

**TITAN I
WIND PROJECT**

POWER PURCHASE

AGREEMENT

2.4 Purchaser's Failure to Accept Delivery of Energy.

- (a) **Compensated Backdown.** "Compensated Backdown" means, from and after the Commercial Operation Date, (i) any direction given by Purchaser to Seller to cause the Wind Project not to exceed a maximum amount of Energy delivered to the Delivery Point, which direction may be given by Purchaser in Purchaser's sole discretion, provided that Purchaser provides reasonable notice to Seller prior to such requested curtailment, (ii) any curtailment, instruction or other directive made or issued by the Transmission Provider or by any Governmental Authority, other than due to a System Emergency/Emergency Condition or a Transmission Force Majeure Event, (iii) a breach by Purchaser of its obligations under this Agreement (including Purchaser's failure to accept all Energy tendered at the Delivery Point or to arrange for the delivery of Energy to points beyond the Delivery Point), or (iv) any willful misconduct, negligent act or omission of Purchaser or any of its Affiliates or subcontractors that results, in each case, in a reduction in or cessation of generation by the Wind Project. Purchaser may

change the maximum amount of Energy allowed during any Compensated Backdown, or the duration of any Compensated Backdown, by providing reasonable notice to Seller prior to such requested change. With respect to clause (ii) above, Seller shall credit any amount received by it from the Transmission Provider as a result of any curtailment instruction or other directive made or issued by the Transmission Provider in breach of the Generation Interconnection Agreement against any Lost Production Liquidated Damages owed by Purchaser under this Agreement.

- (b) **Lost Production.** "Lost Production" means for any period the quantity, if any, of Energy and Environmental Attributes that Seller could have made available to Purchaser at the Delivery Point during such period but that was not so made available as a result of a Compensated Backdown. The Lost Production shall be calculated by Seller using data from the SCADA System and based on actual wind speed measurements during the applicable time as recorded by the Wind Project's wind speed measurement instrumentation. Upon Purchaser's request, Seller shall provide to Purchaser relevant data and supporting documentation so that Purchaser can verify the calculation of Lost Production, as contemplated by the preceding sentence. Purchaser shall pay to Seller on a monthly basis, as liquidated damages in respect of any Lost Production, the amount determined in accordance with the following formula ("Lost Production Liquidated Damages"):

$$LD = L * (P + PTC)$$

Where:

"LD" means the Lost Production Liquidated Damages in respect of the applicable month (expressed in dollars);

"L" means the aggregate quantity of Lost Production during such month (expressed in MWh);

"P" means the Contract Rate applicable during such month (expressed in \$/MWh); and

"PTC" means an amount which, on an After-Tax Basis, would result in Seller receiving an amount equal to all Wind Energy Incentives lost by Seller as a result of such Lost Production (expressed in \$/MWh).

The amount of Lost Production Liquidated Damages, if any, determined pursuant to this Section 2.4(b) for any month shall be included on an invoice covering that month or any subsequent month in which the computation of the amount due is completed by Seller and delivered to Purchaser pursuant to Section 2.9. Subject to Section 2.11, the payment of Lost Production Liquidated Damages shall be Seller's sole and exclusive remedy and Purchaser's sole and exclusive liability for a Compensated Backdown. The Parties acknowledge and agree that the terms, conditions and amounts fixed according to this Section 2.4(b) for Lost Production Liquidated Damages are reasonable considering the losses and damages that

Seller would sustain in the event of a Compensated Backdown. The Parties have agreed upon and fixed the amounts of the Lost Production Liquidated Damages because of the difficulty of ascertaining the exact amount of losses and damages that Seller would sustain in such event and because otherwise obtaining an adequate remedy would be difficult or inconvenient. The Lost Production Liquidated Damages are not penalties and shall be paid regardless of the amount of losses and damages that Seller actually sustains.