

# Renewable Energy Certificates Annex to the EEI Master Power Purchase & Sale Agreement

Version 1.0

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## INTRODUCTION AND EXPLANATORY NOTES

### **Introduction**

This is the Renewable Energy Certificates Annex to the Edison Electric Institute (EEI) Master Power Purchase and Sale Agreement (EEI RECs Annex). It was developed by a subcommittee of the Contracts Drafting Committee of the Edison Electric Institute (EEI) and was derived from the Master Renewable Energy Certificate Purchase and Sale Agreement that was prepared by a working group comprised of members of the Renewable Energy Resources Committee and the Special Committee on Energy and Environmental Finance of the American Bar Association's Section of Environment, Energy and Resources, the Environmental Markets Association, and the American Council on Renewable Energy (the "ABA/EMA/ACORE Master Agreement").

The following notes explain certain concepts that are novel to trading in these instruments, and that the user would likely want to understand. They are written to educate, and are not part of the document itself, and do not create legal obligations between the parties.

The EEI RECs Annex uses a disclosure driven-model. The RECs Product bookends are a "Standard REC", which includes all Environmental Attributes (as that term is defined with its own exclusions), and a "Basic REC", which includes only the proof of generation of the electricity. In between is a "Specified REC," which includes proof of generation and less than all Environmental Attributes. "Standard REC" is called "standard" because it most closely represents the predominant products traded in these markets. Currently a "Standard REC" will likely be required in order for a RECs Product to be certifiable under the Center for Resource Solutions' Green-e program, and one may conclude from a review of the definition of a "Green Attribute" in the California Renewable Portfolio Standard that a "Standard REC" currently is necessary for a California-compliant product.

### **Change in Law Risks**

The EEI RECs Annex uses the term "Regulatorily Continuing" to allocate change in law risk. If an Applicable Program is specified, the Seller is agreeing today to meet the standards of the Applicable Program as it is in effect today. But the Applicable Program can be changed by regulators or legislators. If the Applicable Program does get changed, the Seller bears the risk of any cost of compliance with that change if a transaction is "Regulatorily Continuing." If a transaction is not Regulatorily Continuing, the buyer bears the risk of whether the product it agrees to buy today meets the requirements of the program tomorrow, to the extent tomorrow's requirements differ from today's requirements.

To analogize, a certain quality of 2x4 boards can be defined in a contract, and the seller can represent that it meets the contractually defined quality and leave it to the buyer to figure out if it meets a particular building code. The seller can also represent that the boards meet a particular building code, as that code is in effect today. The seller could also promise that when the boards are delivered, it will meet a particular building code as that code is in effect, however it may be changed.

When a REC is indicated as sold in an Applicable Program (e.g., a compliance market), the seller represents that as of the date of the trade, the REC complies with the requirements of the Applicable Program indicated, but the buyer takes the risk of the potential for change in the legal requirements after the trade date. The parties can have the seller bear the risks of change-in-law in the Applicable Program between the trade date and the delivery date by electing to sell the product as “Regulatorily Continuing.” Presence or absence of the “Regulatorily Continuing” designation does not give rise to a right by either Buyer or Seller to cancel delivery or purchase if there is a failure of the Product to comply for a later delivery date if the program is changed; rather it is an allocation of risks of what parties may be required to do so the delivery can, when made, be used for compliance. Additionally, if the Applicable Program is later cancelled, delivery is still to be made and paid for at the original price, unless the parties have specifically provided otherwise in the original RECs Confirmation.

Additionally, the EEI RECs Annex does not provide for a “price majeure” if, for example, a voluntary Applicable Program’s RECs suddenly become more valuable due to a promulgation of a new RPS that makes compliance mandatory. Parties can vary this. Additionally, parties can evaluate outs akin to the “Change in Scheme” concept sometimes seen in documentation for the European Emissions Trading Scheme.

### **Disaggregation of Environmental Attributes**

A particular quantity of renewable energy generation includes a variety of avoided emissions and other environmental impacts. Some of these are unknown in magnitude until measured. There will likely be significant developments concerning which Environmental Attributes are required to be part of a REC for a particular purpose, especially as the intersection of renewable energy and carbon emission constraining programs develops. For example, one could measure and verify avoided CO<sub>2</sub> emissions from a unit of renewable generation, to be stripped and sold in the CO<sub>2</sub> markets, leaving a “no CO<sub>2</sub>” REC available for sale. As sticks are pulled out of the REC bundle, different buyers will attribute different values to the various removed sticks and the remainder of the bundle.

The ABA/EMA/ACORE Master Agreement sets forth a robust mechanism for so stripping out or otherwise independently selling environmental attributes. The EEI RECs Annex does not include this full mechanism in this document; those who require such functionality are referred to the aforesaid form agreement.

### **Future Allowances**

Distinguish between generating unit electric generation and generating unit capacity. There may be future programs providing allowances to renewable energy facilities based on facility capacity, but not generation. This is distinct from credits (or allowances) provided on account of actual renewable resource generation. A “Standard REC,” which is “all” Environmental Attributes, includes within it any future allowances (or credits) that are awarded based on the measured quantity of generation with which the Standard REC was associated. If the parties do not wish to transfer future potential allowances or credits based on generation, they should elect to trade a “Specified REC” and carve those out in the confirmation.

If under a new greenhouse gas emissions law, an allowance-based compliance regime is created and initial allowances are allocated to all existing generation, fossil and non-fossil fueled generation, and a wind facility is given in a table 100 Carbon Allowances, which it does not need for compliance, has the wind facility which sold a Standard REC sold any of its carbon allowances? If the allowances were for identifiable prior generation, and a buyer paid for them, they were transferred. If the allocation of allowances is made on an on-going future basis, as electricity is generated, and the amount of allowances is keyed to actual energy production, the allowances are part of a Standard REC. But an allocation of allowances *based on* historic output of the unit (i.e., demonstrated capacity) does not mean the allowances transfer to those to whom the past performance was sold. A system which allocates allowances based on some formula other than on-going actual generation of energy is very different from a system that gives credit for displacing emissions based on actual generation of energy from a renewable resource. The drafters have sought to be as clear as possible under the circumstances, but the parties are advised to remain informed about the potential for future allowance and credit-based programs which might apply to their units and draft their RECs Transactions accordingly. Parties may consider adding the following language to the definition of Environmental Attributes:

Environmental Attributes do not include, unless the parties have expressly agreed otherwise, tradable emission allowances or other entitlements to produce emissions issued by a Governmental Authority and allocated to a Renewable Energy Facility on a basis other than actual generation of avoided emissions associated with the generation of electricity by the Renewable Energy Facility. For example, any CO<sub>2</sub> emission allowances that may be allocated to a Renewable Energy Facility by a Governmental Authority on a basis other than a calculation of such Facility's actual avoided emissions would not be included as an Environmental Attribute.

### **Unit Contingent Definitions**

Two defined terms in Schedule P-RECs refer to the generating unit's performance. Some types of renewable resource generators, such as wind turbines or solar cells, are intermittent, and only generate electricity when the wind blows or the sun shines. Therefore, these units may not be able to generate to a fully contracted quantity. In a "Unit Contingent" sale, Seller is excused from underdelivery if the unit does not generate the full amount contracted for with Buyer in the period indicated, and puts Buyer at the top of the stack from which the Seller may be making sales from the unit over the period indicated. In a "Unit Contingent-Allocated" sale, Seller is excused if the unit does not generate the full amount contracted with Buyer and all the other parties to whom Seller has contracted for sale from the unit, and puts Buyer within the stack from which Seller may be making sales from the unit over the period indicated. Buyers of a Unit Contingent-Allocated Product may consider asking the seller about those other sale commitments. A seller with a 20MW unit entering into two 10MW Unit Contingent transactions runs the risk of breaching both contracts by making both sales Unit Contingent, since both buyers could claim a first entitlement to generation from the unit. A seller in such case may wish to indicate the Product is Unit Contingent-Allocated, and that each buyer receives half of the RECs as generated.

**RENEWABLE ENERGY CERTIFICATES ANNEX**  
**to the**  
**EEI MASTER POWER PURCHASE & SALE AGREEMENT**

**Name:** \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of the State of \_\_\_\_\_ (“Party A”)  
**Name:** \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of the State of \_\_\_\_\_ (“Party B”)

**Effective Date of EEI Master Agreement between Party A and Party B:** \_\_\_\_\_

**Paragraph 8 Renewable Energy Certificate Elections Cover Sheet:**

**All Notices:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

Street: \_\_\_\_\_  
City: \_\_\_\_\_  
Attn: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**Invoices:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

Attn: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**Confirmations:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

Attn: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**Payments:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

Attn: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**Wire Transfer:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

BNK: \_\_\_\_\_  
ABA: \_\_\_\_\_  
ACCT: \_\_\_\_\_

**All Notices:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

Street: \_\_\_\_\_  
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Attn: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**Wire Transfer:**

As set forth on the EEI Master Agreement Cover Sheet unless otherwise set forth below:

BNK: \_\_\_\_\_  
ABA: \_\_\_\_\_  
ACCT: \_\_\_\_\_

**Additional elections for EEI Master Agreement Section 2.1 Transactions**

**Outstanding RECs Transactions.** This EEI RECs Annex applies to the following pre-existing RECs Transactions:

- Option A: All RECs Transactions outstanding between the parties as of the Effective Date of this EEI RECs Annex. – If no options are selected, Option A applies.
- Option B: The RECs Transactions listed in Schedule 1 to this EEI RECs Annex only.
- Option C: None of the RECs Transactions between the Parties that were executed prior to the Effective Date of this EEI RECs Annex.

**Applicability of Articles 8.1, 8.2, and, if applicable, the Collateral Annex**

- Option A: Articles 8.1, 8.2 and, if applicable, the Collateral Annex, apply to all RECs Transactions. – If no options are selected, Option A applies.
- Option B: Articles 8.1, 8.2 and, if applicable, the Collateral Annex, do not apply to any RECs Transactions.
- Option C: Articles 8.1, 8.2 and, if applicable, the Collateral Annex, apply to all RECs Transactions except those RECs Transactions set forth in Schedule 2 as amended from time to time.

**Elections for Paragraph Three:**

**3.5 Payment Netting**

- Option A (Payment Netting) – If neither Option A nor Option B is checked, Option A shall apply.
- Option B (No Payment Netting)

**Other Changes**

Specify, if any:

*[Parties should refer to any provisions of their EEI Cover Sheet and optional provisions that should not govern RECs Transactions, for example Mobile-Sierra waivers.]*

IN WITNESS WHEREOF, the Parties have caused this EEI RENEWABLE ENERGY CERTIFICATES ANNEX to be duly executed in one or more counterparts (each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same agreement) effective as of the Effective Date of this EEI RECs Annex. The Parties expressly acknowledge the validity of facsimile counterparts of this EEI RECs Annex, if any, which may be transmitted in advance of, or in lieu of, executed original documents.

**Party A:** \_\_\_\_\_

**Party B:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**RENEWABLE ENERGY CERTIFICATES ANNEX**  
**TO THE**  
**EEI MASTER POWER**  
**PURCHASE & SALE AGREEMENT**

WHEREAS, Party A and Party B have entered into an EEI Master Power Purchase & Sale Agreement (including any amendments, annexes or Cover Sheet thereto which are provided for and incorporated into the EEI Master Power Purchase & Sale Agreement, the “EEI Master Agreement”), which EEI Master Agreement governs the terms and conditions pursuant to which the Parties may enter into transactions relating to the purchase and sale of electric capacity, energy and other products related thereto; and

WHEREAS, the Parties desire to enter into this Renewable Energy Certificates Annex to the EEI Master Agreement to provide terms and conditions under which the Parties may enter into Transactions relating to the purchase and sale of Renewable Energy Certificates (as hereinafter defined; each such Transaction, a “RECs Transaction”);

NOW, THEREFORE, the Parties agree as follows:

**PARAGRAPH ONE: GENERAL TERMS**

1.1 Scope of Agreement. The Parties enter into this Renewable Energy Certificates Annex to the EEI Master Agreement (this “EEI RECs Annex”) in order to provide for the terms and conditions pursuant to which they may enter into Transactions for RECs Products (as defined below). This EEI RECs Annex, together with the Paragraph 8 Renewable Energy Certificate Elections Cover Sheet (“Paragraph 8 Cover Sheet”), supplements, forms a part of, and is incorporated into, the EEI Master Agreement. Capitalized terms used in this EEI RECs Annex but not defined herein shall have the meanings given such terms in the EEI Master Agreement.

1.2 The terms set forth in the EEI Master Agreement and this EEI RECs Annex apply to those Transactions that relate to RECs Products (each such Transaction, a “RECs Transaction”). Unless otherwise expressly amended by this EEI RECs Annex, all of the terms and conditions set forth in the EEI Master Agreement apply to RECs Transactions. “Transaction” as used in the EEI Master Agreement includes both Transactions relating to Power Products and RECs Products and except as otherwise provided in this EEI RECs Annex, the EEI Master Agreement shall apply equally to all such Transactions without differentiation. By way of example only, the Parties intend that the occurrence of an Event of Default under Section 5.1 of the EEI Master Agreement would enable the Non-Defaulting Party to exercise any or all of the rights of Article Five with respect to all Transactions notwithstanding whether such Transactions are for RECs Products or Power Products. In the event of any inconsistency among or between the EEI Master Agreement and this EEI RECs Annex, this EEI RECs Annex will govern with respect to RECs Transactions only.

## PARAGRAPH TWO: DEFINITIONS

2.1 Definitions. With respect to RECs Transactions, these terms have the following meanings, and if the same term is defined in the EEI Master Agreement, the definition herein supersedes and replaces that in the EEI Master Agreement:

2.1.1 “Administrator” means an administrator, Certifier, Governmental Authority or other body with jurisdiction over Certification or transfer of Environmental Attributes in the Applicable Program.

2.1.2 “Alternative Compliance Payment” means a monetary amount under Applicable Law for an Applicable Program the payment of which is in lieu of compliance or other maximum amount agreed upon by the Parties.

2.1.3 “Applicable Law” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority or arbitrator that apply to the Applicable Program or any one or both of the Parties or the terms hereof.

2.1.4 “Applicable Program” means a mandatory or voluntary domestic, international or foreign RPS, renewable energy, or other program, scheme or organization, with respect to a market, registry or reporting for Environmental Attributes specified in a RECs Transaction.

2.1.5 “Attestation” means a Transfer Certificate or Certification in form and substance as agreed to by the Parties separate and apart from the RECs Confirmation, an example of which for voluntary and potentially other Applicable Programs is attached as Exhibit C.

2.1.6 “Certification” means, if applicable, the certification by the Certifier of the Applicable Program of (i) the creation and characteristics of a REC, (ii) the qualification of a Renewable Energy Facility under the Applicable Program, (iii) Delivery of a REC or (iv) other compliance with the requirements of the Applicable Program.

2.1.7 “Certifier” means an entity that certifies the generation, characteristics or Delivery of a REC, or the qualification of a Renewable Energy Facility under the Applicable Program, and may include the Administrator, a GIS, a Governmental Authority, one or both of the Parties, an independent auditor or other third party, and should include (i) absent an Applicable Program, the Seller, or the generator of the RECs if the Seller is not the generator, (ii) if the RECs are to be Delivered pursuant to the Applicable Program, the Administrator of the Applicable Program, or such other person or entity specified by the Applicable Program to perform Certification or (iii) such other person or entity specified by the Parties.

2.1.8 “Certified Renewable Energy Facility” means a Renewable Energy Facility that is certified under or pursuant to the Applicable Program.

2.1.9 “Delivered” or “Delivery” means the transfer from Seller to Buyer of the Contract Quantity of the RECs Product in accordance with the Applicable Program and recognition by any applicable Administrator, Certifier, or GIS that such transfer has completed.



2.1.10 “Delivery Date” means the dates specified in the RECs Transaction for Delivery of the RECs Product to the Buyer.

2.1.11 “Environmental Attribute” means an aspect, claim, characteristic or benefit, howsoever entitled, associated with the generation of a quantity of Energy by a Renewable Energy Facility, other than the electric energy produced, and that is capable of being measured, verified or calculated, including any fuel, emissions, air quality or other environmental characteristics, credits, benefits, reductions, offsets and allowances resulting from the purchase, generation or use of energy from a Renewable Energy Facility or the avoidance of any emission of any gas, chemical or other substance to the air, soil or water attributable to such energy generation or arising out of any present or future Applicable Law. An Environmental Attribute may include one or more of the following identified with a particular megawatt hour of generation by a Renewable Energy Facility designated prior to Delivery: the Renewable Energy Facility’s use of a particular renewable energy source, avoided NO<sub>x</sub>, SO<sub>x</sub>, CO<sub>2</sub> or greenhouse gas emissions, avoided water use (but not water rights or other rights or credits obtained pursuant to requirements of Applicable Law in order to site and develop the Renewable Energy Facility itself), or as otherwise defined under the Applicable Program or as agreed by the Parties. Environmental Attributes do not include any Energy, capacity, reliability or other power attributes from the Renewable Energy Facility, production tax credits or other direct third-party subsidies, filed rates, or feed-in tariffs for generation of electricity by the Renewable Energy Facility.

2.1.12 “GIS” means a generation information system or generation attribute tracking system operated by an Independent System Operator or a Regional Transmission Organization, or any other system that records generation from Renewable Energy Facilities.

2.1.13 “Government Action” means action (and not merely the speculation thereof) by a Governmental Authority, Administrator, Certifier, or by the governing body of the Applicable Program, including a Regulatory Event, which results in a change to the eligibility of a RECs Product for the Applicable Program or a substantial change to the requirements for compliance by persons or entities obligated to comply with the Applicable Program which in either case has a material effect on the supply or value of a RECs Product that is the subject of a particular RECs Transaction, and includes a change in Applicable Law that disqualifies any previously qualifying or Certified Renewable Energy Facilities (by Energy sources, Initial Operating Date or otherwise) or previously complying RECs Product, that is the subject of a RECs Transaction entered into prior to the change under an existing Applicable Program, including a change that that (i) eliminates or discontinues certification of the RECs Product, or (ii) creates any adverse material change in the application of the Applicable Program regarding a Party’s authority to sell or purchase the RECs Product.

2.1.14 “Governmental Authority” means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

2.1.15 “Initial Operating Date” means the date when a particular Renewable Energy Facility first became commercially operational.

2.1.16 “Penalties” means, with respect to the Non-Defaulting Party, the present value of any Alternative Compliance Payments, penalties, fines or fees imposed or assessed against the Non-Defaulting Party by an Administrator or Governmental Authority on account of Delivery not occurring on the Delivery Date, as determined by the Non-Defaulting Party in a commercially reasonable manner.

2.1.17 “RECs Product” means the RECs and Environmental Attributes to be delivered in a particular RECs Transaction.

2.1.18 “RECs Confirmation” is the form used by the Parties in the form of Exhibit A or Exhibit B or as otherwise agreed by the Parties, specifying the terms of a RECs Transaction.

2.1.19 “RECs Product Reporting Rights” means the exclusive right to report sole ownership of the RECs Product to any Certifier, GIS, Administrator, Governmental Authority or other party, including under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future Applicable Program.

2.1.20 “RECs Transaction” is a Transaction under the Agreement governed by this EEI RECs Annex.

2.1.21 “Regulatorily Continuing” means, with respect to a RECs Transaction represented by a Party as complying with an Applicable Program, such compliance will be as of both the Delivery Date and the Trade Date notwithstanding any Government Action.

2.1.22 “Renewable Energy Certificate” or “REC” means a certificate, credit, allowance, green tag or other transferable indicia, howsoever entitled, created by or pursuant to the Applicable Program or Certifier indicating generation of a particular quantity of energy, or RECs Product associated with the generation of a specified quantity of Energy from a renewable energy source by a Renewable Energy Facility, separate from the Energy produced.

2.1.23 “Renewable Energy Facility” means an electric generation unit or other facility or installation that produces Energy qualifying under the Applicable Program, and includes a Certified Renewable Energy Facility.

2.1.24 “Renewable Portfolio Standard” or “RPS” means a domestic, international, or foreign state, provincial or federal law, rule or regulation that requires a stated amount or minimum proportion or quantity of electricity that is sold or used by specified entities to be generated from renewable energy.

2.1.25 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases replacement RECs Product for any RECs Product specified in the RECs Transaction but not delivered by Seller, which replacement RECs Product complies with the Applicable Program as of the Delivery Date for a Regulatorily Continuing RECs Transaction and as of the Trade Date for a RECs Transaction that is not Regulatorily Continuing, and have the same Vintage as the RECs Product not Delivered, plus Costs reasonably incurred by Buyer in purchasing such substitute RECs Product, or absent a purchase, the market price for such RECs Product not delivered, as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such market price exceed any applicable Alternative Compliance

Payment set forth in the Applicable Program (if any), nor shall Buyer be required to acquire replacement RECs or utilize or change its utilization of its market positions to minimize Seller's liability.

2.1.26 "Reporting Year" means a twelve-month compliance period specified under the Applicable Program.

2.1.27 "Sales Price" means the price at which Seller, acting in a commercially reasonable manner, resells any RECs Product specified in the RECs Transaction not received by Buyer deducting from such proceeds any Costs reasonably incurred by Seller in reselling such RECs Product and Delivering to a third party purchaser thereof, or absent a sale, the market price for such RECs Product that complies with the Applicable Program as of the Delivery Date for a Regulatorily Continuing RECs Transaction and as of the Trade Date for a RECs Transaction that is not Regulatorily Continuing, and have the same Vintage as the RECs Product not received, as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such market price include any Penalties or similar charges or stranded costs unless specified in the applicable RECs Transaction, nor shall Seller be required to utilize or change its utilization of its market positions to minimize Buyer's liability; and provided further that if Seller is unable after using commercially reasonable efforts to obtain a market price or resell all or a portion of the RECs Product not received by Buyer, then the Sales Price with respect to such unsold RECs Product shall be deemed equal to zero dollars (\$0).

2.1.28 "Trade Date" means the date a RECs Transaction is entered into by the Parties.

2.1.29 "Transfer Certificate" means an Attestation, GIS record of ownership transfer or other document evidencing Delivery of a REC and otherwise satisfying the requirements of the Parties and any Applicable Program.

2.1.30 "Vintage" means the calendar year, Reporting Year or other period specified by the Parties or the Certifier, as applicable, in which the RECs Product is created or first valid for use under the Applicable Program.

2.2 Rules of Interpretation. Unless otherwise required by the context in which any term appears, (i) the singular includes the plural and vice versa; (ii) all references to a particular entity or market price index include a reference to such entity's or index's successors and (if applicable) permitted assigns; and (iii) a reference to a statute or to a regulation issued by a Governmental Authority includes the statute or regulation in force as of the Trade Date, or Delivery Date with respect to a RECs Product that is Regulatorily Continuing; and (iv) the word "or" is not necessarily exclusive.

### **PARAGRAPH THREE: AMENDMENTS TO THE EEI MASTER AGREEMENT**

3.1 Definitions. Section 1.47 of the EEI Master Agreement is amended by adding to the end thereof "in the EEI RECs Annex or RECs Product Transactions thereunder."

3.2 Confirmation. The first sentence of Section 2.3 of the EEI Master Agreement shall be modified by the addition of the following at the end thereof: "and substantially in the form of a RECs Confirmation with respect to RECs Transactions."

3.3 Additional Confirmation Terms. Section 2.4 of the EEI Master Agreement shall apply only to Power Products.

3.4 Obligations and Deliveries. Sections 3.1 and 3.2 of the EEI Master Agreement shall apply only to Power Products. The applicable provisions with respect to RECs Products are set forth in Paragraph 4.1 below.

3.5 Payment and Netting.

Option A: Payment Netting with Payment for Power and RECs Transactions on the same payment date. Section 6.2 of the EEI Master Agreement shall apply to Power Products and RECs Products, it being the intent of the Parties that monthly payments for Power Products shall be netted with monthly payments for RECs Products, all in accordance with Article 6 of the EEI Master Agreement, including Section 6.4 thereof. In addition to the netting of monthly payments in respect of RECs Products and Power Products, if an Early Termination Date is declared by the Non-Defaulting Party pursuant to Article 5 of the EEI Master Agreement, then all Settlement Amounts and any other payments for all Transactions whether for Power Products or RECs Products shall be netted in calculating the Early Termination Payment pursuant to the provisions of Section 5.3 of the EEI Master Agreement.

Option B: No Payment Netting with Payment for RECs Transactions on the 5<sup>th</sup> Business Day following Delivery of RECs. The first sentence of Section 6.2 of the EEI Master Agreement shall apply only to Power Products. With respect to RECs Products only, the first sentence of Section 6.2 shall be replaced with the following sentence: “Unless otherwise agreed by the Parties in a RECs Transaction, all invoices under this EEI Master Agreement for RECs Products shall be due and payable in accordance with each Party’s invoice instructions on or before the later of the 5<sup>th</sup> Business Day following Delivery, or the 5<sup>th</sup> Business Day after receipt of the invoice by Buyer.” Section 6.4 of the EEI Master Agreement shall apply to both Power Products and RECs Products; provided, however, for this limited purpose only, monthly payments for Power Products shall be netted only with monthly payments for other Power Products and monthly payments for RECs Products shall be netted only with monthly payments for other RECs Products. If an Early Termination Date is declared by the Non-Defaulting Party, then all Settlement Amounts and any other payments for all Transactions whether for Power Products or RECs Products shall be netted in calculating the Early Termination Payment pursuant to the provisions of Section 5.3 of the EEI Master Agreement.

3.6 Title and Indemnity. Sections 10.3 and 10.4 of the EEI Master Agreement shall apply only to Power Products. The provisions that apply to RECs Products are set forth in Paragraph 4.3 below.

#### **PARAGRAPH FOUR: SUPPLEMENTS TO THE EEI MASTER AGREEMENT FOR TRANSACTIONS RELATING TO RECs PRODUCTS**

The following provisions apply to RECs Products only.

4.1 Delivery. Seller shall Deliver the RECs Product, and Buyer shall receive and pay for the RECs Product, in the manner required to comply with the terms of this RECs Annex and any RECs Transactions into which the Parties may from time to time enter.

4.2 Taxes and Fees. In any RECs Transaction, the term “Delivery Point” as used in the EEI Master Agreement is defined in the RECs Confirmation, if applicable. Each Party will be responsible for the payment of any fees, including broker’s fees, incurred by it in connection with any RECs Transactions hereunder.

4.3 Transfer of Title. Unless otherwise specified in a RECs Transaction, none of Seller’s applicable property and other right, title and interests in the RECs Product will pass to Buyer until the Delivery and payment are complete and upon such completion, all rights, title and interest in and to the RECs Product, to the full extent the same is property, will transfer to Buyer.

4.4 Effect of Transfer of Environmental Attributes. By transferring RECs Product in a RECs Transaction, Seller transfers any and all, and the exclusive, right to use that RECs Product in any Applicable Program, whether or not the RECs Transaction specifies that the RECs Product is eligible for an Applicable Program, and whether or not the particular RECs Product or any Environmental Attribute therein constitutes property, as well as any and all RECs Product Reporting Rights. Transfer of an Environmental Attribute does not transfer eligibility for production tax credits or other direct third-party subsidies for generation of electricity by any specified Renewable Energy Facility. Delivery of a RECs Product grants the Buyer the right, exclusive to the full extent applicable, to verify, certify and otherwise take advantage of the rights, claims and ownership in the RECs Product.

4.5 Certifying. The type and amount of any Environmental Attribute transferred and Delivered will be measured, calculated, verified and certified as agreed by the Parties or as required pursuant to the Applicable Program, if any. Unless otherwise specified in a RECs Transaction or the Applicable Program, Seller will (a) ensure that the selection of the Certifier complies with this EEI RECs Annex and the Applicable Program and (b) be responsible for the costs of the Certifier required for Delivery.

4.6 Secondary Markets; Exclusion of Warranties. Unless otherwise specified in a RECs Transaction, neither Seller nor Buyer will have any liability to the other for any act, omission, misrepresentation or breach by a Certifier (other than those due to failure to pay required fees, charges or expenses). Except as required under the Applicable Program, to the extent a RECs Product is evidenced or Delivered with a Transfer Certificate or other documents executed by or setting forth the findings of third parties, the sole representations of Seller with respect thereto will be that (i) Seller has no actual knowledge that any statement therein is false or intentionally misleading, and (ii) the documents provided by it are true and correct copies of the documentation it has. All representations and warranties made by a Seller to a Buyer with respect to the Environmental Attributes, Renewable Energy Facility, Energy delivery location or Vintage of a RECs Product are transferable by the Buyer. However, as different Applicable Programs have differing compliance requirements, any representation that a RECs Product is Regulatorily Continuing applies solely to the Delivery by the Seller of RECs Product under the

Applicable Program to the Buyer and only up to the Delivery Date, and the benefit of such representation is not assignable by Buyer, except as consented to by Seller in writing. Any other representation of compliance with the Applicable Program applies only up to the Trade Date. A RECs Transaction may provide by its terms that the Renewable Energy Facility will be designated by the Seller after the Trade Date and on or before the Delivery Date, so long as once having been designated, the Delivery complies with the requirements of the Applicable Program, in the manner represented by Seller.

4.7 Tariffs; Energy. Party A Tariff and Party B Tariff do not apply to RECs Transactions unless specifically so stated in the RECs Confirmation. A RECs Transaction may be entered into in connection with a Transaction for Energy. Delivery of RECs Product can be with or independent of delivery of the Energy with which the RECs Product is associated if so permitted under the Applicable Program.

## **PARAGRAPH FIVE: FURTHER REPRESENTATIONS, WARRANTIES AND COVENANTS**

5.1 Mutual Representations and Warranties. On the Effective Date and on each Trade Date, each Party represents and warrants to the other what it has represented and warranted in Section 10.2 of the EEI Master Agreement and that: (i) it is an “eligible commercial entity” and an “eligible contract participant” within the meaning of United States Commodity Exchange Act §§1a(17) and 1a(18), respectively and (ii) except as otherwise provided in Paragraph 4.6, all applicable information, documents or statements that have been furnished in writing by or on behalf of it to the other Party in connection with this Agreement are true, accurate and complete in every material respect and do not omit a material fact that would otherwise make the information, document or statement misleading.

5.2 Warranties and Certain Covenants of Seller. With respect to each RECs Transaction, Seller represents and warrants to Buyer on the Trade Date and on the Delivery Date for all RECs Product that: (i) Seller has good and marketable title to such RECs Product; (ii) Seller has not, under any Applicable Program or otherwise, sold to any other person or entity, retired for its own benefit, or represented as part of any Energy sale the RECs Product or any Environmental Attribute of the RECs Product to be transferred to Buyer; (iii) all right, title and interest in and to such RECs Product are free and clear of any liens, taxes, claims, security interests or other encumbrances except for any right or interest by any entity claiming through Buyer; (iv) each Environmental Attribute and REC meets the specifications set forth in the RECs Transaction; (v) the RECs Product is separate from the Energy generated by the Renewable Energy Facility, unless otherwise specified by the Parties; (vi) such RECs Product complies with the Applicable Program for which the RECs Product requires compliance until (a) Delivery for RECs Transactions that are Regulatorily Continuing, or (b) the Trade Date for RECs Transactions that are not Regulatorily Continuing; (vii) unless expressly set forth in a RECs Transaction, with respect to Seller, the RECs Product is not transferred, and has not been transferred pursuant to a contract filed or required to be filed with or approved by any Governmental Authority having jurisdiction over the sale of Energy; (viii) the representations and warranties set forth in the form of Attestation, if any, as of the Delivery Date are true and correct, provided that if the RECs Transaction is not Regulatorily Continuing, this representation is only as to the form of Attestation in effect as of the Trade Date; and (ix) subject to Paragraph

4.6 and unless otherwise specified to the contrary on the RECs Transaction, Seller has disclosed to Buyer any and all Transfer Certificates, Attestations, and all other relevant documentation received by it in connection with its acquisition of the RECs Product sold to Buyer hereunder, and any use by any Environmental Attribute of the RECs Product by Seller or any other person or entity to comply with any Applicable Program. With respect to any RECs Transaction, absent a representation by Seller that the RECs Product complies with the requirements of a specified Applicable Program, Buyer bears the risk that the RECs Product is or will be in compliance with such Applicable Program. With respect to any RECs Transaction, if Seller represents that a RECs Product complies with the Applicable Program, such representation is made and effective as of the Trade Date, and Seller will not be in breach of such representation on account of any Government Action occurring after the Trade Date, unless the RECs Transaction is Regulatorily Continuing, in which case Seller must Deliver RECs Product that complies with the Applicable Program as of the Delivery Date. If the RECs Transaction is Regulatorily Continuing, Seller will cause the RECs Product that is Delivered to comply with the requirements of the Applicable Program on the Delivery Date, including Delivering substitute RECs Product acceptable to Buyer if appropriate.

5.3 LIMITATION OF WARRANTIES. THE EXPRESS WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND SELLER MAKES NO OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE RECS PRODUCT DELIVERED AND TRANSFERRED WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER, INCLUDING WITH RESPECT TO ANY GOVERNMENT ACTION OR ANY OTHER FUTURE ACTION OR FAILURE TO ACT OR APPROVAL OR FAILURE TO APPROVE BY ANY GOVERNMENTAL AUTHORITY OR ADMINISTRATOR.

5.4 Cooperation on Delivery; Review of Records. Upon either Party's receipt of notice from the Administrator that the transfer of RECs pursuant to a RECs Transaction will not be recognized or a RECs Product Delivery was not made as required pursuant to the terms of a RECs Transaction, that Party will immediately so notify the other Party, providing a copy of such notice, and both Parties will cooperate in taking such actions as are necessary and commercially reasonable to cause such transfer to be recognized and RECs Product Delivered. Each Party agrees to provide copies of its records to the extent reasonably necessary for the Certifier to perform the functions designated on the RECs Transaction, and to verify the accuracy of any fact, statement, charge or computation made pursuant hereto if requested by the other Party. If, as a result of Seller's failure to provide Buyer with documentation and records it has agreed in the RECs Transaction to provide any or all of the Contract Quantity of RECs Product is disallowed ("Disallowed RECs") Seller will pay damages for such Disallowed RECs as if there had been a failure to Deliver them and Buyer shall after receipt of such damages return the Disallowed RECs to Seller. If Seller is not the owner or operator of the Renewable Energy Facility that generated the RECs Product, Seller will cooperate with Buyer in any efforts to review the records of the original Seller of such RECs Product. If Seller is the owner or operator of the Renewable Energy Facility that generated the RECs Product in a RECs Transaction, it consents to the Buyer's assignment of rights under this Paragraph to any subsequent purchaser of such RECs Product. The obligations set forth in this Paragraph terminate with respect to any particular RECs Transaction on the later of thirty days following the last banking date under the

Applicable Program for the Vintage of the RECs Product Delivered, or the third anniversary of the Delivery Date. Notwithstanding any provisions in the EEI Master Agreement regarding confidentiality, Buyer, and any affiliates or customers of Buyer to which Buyer resells the Product delivered by Seller hereunder, will have the right to disclose (i) to any entity or governmental authority having jurisdiction, any information necessary to demonstrate compliance with any RPS, and (ii) to any customer of Buyer or Buyer's affiliates that is participating in any voluntary renewable energy retail electric service customer choice program, the RECs Product content and characteristics.

#### **PARAGRAPH SIX: ADDITIONAL TERMS RESPECTING REMEDIES AND FORCE MAJEURE**

6.1 Not a Penalty. The Parties intend that no remedy or amount due hereunder represents a penalty to the Defaulting Party.

6.2 Registry Failure. If a Party is unable to Deliver or receive RECs due to the occurrence of a disruption in Deliveries caused by the applicable Administrator or GIS, as applicable which is not subject to Paragraph 7.11 and is not within the reasonable control of, or the result of the negligence of, such Party, by the exercise of due diligence, such Party was unable to avoid (a "Registry Failure"), it shall provide the other Party with written notice and full details within two (2) Business Days. The Parties will use their best efforts to cause Delivery and give effect to the original intention of the Parties. No Party will be relieved due to a Registry Failure from any obligation to provide any notice or make any payments due.

6.3 Scope of Force Majeure. This Paragraph 6.3 is in addition to and not in replacement of the provisions respecting Force Majeure in the EEI Master Agreement. With respect to Unit Specific RECs, Force Majeure includes events of Force Majeure that disrupt the operation of the specified Renewable Energy Facility. Force Majeure may not be based upon change in Applicable Law or Government Action in a Regulatorily Continuing RECs Transactions. In the case of a Party's obligation to make payments hereunder, Force Majeure will be only an event or act of a Governmental Authority that on any day disables the banking system through which a Party makes such payments.

#### **PARAGRAPH SEVEN: APPLICABLE LAW**

7.11 Government Action. The Parties acknowledge that the Applicable Programs, which among other things establish the conditions for a market for certain RECs Products, may be the subject of Government Action. Unless otherwise provided in a RECs Transaction, Government Action that changes in any respect the value of a RECs Product, without rendering the RECs Product out of compliance with the Applicable Program if Regulatorily Continuing, including the Applicable Program being discontinued, suspended, cancelled, repealed, or otherwise no longer scheduled to proceed, will have no effect on the obligation of the Parties to purchase and sell such RECs Product at the price and on the terms set forth in the RECs Transaction. To the extent that Government Action (i) renders Delivery illegal under Applicable Law, or (ii) makes impossible the trading or transferring of the RECs Product, then promptly after the occurrence of such Government Action, the Parties will use their best efforts to reform



the affected RECs Transaction(s) in order to give effect to the original intention of the Parties or transfer the RECs Product under another Applicable Program or method if possible. For purposes of the affected RECs Transaction(s) only, if the Parties are unable, despite such efforts, to reform such RECs Transaction(s) or transfer the RECs Product within ten (10) Business Days following the Government Action, either Party may, at its sole option terminate the affected RECs Transaction(s) without terminating the EEI Master Agreement and with no further payment or performance obligation; provided that the Parties shall make any payments due in accordance with obligations already performed and that portion of whatever has been paid for the quantity of RECs Product not yet Delivered will be refunded by Seller, to the extent it is lawful to do so. If Government Action results in the Applicable Program being superseded by another state, regional or federal renewable energy program, then, Seller shall Deliver either under the existing Applicable Program or under the superseding program, to the extent possible and commercially reasonable. Notwithstanding the foregoing, no RECs Transaction will be affected, cancelled or otherwise impaired by Government Action that is specific to a Party under Applicable Law taken by a Governmental Authority alleging that Party's violation thereof.

7.2 Governing Law. Notwithstanding Section 10.6 of the EEI Master Agreement, the creation, issuance, transfer, tracking and retirement of RECs shall be governed by the laws, rules and regulations of the Applicable Program, if any.

## **SCHEDULE P-RECS: RECS PRODUCT DEFINED TERMS**

“Basic REC” means a REC that consists solely of a Certification of the generation of electricity by a Renewable Energy Resource, without any additional Environmental Attributes.

“Firm” means, with respect to a RECs Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the RECs Product, the Party to which performance is owed shall be entitled to receive from the Party that failed to perform an amount determined pursuant to Article 4 of the EEI Master Agreement. Force Majeure shall not excuse performance of a Firm RECs Transaction.

“Resource Type Specific” when referring to RECs Product means that the Renewable Energy Facility that has generated or is eligible to generate the RECs Product utilizes a specified type of renewable energy.

“Specified REC” means a REC that includes or excludes specified Environmental Attributes.

“Standard REC” means a REC that includes all Environmental Attributes arising as a result of the generation of electricity associated with the REC, whether such Environmental Attributes have been certified and whether creditable under any existing Applicable Program.

“Unit Contingent” means that Seller is excused from any failure to Deliver RECs Product quantity on account of failure of a specified Renewable Energy Facility to generate the amount of RECs necessary in the Vintage or other time period indicated. In such event, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article 4.

“Unit Contingent-Allocated” means that Seller is excused from any failure to Deliver RECs Product quantity on account of failure of a specified Renewable Energy Facility to generate the amount of RECs necessary in the Vintage or other time period indicated to satisfy all obligations of RECs delivery to all purchasers as assigned by Seller to the Renewable Energy Facility. In such event, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article 4.

“Unit Non-specific” means that the Renewable Energy Facility generating the RECs Product need not be specified.

“Unit Specific” means that the Renewable Energy Facility generating the RECs Product is and must be specified.

**Schedule 1: Outstanding RECs Transactions**

The RECs Transactions set forth below constitute Outstanding RECs Transactions:

**Schedule 2: Applicability of Collateral Annex**

The Collateral Annex applies to all RECs Transactions except those set forth below:

**EXHIBIT A: EXAMPLE RECS CONFIRMATION**

**RECS TRANSACTION CONFIRMATION  
BETWEEN**

\_\_\_\_\_  
**AND**  
\_\_\_\_\_

This confirmation ("Confirmation") confirms the transaction ("Transaction") between [ ] ("Seller") and [ ] ("Buyer"), each individually a "Party" and together the "Parties", effective as of [ ], 20[ ] (the "Trade Date"). This Transaction is governed by the pursuant to the terms of the EEI Master Power Purchase and Sale Agreement between them dated \_\_\_\_\_, 20[ ] and the EEI Renewable Energy Certificates Annex dated \_\_\_\_\_, 20[ ] ("EEI RECs Annex") thereto (collectively, the "Agreement"). Initially capitalized terms used and not otherwise defined herein are defined in the Agreement and Schedule P-RECs or in the Applicable Program.

<b>Seller:</b> _____		<b>Buyer:</b> _____	
<b>Contact Information:</b>	<u>Seller</u>	<u>Buyer</u>	
	Tel: _____ Fax: _____	Tel: _____ Fax: _____	
<b>Product:</b>	<b>Type of REC</b>		
	<input type="checkbox"/> Standard REC		
	<input type="checkbox"/> Basic REC		
	<input type="checkbox"/> Other RECs Product [describe]: _____		
	<b>Applicable Program</b>		
	<input type="checkbox"/> United States Renewable Energy Standard		
	<input type="checkbox"/> California RPS		
	<input type="checkbox"/> _____ RPS		
	<input type="checkbox"/> Certified by Green-e Energy Center For Resource Solutions or Green-e approved entity		
	<input type="checkbox"/> Certifiable by Green-e Energy Center For Resource Solutions		
<input type="checkbox"/> Other _____			
<input type="checkbox"/> None			
<b>Product: (Check One):</b>			
<input type="checkbox"/> Firm			
<input type="checkbox"/> Unit Contingent			
<input type="checkbox"/> Unit Contingent-Allocated			
<input type="checkbox"/> Unit Specific:			
<b>Certifier</b>			
<input type="checkbox"/> WREGIS			
<input type="checkbox"/> Center for Resource Solutions Green-e Energy			
<input type="checkbox"/> Other: _____			
<b>Contract Quantity:</b>	[ [ ] MWh/[ ] RECs]		
<b>Vintage:</b>	_____		
<b>Reporting Year:</b>	_____		

<b>Renewable Energy Resource (if applicable):</b>	<b>Name of Facility(ies):</b>	
	<b>Location:</b>	
	<b>EIA Number:</b>	
	<b>California Energy Commission ID (or other Applicable Program Renewable Energy Facility Certifier ID):</b>	
	<b>GIS ID:</b>	
	<b>Certification Date:</b>	
	<b>On-line Date:</b>	
<b>Resource-Type (if applicable)</b>		
<b>Contract Price:</b>	Vintage ____ [\$ ]/MWh/\$[ ] REC Vintage ____[\$ ]/MWh/\$[ ] REC Vintage ____[\$ ]/MWh/\$[ ] REC Vintage ____[\$ ]/MWh/\$[ ] REC	
<b>Delivery Term:</b>	The Delivery Term of this Transaction shall commence on [ ], 20[ ] and shall continue until [delivery by Seller to Buyer of the Product has been completed/[ ], 20[ ]].	
<b>Alternate Payment Terms:</b>	<input type="checkbox"/> Prepay <input type="checkbox"/> Payment under Article Six of EEI Master Agreement based on time of upon Delivery of electricity with which RECs Product is associated, if applicable <input type="checkbox"/> Payment upon Delivery of GIS Certificates	
<b>Allocation of Change in Law Risk: (check one)</b>	Seller's representations of compliance with the Applicable Program in Paragraph 5.2 are: <input type="checkbox"/> made as of the Trade Date; <input type="checkbox"/> made as of each Delivery Date during the Delivery Term and hence Regulatorily Continuing; <input type="checkbox"/> excluded and shall not apply to this Transaction.	
<b>Delivery Point:</b>	<input type="checkbox"/> Buyer's GIS account (specify account information) <input type="checkbox"/> Other _____	
<b>Alternate Title Transfer</b>	<input type="checkbox"/> Title transfers from Seller to Buyer upon the completion of both Delivery and payment for the RECs <input type="checkbox"/> Title transfers from Seller to Buyer upon the completion of Delivery of the RECs, regardless of payment	
<b>Additional Terms:</b>	The following additional terms shall apply: _____	

The Parties agree to the RECs Transaction set forth herein.

[Seller]  
Signed: \_\_\_\_\_  
Name: \_\_\_\_\_

[Buyer]  
Signed: \_\_\_\_\_  
Name: \_\_\_\_\_

**EXHIBIT B: EXAMPLE RECS CONFIRMATION  
RECS TRANSACTION  
CONFIRMATION**

To:  
\_\_\_\_\_

From:  
Confirmation Administration

This confirms a RECs Transaction between Buyer and Seller for the sale, purchase and delivery of Renewable Energy Certificates ("RECs") pursuant to the terms of the EEI Master Power Purchase and Sale Agreement between them dated [\_\_\_\_\_] and the EEI Renewable Energy Certificates Annex dated [\_\_\_\_\_] ("EEI RECs Annex") thereto (collectively, the "Agreement"). Initially capitalized terms used and not otherwise defined herein are defined in the Agreement and Schedule P-RECs.

Trade Date \_\_\_\_\_

Seller: \_\_\_\_\_

Buyer: \_\_\_\_\_

Type of RECs Product:         Standard RECs  
    Unit Contingent-Allocated

1. Amount: Number of RECs: \_\_\_\_\_ MWh
2. Vintage: \_\_\_\_\_
3. Price: \$\_\_\_\_\_/MWh for RECs
4. Delivery Date: \_\_\_\_\_
5. Method of Transfer: \_\_\_ Attestation \_\_\_ GIS specified as \_\_\_\_\_
6. Renewable Energy Facility: \_\_\_\_\_ Renewable Energy Source: \_\_\_\_\_
7. Seller represents that these RECs are compliant with the following Applicable Programs:  
\_\_\_\_\_ [list] as of the Trade Date or,  
 [check only if applicable] Regulatorily Continuing and as of the Delivery Date.

The Parties agree to the RECs Transaction set forth herein.

[Seller]

[Buyer]

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

**Renewable Energy Certificate Record Keeping:** Seller will deliver, to the extent applicable, the Attestation in a form similar to that attached hereto, or in such other form as may be required from time to time by such Certifier or as may from time to time be mutually agreed to by the Parties pursuant to the terms of the Applicable Program.

**EXHIBIT C  
EXAMPLE ATTESTATION**

I, \_\_\_\_\_, as the authorized representative of [Company Name] (“Generator”) declare that Generator hereby sells, transfers and delivers to Buyer the RECs Product (including, unless otherwise specified, all Environmental Attributes and RECs Product Reporting Rights) associated with the generation and delivery of energy to Buyer from the Renewable Energy Facility as described below, in the amount of one REC for each megawatt hour generated as Delivery of [RECs Product], and that the RECs sold hereunder:

1. were generated by the following Renewable Energy Facilities and sold, subject to receipt of payment, to Buyer;
2. qualify as [RECs Product] as of the Trade Date;
3. are solely and exclusively owned by Generator;
4. have not been used by Generator or any third party to meet the RPS or other Applicable Program requirements in another state or jurisdiction;
5. were delivered into the [Delivery Area (e.g. PJM Control Area (as defined by PJM))] and complied with [PJM] energy delivery rules;
6. were not sold to any end-use customer or other wholesale provider other than Buyer during the calendar/Reporting Year; and
7. were not used on-site for generation.

Generator Name or Designation	Technology Type	Fuel Type	Generator Location	EIA #	[RECs Product]	Start and End Dates

As an authorized representative of Generator, I state that the above statements are true and correct to the best of my knowledge. This Attestation may serve as a Bill of Sale to confirm, in accordance with the Agreement, the transfer from Generator to Buyer all of Seller’s right, title and interest in and to the RECs Product as set forth above.

Name: \_\_\_\_\_ Date \_\_\_\_\_  
[notarize if required]

Either Party may disclose this Attestation to others, including the Administrator, Certifier and the public utility commissions having jurisdiction over Buyer, to substantiate and verify the accuracy of the Parties’ compliance, advertising and public claims.

Note: If the Applicable Program contemplates certification by green-e or other Applicable Program making use of materials provided by the Center for Resource Solutions, or other voluntary program or protocol, users should consult the most current form of attestation required by such program.