

MASTER POWER PURCHASE AND SALE AGREEMENT **CONFIDENTIAL**
COVER SHEET

This *Master Power Purchase and Sale Agreement (Version 2.1, modified April 25, 2000)* ("Master Agreement") is made as of the following date: March 9, 2001 ("Effective Date"). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the "Agreement." The Parties to this *Master Agreement* are the following:

Party A: HIGH DESERT POWER PROJECT, LLC

Name: State of California Department of Water Resources separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("California Department of Water Resources" or "Party B")

All Notices:

All Notices: California Department of Water Resources

Street: 111 Market Place, Suite 500

Street: 1416 Ninth Street

City/State: Baltimore, MD Zip: 21202

City/State: Sacramento, California Zip: 95814

Attn: Contract Administration

Attn: Executive Manager Power Systems

Phone: 410-468-3620

Phone: (916) 653-5913

Facsimile: 410-468-3540

Facsimile: (916) 653-0267

Duns: 01-563-5220

Duns:

Federal Tax ID Number: [REDACTED]

Federal Tax ID Number: [REDACTED]

Invoices:

Invoices:

**Attn: Tracy Brown
Phone: 410-468-3620
Facsimile: 410-468-3540**

**Attn: Contracts Payable
Phone: (916) 653-6404
Facsimile: (916) 654-9882**

Scheduling:

Scheduling:

**Attn: Ryan Fitzpatrick
Phone: 410-468-3530
Facsimile: 410-468-3540**

**Attn: Chief Water and Power Dispatcher
Phone: (916) 574-2693
Facsimile: (916) 574-2569**

Payments:

Payments:

**Attn: Thomas Marlatt
Phone: 410-468-3620
Facsimile: 410-468-3540**

**Attn: Cash Receipts Section
Phone: (916) 658-6892
Facsimile: (916) 654-9882**

Wire Transfer:

Wire Transfer:

**BNK: [REDACTED]
ABA: [REDACTED]
ACCT: [REDACTED]**

[REDACTED]

Credit and Collections:

Credit and Collections:

**Attn: John R. Collins
Phone: 410-468-3410
Facsimile: 410-468-3499**

**Attn: Deputy Controller
Phone: (916) 653-6148
Facsimile: (916) 653-8230**

apprise all such sellers of the financial condition of the Fund.

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

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If applicable, complete the following:

Party B Collateral Threshold: \$ _____ provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ -0-

Party B Rounding Amount: \$-0-

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

Other:

Specify: _____

(e) Guarantor for Party B: Not Applicable

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ -0-

Party A Rounding Amount: \$-0-

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's

Other:
Specify: _____

(e) Guarantor for Party A: Not Applicable

Guarantee Amount: _____

Article 10

Confidentiality

- Confidentiality Applicable
- If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6 If not checked, inapplicable
- Add Section 8.6 If not checked, inapplicable

Other Changes: Applicable

Specify, if any: See below

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Part 1. GENERAL TERMS AND CONDITIONS.

(a) Definitions.

- (1) Section 1.11 is amended by adding the following sentence at the end of the current definition: "The Non-Defaulting Party shall use commercially reasonable efforts to mitigate or eliminate these Costs."
- (2) Section 1.51, "Replacement Price" shall be amended on the fifth line by deleting the phrase "at Buyer's option" and inserting the following phrase: "absent a purchase".
- (3) Section 1.53, "Sales Price" shall be amended on the fifth line by deleting the phrase "at Seller's option" and inserting the following phrase: "absent a sale".
- (4) Section 1.46 "Potential Event of Default" is deleted.
- (5) Sections 1.6, 1.24, 1.28, 1.33, 1.34, 1.35, 1.36, 1.43, 1.44, 1.48 and 1.56 are amended by deleting the text in each of such sections and substituting therefor "[Intentionally omitted.]"
- (6) Section 1.59 is amended by changing "Section 5.3" to "Section 5.2."
- (7) Sections 1.62 through 1.69 are added to Article One as follows:
 - 1.62 "Fund" means the Department of Water Resources Electric Power Fund established by Section 80200 of the Water Code.
 - 1.63 "Market Quotation Average Price" shall mean the average of the good faith quotations solicited from not less than three (3) Reference Market-makers; provided, however, that the Party soliciting such quotations shall use commercially reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-makers and, if at least five (5) such quotations are obtained, the Market Quotation Average Price shall be determined disregarding the highest and lowest quotations.
 - 1.64 "Market Value" shall have the meaning set forth in Section 5.3.
 - 1.65 "Per Unit Market Price" means the applicable price per MWh determined in accordance with Section 5.3.
 - 1.66 "Reference Market-maker" means any marketer, trader or seller of or dealer in firm energy products whose long-term unsecured senior debt is rated BBB or better by Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.), or its successor, and Baa2 or better by Moody's Investor Services, or its successor.
 - 1.67 "Replacement Contract" means a contract having a term, quantity, delivery rate, delivery point and product substantially similar to the remaining Term, quantity, delivery rate, Delivery Point and Product to be provided under this Agreement.
 - 1.68 "2001A Transaction" means the Transaction described in the attached Confirmation dated March 9, 2001.
 - 1.69 "Trust Estate" means all revenues under any obligation entered into by, and rights to receive the same from, and moneys on deposit in, the Fund and income or revenue derived from the investment thereof.

(b) Transactions. The Transaction shall be in writing and this agreement may not be orally amended or modified, including by Recording pursuant to Section 2.5.

(c) Governing Terms. Section 2.2 is amended by adding the following sentence at the end of the current section:

"Notwithstanding the foregoing, the 2001A Transaction shall be treated as a stand-alone Transaction and accordingly, (a) provisions in the Master Agreement referring to offsetting or netting multiple Transactions shall not be applicable to the 2001A Transaction, and (b) an Event of Default with respect to any Transaction other than the 2001A Transaction shall not affect the 2001A Transaction. Except for the attached Confirmation dated March 9, 2001, no provision of any Confirmation entered into pursuant to Section 2.4 shall affect the 2001A Transaction."

(d) Events of Default The following changes shall be made to Section 5.1:

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(1) Article 5.1(c) shall be amended by, after the word "within", deleting the phrase "three (3)" and inserting the phrase "forty-five (45)".

(2) The following shall be added at the end of Section 5.1 as an additional Event of Default:

(i) for Party B, any amendment or repeal of the Water Code, or the promulgation of any regulations under the Water Code subsequent to the date hereof, that adversely affects the ability of Party B to perform its obligations under this Agreement or otherwise adversely affects the rights of Party A hereunder shall constitute an Event of Default with Party B as the Defaulting Party.

(e) Declaration of an Early Termination Date and Calculation of Termination Payment

(1) The last sentence of Section 5.2 is replaced in its entirety by the following: "The Non-Defaulting Party shall be entitled to a payment upon termination of this Agreement as the result of an Event of Default (the "Termination Payment") which shall be the aggregate of the Market Value and Costs calculated in accordance with Section 5.3 which shall be paid no later than one hundred eighty (180) days after receipt of written notice of an Early Termination Date. Prior to receipt of such notice of termination by the Defaulting Party, the Non-Defaulting Party may exercise any remedies available to it at law or otherwise, including, but not limited to, the right to seek injunctive relief to prevent irreparable injury to the Non-Defaulting Party."

(2) The following shall be added to the end of Section 5.2 (as amended by clause (1) immediately above): "Notwithstanding the other provisions of this Agreement, if the Non-Defaulting Party has the right to liquidate or terminate all obligations arising under this Agreement under the provisions of this Article 5 because the Defaulting Party either (a) is the subject of a bankruptcy, insolvency, or similar proceeding, or (b) applies for, seeks, consents to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets, then this Agreement and the Transaction shall automatically terminate, without notice, as if the Early Termination Date was the day immediately preceding the events listed in Section 5.1."

(3) Section 5.3 is replaced in its entirety by the following:

"5.3. Termination Payment Calculations. The Non-Defaulting Party shall calculate the Termination Payment as follows:

(a) Market Value shall be (i) in the case Party B is the Non-Defaulting Party, the present value of the positive difference, if any, of (A) payments under a Replacement Contract based on the Per Unit Market Price, and (B) payments under this Agreement, or (ii) in the case Party A is the Non-Defaulting Party, the present value of the positive difference, if any, of (A) payments under this Agreement, and (B) payments under a Replacement Contract based on the Per Unit Market Price, in each case using the Present Value Rate as of the time of termination (to take account of the period between the time notice of termination was effective and when such amount would have otherwise been due pursuant to the relevant transaction). The "Present Value Rate" shall mean the sum of 0.50% plus the yield reported on page "USD" of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in United States government

securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that matches the average remaining term of this Agreement. It is expressly agreed that the Non-Defaulting Party shall not be required to enter into a Replacement Contract in order to determine the Termination Payment.

- (b) To ascertain the Per Unit Market Price of a Replacement Contract with a term of less than one year, the Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in energy contracts, the settlement prices on established, actively traded power exchanges, other bona fide third party offers and other commercially reasonable market information.
- (c) To ascertain the Per Unit Market Price of a Replacement Contract with a term of one year or more, the Non-Defaulting Party shall use the Market Quotation Average Price; provided, however, that if there is an actively traded market for such Replacement Contract or if the Non-Defaulting Party is unable to obtain reliable quotations from at least three (3) Reference Market-makers, the Non-Defaulting Party shall use the methodology set forth in paragraph (b).
- (d) In no event, however, shall a party's Market Value or Costs include any penalties, ratcheted demand charges or similar charges imposed by the Non-Defaulting Party.

If the Defaulting Party disagrees with the calculation of the Termination Payment and the parties cannot otherwise resolve their differences, the calculation issue shall be submitted to dispute resolution as provided in Section 10.13 of this Agreement. Pending resolution of the dispute, the Defaulting Party shall pay the full amount of the Termination Payment calculated by the Non-Defaulting Party no later than one hundred eighty (180) days after receipt of written notice of an Early Termination Date."

- (4) 5.4, 5.5, 5.6, 6.7 and 6.8 are amended by deleting the text in each of such sections and substituting therefor "[Intentionally omitted.]"

- (f) Article Seven shall be amended as follows:

The fifth sentence of Section 7.1 shall be amended by deleting the phrase "UNLESS EXPRESSLY HEREIN PROVIDED,".

Add a new Section 7.2. "The obligations hereunder of Party A shall be solely those of Party A and no other person or entity."

- (g) **Grant of Security Interest/Remedies.** Section 8.3 is amended by adding the following sentence: "No security interest or lien is granted on the assets of either Party. A security interest and lien will be granted on collateral when and if collateral is required to be posted on behalf of either Party."

- (h) **Term of Master Agreement.** The first sentence of Section 10.1 shall be amended by deleting the phrase "terminated by either Party upon (thirty) 30 days prior written notice" and in its place the phrase "the day following the last day of the Term set forth in the 2001A Transaction, unless terminated sooner pursuant to the express provisions of this Agreement or as a result of an Event of Default".

- (i) **Representations and Warranties.** The following changes shall be made to the Section 10.2:

- (1) Party B shall not be deemed to make the representations set forth in clauses (ix) and (xi) of Section 10.2.

- (j) **Indemnity.** The phrase "To the extent permitted by law" is added at the beginning of the first two sentences of Section 10.4.

- (k) **Assignment.** Section 10.5 is replaced in its entirety by the following:

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, Party A (or, with respect to clause (i), (iv) or (v), Party B) may without the consent of the other Party (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts,

revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party, (iv) in the case of Party B only, transfer or assign all of its right, title and interest to this Agreement and the Fund to another governmental entity created or designated by law to carry out the rights, powers, duties and obligations of Party B under the Act whose creditworthiness is equal to or higher than Party B's; or (v) in the case of Party B only, transfer or assign this Agreement to any electrical corporation, as defined by the Act, whose creditworthiness is equal to or higher than Party B's; provided, further, that in any such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurances, together with such assurances as to the sufficiency of the creditworthiness of such assignee to perform its obligations hereunder, as the non-transferring Party may reasonably request; and provided, further, that in the event this Agreement is pledged or assigned to a bond trustee pursuant to clause (i) as collateral for bonds issued by Party B, such bond trustee shall not be required to agree in writing to be bound by the terms and conditions hereof unless and until the bond trustee or any successor or assign shall foreclose on such collateral in which case such bond trustee or its successor or assign shall be bound by each of the provisions hereof, including the immediately preceding proviso; and provided, further, in the case of (v) above that, such assignee executes appropriate assignment documents, including without limitation the then applicable Edison Electric Institute Master Power Purchase and Sale Agreement, with such revisions, addenda, additional terms and provisos, including without limitation reasonable credit protection terms appropriate to the circumstances, and provides assurances regarding such electric corporation's ability to charge rates sufficient to meet its obligations under this Agreement, as, in each case, the non-assigning Party desires in the good faith and reasonable exercise of its discretion, under the then applicable circumstances and in light of the identity of the proposed assignee.

(l) **Governing Law.** In Section 10.6, "New York" shall be replaced with "California."

(m) **Confidentiality.** The following proviso is added to the end of the first sentence in Section 10.11: "provided, further, that either Party may publicly disclose the type and quantity of Product(s), the pricing of such Product(s) and the term of the Agreement or any Transaction."

(n) **General.** The phrase "Except to the extent herein provided for," shall be deleted from the fourth sentence of Section 10.8, and the phrase "and this agreement may not be orally amended or modified, including by Recording pursuant to Section 2.5" shall be added to the end of such fourth sentence.

(o) **Additional Provisions.** New Sections 10.12 and 10.13 shall be added to Article 10 as follows:

10.12 No Retail Services: No Agency.

(a) Nothing contained in this Agreement shall grant any rights to or obligate Party A to provide any services hereunder directly to or for retail customers of any person.

(b) In performing their respective obligations hereunder, neither Party is acting, or is authorized to act, as agent of the other Party."

10.13 Arbitration. Any claim, counterclaim, demand, cause of action, dispute, or controversy arising out of or relating to this Agreement, any provision hereof or, the alleged breach thereof, involving the Parties and/or their respective representatives (for purposes of this Section 10.13 only, collectively the "Claims"), shall be resolved by binding arbitration. Arbitration shall be conducted in accordance with the Complex Commercial Arbitration Rules of the American Arbitration Association. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties' Claims, the arbitrators shall refer to the governing law identified below. It is agreed that the arbitrators shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under state or federal law, or under the Federal Arbitration Act, or under the Commercial Arbitration Rules of the American Arbitration Association, the Parties hereby waiving their

right, if any, to recover any such damages. The arbitrators shall be limited to determining direct compensatory damages in accordance with the provisions of this Agreement. The arbitration proceeding shall be conducted in Los Angeles, California. Within twenty (20) days of the notice of initiation of the arbitration procedure, the respondent shall file a response in writing. Within thirty (30) days after the response, each party shall select one arbitrator. Within twenty (20) days thereafter, the two (2) arbitrators shall select a third arbitrator. All three arbitrators are required to be neutral and impartial and shall take an oath at the first session of the arbitration affirming same. None of the three arbitrators shall have business, professional or social relationships with any of the parties. However, upon full disclosure of such relationships, all parties may agree that the arbitrator may serve as an arbitrator. The arbitration shall proceed within sixty (60) days after the appointment of the last of the three arbitrators. The arbitrators shall render their decision (by majority rule) within twenty (20) days after the conclusion of the arbitration. California law shall apply to the subject matter of the arbitration. To the fullest extent permitted by law, the arbitration and the award resulting from the arbitration shall be maintained in confidence by the parties and the arbitrators.

(p) Schedule M. Schedule M shall be amended as follows:

- (1) In Section A, "Act" will mean Sections 80000, 80002, 80002.5, 80003, 80004, 80010, 80012, 80014, 80016, 80100, 80102, 80104, 80106, 80108, 80110, 80112, 80114, 80116, 80120, 80122, 80130, 80132, 80134, 80200, 80250, 80260 and 80270 of the Water Code.
- (2) "Special Fund" will mean the Fund.
- (3) In Section A, the defined term "Governmental Entity or Public Power System" shall be replaced with the term "Governmental Entity" using the following definition "'Governmental Entity' means the State of California Department of Water Resources separate and apart from its powers and responsibilities with respect to the State Water Resources Development System"; and all references to (A) "Governmental Entity or Public Power System" (and cognates) and (B) "Public Power System" (and cognates) in Schedule M shall be replaced with the new defined term "Governmental Entity" (using the applicable cognate).
- (4) In Section C add the following representation and warranty: "Party B represents and warrants continuously during the term of this Agreement (including for purposes of Section 5.1(b)) that at all times Party B will be entitled to recover, and the Public Utilities Commission will approve and impose, rates sufficient to enable Party B to recover its revenue requirements on a timely basis."
- (5) In Section D, delete Section 3.5 and replace it with the following:

"3.5 No Immunity Claim. California law authorizes suits based on contract against the State or its agencies, and Party B agrees that it will not assert any immunity it may have as a state agency against such lawsuits filed in state court or in connection with any arbitration proceeding undertaken, in the case of such arbitration, pursuant to Section 10.13 hereof.
- (6) In Section G, specify that the laws of the State of California will apply.
- (7) Add a new Section H, which shall read as follows:

"3.7. Payments Under Agreement an Operating Expense. Payments under this Agreement shall constitute an operating expense of the Fund payable prior to all bonds, notes or other indebtedness secured by a pledge or assignment of the Trust Estate or payments to the general fund."
- (8) Add a new Section I, which shall read as follows:

"3.8. Rate Covenant: No Impairment. In accordance with Section 80134 of the Water Code, Party B covenants that it will, at least annually, and more frequently as required, establish

and revise revenue requirements sufficient, together with any moneys on deposit in the Fund, to provide for the timely payment of all obligations which it has incurred, including any payments required to be made by Party B pursuant to this Agreement. As provided in Section 80200 of the Water Code, while any obligations of Party B pursuant to this Agreement remain outstanding and not fully performed or discharged, the rights, powers, duties and existence of Party B and the Public Utilities Commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the Seller under this Agreement."

(9) Add a new Section J, which shall read as follows:

"3.9. No More Favorable Terms. Party B shall not provide in any power purchase agreement payable from the Trust Estate for (i) collateral or other security or credit support with respect thereto, (ii) a pledge or assignment of the Trust Estate for the payment thereof, or (iii) payment priority with respect thereto superior to that of Party A, without in each case offering such arrangements to Party A."

(10) Add a new Section K, which shall read as follows:

"3.10. Sources of Payment; No Debt of State. Party B's obligation to make payments hereunder shall be limited solely to the Fund. Any liability of Party B arising in connection with this Agreement or any claim based thereon or with respect thereto, including, but not limited to, any Termination Payment arising as the result of any breach or Potential Event of Default or Event of Default under this Agreement, and any other payment obligation or liability of or judgment against Party B hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS AGREEMENT. Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Agreement."

(11) Add a new Section L, which shall read as follows:

"3.11. Application of Government Code and the Public Contracts Code. Party A has stated that, because of the administrative burden and delays associated with such requirements, it would not enter into this Agreement if the provisions of the Government Code and the Public Contracts Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements and prompt payment requirements would apply to or be required to be incorporated in this Agreement. Accordingly, pursuant to Section 80014(b) of the Water Code, Party B has determined that it would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the Water Code to make such provisions applicable to this Agreement and that the provisions of the Government Code and the Public Contracts Code applicable to state contracts are therefore not applicable to or incorporated in this Agreement."

(12) Add a new Section M, which shall read as follows:

"3.12. Electric Corporations as Agents. Party B shall establish the terms and conditions for the segregation of moneys received by electrical corporations pursuant to Section 80106 pending their transfer to Party B in accordance with Section 80112 of the Water Code."

(13) Add a new Section N, which shall read as follows:

"3.13. Deposit of Proceeds of Bonds. The proceeds of any bonds issued by Party B shall be deposited and applied in accordance with the resolution or indenture providing for the issuance thereof."

(14) Add a new Section O, which shall read as follows:

"3.14. Transfers of Revenues. The resolution or indenture providing for the issuance of any bonds or other indebtedness will expressly provide that payments on such bonds or other indebtedness will be made by transfers of revenues to a fund established thereunder for such purpose. Transfers of revenues to any such fund in respect of bonds or other indebtedness of Party B will be made only after payment of all amounts due and payable from the Trust Estate as operating expenses, including payments under this Agreement. No transfer of revenues to any fund established in respect of any bonds or indebtedness shall be made until all amounts then due and payable from the Trust Estate as operating expenses, including payments under this Agreement shall have been paid in full."

(15) Add a new Section P, which shall read as follows:

"3.15 Termination Without Recourse. In addition to any other termination rights herein, Party A shall have the right, but not the obligation, to terminate the 2001A Transaction without recourse against Party B for any Termination Payment or other costs and without any further obligation or liability of either Party A or Party B, upon the occurrence of either of the following:

- (a) Party B fails, on or before July 1, 2001, (i) to issue the Bonds, or (ii) to obtain an underlying rating on the Bonds (without regard to credit enhancement) of Baa3 or better by Moody's or BBB- or better by S&P; or
- (b) Party B fails to maintain at least one of said ratings at any time thereafter and such failure continues for 30 or more consecutive days. If Party B determines for any reason not to rely on the ratings on the Bonds, including, but not limited to, any determination not to issue the Bonds, and Party B gives Party A written notice of such determination on or before July 1, 2001, the foregoing sentence shall not apply and instead, in addition to any other termination rights herein, Party A shall have the right, but not the obligation, to terminate the 2001A Transaction without recourse against Party B for any Termination Payment or other costs and without any further obligation or liability of either Party A or Party B, upon the occurrence of either of the following: (a) Party B's failure, on or before July 1, 2001, to obtain a rating based on the ability of the Fund to pay its obligations under the Agreement of Baa3 or better by Moody's, or BBB- or better by S&P, or (b) Party B's failure to maintain at least one of said ratings thereafter and such failure continues for 30 or more consecutive days. In the event Party A elects to terminate this Agreement, notwithstanding the provisions of Section 6.2, Party B shall pay all amounts due hereunder within five (5) days.

(16) Add a new Section Q, which shall read as follows:

"3.16. Collection Efforts. Party B agrees that it will exercise all rights and use all remedies available to it to collect from retail end use customers all amounts necessary to fund Party B's revenue requirements described in Section 80134 of the Water Code or otherwise owed to Party B for such power.

Part 2. SCHEDULE P

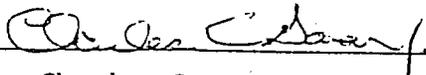
The following definitions are hereby added to Schedule P:

"CAISO Firm Energy (LD)" means with respect to a Transaction, a Product under which the Seller shall sell and the Buyer shall purchase a quantity of energy equal to the hourly quantity without Ancillary Services (as defined in the Tariff) that is or will be scheduled as a schedule coordinator to schedule coordinator transaction pursuant to the applicable tariff and protocol provisions of the California Independent System Operator ("CAISO") (as amended from time to time, the "Tariff") for which the only excuse for failure to deliver or receive is an "Uncontrollable Force" (as defined in the Tariff).

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A - HIGH DESERT POWER PROJECT, LLC.

Party B - DEPARTMENT OF WATER RESOURCES, with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System

By: 

Name: Charles Garman

Title: Treasurer

By: 

Name: RAYMOND HART

Title: DEPUTY DIRECTOR

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute ("EEI") and National Energy Marketers Association ("NEM") member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

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MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER

This Confirmation Letter shall confirm the Transaction agreed to on March 9, 2001 between HIGH DESERT POWER PROJECT, L.L.C. ("HDPP" or "Party A") and DEPARTMENT OF WATER RESOURCES, with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("CDWR" or "Party B") regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: HDPP

Buyer: CDWR

Product:

- Into _____, Seller's Daily Choice
- Firm (LD)
- Firm (No Force Majeure)
- System Firm

(Specify System: _____)

- Unit Firm

■ Other: Unit Contingent Energy: The actual output of electric energy achieved by High Desert Power Project or the Substitute Unit delivered 24 hours per day, as and when available. Output quantity will vary based on factors such as ambient conditions and unit performance. HDPP's failure to deliver shall be excused if such failure results from: (i) a planned outage, (ii) a forced outage, (iii) a partial outage (but only to the extent thereof), (iv) a derating (but only to the extent thereof), or (v) a cause(s) beyond the reasonable control of HDPP which affect High Desert Power Project or the Substitute Unit's ability to generate and deliver energy, including, but not limited to: shortages of materials or supplies, strikes or labor disruptions, interruptions of fuel supply, water supply or transmission, damages or breakdown of machinery, drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to obtain and maintain rights-of-way, permits, licenses and other required authorizations or rights from any local, state or federal government authority or other person necessary to provide service hereunder which by exercise of due diligence HDPP could not reasonably have been expected to avoid and to the extent which by exercise of due diligence has been unable to overcome, actions or failures to act of government authorities which by exercise of due diligence HDPP could not reasonably have been expected to avoid and to the extent which by exercise of due diligence has been unable to overcome, and changes in law or regulations that prevents performance under this Agreement. However, HDPP shall not be relieved of liability for failure to perform or failure to take remedial action to the extent that such failure is due to HDPP failing to operate and maintain the High Desert Power Project or the Substitute Unit, in each case, in accordance with Prudent Industry Practices. The price of gas or gas transmission, curtailment of interruptible gas transportation if firm gas

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transportation is available or the cost of variable and fixed O&M shall not be an excuse for performance. HDPP will make reasonable efforts to schedule planned outages at times agreeable to CDWR and will provide CDWR notice of planned and unplanned outages. HDPP shall not schedule planned outages during the months of July, August or September.

The High Desert Power Project is a generating station to be constructed in Victorville, California, which design includes three combustion turbines and one steam turbine, with an expected nominal capacity of 840 MW at 59 degrees Fahrenheit. HDPP shall maintain and operate the High Desert Power Project or the Substitute Unit in accordance with Prudent Industry Practices. "Prudent Industry Practices" shall mean those practices, methods and acts (including but not limited to the generally accepted practices, methods and acts engaged in or approved by the operators of similar electric generating facilities) which at the time of such practice, method or action is employed, and in the exercise of reasonable judgment in light of the facts known at such time, would be expected to accomplish the desired result in a workmanlike manner, consistent with (a) applicable laws and governmental requirements, and (b) reliability, safety, and environmental protection. "Prudent Industry Practices" shall not mean that operator is required to use the optimum practice, method, or act, but only requires the use of acceptable practices, methods or acts generally accepted in the United States in performing its obligations hereunder in accordance with Prudent Industry Practices.

- Transmission Contingency (If not marked, no transmission contingency)
 - FT-Contract Path Contingency Seller Buyer
 - FT-Delivery Point Contingency Seller Buyer
 - Transmission Contingent Seller Buyer
 - Other transmission contingency

(Specify: _____)

Term: The date that High Desert Power Project is declared to be in commercial operation by HDPP through and including September 30,2011; provided, however that with respect to Special Condition 2 hereof, the term shall begin July 1, 2003.

Delivery Period: Hour Ending ("HE") 0100 Pacific Prevailing Time ("PPT") through HE 2400 PPT Monday through Sunday during the term, including NERC Holidays. ("7X24")

Contract Quantity: All the actual output of electric energy (net of station service) achieved by High Desert Power Project or the Substitute Unit delivered 24 hours per day, as and when available. Output quantity will vary based on factors such as ambient conditions and unit performance.

Delivery Point: The point of interconnect of High Desert Power Project with the Southern California Edison transmission system, a point currently located in SP15, within the CAISO control grid, presently anticipated to be at Victor (the "Primary Delivery Point").

Price: \$58 per MWh

Scheduling: Scheduling must be completed with HDPP's Scheduling Coordinator pursuant to CAISO Protocols.

Alternate Delivery Point(s):

HDPP may, at its sole option, for any day during the Term, elect to deliver all or a portion of the Contract Quantity to one or more alternate delivery points designated by HDPP within the control area operated by the California Independent System Operator ("CAISO"), or its successor (such delivery point to be defined as an "Alternate Delivery Point(s)"). For any day during which HDPP elects to deliver all or a portion of the Contract Quantity at an Alternate Delivery Point(s), it shall notify CDWR of the quantity to be delivered and the location of such Alternative Delivery Point(s) no later than HE 1000 on the preceding day. For any deliveries made by HDPP to an Alternative Delivery Point(s), HDPP shall pay CDWR, for every MWh delivered to the Alternative Delivery Point(s), the positive difference, if any, between the Final Day Ahead Congestion Zone Price for each hour published by the CAISO on its website (www.CAISO.COM/CGI.BIN/PVBMKI2.CGI) at the Alternate Delivery Point(s) and such price for each hour at the Primary Delivery Point, as published by the CAISO. If HDPP has elected to deliver less than the entire Contract Quantity at an Alternative Delivery Point(s), the remaining portion of the Contract Quantity shall be delivered from High Desert Power Project or the Substitute Unit.

During any day for which HDPP has elected to deliver at an Alternate Delivery Point(s), the following quantity of energy for each hour of the day shall be the Contract Quantity for such day, depending upon the month in which the day of such election occurs:

January:	840 MW
February:	825 MW
March:	815 MW
April:	795 MW
May:	770 MW
June:	745 MW
July:	730 MW
August:	730 MW
September:	745 MW
October:	775 MW
November:	810 MW
December:	835 MW

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Special Conditions:

1. Conditions Precedent. In addition to any conditions precedent set forth in the Master Agreement, and notwithstanding anything contrary therein, the obligations of HDPP under this Confirmation Letter are subject to the fulfillment and satisfaction of each of the following conditions, any one or more of which may be waived only in writing in whole or in part by HDPP:
 - (a) CDWR shall have issued bonds for the purpose of capitalizing the Fund with such bonds, or the Fund, having received a rating of BBB- or better by Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor, and Baa3 or better by Moody's Investor Services, or its successor (absent the effect of any credit enhancement insurance);
 - (b) construction and satisfactory operation of all gas and electric interconnection facilities necessary for the operation of High Desert Power Project;
 - (c) receipt by HDPP of all regulatory authorizations necessary for performance hereunder.
2. Delay in Commercial Operation.
 - (a) For each day after July 1, 2003 and through September 30, 2003 that HDPP has not declared High Desert Power Project to be in commercial operation, it shall in its sole discretion either pay CDWR \$230,770 per day or provide the Contract Quantity for such day in accordance with the Alternative Delivery Point provision hereof.
 - (b) In the event that HDPP does not declare High Desert Power Project to be in commercial operation on or prior to March 31, 2004, CDWR shall have the right but not the obligation to terminate this Agreement upon written notice provided to HDPP by April 5, 2004. In the event of such termination, HDPP shall pay \$5,000,000 to CDWR as CDWR's sole remedy hereunder without recourse against HDPP for any Termination Payment or any other costs and without any further obligation or liability of either HDPP or CDWR.
3. Construction Reports. Beginning in January 2003, HDPP shall provide periodic reports to CDWR which set forth the status of construction activities and the then expected commercial operations date of High Desert Power Project.
4. Substitute Unit. At any time during the Term, HDPP may, at its election, replace High Desert Power Project with a similar generating facility owned or controlled by an affiliate of HDPP ("Substitute Unit") which can deliver a like amount of energy to Primary Delivery Point (or other mutually acceptable delivery point). Replacement of High Desert Power Project with a Substitute Unit will be effective upon sixty (60) days written notice to CDWR and shall be subject to the consent of CDWR, which will not be unreasonably withheld.
5. Elimination or Modification of Final Day Ahead Congestion Zone Price. In the event that the CAISO or its successor eliminates or materially modifies the characteristics of the Final Day Ahead Congestion Zone Price, HDPP shall, upon such elimination or modification reasonably determine an alternate method of assuring economic neutrality similar to that

utilized in this Confirmation Letter. In the event HDPP is not able to readily identify such an alternative method, the Parties shall negotiate a mutually agreeable methodology which places them in the same economic position as currently provided in this Confirmation Letter. Any disputes concerning determinations made pursuant to this Special Condition 5 will be subject to resolution pursuant to Article 10.13 of the Master Agreement.

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This Confirmation Letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated March 9, 2001 (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

HIGH DESERT POWER PROJECT, LLC

DEPARTMENT OF WATER RESOURCES,
with respect to the Department of Water
Resources Electric Power Fund separate and
apart from its powers and responsibilities with
respect to the State Water Resources Development
System

Name: *Charles E. Saran*
Title: Vice-President & Treasurer
Phone No: 410-230-4701
Fax: _____

Name: *M. D. Hart*
Title: RAYMOND HART
DEPUTY DIRECTOR
Phone No: (916) 574-2733
Fax: (916) 574-2512

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