i) the Renewal Power Sales Contract of each such California Purchaser providing such notice of the termination thereof shall terminate, and the Generation Entitlement Share and Generation Cost Share of each such California Purchaser providing such notice of reduction thereof shall be reduced (as specified in such notice) under the Renewal Power Sales Contracts; and (ii) except as otherwise provided in Section 42.3, the respective Generation Entitlement Share and

Generation Cost Share of each remaining Purchaser (other than any such California Purchaser that provides such notice to IPA) shall be increased to include that portion of the amount of the Terminated and Reduced Entitlements as determined in accordance with the ratio that such remaining Purchaser's Generation Entitlement Share bears to the total of the Generation Entitlement Shares of all such remaining Purchasers.

42.2 **Replacement of Appendices A and B.** In the event of the termination by one or more of the California Purchasers (excluding Los Angeles) of its or their Renewal Power Sales Contracts or the reduction by one or more of such California Purchasers of its or their Generation Entitlement Shares and Generation Cost Shares, in each case as provided in Section 42.1, IPA, except as otherwise provided in Section 42.3, shall on or prior to November 1, 2019 furnish each of the Purchasers (including Los Angeles) that remains a party to its Renewal Power Sales Contract with replacements of Appendix A and Appendix B of its Renewal Power Sales Contract providing for the following:

42.2.1 The removal from Appendix A and Appendix B of such California Purchaser or California Purchasers that shall have terminated its or their Renewal Power Sales Contracts and the deletion from Appendix A and Appendix B of its or their applicable Cost Shares and Generation Entitlement Shares.

42.2.2 The increase of the Generation Cost Share of each remaining Purchaser under its Renewal Power Sales Contract to include that portion of the amount of the Terminated and Reduced Purchaser Entitlements determined in accordance with the ratio that each such remaining Purchaser's Generation Cost Share set forth in Appendix A bears to the total of the Generation Cost Shares set forth in such Appendix A for all remaining Purchasers.

42.2.3 The increase of the Generation Entitlement Share of each remaining Purchaser under its Renewal Power Sales Contracts to include that portion of the amount of the Terminated and Reduced Purchaser Entitlements determined in accordance with the ratio that each such remaining Purchaser's Generation Entitlement Share set forth in Appendix B bears to the total of the Generation Entitlement Shares set forth in Appendix B for all remaining Purchasers.

42.2.4 The adjustment, if necessary, of the Transmission Cost Share of each such remaining Purchaser to reflect the increase of each such remaining Purchaser's Generation Entitlement Share as provided for under Section 42.2.3.

42.3 **Separate Agreement By Los Angeles.** In the event, however, of the termination by one or more of the California Purchasers (excluding Los Angeles) of its or their Renewal Power Sales Contracts or the reduction by one or more of such California Purchasers of its or their Generation Entitlement Shares and Generation Cost Shares, in each case as provided in Section 42.1 and the separate agreement under the Renewal Power Sales Contracts by Los Angeles prior to November 1, 2019 to increase its Generation Entitlement Share and its Generation Cost Share to include the amount of the Terminated and Reduced Purchaser Entitlements, or any portion thereof, and to the adjustment of its Southern Transmission Cost Share to reflect such increase of its Generation Entitlement Share, then IPA shall furnish each of such remaining Purchasers (including Los Angeles) with replacements of Appendix A and

Appendix B of its Renewal Power Sales Contract. In addition to the removal from such replacements of Appendix A and Appendix B of each such California Purchaser or California Purchasers that shall have terminated its or their Renewal Power Sales Contracts and the deletion therefrom of its or their Generation Entitlement Shares and Cost Shares, such replacements of Appendix A and Appendix B shall provide for such increase, as agreed to by Los Angeles, of its Generation Entitlement Share and its Generation Cost Share by the amount of such Terminated and Reduced Purchaser Entitlements, or such portion thereof, and for such adjustment of Los Angeles' Southern Transmission Cost Share to reflect such increase in its Generation Entitlement Share. Any remaining portion of such Terminated and Reduced Purchaser Entitlements that is not included under such agreement by Los Angeles shall be allocated to such remaining Purchasers, including Los Angeles, in the manner provided in Section 42.2; and IPA shall provide in such replacement Appendix A and replacement Appendix B for such allocation of the remaining Terminated and Reduced Purchaser Entitlements to such remaining Purchasers, including Los Angeles.

42.4 **Reduction of Design Capacity of Gas Units by Terminated and Reduced Purchaser Entitlements.** Except to the extent that Los Angeles shall agree to the allocation to it of the Terminated and Reduced Purchaser Entitlements, or a portion thereof, as provided in Section 42.3, the design capacity of the Gas Units under Section 44.1 of the Original Power Sales Contracts, as added by the Second Amendatory Power Sales Contracts, shall be reduced by that amount of the generating capacity of the terminated and reduced Generation Entitlement Shares included in the Terminated and Reduced Purchaser Entitlements that is not included in any Generation Entitlement Share of Los Angeles as adjusted pursuant to Section 42.3.

IN WITNESS WHEREOF, the parties hereto have duly caused this Renewal Power Sales Contract to be executed on their respective behalves on the date first above provided.

**INTERMOUNTAIN POWER AGENCY**,
a political subdivision of the State of Utah

By:_____

Its: _____

**[NAME OF PURCHASER]**

By:_____

Its: _____

## APPENDIX A

## SCHEDULE OF GENERATION COST SHARES AND TRANSMISSION COST SHARES

| Purchaser | Generation Cost Share | Northern Transmission Cost Share | Southern Transmission Cost Share |
|---|---|---|---|
| | % | % | % |

## APPENDIX B

## SCHEDULE OF GENERATION ENTITLEMENT SHARES AND POINTS OF DELIVERY

| Purchaser | Generation Entitlement Share | Point of Delivery |
|---|---|---|
| | % | % |

## APPENDIX C

## DESCRIPTION OF PROJECT

The following description of the Project, as authorized under the Original Power Sales Contracts, shall be revised by IPA at the commencement of the Operational Period, and shall be revised thereafter by IPA, from time to time, as is necessary to reflect the actual Project description as the Project evolves and changes, provided that each such revision shall be subject to approval of the Renewal Contract Coordinating Committee as provided under Section 6.2.19 of the Renewal Power Sales Contracts; provided further, that IPA cannot by such action change the aggregate Maximum Generating Capability of the Generation Station, unless such change shall have received the prior approval of the Renewal Contract Coordinating Committee.

C.1. GENERATION STATION: The Generation Station shall consist of the following:

C.1.1. Land and rights in land in the State of Utah used or to be used in connection with the construction and operation of the Generation Station.

C.1.2. Two natural gas combined cycle power blocks, consisting of Gas Unit 1 and Gas Unit 2, respectively, each with a design capacity of approximately 600 MW (or such lesser capacity as determined pursuant to Section 44.1 of the Original Power Sales Contracts) and each with a power block including natural gas-fired combustion turbine generating units, four heat recovery steam generators and two steam turbines, heat exchangers, zero liquid discharge systems and all equipment and facilities ancillary to such combined cycle power blocks, including potential use of mechanical draft cooling towers, re-circulating water system and auxiliary cooling water; provided that upon authorization pursuant to Section 44.1 of the Original Power Sales Contract (i) one of such combined cycle power blocks may be modified to include the existing steam turbine generator, or (ii) an addition to such combined cycle power blocks and related facilities may be installed consisting of selective catalytic reduction pollution control systems and related facilities for such combined cycle power blocks.

C.1.3. All auxiliary equipment associated with such power blocks.

C.1.4. A switchyard of a basic breaker and one-half design including the high voltage busses, power circuit breakers, disconnect switches, control house and other structures, facilities and appurtenances which shall be necessary or incidental in the useful construction or operation of the switchyard.

C.1.5. An administration building, machine shop and warehouse to be located adjacent to the power plant.

C.1.6. A water supply system consisting of all facilities necessary to store, pump and convey water to the power plant and an allocable portion of the supply of water for the Project.

C.1.7. Generation transformers and all equipment associated therewith.

C.1.8. General service transformers and all equipment associated therewith.

C.1.9. Plant control and communication facilities and associated buildings and equipment.

C.1.10. Natural gas transmission delivery facilities extending from the interconnection with the gas transmission system to the power plant including related facilities and equipment.

C.1.11. Natural gas storage facilities.

C.1.12 An allocable portion of services, structures, equipment, supplies, other facilities and other costs necessary for IPA to conduct the business of financing, designing, constructing, operating and maintaining the Project.

C.1.13. An allocable portion of all assistance to local communities in providing for facilities and impact alleviation expenses required for personnel involved with the construction and operation of the Project.

C.1.14. An allocable portion of a microwave communications system.

C.1.15. All other land, rights-of-way, buildings, structures, facilities, appurtenances, services and contract rights, or such allocable portion of the foregoing which shall be necessary or incidental in the useful construction or operation of the Generation Station. The limits of the Generation Station for the purpose of this Power Sales Contract shall be at the connection of the Northern Transmission System and Southern Transmission System leads to the high voltage switchrack.

C.2. NORTHERN TRANSMISSION SYSTEM: The Northern Transmission System, which shall consist of the A.C. transmission facilities necessary to deliver capacity and energy from the Generation Station to the points of delivery at Mona and Gonder, shall include:

C.2.1 Two 345 kv transmission lines from the Generation Station to Mona terminating at appropriate switchracks, together with contractual rights to use the Mona Substation and the obligation to pay the costs of such rights and use.

C.2.2. One 230 kv transmission line from the Generation Station to Gonder terminating at appropriate switchracks, together with ownership or contractual rights in the Gonder Substation and the obligation to pay the costs of such ownership or rights and such use.

C.2.3. An allocable portion of services, structures, equipment, supplies, other facilities and other costs necessary for IPA to conduct the business of financing, designing, constructing, operating and maintaining the Project.

C.2.4. An allocable portion of a microwave communications system.

C.2.5. All other land, rights-of-way, buildings, structures, facilities, appurtenances, services and contract rights, or such allocable portion of the foregoing, which shall be necessary or incidental in the useful construction or operation of the Northern Transmission System.

C.3. SOUTHERN TRANSMISSION SYSTEM: The Southern Transmission System, which shall consist of D.C. transmission and conversion facilities necessary to deliver capacity and energy from the Generation Station to the point of delivery at Adelanto, shall include:

C.3.1. A single bipole ±500 kv DC transmission line with an AC-DC converter station at each end, together with ownership or contractual rights in any substation and the obligation to pay the costs of such ownership or rights and such use.

C.3.2. An allocable portion of the supply of water for the Project.

C.3.3. An allocable portion of services, structures, equipment, supplies, other facilities and other costs necessary for IPA to conduct the business of financing, designing, constructing, operating and maintaining the Project.

C.3.4. An allocable portion of all assistance to local communities in providing for facilities and impact alleviation expenses required for personnel involved with the construction and operation of the Project.

C.3.5. An allocable portion of a microwave communication system.

C.3.6. All other land, rights-of-way, buildings, structures, facilities, appurtenances, services and contracts, or such allocable portion of any of the foregoing, which shall be necessary or incidental in the useful construction or operation of the Southern Transmission System.

All property that will remain attached to and incorporated into the Project throughout the useful life of the Project or such property is an integral part of the Project and constitutes real property.

# APPENDIX D

## FORM OF AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

[See attached]

AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

AMONG

EACH SELLER NAMED HEREIN

and

CALIFORNIA PURCHASERS NAMED HEREIN

and

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, as Representative of the California Purchasers

and

INTERMOUNTAIN POWER AGENCY

_____

Dated: _____ __, 201___

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AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

1. PARTIES. This Agreement made and entered into as of the _____ day of _____, 201___, among each Seller named on Appendix B hereto (each, a "Seller" and collectively, the "Sellers"), each California Purchaser named on Appendix B hereto (each, a "California Purchaser" and collectively, the "California Purchasers"), the Department of Water and Power of the City of Los Angeles ("LADWP"), as representative of the California Purchasers, and Intermountain Power Agency ("IPA").

2. RECITALS.

2.1 Each Seller and each of the California Purchasers are purchasers under certain Power Sales Contracts with IPA entered into as of September 28, 1978 (for the Sellers) and August 6, 1980 (for the California Purchasers), as amended, for the purchase of electric power and transmission capacity from the Intermountain Power Project from IPA (the "Original Power Sales Contracts"); and

2.2 Certain of the Sellers and certain of the California Purchasers are parties to the Excess Power Sales Agreement, entered into as of December 1, 1980, as amended, for the purchase by such California Purchasers of certain excess electric capacity and associated energy of the Project from such Sellers during the term of the Original Power Sales Contracts; and

2.3 Each of the Sellers has entered into a Renewal Power Sales Contract, dated as of _____, 201___, by and between it and IPA (together with substantially similar contracts by IPA with other participants in the Project, the "Renewal Power Sales Contracts") providing to each Seller a Generation Entitlement Share and entitling such Seller, commencing upon the expiration of the Original Power Sales Contracts, to schedule electric capacity and energy from each generating facility of the Project and to use the operating capabilities of the Northern Transmission System of the Project; and

2.4 Each Seller will determine the amount, if any, of Project electric capacity and associated energy to which it is entitled pursuant to its Renewal Power Sales Contract with IPA that will be in excess of its electric requirements; and

2.5 Each Seller desires to sell, and the California Purchasers desire to purchase, on the terms and conditions set forth in this Agreement any such excess Project electric capacity and associated energy of such Seller under its Renewal Power Sales Contract; and

2.6 Each Seller has further determined that a portion of its Northern Transmission System capacity entitlement will be excess to its needs.

3. AGREEMENT. For and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is agreed by and among the parties hereto as follows:

4. DEFINITIONS. In addition to the terms defined in the Recitals hereof, the following terms, whether in the singular or in the plural, when used herein and in the Appendices hereto and initially capitalized, shall have the meanings specified:

4.1 "Agreement": This Agreement for Sale of Renewal Excess Power, as the same may be amended from time to time in accordance with the terms hereof.

4.2 "Annual Budget", "Available Generating Capability", "Bond Resolution", "California Excess Power Purchasers", "Coordinating Committee", "Construction Management and Operating Agreement", "Fuel Management Practices and Procedures", "Gas Repowering", "Generation Entitlement Share", "Generation Cost Share", "General Service Requirements", "Generation Station", "Los Angeles", "Minimum Generating Capability", "Month", "Monthly Power Costs", "Northern Transmission System", "Operating Agent", "Point of Delivery", "Project", "Project Fuel", "Project Indebtedness", "Prudent Utility Practice", "Purchasers", "Switchyard", "Uncontrollable Forces", "Uniform System of Accounts" and "Willful Action" shall have the respective meanings given thereto in the Renewal Power Sales Contracts.

4.3 "Appendix A": The Initial Appendix A and each Revised Appendix A.

4.4 "Assigned Northern Transmission System Entitlement": That portion of the Northern Transmission System entitlement of each Seller (as determined pursuant to Section 10.2 of such Seller's Renewal Power Sales Contract) that is equal to fifty percent (50%) of such Seller's Excess Northern Transmission System Entitlement.

4.5 "Assignment Share": With respect to each Seller and a particular California Purchaser, that portion of such Seller's Assigned Northern Transmission System Entitlement determined by multiplying such California Purchaser's Purchase Percentage by such Seller's Assigned Northern Transmission System Entitlement.

4.6 "California Purchasers": Los Angeles and each of the other California Excess Power Purchasers so denominated on Appendix B, together with any successor to any such entity.

4.7 "Complete Outage": A Complete Outage shall, for purposes of this Agreement, be deemed to have occurred if during the Operational Period the condition shall exist that, for other than normal maintenance, no generating facility of the Project produces power at the high voltage side of its generating transformers in excess of its allocated General Service Requirements and any such Complete Outage shall be deemed to continue in effect until such time after the commencement thereof as a generating facility of the Project first produces power at the high voltage side

of its generating transformers in excess of its allocated General Service Requirements.

4.8 "Effective Date": Shall have the meaning ascribed thereto in Section 20.1 hereof.

4.9 "Excess Entitlement Share": As of any date of determination and for each Seller, the percentage entitlement of such Seller in the electric capacity and associated energy of each generating facility of the Project as then set forth for Summer Seasons or Winter Seasons, respectively, in Appendix A which shall have been designated by such Seller as excess to its electric requirements. Such entitlement is derived from such Seller's Generation Entitlement Share; provided, however, that at no time shall the Excess Entitlement Share for such Seller with respect to Summer Seasons or Winter Seasons exceed its Generation Entitlement Share.

4.10 "Excess Entitlement Share Effective Date": The date on which the Excess Entitlement Share for Summer Seasons or for Winter Seasons (or any revision of such Excess Entitlement Share in accordance with Section 5) shall become effective as provided in Sections 5.1 and 5.2 hereof.

4.11 "Excess Northern Transmission System Entitlement": That portion of a particular Seller's entitlement to schedule the operating capabilities of the Northern Transmission System under its Renewal Power Sales Contract, without regard to source or origin, constituting such Seller's rights to the capacity thereof, which is equal to the difference between such Seller's entitlement to capacity of the Northern Transmission System determined pursuant to Section 10.2 of its Renewal Power Sales Contract and the amount of such capacity of the Northern Transmission System required for delivery of such Seller's Generation Entitlement Share of Project capacity and associated energy to such Seller's Point of Delivery.

4.12 "Excess Power Obligation": At any time and as to any particular California Purchaser and as to a particular Seller, the percentage obtained by multiplying the Summer Excess Entitlement Share or Winter Excess Entitlement Share of such Seller in effect at such time as shown on the then effective Appendix A, by the Purchase Percentage (expressed as a decimal) of such California Purchaser. The Excess Power Obligation with respect to a particular California Purchaser and a particular Seller shall change each time the Summer Excess Entitlement Share or the Winter Excess Entitlement Share, as applicable, of such Seller shall change.

4.13 "Excess Power Supply Year": The twelve (12) Month period commencing at 12:01 a.m. on July 1 of each year during the Operational Period and ending at 12:01 a.m. on the following July 1; provided, however, that (a) if the Operational Period Commencement Date does not occur on July 1 of any year, then the first Excess Power Supply Year shall begin at 12:01 a.m. on the Operational Period Commencement Date and shall end at 12:01 a.m. on the next following July 1, and (b) if the Operational Period does not end on June 30 of any year, then the last Excess Power Supply Year shall begin at 12:01 a.m. on the July 1 immediately

preceding the last day of the Operational Period and shall end at 12:01 a.m. on the last day of the Operational Period.

4.14 "Initial Appendix A": The Appendix A attached to this Agreement at its Effective Date, which shall set forth the Purchase Percentage of each California Purchaser and subsequently shall set forth, as provided in Section 5.1 hereof, the Excess Entitlement Share of each of the Sellers.

4.15 "Operational Period": The period beginning on the Operational Period Commencement Date and ending upon the date that all Renewal Power Sales Contracts shall terminate.

4.16 "Operational Period Commencement Date": June 16, 2027; provided, however, that if the date upon which the Original Power Sales Contracts terminate is extended pursuant to Section 26.1 of the Original Power Sales Contracts, then the Operational Period Commencement Date shall be the date that is next succeeding the date upon which the Original Power Sales Contracts terminate in accordance with their terms.

4.17 "Primary Purchasers": Those entities (other than IPA) executing Renewal Power Sales Contracts, together in each case with their respective successors or assigns.

4.18 "Purchase Percentage": As to each California Purchaser, the percentage set forth in Appendix A with respect to such California Purchaser of the Summer Excess Entitlement Share and the Winter Excess Entitlement Share, respectively, of each Seller as in effect from time to time which such California Purchaser has agreed to purchase pursuant to this Agreement. The Purchase Percentage of each California Purchaser shall be, and shall continue to be throughout the term of this Agreement, the percentage indicated on Appendix A.

4.19 "Purchasers' Representative": Los Angeles which is hereby designated by the California Purchasers to carry out the duties and responsibilities set forth in this Agreement for the Purchasers' Representative.

4.20 "Remaining NTS Entitlement": With respect to a particular Seller, such Seller's entitlement in the Northern Transmission System, as calculated under and in accordance with Section 10.2 of its Renewal Power Sales Contract, less such Seller's Assigned Northern Transmission System Entitlement.

4.21 "Renewal Power Sales Contracts": The Renewal Power Sales Contracts defined in Section 2.3 hereof, together with all amendments and supplements hereafter entered into.

4.22 "Retained Generation Entitlement Share": means, with respect to a particular Seller, during a particular Season, such Seller's Generation Entitlement Share less its Summer Excess Entitlement Share or its Winter Excess Entitlement Share, as applicable, then in effect as set forth in Appendix A.

4.23 "Revised Appendix A": Shall have the meaning ascribed thereto in Section 5.2 hereof.

4.24 "Season": A Summer Season or a Winter Season provided, however, that (a) if the Operational Period Commencement Date does not occur on the first day of a Summer Season or a Winter Season, as the case may be, then the first Summer Season or the first Winter Season shall begin at 12:01 a.m. on the Operational Period Commencement Date and shall end at 12:01 a.m. on the last day of such Summer Season or such Winter Season, as applicable, and (b) if the Operational Period does not end on the last day of a Summer Season or on the last day of a Winter Season, then the last Summer Season or the last Winter Season, as applicable, of the Operational Period shall end at 12:01 a.m. on the last day of the Operational Period.

4.25 "Sellers": Each of the entities so denominated on Appendix B, together with any successor to any such entity.

4.26 "Summer Excess Entitlement Share": The Excess Entitlement Share then in effect for Summer Seasons.

4.27 "Summer Season": The four-month period commencing at 12:01 a.m. on June 1 of each Excess Power Supply Year and ending at 12:01 a.m. on October 1 of the immediately following Excess Power Supply Year; provided that the first Summer Season or the last Summer Season of the Operational Period may have less than a four-month period as provided by Section 4.24.

4.28 "Total Excess Entitlement Share": At any time during a Summer Season, the aggregate of the Summer Excess Entitlement Shares of all Sellers as then in effect, and at any time during a Winter Season, the aggregate of the Winter Excess Entitlement Shares of all Sellers as then in effect.

4.29 "Winter Excess Entitlement Share": The Excess Entitlement Share then in effect for Winter Seasons.

4.30 "Winter Season": The eight-month period commencing at 12:01 a.m. on October 1 of each Excess Power Supply Year and ending at 12:01 a.m. on June 1 of the same Excess Power Supply Year provided that the first Winter Season or the last Winter Season of the Operational Period may have less than an eight-month period as provided in Section 4.24.

5. APPENDIX A AND REVISIONS THERETO; DECREASE OR INCREASE OF EXCESS ENTITLEMENT SHARE.

5.1 At the Effective Date the Initial Appendix A attached to this Agreement shall set forth the Purchase Percentage of each of the California Purchasers; provided that, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, the Initial Appendix A shall be

revised by IPA so as to allocate to Los Angeles under this Agreement the terminated Purchase Percentage of such California Purchaser or the terminated Purchase Percentages of such California Purchasers, as the case may be, that shall have terminated its or their Renewal Power Sales Contracts, and copies of such revised Initial Appendix A shall be furnished to each of the Sellers and to each of the California Purchasers, including Los Angeles, that remain parties to this Agreement. At least twelve (12) Months prior to the Operational Period Commencement Date each Seller shall furnish written notice to each of the California Purchasers and IPA of such Seller's Excess Entitlement Share for each Season; and IPA shall set forth in the Initial Appendix A (as the same may have been revised as provided hereinabove) the Excess Entitlement Share of each such Seller for each Season as specified in its notice furnished as above provided. Thereupon the Excess Entitlement Share of each Seller for each Season shall become effective and IPA shall furnish copies of such Initial Appendix A to each of the Sellers and each of the California Purchasers. The Initial Appendix A shall remain in effect for purposes of this Agreement until such time as a Revised Appendix A is prepared and furnished in accordance with Section 5.2 hereof.

5.2 Subject to Sections 5.2.1, 5.2.2 and 5.2.3, on and after the Operational Period Commencement Date each Seller shall have the right to revise (whether by decreasing or increasing) its Summer Excess Entitlement Share (other than for the first Summer Season of the Operational Period) as then set forth in Appendix A, or its Winter Excess Entitlement Share (other than for the first Winter Season of the Operational Period) as then set forth in Appendix A.

5.2.1. A Seller may elect to increase or decrease its Summer Excess Entitlement Share or its Winter Excess Entitlement Share by furnishing to each of the California Purchasers and IPA a written notice specifying such increased or decreased Excess Entitlement Share. In the case of an increase or decrease of its Summer Excess Entitlement Share, Seller must furnish such notice at least twelve (12) months prior to the first day of the Summer Season for which such increased or decreased Summer Excess Entitlement Share shall become effective. In the case of the increase or decrease of its Winter Excess Entitlement Share, Seller must furnish such notice at least twelve (12) Months prior to the first day of the Winter Season for which such increased or decreased Winter Excess Entitlement Share shall become effective. Such increased or decreased Excess Entitlement Share shall become effective on the date of commencement of the Season for which such notice is given. Prior to such Excess Entitlement Share Effective Date, IPA shall prepare a revision of Appendix A (a "Revised Appendix A") which shall set forth the increased or decreased Summer Excess Entitlement Share or the increased or decreased Winter Excess Entitlement Share of such Seller with respect to which such Seller has provided timely notice pursuant to this Section 5.2.1 and furnish such Revised Appendix A to each of the Sellers and to each of the California Purchasers. On such Excess Entitlement Share Effective Date such Revised Appendix A shall replace the then current Appendix A

and shall thereupon become effective for the purposes of this Agreement until such time as a Revised Appendix A is thereafter prepared and furnished in accordance with this Section 5.2.1.

5.2.2. If a Seller elects to decrease its Summer Excess Entitlement Share or its Winter Excess Entitlement Share, the amount of such decrease shall remain in effect for at least the three (3) consecutive twelve-month periods commencing on the Excess Entitlement Share Effective Date for such Summer Excess Entitlement Share or such Winter Excess Entitlement Share. Notwithstanding such three (3) consecutive twelve-month periods required for the amount of such decrease of the Summer Excess Entitlement Share or the Winter Excess Entitlement Share, Seller shall have the right by providing notice in accordance with Section 5.2.1 to further decrease such Summer Excess Entitlement Share or such Winter Excess Entitlement Share, as the case may be; provided that the amount of such further decrease shall remain in effect for at least the three (3) consecutive twelve-month periods commencing on the Excess Entitlement Share Effective Date with respect to such further decrease of such Excess Entitlement Share. No decrease in a Seller's Summer Excess Entitlement Share or Winter Excess Entitlement Share shall cause such Excess Entitlement Share to be less than zero.

5.2.3. (a) If a Seller elects, in accordance with Section 5.2.1, to increase its Summer Excess Entitlement Share or its Winter Excess Entitlement Share and such increase is the first increase following the commencement of the Operational Period or the first increase following any decrease in such Excess Entitlement Share, then, subject to compliance with the requirements of Section 5.2.2 with respect to the period that the amount of any decrease of an Excess Entitlement Share shall remain in effect, Seller, upon providing notice in accordance with Section 5.2.1, may increase (such increase being an "Initial Increase") such Summer Excess Entitlement Share or such Winter Excess Entitlement Share by up to fifty percent (50%) of such Seller's Retained Generation Entitlement Share that will be in effect for the next Summer Season (if such increase is to the Summer Excess Entitlement Share) or the next Winter Season (if such increase is to the Winter Excess Entitlement Share) following such notice (the first day of such next Season as of which the Retained Generation Entitlement Share is determined to be in effect being the "Retained Generation Entitlement Share Reference Date").

(b) If a Seller elects, in accordance with Section 5.2.1, to increase its Summer Excess Entitlement Share or Winter Excess Entitlement Share otherwise than as provided under (a) above (such an increase being a "Further Increase"), then, subject to compliance with the requirements of Section 5.2.2 with respect to the period that the amount of any decrease of an Excess Entitlement Share shall remain in effect, Seller, upon providing notice in accordance with Section 5.2.1, may increase such Summer

Excess Entitlement Share or such Winter Excess Entitlement Share by up to fifty percent (50%) of its Retained Generation Entitlement Share that was in effect at the most recent Retained Generation Entitlement Share Reference Date as determined pursuant to (a) above with respect to the most recent Initial Increase, so that such Initial Increase, together with such Further Increase or Further Increases of the Summer Excess Entitlement Share or Winter Excess Entitlement Share that occur after such Initial Increase and prior to the next decrease of such Summer Excess Entitlement Share or such Winter Excess Entitlement Share, shall not exceed such Retained Generation Entitlement Share of Seller that was in effect on such most recent Retained Generation Entitlement Share Reference Date as determined pursuant to (a) above.

(c) No increase in a Seller's Excess Entitlement Share shall cause such Seller's Excess Entitlement Share to exceed its Generation Entitlement Share.

## 6. EXCESS CAPACITY AND ENERGY ENTITLEMENTS; USE OF SWITCHYARD

6.1 Beginning with the Season that commences on the Operational Period Commencement Date, and during each Summer Season and Winter Season thereafter, (i) each Seller shall sell, assign and provide to each California Purchaser the Excess Power Obligation applicable to such California Purchaser during such Season of capacity and energy from the Project, and (ii) each California Purchaser shall purchase and take from such Seller the Excess Power Obligation applicable to such California Purchaser during such Season of the capacity and energy from the Project. Such sale and assignment by Seller to each California Purchaser with respect to Seller's Excess Power Obligation applicable to such California Purchaser shall include Seller's right under Section 9.11 of the Renewal Power Sales Contract to elect to procure its own fuel in accordance with the provisions of the Fuel Management Practices and Procedures for use in the Generation Station for the generation of its Excess Entitlement Share to the extent of such Excess Power Obligation, and such California Purchaser shall therefore have such right to elect to bring its own fuel in accordance with the Fuel Management Practices and Procedures for use in the Generation Station for generation of such Excess Power Obligation. For purposes of this Agreement, energy delivered to any California Purchaser from the Project shall be deemed to have been delivered first (up to its entitlement thereunder) pursuant to such California Purchaser's Renewal Power Sales Contract, and thereafter pursuant to this Agreement. Such California Purchaser shall pay for such capacity and energy and associated rights as provided in Section 9 hereof.

6.2 At all times on and after the Operational Period Commencement Date, each California Purchaser during a Summer Season or a Winter Season shall be entitled to schedule for its account, with respect to each Seller, capacity and energy (other than test energy) from each generating facility of the Project up to an amount equal to the product of the Available Generation Capability of such generating

facility multiplied by the Excess Power Obligation applicable to such California Purchaser and such Seller during such Season. Upon the occurrence of abnormal operating conditions on a California Purchaser's system, upon the request of such California Purchaser, the Operating Agent shall increase or decrease such California Purchaser's schedule consistent with Prudent Utility Practice. Such increase or decrease shall not cause the schedule of such California Purchaser to exceed the amounts of capacity and energy to which such California Purchaser is entitled as provided for in this Section 6.2 or in Sections 6.3, 6.4 or 6.5 hereof and shall not be detrimental to any other California Purchaser or Primary Purchaser.

6.3 When any Seller requests delivery during a Summer Season or a Winter Season of capacity and energy under its Renewal Power Sales Contract, and such delivery requires the start-up of a generating facility of the Project, each California Purchaser shall, unless otherwise agreed, schedule for its account an amount of capacity and energy at least equal to the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and by multiplying such product times the Minimum Generating Capability established for such generating facility. At any time when such Seller has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such generating facility, then each of the California Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying (a) the remaining unscheduled amount of Minimum Generating Capability times (b) the Total Excess Entitlement Share then in effect (expressed as a decimal) times (c) the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all California Purchasers.

6.4 When a Primary Purchaser (other than a Seller) requests delivery during a Summer Season or a Winter Season of capacity and energy under its Renewal Power Sales Contract, and such delivery requires the start-up of a Project generating facility, each California Purchaser shall, unless otherwise agreed, schedule for its account an amount of capacity and energy at least equal to the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and multiplying such product times the Minimum Generating Capability established for such generating facility. At any time when a Primary Purchaser has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such generating facility, then each of the California Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying (a) the remaining unscheduled amount of Minimum Generating Capability times (b) the Total Excess Entitlement Share then in effect (expressed as a decimal) times (c) the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all California Purchasers.

6.5 When a California Purchaser requests delivery during a Summer Season or a Winter Season of capacity and energy under this Agreement, and such delivery requires the start-up of a generating facility of the Project, each other California Purchaser and each Seller shall, unless otherwise agreed, schedule for their respective accounts an amount of capacity and energy equal to (i) in the case of each such other California Purchaser, the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and multiplying such product times the Minimum Generating Capability established for such generating facility and (ii) in the case of each Seller, the product obtained by multiplying the difference between its Generation Entitlement Share and its Excess Entitlement Share then in effect (expressed as a decimal) by the Minimum Generating Capability established for such generating facility. At any time when such requesting California Purchaser has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Purchase Percentage (expressed as a decimal) and the Total Excess Entitlement Share then in effect (expressed as a decimal) and the Minimum Generating Capability of such generating facility, then (x) each other California Purchaser shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying the remaining unscheduled amount of Minimum Generating Capability times the Total Excess Entitlement Share then in effect (expressed as a decimal) times the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all such other California Purchasers and (y) each Seller shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying the remaining unscheduled amount of Minimum Generating Capability times the ratio which the difference between its Generation Entitlement Share then in effect and its Excess Entitlement Share then in effect bears to the difference between the total of the Generation Entitlement Shares of all Sellers and the Total Excess Entitlement Share then in effect.

6.6 Operation of any generating facility of the Project shall be subject to scheduled outages or curtailments, operating emergencies and unscheduled outages or curtailments of such facility.

6.7 The capacity and energy of the Generation Station shall be controlled in a manner which shall not diminish the rights of any California Purchaser to receive its entitlement of capacity and energy under this Agreement.

6.8 Each California Purchaser shall be obligated during a Summer Season or a Winter Season to the extent of its Purchase Percentage (expressed as a decimal) times the Total Excess Entitlement Share in existence during such Season to provide for capacity and energy requirements for starting up and shutting down each generating facility in compliance with procedures approved pursuant to the Renewal Power Sales Contracts.

6.9 The point of delivery of each California Purchaser's capacity and energy under this Agreement shall be the Generation Station bus. It is the obligation of each California Purchaser to arrange for transmission of its capacity and energy from such point to its system.

6.10 Each Seller and each California Purchaser shall furnish to IPA and the Operating Agent, as applicable, such notices, instructions or advice and take such other action as shall be necessary to give effect to this Agreement.

6.11 Notwithstanding anything to the contrary contained herein, (i) a California Purchaser shall be entitled to schedule with the Operating Agent the aggregate of the capacity and energy to which it is from time to time entitled hereunder, as opposed to having to individually schedule with respect to each Seller the capacity and energy to which such Purchaser is entitled from such Seller and (ii) the Purchaser's Representative shall, on behalf of each California Purchaser, make all schedules and changes therein required or permitted to be made by this Agreement by such California Purchaser.

6.12 Seller hereby sells and assigns to each California Purchaser, and each California Purchaser shall have the right to use, the Switchyard for its Excess Power Obligation of the Available Generating Capability.

6.13 IPA hereby acknowledges the sale and assignment pursuant to this Agreement to each California Purchaser by each Seller of the Excess Power Obligation, applicable to such California Purchaser and such Seller of capacity and energy from the Project and the associated Switchyard rights, together with the provision by such Seller of associated Northern Transmission System rights as provided for in Section 7.1 hereof and certifies that it has made the determination with respect to such sale and assignment provided for in Section 20.2 of the Renewal Power Sales Contract with such Seller. Payments made by such California Purchaser for such Excess Power Obligation of capacity and energy and associated Switchyard rights and for such associated Northern Transmission System rights shall be in addition to and shall not affect such California Purchaser's obligations under Section 8.1 hereof or under its Renewal Power Sales Contract.

6.14 Except as provided in Section 17 hereof, a California Purchaser shall not sell or assign to a purchaser or assignee the Excess Power Obligation or any portion thereof, applicable to such California Purchaser and each Seller of capacity and energy from the Project and associated Switchyard rights and associated Northern Transmission System rights, except on prior written notice to such Seller and IPA; provided that (i) such California Purchaser shall remain obligated to make the payments provided in Section 9 and otherwise to comply with the applicable provisions of this Agreement, and such California Purchaser shall be discharged from such payments and otherwise relieved from such compliance only if and to the extent of such payments made and such compliance performed by such purchaser or assignee; and (ii) such sale or assignment will not adversely affect

the eligibility for exemption from Federal income taxes of the interest on Project Indebtedness then outstanding or to be incurred by IPA.

7. USE OF NORTHERN TRANSMISSION SYSTEM WITH RESPECT TO EXCESS POWER

7.1 Pursuant to this Agreement, each Seller having a right pursuant to its Renewal Power Sales Contract to use the Northern Transmission System hereby agrees to permit and to provide the rights to each California Purchaser to schedule from time to time, without regard to source or origin, and in accordance with the Renewal Power Sales Contracts, the use of the operating capabilities of the Northern Transmission System up to an amount equal to (i) the Excess Power Obligation in effect for such California Purchaser and such Seller at the time of such scheduling, (ii) divided by the Generation Entitlement Share of such Seller, (iii) times such Seller's Remaining NTS Entitlement. Such California Purchaser shall pay for such use of the Northern Transmission System as provided in Section 9 hereof.

7.2 If it is necessary to curtail scheduled power flows over all or any part of the Northern Transmission System, then each California Purchaser shall have the right to use the Northern Transmission System in an amount determined by multiplying that portion of the total amount of the Remaining NTS Entitlements of all Sellers that then remains available by the ratio (expressed as a decimal) which the Total Excess Entitlement Share at the time bears to the Total Generation Entitlement Shares of the Sellers, and by then multiplying the resultant product by the ratio (expressed as a decimal) that the aggregate of the capacity scheduled over the Northern Transmission System or part thereof by such California Purchaser pursuant to its rights provided by all the Sellers under Section 7.1 hereof bears to the aggregate of the capacity scheduled over the Northern Transmission System or part thereof by all California Purchasers pursuant to their rights provided by all the Sellers under Section 7.1 hereof.

7.3 Any California Purchaser desiring to schedule the use of the operating capabilities of the Northern Transmission System in excess of its rights under this Agreement may make appropriate arrangements with another California Purchaser having rights to unused transmission capability. It is the responsibility of each California Purchaser so involved to notify the Operating Agent of such arrangements and to provide for proper schedules to accommodate such arrangements. Notwithstanding anything to the contrary contained herein, each California Purchaser's right to schedule the use of the operating capabilities of the Northern Transmission System pursuant to Section 7.1 hereof and to schedule such capability in excess of its rights under the Agreement as provided in this Section 7.3 shall be limited to the extent that such California Purchaser may not act in such a manner that adversely affects the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness outstanding or to be incurred by IPA.

7.4 Scheduling by the California Purchasers of the use of the operating capability of the Northern Transmission System pursuant to Sections 7.1, 7.2 or 7.3 of this Agreement shall not interfere with the use of the Northern Transmission System to transmit Generation Entitlement Shares under Renewal Power Sales Contracts of any Primary Purchaser having a Point of Delivery thereon.

8. ASSIGNMENT OF CERTAIN NORTHERN TRANSMISSION SYSTEM RIGHTS.

8.1 Effective from and after the Operational Period Commencement Date, each Seller hereby assigns and transfers to each California Purchaser, and each such California Purchaser hereby accepts such assignment and transfer of that portion of each such Seller's entitlement to the Northern Transmission System under Section 10.2 of its Renewal Power Sales Contract that is equal to such California Purchaser's Purchase Percentage of such Seller's Assigned Northern Transmission System Entitlement. Such assignment and transfer shall be in effect for the Operational Period under this Agreement. Each Seller shall furnish to each California Purchaser information as to the amount of Northern Transmission System costs payable each Month by such Seller under its Renewal Power Sales Contract (including such costs payable by such California Purchaser pursuant to Section 9.1.2 hereof) and any adjustments of such costs pursuant to Section 5.7 of the Renewal Power Sales Contracts. Each California Purchaser shall pay directly to IPA each Month at the time required for payment thereof by each of the Sellers under its Renewal Power Sales Contract the Assignment Share with respect to such Seller and such California Purchaser of such costs with respect to the Northern Transmission System payable by such Seller under its Renewal Power Sales Contract (including any adjustments with respect to such costs pursuant to Section 5.7 thereof). Such payments received by IPA shall be applied in discharge of such Seller's obligation under its Renewal Power Sales Contract to pay such costs, which shall be discharged only to the extent of such receipt. Except as discharged as herein provided, the obligation of each Seller to pay costs with respect to the Northern Transmission System payable by it under its Renewal Power Sales Contract shall continue and shall not otherwise be affected by the provisions of Section 8 hereof.

8.2 IPA hereby acknowledges the assignment and transfer pursuant to Section 8.1 hereof by each Seller to each California Purchaser of such California Purchaser's Purchase Percentage of the Assigned Northern Transmission System Entitlement with respect to such Seller and certifies that it has made the determination with respect to such assignment and transfer provided for in Section 20.2 of its Renewal Power Sales Contract with such Seller.

8.3 Except as provided in Section 17 hereof, a California Purchaser shall not sell, assign or transfer to any purchaser, assignee or transferee thereof the Northern Transmission System entitlement, or any portion thereof, assigned or transferred to it by a Seller under Section 8.1, except on prior written notice to such Seller and IPA; provided that (i) such California Purchaser shall remain obligated to make the payments and otherwise comply with the provisions of this Section 8

and shall be discharged from such payments and otherwise relieved from such compliance only if and to the extent of such payments shall be made and such compliance performed by such purchaser, assignee or transferee; and (ii) such sale, assignment or transfer will not adversely affect the eligibility for exemption from Federal income taxes of the interest on Project Indebtedness then outstanding or to be incurred by IPA.

9. CHARGES AND BILLINGS FOR EXCESS POWER AND NORTHERN TRANSMISSION SYSTEM RIGHTS.

9.1 The amount payable by a particular California Purchaser for any Month during an Excess Power Supply Year for the account of each Seller with respect to the minimum cost component of Monthly Power Costs shall be the sum of the following:

9.1.1. The Excess Power Obligation in effect for such Month with respect to such Seller and such California Purchaser times the minimum cost component of Monthly Power Costs for such Month associated with the Generation Station as computed under and in accordance with Section 7.1.1 of the Renewal Power Sales Contracts; plus

9.1.2. In consideration of such California Purchaser's right to schedule a portion of the entitlement of such Seller in the Northern Transmission System granted by Section 7.1 of this Agreement, an amount equal to the Excess Power Obligation in effect for such Month with respect to such California Purchaser and such Seller divided by the Generation Entitlement Share of such Seller times the amount for such Month (or portion thereof) of costs in respect of the Northern Transmission System that such Seller is obligated to pay pursuant to its Renewal Power Sales Contract (which for purposes of calculation shall include the total of the Assignment Shares of such Northern Transmission System costs payable by the California Purchasers as provided for in Section 8.1 hereof).

In the event that payments are due under this Section 9.1 for only a portion of a Month, the above computations shall be made so as to allocate the above-mentioned costs for such Month equally among the days of such Month and to take into account the number of days in such Month such Excess Power Obligation was in effect.

9.2 The amount payable by a particular California Purchaser for any Month during an Excess Power Supply Year for the account of all Sellers with respect to the variable cost component of Monthly Power Costs, shall be the product obtained by multiplying the variable cost component of Monthly Power Costs for such Month, as computed under and in accordance with Section 7.1.4 of the Renewal Power Sales Contracts, by a fraction the numerator of which is the kilowatt hours generated by the use of Project Fuel as provided in Section 4.67.2 of the Renewal Power Sales Contracts and delivered at the Project bus from the Generation

Station to such California Purchaser pursuant to this Agreement and the denominator of which is all kilowatt hours generated by the use of Project Fuel as provided in Section 4.67.2 of the Renewal Power Sales Contract and delivered at the Project bus during such Month. The amount so to be paid by such California Purchaser shall be allocated to each Seller in proportion to the ratio which its Excess Entitlement Share for such Month bears to the Total Excess Entitlement Share for such Month.

9.3 RESERVED

9.4 For billing purposes, the amount of the minimum cost component of the Monthly Power Costs to be paid by each California Purchaser each Month in amounts pursuant to Sections 9.1.1 and 9.1.2 hereof shall be billed in advance and shall be based on the then current Annual Budget. The amount of the variable cost component of the Monthly Power Costs to be paid by each California Purchaser each Month pursuant to Section 9.2 hereof shall be billed the Month following the Month such variable cost was incurred and shall be based on the cost of the Project Fuel and associated costs (determined under Section 4.67.2 of the Renewal Power Sales Contracts) during such Month.

9.5 By the fifth calendar day of each Month for which payments are required by Sections 9.1 or 9.2 hereof, IPA on behalf of the Sellers shall bill each California Purchaser for the amount of the minimum cost component of the Monthly Power Costs to be paid by such California Purchaser to each Seller hereunder for the current Month, and for the amount of the variable cost component of the Monthly Power Costs to be paid by such California Purchaser hereunder for the preceding Month (in the case of amounts payable pursuant to Section 9.2 hereof) by providing such California Purchaser with a copy to each of the Sellers with a billing statement in accordance with the charges established pursuant to the provisions of this Agreement. Such billing statement shall detail the matters covered in Section 4.67.2 of the Renewal Power Sales Contracts (in the case of amounts payable pursuant to Section 9.2 hereof).and shall set forth, among other things, the amounts due for such Months by such California Purchaser with respect to the items of Monthly Power Costs set forth in Section 9.1 or Section 9.2 hereof. The amounts set forth on such billing statement shall be paid to IPA for the account of each of the Sellers by such California Purchaser on or before 20 days after receipt of such billing statement.

9.6 If a California Purchaser fails to pay any bill when due, interest shall accrue at a rate of one percent per Month on the unpaid amount of the billing statement.

9.7 Within 30 days following the submission to IPA, the California Purchasers, and each of the Sellers of the audit conducted pursuant to Section 13 hereof and no later than 150 days after the end of each Excess Power Supply Year, IPA will submit to each California Purchaser a detailed statement of the actual aggregate amounts payable hereunder by such California Purchaser for the account of each Seller, including credits thereto, for all of the Months of such Excess Power

Supply Year, and the adjustments of the aggregate Monthly Power Costs payable by such California Purchaser hereunder, if any, for any prior Excess Power Supply Year, based on the annual audit of accounts provided for in Section 13. If, on the basis of the statement submitted as provided in this Section 9.7, the actual aggregate amounts payable hereunder by a particular California Purchaser to a particular Seller for any Excess Power Supply Year exceeds the amount thereof which such California Purchaser has been billed in respect of such Seller, such California Purchaser shall promptly pay IPA for the account of such Seller the amount to which such Seller is entitled. If, on the basis of the statement submitted pursuant to this Section 9.7, the actual aggregate amounts payable hereunder for any Excess Power Supply Year by a particular California Purchaser to a particular Seller are less than the amount therefor which such California Purchaser has been billed IPA for the account of such Seller shall credit such excess against such California Purchaser's next monthly payment due in respect of such Seller.

9.8 If, in any billing statement received by a California Purchaser from IPA an amount shown thereon as being due by such California Purchaser to a particular Seller shall be in bona fide dispute, such California Purchaser shall pay such amount in full, and, upon determination of the correct amount, the difference between such correct amount and such amount paid, if any, including interest at one percent per Month on any overpayment, will be credited, in respect of such Seller, to such California Purchaser by IPA after such determination, provided, however that such interest shall not accrue on any overpayment that is acknowledged by IPA and returned to such California Purchaser by the fifth day following the receipt by IPA of the disputed overpayment. In the event any such amount is in dispute, IPA will give consideration to the California Purchaser's position relative thereto within 30 days following written notification by such California Purchaser of such dispute.

9.9 Amounts paid by the California Purchasers to IPA shall be applied as follows:

9.9.1. IPA shall, promptly upon receipt of the amounts payable pursuant to Section 9.1 hereof by a particular California Purchaser for the account of a particular Seller, apply such amounts for the account of such Seller.

9.9.2. IPA shall, promptly upon receipt of the amounts payable pursuant to Section 9.2 hereof by a particular California Purchaser, as allocated pursuant to Section 9.2 to a particular Seller, apply such allocated amount for the account of such Seller.

9.10 Payments made to IPA pursuant to Sections 9.9.1 and 9.9.2 hereof for the account of a particular Seller shall be applied in discharge of such Seller's obligations to pay such amounts payable by it under its Renewal Power Sales Contract, and such Seller's obligation to pay such amounts shall be discharged only to the extent of receipt thereof by IPA. Except as discharged as herein provided, the obligations

of each Seller to pay amounts under its Renewal Power Sales Contract shall continue and shall not otherwise be affected by the provisions of this Section 9.

9.11 The provisions of this Section 9 shall not be applicable to payments required by each California Purchaser to be made to IPA pursuant to Section 8.1 hereof and such payments shall be governed by the provisions of Section 8 hereof.

10. PAYMENTS. Each California Purchaser shall pay the amounts set forth in the billing statements submitted by IPA to such California Purchaser in accordance with the provisions of Section 9 hereof, whether or not the Project or any part thereof is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part.

11. SOURCE OF PAYMENTS. The obligation of each California Purchaser to make the payments under this Agreement to IPA for the account of each of the Sellers shall constitute a cost of purchased electric capacity and energy and an operating expense of such California Purchaser payable solely from its electric system revenue funds. Each California Purchaser will annually in each and every fiscal year of such California Purchaser during the term of this Agreement include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.

12. RATE COVENANT. Each California Purchaser will establish, maintain, and collect rates and charges for the electric service of its electric system so as to provide revenues sufficient, together with available electric system reserves, to enable such California Purchaser to pay all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

13. RECORDS AND ACCOUNTS. To the extent not kept pursuant to the Renewal Power Sales Contracts, IPA will keep or cause to be kept accurate records and accounts concerning the matters contemplated by this Agreement in a manner similar to the Uniform System of Accounts. Said accounts shall be audited annually by an independent firm of certified public accountants experienced in electric utility accounting and selected by IPA , which firm may be the same firm hired pursuant to the provisions of Section 5.6 of the Renewal Power Sales Contracts. Such audit shall be completed and submitted to IPA , the California Purchasers and each of the Sellers within 120 days after the close of each Excess Power Supply Year. All transactions of IPA , the California Purchasers and the Sellers relating to this Agreement with respect to each Excess Power Supply Year shall be subject to such an audit. Each California Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice and during regular business hours.

14. INFORMATION AND DOCUMENTS. Each California Purchaser agrees to supply IPA and any Seller upon request, such information and documentation as IPA or such Seller shall reasonably determine to be requisite to and necessary for the accomplishment of the

matters contemplated by this Agreement including information reasonably available to allow IPA or such Seller to respond to requests for such information from any federal, state or local regulatory or other authority.

15. METERING. IPA will be responsible for providing or causing to be provided all necessary metering equipment for determining the quantity of energy delivered by each Seller hereunder; provided, however, that such obligation of IPA may, in IPA's discretion, be discharged by IPA's use of the meters provided pursuant to the Renewal Power Sales Contracts. Notwithstanding the foregoing, any California Purchaser may by arrangements with the Operating Agent and at its own cost check existing metering or, with approval of the Coordinating Committee, install additional metering equipment.

16. CHARACTER AND CONTINUITY OF SERVICE.

16.1 The Operating Agent may temporarily interrupt or curtail deliveries of capacity and energy under this Agreement to the California Purchasers in proportion to their respective Purchase Percentages if it determines that such interruption or curtailment is necessary in case of emergencies or in order to install equipment in or make repairs to or replacements, investigations, and inspections of or to perform other maintenance work on the Project facilities, provided, however, that such interruption or curtailment shall not relieve any California Purchaser of its obligation to make payments under this Agreement. After informing the California Purchasers regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, IPA on behalf of each of the Sellers will, to the best of its ability, cause the scheduling of such interruption or curtailment at a time which will cause the least interference with the operations of the California Purchasers.

16.2 A Seller shall not be required to provide, and shall not be liable for failure to provide, service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of IPA, or such Seller to obtain any required governmental approvals to enable IPA or such Seller to accomplish the purposes of this Agreement, provided however that the California Purchasers shall not thereby be relieved of their obligations to make payments under this Agreement.

17. RESTRICTIONS ON DISPOSITION. No California Purchaser shall sell, lease or otherwise dispose of all or substantially all of its electric utility system except on 90 days prior written notice to IPA and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions shall be met: (i) such California Purchaser shall assign this Agreement and its rights and interest hereunder to such purchaser, lessee or transferee of said electric system, and such purchaser, lessee or transferee shall assume all obligations of such California Purchaser under this Agreement; (ii) the senior debt of such purchaser, lessee or transferee is rated in one of the two highest rating categories by at least one nationally-recognized bond rating agency; (iii) an independent engineer or engineering firm of national reputation generally recognized to be well qualified in matters relating to electric power and energy systems, selected by IPA, shall deliver an

opinion, which may be based on assumptions deemed reasonable by such engineer or engineering firm, that such purchaser, lessee or transferee is reasonably able to charge and collect rates and charges in the then current and each future year for the electric service of its electric system as shall be required to meet its obligations under this Agreement; and (iv) such California Purchaser has complied with the requirements of its Renewal Power Sales Contract with respect to such sale, lease or other disposition. IPA shall deliver to the Sellers each notice received by IPA from a California Purchaser pursuant to this Section 17 with respect to a proposed sale, lease or other disposal of such California Purchaser's electric utility system.

18. DEFAULT.

18.1 If a California Purchaser shall be unable to perform or shall default in the performance of any of its obligations under this Agreement, (i) in the event any payment due under this Agreement remains unpaid subsequent to the due date thereof, upon 120 days written notice to such California Purchaser, at the request of any Seller, IPA may cause the delivery of capacity and energy to such California Purchaser and the use of the other Project facilities by such California Purchaser under this Agreement to be discontinued during the period of such default, without reduction of the obligation of such California Purchaser to make payments under this Agreement except to the extent provided in Section 18.3 hereof, and (ii) any Seller may (a) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any covenant, agreement or obligation against such California Purchaser, or (b) take any action permitted by law to enforce its rights under this Agreement or recover damages for breach thereof.

18.2 Neither any Seller nor IPA shall be liable for nonperformance resulting from default, or from the failure to perform any of its obligations under this Agreement, except in the case of Willful Action by such Seller or IPA in which case the remedy shall include specific performance and other applicable legal or equitable remedies; provided, however, that any claim for damages shall not include loss of profits or consequential damages; and provided, further, that no such default by any Seller or IPA shall relieve any California Purchaser from its obligations to make its payments required under this Agreement.

18.3 In the event of a default by a California Purchaser and the discontinuance, pursuant to Section 18.1(i) hereof, of the delivery of capacity and energy and of the use of all other Project facilities under this Agreement, IPA , on behalf of the Sellers, shall transfer on a pro rata basis to all requesting California Purchasers which are not in default, the defaulting California Purchaser's rights to the delivery of capacity and energy and the use of all other Project facilities under this Agreement, including, without limitation, its rights under Section 6.1 hereof, which shall have been discontinued by reason of such default, and such requesting California Purchasers shall assume the defaulting California Purchaser's obligations with respect to such rights so transferred, and if any of the defaulting California Purchaser's rights with respect to the Project are not so transferred,

IPA shall, to the extent possible, dispose of such remaining portion on the best terms readily available; provided, however, that IPA may not so transfer or dispose of such defaulting California Purchaser's rights and obligations in such a manner as shall adversely affect the eligibility for tax exemption for Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness of IPA, and further provided that the obligation of the defaulting California Purchaser to pay IPA for the accounts of the Sellers amounts due hereunder including the costs to IPA or any Seller related to such default, transfer and sale, shall be reduced to the extent that payments are received by IPA for the accounts of the Sellers for that portion of the defaulting California Purchaser's rights with respect to the Project which are so transferred or disposed, with any such reduction being made pro rata among all Sellers in accordance with such amounts due with respect to each Seller.

18.4 IPA shall have the remedies available under the law to enforce its rights under this Agreement.

19. LIABILITY. IPA, each Seller, the Purchasers' Representative and each California Purchaser shall be solely responsible and liable for performance of their respective obligations under this Agreement and for the maintenance and operation of their respective properties and each shall indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance, and operation of the property and equipment of the indemnifying party and not caused in whole or in part by the Willful Action of the other party or IPA. The covenants, obligations and liabilities of the parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to one or more of the parties. No party shall be under the control of or shall be deemed to control any other party. No party shall be the agent of or have a right or power to bind any other party without its express written consent, except as expressly provided in this Agreement.

20. EFFECTIVE DATE AND TERM; EARLY TERMINATION.

20.1 This Agreement shall become effective on the date (the "Effective Date") as to each Seller, IPA , the Purchasers' Representative, and each of the California Purchasers (i) when it has been duly executed and delivered by and among IPA, the Purchasers' Representative, each California Purchaser and each Seller, (ii) each such party shall have received all required governmental regulatory approvals, and (iii) the Renewal Power Sales Contracts shall be fully effective in accordance with their terms for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and applicable Transmission Cost Shares of the Project; provided that this Agreement shall be void and any and all energy deliveries and any other rights or services under this Agreement shall be terminated no later than the effective date of any denial of a required governmental regulatory approval including, without limitation, a decision by the

California Energy Commission. The term of this Agreement shall continue until the date upon which all Renewal Power Sales Contracts shall terminate, unless this Agreement shall be earlier terminated in accordance with its terms. For the avoidance of doubt, unless earlier terminated, this Agreement shall terminate, without any action required to be taken by any of the parties hereto, in the event that, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, dated as of _____, by and among IPA and the purchasers thereunder, the Gas Repowering shall not be undertaken. This Agreement shall constitute a binding obligation of each of the Sellers, IPA , each of the California Purchasers and the Purchasers' Representative from and after the Effective Date in accordance with this Section 20.1.

20.2 Except as provided in Section 20.3 hereof, this Agreement shall terminate as soon after the earlier to occur of the following as all payments required to be made under this Agreement by the California Purchasers through the date of such occurrence have been made:

20.2.1. The last day of the Excess Power Supply Year during which a Complete Outage shall have been in effect for a period longer than 18 Months.

20.2.2. The last day of the end of the six-month period next following the Excess Power Supply Year for which Appendix A sets forth the Total Excess Entitlement Share as zero with respect to both the Summer Season and the Winter Season.

20.3 The provisions of Section 8 hereof shall survive any termination of this Agreement pursuant to Sections 20.2.1 and 20.2.2 hereof, and Section 8 hereof and the provisions of this Agreement related thereto shall terminate only upon the date upon which all Renewal Power Sales Contracts shall terminate.

20.4 Notwithstanding any other provision of this Agreement, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, such California Purchaser or California Purchasers, as applicable, shall be removed as a party or as parties, as the case may be, under this Agreement effective November 1, 2019 and shall no longer be entitled to any benefits or subject to any obligations under this Agreement, and the Purchase Percentage of Los Angeles shall be increased by the Purchase Percentage or Purchase Percentages, as applicable, of such California Purchaser or California Purchasers that shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 thereof.

21. SEVERABILITY. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such

illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.

22. PERFORMANCE BY IPA. IPA provides such services, takes such actions and performs its other obligations under this Agreement as part of its duties and responsibilities under its Renewal Power Sales Contracts with the Primary Purchasers, and IPA shall not be deemed to act, and nothing in this Agreement shall deemed to provide that IPA shall act, as the agent or a fiduciary for any of the Sellers or any other parties to this Agreement.

23. ASSIGNMENT BY SELLERS. This Agreement shall inure to the benefit of and shall be binding upon the Sellers and their respective successors and assigns. Any Seller may assign its respective interests in this Agreement as part of any sale or other disposition of such Seller's electric utility system or Generation Entitlement Share made in compliance with the provisions of such Seller's Renewal Power Sales Contract.

24. COMPLIANCE WITH OTHER AGREEMENTS. Notwithstanding anything contained in this Agreement, all scheduling, purchasing, sales, deliveries and all other actions taken pursuant to this Agreement shall be subject to, and shall comply with, the applicable provisions, limitations, requirements, priorities and restrictions contained in the Renewal Power Sales Contracts, the Bond Resolution and the Construction Management and Operating Agreement.

25. GOVERNING LAW. This Agreement shall be interpreted, governed by and construed under the laws of the State of Utah.

26. ARBITRATION. If a dispute arises between the parties under this Agreement, the parties to such dispute may submit the dispute to arbitration.

27. NOTICES. Notices, demands or requests shall be affected as follows:

27.1 Any notice, demand, or request provided for in this Agreement shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, as follows:

27.1.1. If to IPA:

Intermountain Power Agency
c/o General Manager
10653 South River Front Parkway, Suite 120
South Jordan, Utah 84095
Phone: (801) 938-1333
Fax: (801) 983-1330
E-mail: jim@ipautah.com

27.1.2. If to the Purchasers' Representative:

Senior Assistant General Manager - Power
Los Angeles Department of Water & Power

111 North Hope Street, Rm 921
Los Angeles, California 90012

27.1.3. If to a particular Seller or California Purchaser, to such Seller or California Purchaser at its address set forth on Appendix B hereto.

27.2 A party may, at any time, by written notice to each other party, designate different or additional persons or different addresses for giving of notices hereunder.

28. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed as follows:

**INTERMOUNTAIN POWER AGENCY**

**By:**_____

**Its:**_____

**DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, AS A CALIFORNIA PURCHASER AND AS PURCHASERS' REPRESENTATIVE**

**By:**_____

**Its:**_____

**The counterpart for each Seller and, other than Department of Water and Power of the City of Los Angeles, each California Purchaser that has elected to be a party to this Agreement is attached hereto and incorporated herein by this reference.**

**SELLER COUNTERPART TO AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

**[Name of Seller]**

**By:_____**

**Its:_____**

**CALIFORNIA PURCHASER COUNTERPART TO AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

**[Name of California Purchaser]**

**By:_____**

**Its:_____**

**APPENDIX A**
**SELLERS' EXCESS ENTITLEMENT SHARES AND**
**CALIFORNIA PURCHASERS' PURCHASE PERCENTAGES**

---

| **Sellers** | **Excess Entitlement Share – Summer Seasons** |
|---|---|
| [Insert Name of Each Seller] | [Insert % Share for Each Seller in accordance with Sections 5.1 and 5.2 of the Agreement] |
| | **Excess Entitlement Share – Winter Seasons** |
| | [Insert % Share for Each Seller in accordance with Sections 5.1 and 5.2 of the Agreement] |

| **California Purchasers** | **Purchase Percentage** |
|---|---|
| [Insert Name of Each California Purchaser] | [Insert % Share for Each California Purchaser] |

**APPENDIX B**

**SELLERS AND CALIFORNIA PURCHASERS**

---

**[Insert Name and Address of Each Seller]**

**[Insert Name and Address of Each California Purchaser]**

AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

AMONG

EACH SELLER NAMED HEREIN

and

CALIFORNIA PURCHASERS NAMED HEREIN

and

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, as Representative of the California Purchasers

and

INTERMOUNTAIN POWER AGENCY

_____

Dated: _____ __, 201___

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APPENDIX B SELLERS AND CALIFORNIA PURCHASERS ..... B-1

AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

1. PARTIES. This Agreement made and entered into as of the _____ day of _____, 201___, among each Seller named on Appendix B hereto (each, a "Seller" and collectively, the "Sellers"), each California Purchaser named on Appendix B hereto (each, a "California Purchaser" and collectively, the "California Purchasers"), the Department of Water and Power of the City of Los Angeles ("LADWP"), as representative of the California Purchasers, and Intermountain Power Agency ("IPA").

2. RECITALS.

2.1 Each Seller and each of the California Purchasers are purchasers under certain Power Sales Contracts with IPA entered into as of September 28, 1978 (for the Sellers) and August 6, 1980 (for the California Purchasers), as amended, for the purchase of electric power and transmission capacity from the Intermountain Power Project from IPA (the "Original Power Sales Contracts"); and

2.2 Certain of the Sellers and certain of the California Purchasers are parties to the Excess Power Sales Agreement, entered into as of December 1, 1980, as amended, for the purchase by such California Purchasers of certain excess electric capacity and associated energy of the Project from such Sellers during the term of the Original Power Sales Contracts; and

2.3 Each of the Sellers has entered into a Renewal Power Sales Contract, dated as of _____, 201___, by and between it and IPA (together with substantially similar contracts by IPA with other participants in the Project, the "Renewal Power Sales Contracts") providing to each Seller a Generation Entitlement Share and entitling such Seller, commencing upon the expiration of the Original Power Sales Contracts, to schedule electric capacity and energy from each generating facility of the Project and to use the operating capabilities of the Northern Transmission System of the Project; and

2.4 Each Seller will determine the amount, if any, of Project electric capacity and associated energy to which it is entitled pursuant to its Renewal Power Sales Contract with IPA that will be in excess of its electric requirements; and

2.5 Each Seller desires to sell, and the California Purchasers desire to purchase, on the terms and conditions set forth in this Agreement any such excess Project electric capacity and associated energy of such Seller under its Renewal Power Sales Contract; and

2.6 Each Seller has further determined that a portion of its Northern Transmission System capacity entitlement will be excess to its needs.

3. AGREEMENT. For and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is agreed by and among the parties hereto as follows:

4. DEFINITIONS. In addition to the terms defined in the Recitals hereof, the following terms, whether in the singular or in the plural, when used herein and in the Appendices hereto and initially capitalized, shall have the meanings specified:

4.1 "Agreement": This Agreement for Sale of Renewal Excess Power, as the same may be amended from time to time in accordance with the terms hereof.

4.2 "Annual Budget", "Available Generating Capability", "Bond Resolution", "California Excess Power Purchasers", "Coordinating Committee", "Construction Management and Operating Agreement", "Fuel Management Practices and Procedures", "Gas Repowering", "Generation Entitlement Share", "Generation Cost Share", "General Service Requirements", "Generation Station", "Los Angeles", "Minimum Generating Capability", "Month", "Monthly Power Costs", "Northern Transmission System", "Operating Agent", "Point of Delivery", "Project", "Project Fuel", "Project Indebtedness", "Prudent Utility Practice", "Purchasers", "Switchyard", "Uncontrollable Forces", "Uniform System of Accounts" and "Willful Action" shall have the respective meanings given thereto in the Renewal Power Sales Contracts.

4.3 "Appendix A": The Initial Appendix A and each Revised Appendix A.

4.4 "Assigned Northern Transmission System Entitlement": That portion of the Northern Transmission System entitlement of each Seller (as determined pursuant to Section 10.2 of such Seller's Renewal Power Sales Contract) that is equal to fifty percent (50%) of such Seller's Excess Northern Transmission System Entitlement.

4.5 "Assignment Share": With respect to each Seller and a particular California Purchaser, that portion of such Seller's Assigned Northern Transmission System Entitlement determined by multiplying such California Purchaser's Purchase Percentage by such Seller's Assigned Northern Transmission System Entitlement.

4.6 "California Purchasers": Los Angeles and each of the other California Excess Power Purchasers so denominated on Appendix B, together with any successor to any such entity.

4.7 "Complete Outage": A Complete Outage shall, for purposes of this Agreement, be deemed to have occurred if during the Operational Period the condition shall exist that, for other than normal maintenance, no generating facility of the Project produces power at the high voltage side of its generating transformers in excess of its allocated General Service Requirements and any such Complete Outage shall be deemed to continue in effect until such time after the commencement thereof as a generating facility of the Project first produces power at the high voltage side

of its generating transformers in excess of its allocated General Service Requirements.

4.8 "Effective Date": Shall have the meaning ascribed thereto in Section 20.1 hereof.

4.9 "Excess Entitlement Share": As of any date of determination and for each Seller, the percentage entitlement of such Seller in the electric capacity and associated energy of each generating facility of the Project as then set forth for Summer Seasons or Winter Seasons, respectively, in Appendix A which shall have been designated by such Seller as excess to its electric requirements. Such entitlement is derived from such Seller's Generation Entitlement Share; provided, however, that at no time shall the Excess Entitlement Share for such Seller with respect to Summer Seasons or Winter Seasons exceed its Generation Entitlement Share.

4.10 "Excess Entitlement Share Effective Date": The date on which the Excess Entitlement Share for Summer Seasons or for Winter Seasons (or any revision of such Excess Entitlement Share in accordance with Section 5) shall become effective as provided in Sections 5.1 and 5.2 hereof.

4.11 "Excess Northern Transmission System Entitlement": That portion of a particular Seller's entitlement to schedule the operating capabilities of the Northern Transmission System under its Renewal Power Sales Contract, without regard to source or origin, constituting such Seller's rights to the capacity thereof, which is equal to the difference between such Seller's entitlement to capacity of the Northern Transmission System determined pursuant to Section 10.2 of its Renewal Power Sales Contract and the amount of such capacity of the Northern Transmission System required for delivery of such Seller's Generation Entitlement Share of Project capacity and associated energy to such Seller's Point of Delivery.

4.12 "Excess Power Obligation": At any time and as to any particular California Purchaser and as to a particular Seller, the percentage obtained by multiplying the Summer Excess Entitlement Share or Winter Excess Entitlement Share of such Seller in effect at such time as shown on the then effective Appendix A, by the Purchase Percentage (expressed as a decimal) of such California Purchaser. The Excess Power Obligation with respect to a particular California Purchaser and a particular Seller shall change each time the Summer Excess Entitlement Share or the Winter Excess Entitlement Share, as applicable, of such Seller shall change.

4.13 "Excess Power Supply Year": The twelve (12) Month period commencing at 12:01 a.m. on July 1 of each year during the Operational Period and ending at 12:01 a.m. on the following July 1; provided, however, that (a) if the Operational Period Commencement Date does not occur on July 1 of any year, then the first Excess Power Supply Year shall begin at 12:01 a.m. on the Operational Period Commencement Date and shall end at 12:01 a.m. on the next following July 1, and (b) if the Operational Period does not end on June 30 of any year, then the last Excess Power Supply Year shall begin at 12:01 a.m. on the July 1 immediately

preceding the last day of the Operational Period and shall end at 12:01 a.m. on the last day of the Operational Period.

4.14 "Initial Appendix A": The Appendix A attached to this Agreement at its Effective Date, which shall set forth the Purchase Percentage of each California Purchaser and subsequently shall set forth, as provided in Section 5.1 hereof, the Excess Entitlement Share of each of the Sellers.

4.15 "Operational Period": The period beginning on the Operational Period Commencement Date and ending upon the date that all Renewal Power Sales Contracts shall terminate.

4.16 "Operational Period Commencement Date": June 16, 2027; provided, however, that if the date upon which the Original Power Sales Contracts terminate is extended pursuant to Section 26.1 of the Original Power Sales Contracts, then the Operational Period Commencement Date shall be the date that is next succeeding the date upon which the Original Power Sales Contracts terminate in accordance with their terms.

4.17 "Primary Purchasers": Those entities (other than IPA) executing Renewal Power Sales Contracts, together in each case with their respective successors or assigns.

4.18 "Purchase Percentage": As to each California Purchaser, the percentage set forth in Appendix A with respect to such California Purchaser of the Summer Excess Entitlement Share and the Winter Excess Entitlement Share, respectively, of each Seller as in effect from time to time which such California Purchaser has agreed to purchase pursuant to this Agreement. The Purchase Percentage of each California Purchaser shall be, and shall continue to be throughout the term of this Agreement, the percentage indicated on Appendix A.

4.19 "Purchasers' Representative": Los Angeles which is hereby designated by the California Purchasers to carry out the duties and responsibilities set forth in this Agreement for the Purchasers' Representative.

4.20 "Remaining NTS Entitlement": With respect to a particular Seller, such Seller's entitlement in the Northern Transmission System, as calculated under and in accordance with Section 10.2 of its Renewal Power Sales Contract, less such Seller's Assigned Northern Transmission System Entitlement.

4.21 "Renewal Power Sales Contracts": The Renewal Power Sales Contracts defined in Section 2.3 hereof, together with all amendments and supplements hereafter entered into.

4.22 "Retained Generation Entitlement Share": means, with respect to a particular Seller, during a particular Season, such Seller's Generation Entitlement Share less its Summer Excess Entitlement Share or its Winter Excess Entitlement Share, as applicable, then in effect as set forth in Appendix A.

4.23 "Revised Appendix A": Shall have the meaning ascribed thereto in Section 5.2 hereof.

4.24 "Season": A Summer Season or a Winter Season provided, however, that (a) if the Operational Period Commencement Date does not occur on the first day of a Summer Season or a Winter Season, as the case may be, then the first Summer Season or the first Winter Season shall begin at 12:01 a.m. on the Operational Period Commencement Date and shall end at 12:01 a.m. on the last day of such Summer Season or such Winter Season, as applicable, and (b) if the Operational Period does not end on the last day of a Summer Season or on the last day of a Winter Season, then the last Summer Season or the last Winter Season, as applicable, of the Operational Period shall end at 12:01 a.m. on the last day of the Operational Period.

4.25 "Sellers": Each of the entities so denominated on Appendix B, together with any successor to any such entity.

4.26 "Summer Excess Entitlement Share": The Excess Entitlement Share then in effect for Summer Seasons.

4.27 "Summer Season": The four-month period commencing at 12:01 a.m. on June 1 of each Excess Power Supply Year and ending at 12:01 a.m. on October 1 of the immediately following Excess Power Supply Year; provided that the first Summer Season or the last Summer Season of the Operational Period may have less than a four-month period as provided by Section 4.24.

4.28 "Total Excess Entitlement Share": At any time during a Summer Season, the aggregate of the Summer Excess Entitlement Shares of all Sellers as then in effect, and at any time during a Winter Season, the aggregate of the Winter Excess Entitlement Shares of all Sellers as then in effect.

4.29 "Winter Excess Entitlement Share": The Excess Entitlement Share then in effect for Winter Seasons.

4.30 "Winter Season": The eight-month period commencing at 12:01 a.m. on October 1 of each Excess Power Supply Year and ending at 12:01 a.m. on June 1 of the same Excess Power Supply Year provided that the first Winter Season or the last Winter Season of the Operational Period may have less than an eight-month period as provided in Section 4.24.

5. APPENDIX A AND REVISIONS THERETO; DECREASE OR INCREASE OF EXCESS ENTITLEMENT SHARE.

5.1 At the Effective Date the Initial Appendix A attached to this Agreement shall set forth the Purchase Percentage of each of the California Purchasers; provided that, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, the Initial Appendix A shall be

revised by IPA so as to allocate to Los Angeles under this Agreement the terminated Purchase Percentage of such California Purchaser or the terminated Purchase Percentages of such California Purchasers, as the case may be, that shall have terminated its or their Renewal Power Sales Contracts, and copies of such revised Initial Appendix A shall be furnished to each of the Sellers and to each of the California Purchasers, including Los Angeles, that remain parties to this Agreement. At least twelve (12) Months prior to the Operational Period Commencement Date each Seller shall furnish written notice to each of the California Purchasers and IPA of such Seller's Excess Entitlement Share for each Season; and IPA shall set forth in the Initial Appendix A (as the same may have been revised as provided hereinabove) the Excess Entitlement Share of each such Seller for each Season as specified in its notice furnished as above provided. Thereupon the Excess Entitlement Share of each Seller for each Season shall become effective and IPA shall furnish copies of such Initial Appendix A to each of the Sellers and each of the California Purchasers. The Initial Appendix A shall remain in effect for purposes of this Agreement until such time as a Revised Appendix A is prepared and furnished in accordance with Section 5.2 hereof.

5.2 Subject to Sections 5.2.1, 5.2.2 and 5.2.3, on and after the Operational Period Commencement Date each Seller shall have the right to revise (whether by decreasing or increasing) its Summer Excess Entitlement Share (other than for the first Summer Season of the Operational Period) as then set forth in Appendix A, or its Winter Excess Entitlement Share (other than for the first Winter Season of the Operational Period) as then set forth in Appendix A.

5.2.1. A Seller may elect to increase or decrease its Summer Excess Entitlement Share or its Winter Excess Entitlement Share by furnishing to each of the California Purchasers and IPA a written notice specifying such increased or decreased Excess Entitlement Share. In the case of an increase or decrease of its Summer Excess Entitlement Share, Seller must furnish such notice at least twelve (12) months prior to the first day of the Summer Season for which such increased or decreased Summer Excess Entitlement Share shall become effective. In the case of the increase or decrease of its Winter Excess Entitlement Share, Seller must furnish such notice at least twelve (12) Months prior to the first day of the Winter Season for which such increased or decreased Winter Excess Entitlement Share shall become effective. Such increased or decreased Excess Entitlement Share shall become effective on the date of commencement of the Season for which such notice is given. Prior to such Excess Entitlement Share Effective Date, IPA shall prepare a revision of Appendix A (a "Revised Appendix A") which shall set forth the increased or decreased Summer Excess Entitlement Share or the increased or decreased Winter Excess Entitlement Share of such Seller with respect to which such Seller has provided timely notice pursuant to this Section 5.2.1 and furnish such Revised Appendix A to each of the Sellers and to each of the California Purchasers. On such Excess Entitlement Share Effective Date such Revised Appendix A shall replace the then current Appendix A

and shall thereupon become effective for the purposes of this Agreement until such time as a Revised Appendix A is thereafter prepared and furnished in accordance with this Section 5.2.1.

5.2.2. If a Seller elects to decrease its Summer Excess Entitlement Share or its Winter Excess Entitlement Share, the amount of such decrease shall remain in effect for at least the three (3) consecutive twelve-month periods commencing on the Excess Entitlement Share Effective Date for such Summer Excess Entitlement Share or such Winter Excess Entitlement Share. Notwithstanding such three (3) consecutive twelve-month periods required for the amount of such decrease of the Summer Excess Entitlement Share or the Winter Excess Entitlement Share, Seller shall have the right by providing notice in accordance with Section 5.2.1 to further decrease such Summer Excess Entitlement Share or such Winter Excess Entitlement Share, as the case may be; provided that the amount of such further decrease shall remain in effect for at least the three (3) consecutive twelve-month periods commencing on the Excess Entitlement Share Effective Date with respect to such further decrease of such Excess Entitlement Share. No decrease in a Seller's Summer Excess Entitlement Share or Winter Excess Entitlement Share shall cause such Excess Entitlement Share to be less than zero.

5.2.3. (a) If a Seller elects, in accordance with Section 5.2.1, to increase its Summer Excess Entitlement Share or its Winter Excess Entitlement Share and such increase is the first increase following the commencement of the Operational Period or the first increase following any decrease in such Excess Entitlement Share, then, subject to compliance with the requirements of Section 5.2.2 with respect to the period that the amount of any decrease of an Excess Entitlement Share shall remain in effect, Seller, upon providing notice in accordance with Section 5.2.1, may increase (such increase being an "Initial Increase") such Summer Excess Entitlement Share or such Winter Excess Entitlement Share by up to fifty percent (50%) of such Seller's Retained Generation Entitlement Share that will be in effect for the next Summer Season (if such increase is to the Summer Excess Entitlement Share) or the next Winter Season (if such increase is to the Winter Excess Entitlement Share) following such notice (the first day of such next Season as of which the Retained Generation Entitlement Share is determined to be in effect being the "Retained Generation Entitlement Share Reference Date").

(b) If a Seller elects, in accordance with Section 5.2.1, to increase its Summer Excess Entitlement Share or Winter Excess Entitlement Share otherwise than as provided under (a) above (such an increase being a "Further Increase"), then, subject to compliance with the requirements of Section 5.2.2 with respect to the period that the amount of any decrease of an Excess Entitlement Share shall remain in effect, Seller, upon providing notice in accordance with Section 5.2.1, may increase such Summer

Excess Entitlement Share or such Winter Excess Entitlement Share by up to fifty percent (50%) of its Retained Generation Entitlement Share that was in effect at the most recent Retained Generation Entitlement Share Reference Date as determined pursuant to (a) above with respect to the most recent Initial Increase, so that such Initial Increase, together with such Further Increase or Further Increases of the Summer Excess Entitlement Share or Winter Excess Entitlement Share that occur after such Initial Increase and prior to the next decrease of such Summer Excess Entitlement Share or such Winter Excess Entitlement Share, shall not exceed such Retained Generation Entitlement Share of Seller that was in effect on such most recent Retained Generation Entitlement Share Reference Date as determined pursuant to (a) above.

(c) No increase in a Seller's Excess Entitlement Share shall cause such Seller's Excess Entitlement Share to exceed its Generation Entitlement Share.

## 6. EXCESS CAPACITY AND ENERGY ENTITLEMENTS; USE OF SWITCHYARD

6.1 Beginning with the Season that commences on the Operational Period Commencement Date, and during each Summer Season and Winter Season thereafter, (i) each Seller shall sell, assign and provide to each California Purchaser the Excess Power Obligation applicable to such California Purchaser during such Season of capacity and energy from the Project, and (ii) each California Purchaser shall purchase and take from such Seller the Excess Power Obligation applicable to such California Purchaser during such Season of the capacity and energy from the Project. Such sale and assignment by Seller to each California Purchaser with respect to Seller's Excess Power Obligation applicable to such California Purchaser shall include Seller's right under Section 9.11 of the Renewal Power Sales Contract to elect to procure its own fuel in accordance with the provisions of the Fuel Management Practices and Procedures for use in the Generation Station for the generation of its Excess Entitlement Share to the extent of such Excess Power Obligation, and such California Purchaser shall therefore have such right to elect to bring its own fuel in accordance with the Fuel Management Practices and Procedures for use in the Generation Station for generation of such Excess Power Obligation. For purposes of this Agreement, energy delivered to any California Purchaser from the Project shall be deemed to have been delivered first (up to its entitlement thereunder) pursuant to such California Purchaser's Renewal Power Sales Contract, and thereafter pursuant to this Agreement. Such California Purchaser shall pay for such capacity and energy and associated rights as provided in Section 9 hereof.

6.2 At all times on and after the Operational Period Commencement Date, each California Purchaser during a Summer Season or a Winter Season shall be entitled to schedule for its account, with respect to each Seller, capacity and energy (other than test energy) from each generating facility of the Project up to an amount equal to the product of the Available Generation Capability of such generating

facility multiplied by the Excess Power Obligation applicable to such California Purchaser and such Seller during such Season. Upon the occurrence of abnormal operating conditions on a California Purchaser's system, upon the request of such California Purchaser, the Operating Agent shall increase or decrease such California Purchaser's schedule consistent with Prudent Utility Practice. Such increase or decrease shall not cause the schedule of such California Purchaser to exceed the amounts of capacity and energy to which such California Purchaser is entitled as provided for in this Section 6.2 or in Sections 6.3, 6.4 or 6.5 hereof and shall not be detrimental to any other California Purchaser or Primary Purchaser.

6.3 When any Seller requests delivery during a Summer Season or a Winter Season of capacity and energy under its Renewal Power Sales Contract, and such delivery requires the start-up of a generating facility of the Project, each California Purchaser shall, unless otherwise agreed, schedule for its account an amount of capacity and energy at least equal to the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and by multiplying such product times the Minimum Generating Capability established for such generating facility. At any time when such Seller has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such generating facility, then each of the California Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying (a) the remaining unscheduled amount of Minimum Generating Capability times (b) the Total Excess Entitlement Share then in effect (expressed as a decimal) times (c) the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all California Purchasers.

6.4 When a Primary Purchaser (other than a Seller) requests delivery during a Summer Season or a Winter Season of capacity and energy under its Renewal Power Sales Contract, and such delivery requires the start-up of a Project generating facility, each California Purchaser shall, unless otherwise agreed, schedule for its account an amount of capacity and energy at least equal to the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and multiplying such product times the Minimum Generating Capability established for such generating facility. At any time when a Primary Purchaser has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Generation Entitlement Share and the Minimum Generating Capability of such generating facility, then each of the California Purchasers shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying (a) the remaining unscheduled amount of Minimum Generating Capability times (b) the Total Excess Entitlement Share then in effect (expressed as a decimal) times (c) the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all California Purchasers.

6.5 When a California Purchaser requests delivery during a Summer Season or a Winter Season of capacity and energy under this Agreement, and such delivery requires the start-up of a generating facility of the Project, each other California Purchaser and each Seller shall, unless otherwise agreed, schedule for their respective accounts an amount of capacity and energy equal to (i) in the case of each such other California Purchaser, the product obtained by multiplying its Purchase Percentage (expressed as a decimal) by the Total Excess Entitlement Share then in effect (expressed as a decimal) and multiplying such product times the Minimum Generating Capability established for such generating facility and (ii) in the case of each Seller, the product obtained by multiplying the difference between its Generation Entitlement Share and its Excess Entitlement Share then in effect (expressed as a decimal) by the Minimum Generating Capability established for such generating facility. At any time when such requesting California Purchaser has so scheduled from such generating facility an amount of capacity and energy in excess of the product of its Purchase Percentage (expressed as a decimal) and the Total Excess Entitlement Share then in effect (expressed as a decimal) and the Minimum Generating Capability of such generating facility, then (x) each other California Purchaser shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying the remaining unscheduled amount of Minimum Generating Capability times the Total Excess Entitlement Share then in effect (expressed as a decimal) times the ratio which its Purchase Percentage bears to the sum of the Purchase Percentages of all such other California Purchasers and (y) each Seller shall only be obligated to schedule for its account an amount of capacity and energy equal to the product obtained by multiplying the remaining unscheduled amount of Minimum Generating Capability times the ratio which the difference between its Generation Entitlement Share then in effect and its Excess Entitlement Share then in effect bears to the difference between the total of the Generation Entitlement Shares of all Sellers and the Total Excess Entitlement Share then in effect.

6.6 Operation of any generating facility of the Project shall be subject to scheduled outages or curtailments, operating emergencies and unscheduled outages or curtailments of such facility.

6.7 The capacity and energy of the Generation Station shall be controlled in a manner which shall not diminish the rights of any California Purchaser to receive its entitlement of capacity and energy under this Agreement.

6.8 Each California Purchaser shall be obligated during a Summer Season or a Winter Season to the extent of its Purchase Percentage (expressed as a decimal) times the Total Excess Entitlement Share in existence during such Season to provide for capacity and energy requirements for starting up and shutting down each generating facility in compliance with procedures approved pursuant to the Renewal Power Sales Contracts.

6.9 The point of delivery of each California Purchaser's capacity and energy under this Agreement shall be the Generation Station bus. It is the obligation of each California Purchaser to arrange for transmission of its capacity and energy from such point to its system.

6.10 Each Seller and each California Purchaser shall furnish to IPA and the Operating Agent, as applicable, such notices, instructions or advice and take such other action as shall be necessary to give effect to this Agreement.

6.11 Notwithstanding anything to the contrary contained herein, (i) a California Purchaser shall be entitled to schedule with the Operating Agent the aggregate of the capacity and energy to which it is from time to time entitled hereunder, as opposed to having to individually schedule with respect to each Seller the capacity and energy to which such Purchaser is entitled from such Seller and (ii) the Purchaser's Representative shall, on behalf of each California Purchaser, make all schedules and changes therein required or permitted to be made by this Agreement by such California Purchaser.

6.12 Seller hereby sells and assigns to each California Purchaser, and each California Purchaser shall have the right to use, the Switchyard for its Excess Power Obligation of the Available Generating Capability.

6.13 IPA hereby acknowledges the sale and assignment pursuant to this Agreement to each California Purchaser by each Seller of the Excess Power Obligation, applicable to such California Purchaser and such Seller of capacity and energy from the Project and the associated Switchyard rights, together with the provision by such Seller of associated Northern Transmission System rights as provided for in Section 7.1 hereof and certifies that it has made the determination with respect to such sale and assignment provided for in Section 20.2 of the Renewal Power Sales Contract with such Seller. Payments made by such California Purchaser for such Excess Power Obligation of capacity and energy and associated Switchyard rights and for such associated Northern Transmission System rights shall be in addition to and shall not affect such California Purchaser's obligations under Section 8.1 hereof or under its Renewal Power Sales Contract.

6.14 Except as provided in Section 17 hereof, a California Purchaser shall not sell or assign to a purchaser or assignee the Excess Power Obligation or any portion thereof, applicable to such California Purchaser and each Seller of capacity and energy from the Project and associated Switchyard rights and associated Northern Transmission System rights, except on prior written notice to such Seller and IPA; provided that (i) such California Purchaser shall remain obligated to make the payments provided in Section 9 and otherwise to comply with the applicable provisions of this Agreement, and such California Purchaser shall be discharged from such payments and otherwise relieved from such compliance only if and to the extent of such payments made and such compliance performed by such purchaser or assignee; and (ii) such sale or assignment will not adversely affect

the eligibility for exemption from Federal income taxes of the interest on Project Indebtedness then outstanding or to be incurred by IPA.

7. USE OF NORTHERN TRANSMISSION SYSTEM WITH RESPECT TO EXCESS POWER

7.1 Pursuant to this Agreement, each Seller having a right pursuant to its Renewal Power Sales Contract to use the Northern Transmission System hereby agrees to permit and to provide the rights to each California Purchaser to schedule from time to time, without regard to source or origin, and in accordance with the Renewal Power Sales Contracts, the use of the operating capabilities of the Northern Transmission System up to an amount equal to (i) the Excess Power Obligation in effect for such California Purchaser and such Seller at the time of such scheduling, (ii) divided by the Generation Entitlement Share of such Seller, (iii) times such Seller's Remaining NTS Entitlement. Such California Purchaser shall pay for such use of the Northern Transmission System as provided in Section 9 hereof.

7.2 If it is necessary to curtail scheduled power flows over all or any part of the Northern Transmission System, then each California Purchaser shall have the right to use the Northern Transmission System in an amount determined by multiplying that portion of the total amount of the Remaining NTS Entitlements of all Sellers that then remains available by the ratio (expressed as a decimal) which the Total Excess Entitlement Share at the time bears to the Total Generation Entitlement Shares of the Sellers, and by then multiplying the resultant product by the ratio (expressed as a decimal) that the aggregate of the capacity scheduled over the Northern Transmission System or part thereof by such California Purchaser pursuant to its rights provided by all the Sellers under Section 7.1 hereof bears to the aggregate of the capacity scheduled over the Northern Transmission System or part thereof by all California Purchasers pursuant to their rights provided by all the Sellers under Section 7.1 hereof.

7.3 Any California Purchaser desiring to schedule the use of the operating capabilities of the Northern Transmission System in excess of its rights under this Agreement may make appropriate arrangements with another California Purchaser having rights to unused transmission capability. It is the responsibility of each California Purchaser so involved to notify the Operating Agent of such arrangements and to provide for proper schedules to accommodate such arrangements. Notwithstanding anything to the contrary contained herein, each California Purchaser's right to schedule the use of the operating capabilities of the Northern Transmission System pursuant to Section 7.1 hereof and to schedule such capability in excess of its rights under the Agreement as provided in this Section 7.3 shall be limited to the extent that such California Purchaser may not act in such a manner that adversely affects the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness outstanding or to be incurred by IPA.

7.4 Scheduling by the California Purchasers of the use of the operating capability of the Northern Transmission System pursuant to Sections 7.1, 7.2 or 7.3 of this Agreement shall not interfere with the use of the Northern Transmission System to transmit Generation Entitlement Shares under Renewal Power Sales Contracts of any Primary Purchaser having a Point of Delivery thereon.

8. ASSIGNMENT OF CERTAIN NORTHERN TRANSMISSION SYSTEM RIGHTS.

8.1 Effective from and after the Operational Period Commencement Date, each Seller hereby assigns and transfers to each California Purchaser, and each such California Purchaser hereby accepts such assignment and transfer of that portion of each such Seller's entitlement to the Northern Transmission System under Section 10.2 of its Renewal Power Sales Contract that is equal to such California Purchaser's Purchase Percentage of such Seller's Assigned Northern Transmission System Entitlement. Such assignment and transfer shall be in effect for the Operational Period under this Agreement. Each Seller shall furnish to each California Purchaser information as to the amount of Northern Transmission System costs payable each Month by such Seller under its Renewal Power Sales Contract (including such costs payable by such California Purchaser pursuant to Section 9.1.2 hereof) and any adjustments of such costs pursuant to Section 5.7 of the Renewal Power Sales Contracts. Each California Purchaser shall pay directly to IPA each Month at the time required for payment thereof by each of the Sellers under its Renewal Power Sales Contract the Assignment Share with respect to such Seller and such California Purchaser of such costs with respect to the Northern Transmission System payable by such Seller under its Renewal Power Sales Contract (including any adjustments with respect to such costs pursuant to Section 5.7 thereof). Such payments received by IPA shall be applied in discharge of such Seller's obligation under its Renewal Power Sales Contract to pay such costs, which shall be discharged only to the extent of such receipt. Except as discharged as herein provided, the obligation of each Seller to pay costs with respect to the Northern Transmission System payable by it under its Renewal Power Sales Contract shall continue and shall not otherwise be affected by the provisions of Section 8 hereof.

8.2 IPA hereby acknowledges the assignment and transfer pursuant to Section 8.1 hereof by each Seller to each California Purchaser of such California Purchaser's Purchase Percentage of the Assigned Northern Transmission System Entitlement with respect to such Seller and certifies that it has made the determination with respect to such assignment and transfer provided for in Section 20.2 of its Renewal Power Sales Contract with such Seller.

8.3 Except as provided in Section 17 hereof, a California Purchaser shall not sell, assign or transfer to any purchaser, assignee or transferee thereof the Northern Transmission System entitlement, or any portion thereof, assigned or transferred to it by a Seller under Section 8.1, except on prior written notice to such Seller and IPA; provided that (i) such California Purchaser shall remain obligated to make the payments and otherwise comply with the provisions of this Section 8

and shall be discharged from such payments and otherwise relieved from such compliance only if and to the extent of such payments shall be made and such compliance performed by such purchaser, assignee or transferee; and (ii) such sale, assignment or transfer will not adversely affect the eligibility for exemption from Federal income taxes of the interest on Project Indebtedness then outstanding or to be incurred by IPA.

9. CHARGES AND BILLINGS FOR EXCESS POWER AND NORTHERN TRANSMISSION SYSTEM RIGHTS.

9.1 The amount payable by a particular California Purchaser for any Month during an Excess Power Supply Year for the account of each Seller with respect to the minimum cost component of Monthly Power Costs shall be the sum of the following:

9.1.1. The Excess Power Obligation in effect for such Month with respect to such Seller and such California Purchaser times the minimum cost component of Monthly Power Costs for such Month associated with the Generation Station as computed under and in accordance with Section 7.1.1 of the Renewal Power Sales Contracts; plus

9.1.2. In consideration of such California Purchaser's right to schedule a portion of the entitlement of such Seller in the Northern Transmission System granted by Section 7.1 of this Agreement, an amount equal to the Excess Power Obligation in effect for such Month with respect to such California Purchaser and such Seller divided by the Generation Entitlement Share of such Seller times the amount for such Month (or portion thereof) of costs in respect of the Northern Transmission System that such Seller is obligated to pay pursuant to its Renewal Power Sales Contract (which for purposes of calculation shall include the total of the Assignment Shares of such Northern Transmission System costs payable by the California Purchasers as provided for in Section 8.1 hereof).

In the event that payments are due under this Section 9.1 for only a portion of a Month, the above computations shall be made so as to allocate the above-mentioned costs for such Month equally among the days of such Month and to take into account the number of days in such Month such Excess Power Obligation was in effect.

9.2 The amount payable by a particular California Purchaser for any Month during an Excess Power Supply Year for the account of all Sellers with respect to the variable cost component of Monthly Power Costs, shall be the product obtained by multiplying the variable cost component of Monthly Power Costs for such Month, as computed under and in accordance with Section 7.1.4 of the Renewal Power Sales Contracts, by a fraction the numerator of which is the kilowatt hours generated by the use of Project Fuel as provided in Section 4.67.2 of the Renewal Power Sales Contracts and delivered at the Project bus from the Generation

Station to such California Purchaser pursuant to this Agreement and the denominator of which is all kilowatt hours generated by the use of Project Fuel as provided in Section 4.67.2 of the Renewal Power Sales Contract and delivered at the Project bus during such Month. The amount so to be paid by such California Purchaser shall be allocated to each Seller in proportion to the ratio which its Excess Entitlement Share for such Month bears to the Total Excess Entitlement Share for such Month.

9.3 RESERVED

9.4 For billing purposes, the amount of the minimum cost component of the Monthly Power Costs to be paid by each California Purchaser each Month in amounts pursuant to Sections 9.1.1 and 9.1.2 hereof shall be billed in advance and shall be based on the then current Annual Budget. The amount of the variable cost component of the Monthly Power Costs to be paid by each California Purchaser each Month pursuant to Section 9.2 hereof shall be billed the Month following the Month such variable cost was incurred and shall be based on the cost of the Project Fuel and associated costs (determined under Section 4.67.2 of the Renewal Power Sales Contracts) during such Month.

9.5 By the fifth calendar day of each Month for which payments are required by Sections 9.1 or 9.2 hereof, IPA on behalf of the Sellers shall bill each California Purchaser for the amount of the minimum cost component of the Monthly Power Costs to be paid by such California Purchaser to each Seller hereunder for the current Month, and for the amount of the variable cost component of the Monthly Power Costs to be paid by such California Purchaser hereunder for the preceding Month (in the case of amounts payable pursuant to Section 9.2 hereof) by providing such California Purchaser with a copy to each of the Sellers with a billing statement in accordance with the charges established pursuant to the provisions of this Agreement. Such billing statement shall detail the matters covered in Section 4.67.2 of the Renewal Power Sales Contracts (in the case of amounts payable pursuant to Section 9.2 hereof).and shall set forth, among other things, the amounts due for such Months by such California Purchaser with respect to the items of Monthly Power Costs set forth in Section 9.1 or Section 9.2 hereof. The amounts set forth on such billing statement shall be paid to IPA for the account of each of the Sellers by such California Purchaser on or before 20 days after receipt of such billing statement.

9.6 If a California Purchaser fails to pay any bill when due, interest shall accrue at a rate of one percent per Month on the unpaid amount of the billing statement.

9.7 Within 30 days following the submission to IPA, the California Purchasers, and each of the Sellers of the audit conducted pursuant to Section 13 hereof and no later than 150 days after the end of each Excess Power Supply Year, IPA will submit to each California Purchaser a detailed statement of the actual aggregate amounts payable hereunder by such California Purchaser for the account of each Seller, including credits thereto, for all of the Months of such Excess Power

Supply Year, and the adjustments of the aggregate Monthly Power Costs payable by such California Purchaser hereunder, if any, for any prior Excess Power Supply Year, based on the annual audit of accounts provided for in Section 13. If, on the basis of the statement submitted as provided in this Section 9.7, the actual aggregate amounts payable hereunder by a particular California Purchaser to a particular Seller for any Excess Power Supply Year exceeds the amount thereof which such California Purchaser has been billed in respect of such Seller, such California Purchaser shall promptly pay IPA for the account of such Seller the amount to which such Seller is entitled. If, on the basis of the statement submitted pursuant to this Section 9.7, the actual aggregate amounts payable hereunder for any Excess Power Supply Year by a particular California Purchaser to a particular Seller are less than the amount therefor which such California Purchaser has been billed IPA for the account of such Seller shall credit such excess against such California Purchaser's next monthly payment due in respect of such Seller.

9.8 If, in any billing statement received by a California Purchaser from IPA an amount shown thereon as being due by such California Purchaser to a particular Seller shall be in bona fide dispute, such California Purchaser shall pay such amount in full, and, upon determination of the correct amount, the difference between such correct amount and such amount paid, if any, including interest at one percent per Month on any overpayment, will be credited, in respect of such Seller, to such California Purchaser by IPA after such determination, provided, however that such interest shall not accrue on any overpayment that is acknowledged by IPA and returned to such California Purchaser by the fifth day following the receipt by IPA of the disputed overpayment. In the event any such amount is in dispute, IPA will give consideration to the California Purchaser's position relative thereto within 30 days following written notification by such California Purchaser of such dispute.

9.9 Amounts paid by the California Purchasers to IPA shall be applied as follows:

9.9.1. IPA shall, promptly upon receipt of the amounts payable pursuant to Section 9.1 hereof by a particular California Purchaser for the account of a particular Seller, apply such amounts for the account of such Seller.

9.9.2. IPA shall, promptly upon receipt of the amounts payable pursuant to Section 9.2 hereof by a particular California Purchaser, as allocated pursuant to Section 9.2 to a particular Seller, apply such allocated amount for the account of such Seller.

9.10 Payments made to IPA pursuant to Sections 9.9.1 and 9.9.2 hereof for the account of a particular Seller shall be applied in discharge of such Seller's obligations to pay such amounts payable by it under its Renewal Power Sales Contract, and such Seller's obligation to pay such amounts shall be discharged only to the extent of receipt thereof by IPA. Except as discharged as herein provided, the obligations

of each Seller to pay amounts under its Renewal Power Sales Contract shall continue and shall not otherwise be affected by the provisions of this Section 9.

9.11 The provisions of this Section 9 shall not be applicable to payments required by each California Purchaser to be made to IPA pursuant to Section 8.1 hereof and such payments shall be governed by the provisions of Section 8 hereof.

10. PAYMENTS. Each California Purchaser shall pay the amounts set forth in the billing statements submitted by IPA to such California Purchaser in accordance with the provisions of Section 9 hereof, whether or not the Project or any part thereof is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part.

11. SOURCE OF PAYMENTS. The obligation of each California Purchaser to make the payments under this Agreement to IPA for the account of each of the Sellers shall constitute a cost of purchased electric capacity and energy and an operating expense of such California Purchaser payable solely from its electric system revenue funds. Each California Purchaser will annually in each and every fiscal year of such California Purchaser during the term of this Agreement include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.

12. RATE COVENANT. Each California Purchaser will establish, maintain, and collect rates and charges for the electric service of its electric system so as to provide revenues sufficient, together with available electric system reserves, to enable such California Purchaser to pay all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

13. RECORDS AND ACCOUNTS. To the extent not kept pursuant to the Renewal Power Sales Contracts, IPA will keep or cause to be kept accurate records and accounts concerning the matters contemplated by this Agreement in a manner similar to the Uniform System of Accounts. Said accounts shall be audited annually by an independent firm of certified public accountants experienced in electric utility accounting and selected by IPA , which firm may be the same firm hired pursuant to the provisions of Section 5.6 of the Renewal Power Sales Contracts. Such audit shall be completed and submitted to IPA , the California Purchasers and each of the Sellers within 120 days after the close of each Excess Power Supply Year. All transactions of IPA , the California Purchasers and the Sellers relating to this Agreement with respect to each Excess Power Supply Year shall be subject to such an audit. Each California Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice and during regular business hours.

14. INFORMATION AND DOCUMENTS. Each California Purchaser agrees to supply IPA and any Seller upon request, such information and documentation as IPA or such Seller shall reasonably determine to be requisite to and necessary for the accomplishment of the

matters contemplated by this Agreement including information reasonably available to allow IPA or such Seller to respond to requests for such information from any federal, state or local regulatory or other authority.

15. METERING. IPA will be responsible for providing or causing to be provided all necessary metering equipment for determining the quantity of energy delivered by each Seller hereunder; provided, however, that such obligation of IPA may, in IPA's discretion, be discharged by IPA's use of the meters provided pursuant to the Renewal Power Sales Contracts. Notwithstanding the foregoing, any California Purchaser may by arrangements with the Operating Agent and at its own cost check existing metering or, with approval of the Coordinating Committee, install additional metering equipment.

16. CHARACTER AND CONTINUITY OF SERVICE.

16.1 The Operating Agent may temporarily interrupt or curtail deliveries of capacity and energy under this Agreement to the California Purchasers in proportion to their respective Purchase Percentages if it determines that such interruption or curtailment is necessary in case of emergencies or in order to install equipment in or make repairs to or replacements, investigations, and inspections of or to perform other maintenance work on the Project facilities, provided, however, that such interruption or curtailment shall not relieve any California Purchaser of its obligation to make payments under this Agreement. After informing the California Purchasers regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, IPA on behalf of each of the Sellers will, to the best of its ability, cause the scheduling of such interruption or curtailment at a time which will cause the least interference with the operations of the California Purchasers.

16.2 A Seller shall not be required to provide, and shall not be liable for failure to provide, service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of IPA, or such Seller to obtain any required governmental approvals to enable IPA or such Seller to accomplish the purposes of this Agreement, provided however that the California Purchasers shall not thereby be relieved of their obligations to make payments under this Agreement.

17. RESTRICTIONS ON DISPOSITION. No California Purchaser shall sell, lease or otherwise dispose of all or substantially all of its electric utility system except on 90 days prior written notice to IPA and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions shall be met: (i) such California Purchaser shall assign this Agreement and its rights and interest hereunder to such purchaser, lessee or transferee of said electric system, and such purchaser, lessee or transferee shall assume all obligations of such California Purchaser under this Agreement; (ii) the senior debt of such purchaser, lessee or transferee is rated in one of the two highest rating categories by at least one nationally-recognized bond rating agency; (iii) an independent engineer or engineering firm of national reputation generally recognized to be well qualified in matters relating to electric power and energy systems, selected by IPA, shall deliver an

opinion, which may be based on assumptions deemed reasonable by such engineer or engineering firm, that such purchaser, lessee or transferee is reasonably able to charge and collect rates and charges in the then current and each future year for the electric service of its electric system as shall be required to meet its obligations under this Agreement; and (iv) such California Purchaser has complied with the requirements of its Renewal Power Sales Contract with respect to such sale, lease or other disposition. IPA shall deliver to the Sellers each notice received by IPA from a California Purchaser pursuant to this Section 17 with respect to a proposed sale, lease or other disposal of such California Purchaser's electric utility system.

18. DEFAULT.

18.1 If a California Purchaser shall be unable to perform or shall default in the performance of any of its obligations under this Agreement, (i) in the event any payment due under this Agreement remains unpaid subsequent to the due date thereof, upon 120 days written notice to such California Purchaser, at the request of any Seller, IPA may cause the delivery of capacity and energy to such California Purchaser and the use of the other Project facilities by such California Purchaser under this Agreement to be discontinued during the period of such default, without reduction of the obligation of such California Purchaser to make payments under this Agreement except to the extent provided in Section 18.3 hereof, and (ii) any Seller may (a) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any covenant, agreement or obligation against such California Purchaser, or (b) take any action permitted by law to enforce its rights under this Agreement or recover damages for breach thereof.

18.2 Neither any Seller nor IPA shall be liable for nonperformance resulting from default, or from the failure to perform any of its obligations under this Agreement, except in the case of Willful Action by such Seller or IPA in which case the remedy shall include specific performance and other applicable legal or equitable remedies; provided, however, that any claim for damages shall not include loss of profits or consequential damages; and provided, further, that no such default by any Seller or IPA shall relieve any California Purchaser from its obligations to make its payments required under this Agreement.

18.3 In the event of a default by a California Purchaser and the discontinuance, pursuant to Section 18.1(i) hereof, of the delivery of capacity and energy and of the use of all other Project facilities under this Agreement, IPA , on behalf of the Sellers, shall transfer on a pro rata basis to all requesting California Purchasers which are not in default, the defaulting California Purchaser's rights to the delivery of capacity and energy and the use of all other Project facilities under this Agreement, including, without limitation, its rights under Section 6.1 hereof, which shall have been discontinued by reason of such default, and such requesting California Purchasers shall assume the defaulting California Purchaser's obligations with respect to such rights so transferred, and if any of the defaulting California Purchaser's rights with respect to the Project are not so transferred,

IPA shall, to the extent possible, dispose of such remaining portion on the best terms readily available; provided, however, that IPA may not so transfer or dispose of such defaulting California Purchaser's rights and obligations in such a manner as shall adversely affect the eligibility for tax exemption for Federal income taxes of the interest paid, or to be paid, on the Project Indebtedness of IPA, and further provided that the obligation of the defaulting California Purchaser to pay IPA for the accounts of the Sellers amounts due hereunder including the costs to IPA or any Seller related to such default, transfer and sale, shall be reduced to the extent that payments are received by IPA for the accounts of the Sellers for that portion of the defaulting California Purchaser's rights with respect to the Project which are so transferred or disposed, with any such reduction being made pro rata among all Sellers in accordance with such amounts due with respect to each Seller.

18.4 IPA shall have the remedies available under the law to enforce its rights under this Agreement.

19. LIABILITY. IPA, each Seller, the Purchasers' Representative and each California Purchaser shall be solely responsible and liable for performance of their respective obligations under this Agreement and for the maintenance and operation of their respective properties and each shall indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance, and operation of the property and equipment of the indemnifying party and not caused in whole or in part by the Willful Action of the other party or IPA. The covenants, obligations and liabilities of the parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to one or more of the parties. No party shall be under the control of or shall be deemed to control any other party. No party shall be the agent of or have a right or power to bind any other party without its express written consent, except as expressly provided in this Agreement.

20. EFFECTIVE DATE AND TERM; EARLY TERMINATION.

20.1 This Agreement shall become effective on the date (the "Effective Date") as to each Seller, IPA , the Purchasers' Representative, and each of the California Purchasers (i) when it has been duly executed and delivered by and among IPA, the Purchasers' Representative, each California Purchaser and each Seller, (ii) each such party shall have received all required governmental regulatory approvals, and (iii) the Renewal Power Sales Contracts shall be fully effective in accordance with their terms for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and applicable Transmission Cost Shares of the Project; provided that this Agreement shall be void and any and all energy deliveries and any other rights or services under this Agreement shall be terminated no later than the effective date of any denial of a required governmental regulatory approval including, without limitation, a decision by the

California Energy Commission. The term of this Agreement shall continue until the date upon which all Renewal Power Sales Contracts shall terminate, unless this Agreement shall be earlier terminated in accordance with its terms. For the avoidance of doubt, unless earlier terminated, this Agreement shall terminate, without any action required to be taken by any of the parties hereto, in the event that, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, dated as of _____, by and among IPA and the purchasers thereunder, the Gas Repowering shall not be undertaken. This Agreement shall constitute a binding obligation of each of the Sellers, IPA , each of the California Purchasers and the Purchasers' Representative from and after the Effective Date in accordance with this Section 20.1.

20.2 Except as provided in Section 20.3 hereof, this Agreement shall terminate as soon after the earlier to occur of the following as all payments required to be made under this Agreement by the California Purchasers through the date of such occurrence have been made:

20.2.1. The last day of the Excess Power Supply Year during which a Complete Outage shall have been in effect for a period longer than 18 Months.

20.2.2. The last day of the end of the six-month period next following the Excess Power Supply Year for which Appendix A sets forth the Total Excess Entitlement Share as zero with respect to both the Summer Season and the Winter Season.

20.3 The provisions of Section 8 hereof shall survive any termination of this Agreement pursuant to Sections 20.2.1 and 20.2.2 hereof, and Section 8 hereof and the provisions of this Agreement related thereto shall terminate only upon the date upon which all Renewal Power Sales Contracts shall terminate.

20.4 Notwithstanding any other provision of this Agreement, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, such California Purchaser or California Purchasers, as applicable, shall be removed as a party or as parties, as the case may be, under this Agreement effective November 1, 2019 and shall no longer be entitled to any benefits or subject to any obligations under this Agreement, and the Purchase Percentage of Los Angeles shall be increased by the Purchase Percentage or Purchase Percentages, as applicable, of such California Purchaser or California Purchasers that shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 thereof.

21. SEVERABILITY. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such

illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.

22. PERFORMANCE BY IPA. IPA provides such services, takes such actions and performs its other obligations under this Agreement as part of its duties and responsibilities under its Renewal Power Sales Contracts with the Primary Purchasers, and IPA shall not be deemed to act, and nothing in this Agreement shall deemed to provide that IPA shall act, as the agent or a fiduciary for any of the Sellers or any other parties to this Agreement.

23. ASSIGNMENT BY SELLERS. This Agreement shall inure to the benefit of and shall be binding upon the Sellers and their respective successors and assigns. Any Seller may assign its respective interests in this Agreement as part of any sale or other disposition of such Seller's electric utility system or Generation Entitlement Share made in compliance with the provisions of such Seller's Renewal Power Sales Contract.

24. COMPLIANCE WITH OTHER AGREEMENTS. Notwithstanding anything contained in this Agreement, all scheduling, purchasing, sales, deliveries and all other actions taken pursuant to this Agreement shall be subject to, and shall comply with, the applicable provisions, limitations, requirements, priorities and restrictions contained in the Renewal Power Sales Contracts, the Bond Resolution and the Construction Management and Operating Agreement.

25. GOVERNING LAW. This Agreement shall be interpreted, governed by and construed under the laws of the State of Utah.

26. ARBITRATION. If a dispute arises between the parties under this Agreement, the parties to such dispute may submit the dispute to arbitration.

27. NOTICES. Notices, demands or requests shall be affected as follows:

27.1 Any notice, demand, or request provided for in this Agreement shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, as follows:

27.1.1. If to IPA:

Intermountain Power Agency
c/o General Manager
10653 South River Front Parkway, Suite 120
South Jordan, Utah 84095
Phone: (801) 938-1333
Fax: (801) 983-1330
E-mail: jim@ipautah.com

27.1.2. If to the Purchasers' Representative:

Senior Assistant General Manager - Power
Los Angeles Department of Water & Power

111 North Hope Street, Rm 921
Los Angeles, California 90012

27.1.3. If to a particular Seller or California Purchaser, to such Seller or California Purchaser at its address set forth on Appendix B hereto.

27.2 A party may, at any time, by written notice to each other party, designate different or additional persons or different addresses for giving of notices hereunder.

28. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed as follows:

**INTERMOUNTAIN POWER AGENCY**

**By:**_____

**Its:**_____

**DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, AS A CALIFORNIA PURCHASER AND AS PURCHASERS' REPRESENTATIVE**

**By:**_____

**Its:**_____

**The counterpart for each Seller and, other than Department of Water and Power of the City of Los Angeles, each California Purchaser that has elected to be a party to this Agreement is attached hereto and incorporated herein by this reference.**

**SELLER COUNTERPART TO AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

**[Name of Seller]**

**By:_____**

**Its:_____**

**CALIFORNIA PURCHASER COUNTERPART TO AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

**[Name of California Purchaser]**

**By:_____**

**Its:_____**

**APPENDIX A**
**SELLERS' EXCESS ENTITLEMENT SHARES AND**
**CALIFORNIA PURCHASERS' PURCHASE PERCENTAGES**

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| **Sellers** | **Excess Entitlement Share – Summer Seasons** |
|---|---|
| [Insert Name of Each Seller] | [Insert % Share for Each Seller in accordance with Sections 5.1 and 5.2 of the Agreement] |
| | **Excess Entitlement Share – Winter Seasons** |
| | [Insert % Share for Each Seller in accordance with Sections 5.1 and 5.2 of the Agreement] |

| **California Purchasers** | **Purchase Percentage** |
|---|---|
| [Insert Name of Each California Purchaser] | [Insert % Share for Each California Purchaser] |

**APPENDIX B**

**SELLERS AND CALIFORNIA PURCHASERS**

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**[Insert Name and Address of Each Seller]**

**[Insert Name and Address of Each California Purchaser]**