FIRST AMENDMENT TO THE NON-FIRM ENERGY PURCHASE AGREEMENT BY AND BETWEEN CAPITOL POWER, INC. AND CALIFORNIA DEPARTMENT OF WATER RESOURCES

This AMENDMENT NO. 1 TO NON-FIRM ENERGY PURCHASE AGREEMENT, dated as of March 8, 2002 (this "Amendment") is entered into between THE CALIFORNIA DEPARTMENT OF WATER RESOURCES (the "Department" or "Buyer"), acting solely under the authority and power created by AB1-X, codified as Sections 80000 through 80270 of the Water Code (the "Act"), and not under its powers and responsibilities with respect to the State Water Resources Development Systems, an agency of the State of California and CAPITOL POWER, INC., a California corporation (the "Seller").

WITNESSETH

WHEREAS, the Department and the Seller entered into that certain Non-Firm Energy Purchase Agreement ("Agreement"), dated as of August 23, 2001, by and between the Department and the Seller;

WHEREAS, subject to and upon the terms and conditions set forth in this Amendment, the Department and the Seller desire to amend certain provisions of the Agreement;

NOW, THEREFORE, in consideration of the foregoing, the promises and mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Department and the Seller hereby agree as follows:

Section 1. Definitions. Unless otherwise defined herein, capitalized terms used herein and defined in the Agreement shall have the meanings herein as given thereto in the Agreement.

Section 2. Effectiveness of this Amendment. This Amendment shall become effective and the Agreement shall be amended as provided herein at the time (the "Effective Time") on the first date on which both the Department and the Seller shall have caused this Amendment (whether the same or different copies) to be executed by their authorized representatives.

Section 3. Amendment. At the Effective Time:

(A) The definition of "Commercial Operation Date" under Section 1.01 of the Agreement shall be amended and restated in its entirety to read as follows:

"Commercial Operation Date" shall be the date on which Seller confirms in writing to the Department that the conditions set forth in Section 2.06 have been met and the Department acknowledges in writing that it has accepted Seller's confirmation of commercial operation. The expected Commercial Operation Date is set forth in Appendix A.

(B) The definition of "Non-Firm Energy" under Section 1.01 of the Agreement shall be amended and restated in its entirety to read as follows:

"Non-Firm Energy" means all Unit Contingent scheduled energy generated after the Commercial Operation Date from the Generating Plant, to be delivered to the Department at the Delivery Point. Non-Firm Energy estimated to be delivered is approximately 7,680 hours per year.

(C) The definition of "Imbalance Energy" shall be added to Section 1.01 of the Agreement and shall read as follows:

"Imbalance Energy" means the difference between the energy scheduled by the Seller's Scheduling Coordinator to the CAISO and the real time energy generated by the Generating Facility as measured by the Generating Plant Electric Revenue Meter.

(D) The definition of "Pre-COD Purchase Price" shall be added to Section 01 of the Agreement and shall read as follows:

"Pre-COD Purchase Price" shall have the meaning set forth in Appendix A.

(E) The definition of "Early Purchase Price" shall be added to Section 01 of the Agreement and shall read as follows:

"Early Purchase Price" shall have the meaning set forth in Appendix A.

(F) The definition of "Generating Plant Electric Revenue Meter" shall be added to Section 1.01 of the Agreement and shall read as follows:

"Generating Plant Electric Revenue Meter" shall have the meaning set forth in Appendix A.

(G) The definition of "Fixed Net Income" shall be added to Section 1.01 of the Agreement and shall read as follows:

"Fixed Net Income" shall mean the total net income produced by the Generating Plant for the entire term of the Agreement. The Fixed Net Income shall not exceed, for any year, the amount identified on Appendix B with respect to such year, or $2,495,468 in total for the entire duration of the Agreement, as determined in accordance with the procedures set forth in Section 2.09 of the Agreement.

(H) Section 2.01 of the Agreement shall be amended and restated in its entirety to read as follows:

Section 2.01. Purchase and Sale of Non-Firm Energy. Seller shall sell and deliver, or cause to be sold and delivered, and the Department shall purchase and receive, or cause to be purchased and received, the Non-Firm Energy at the Delivery Point, beginning on the Commercial Operation Date and continuing for the Term set in Appendix A to this Agreement, and for which the Department shall pay the Seller either the Early Purchase Price or the Purchase Price, whichever is applicable in accordance with Appendix A to the Agreement. Seller shall be

obligated to schedule to the Department and to generate the Non-Firm Energy at the Generating Plant's maximum capability available in each hour, not to exceed 105% of Contract Capacity, and to operate the Generating Plant such that monthly actual generation is within plus or minus 10% of monthly scheduled generation. In no event shall Seller over or under generate in any hour to meet sales obligations arising during any other hour, nor shall Seller curtail delivery for economic reasons. The Seller shall be responsible for any costs or charges imposed on or associated with the Non-Firm Energy up to the Delivery Point. The Department shall be responsible for any costs or charges imposed on or associated with the Non-Firm Energy or its receipt at and from the Delivery Point. In addition, Seller may sell and deliver and Department may purchase and receive any energy produced by the Generating Plant prior to the Commercial Operation Date at the Pre-COD Purchase Price, upon reasonable notice by Seller and according to the terms of this Agreement. In no event shall the Seller have the right to procure electric energy from sources other than the Generating Plant for sale and delivery pursuant to this Agreement. The Seller shall ensure that the Seller's Scheduling Coordinator directs the CAISO to deliver the Generating Plant's monthly electric revenue metering data to the Department with the monthly invoice. In addition, Seller shall not generate energy from fossil fuels or non-renewable resources for the purpose of selling energy to Buyer under the Agreement.

(I) Section 2.06 of the Agreement shall be amended and restated in its entirety to read as follows:

Section 2.06 Commercial Operation. The Commercial Operation Date ("COD") shall be the date upon which Seller first certifies in writing to the Department and the Department acknowledges in writing that it has accepted Seller's certification that all of the following conditions precedent to Commercial Operation have been satisfied:

(a) Seller has completed a four-hour demonstration test, at its expense, of the Generating Plant that achieves a Net Demonstrated Capacity ("NDC") of no less than 95% of the Contract Capacity. The Parties shall agree on the timing and procedures for such demonstration test, and Seller shall provide Department with access to the Generating Plant to monitor the test and with detailed written test results. Either Party may request a re-test at the requesting party's expense. Seller shall also certify that it has delivered a complete demonstration test report in accordance with the requirements of this Section 2.06 no later than 10 business days after performance of demonstration test.

(b) Seller has received all necessary approvals, licenses, permits and emission reduction credits (if applicable) for operating the Unit at its NDC for all hours in each Annual Delivery Period (prorated on a daily basis in the event of a partial Annual Delivery Period) for the term of the Agreement, except for final permits which Seller reasonably expects to obtain in the normal course and which are not required for Seller to fulfill its obligations pursuant to the Agreement.

(c) Seller has submitted to Buyer a copy of the Generating Plant's System Impact Study ("SIS") and, if performed, Detailed Facility Study ("DFS")

or Expedited Facilities Study ("EFS") prepared by or on behalf of PG&E, and the SIS and DFS or EFS demonstrate that the ability of the Unit to operate during the contract hours will not be subject to extraordinary curtailment protocols utilized to manage flows over congested transmission lines or paths during normal system operating conditions (no lines, transformers, or critical generators out of service due to planned or forced outages) or critical system outage conditions (one critical generating unit out of service due to a planned or forced outage), or other transmission-related protocols, schema or procedures that otherwise will significantly restrict Seller's capability to perform its obligations under this Agreement.

(d) Seller has demonstrated, to the Buyer's reasonable satisfaction, that it has secured firm commitments for adequate supplies and transportation of fuel.

(J) Section 4.02 of the Agreement shall be amended and restated in its entirety to read as follows:

Section 4.02. Payments. Payments for amounts due hereunder shall be made so that such payments are received by the Seller on or before the last Business Day of the Invoice Month or the 10th day after receipt of the bill, whichever is later. Payment shall be made at the location designated by the Seller to which payment is due. Payment shall be considered received when the Department mails payment. If the due date falls on a non-Business Day of either the Department or the Seller, then the payment shall be due on the next following Business Day. The Seller shall cause the Generating Plant's monthly electric revenue metering data from the CAISO to be delivered with the invoice.

(K) Section 2.09 shall be added to the Agreement and shall read as follows:

Section 2.09 Project Costs, Initial and Annual Cost Credits:

(a) Purchase, Recondition and Start-up Costs. The Seller represents that it currently estimates that Out-Of-Pocket Costs and Amortization Costs (as defined below) relating to the Generating Plant will be $10,000,000. In the event that Buyer determines pursuant to 2.09 (d) that Out-Of-Pocket Costs and Amortization Costs relating to the Generating Plant are less than $ 10,000,000 then there shall be an "Initial Cost Credit" owed to the Buyer.

(b) For purposes of this Section 2.09, "Out-of Pocket Costs" shall mean Seller's internal non-borrowed funds used for the purpose of paying costs of purchasing, reconditioning, permitting and testing, starting-up the Generating Facility or otherwise causing the Generating Facility to achieve Commercial Operation. The Seller represents that, as of the date hereof, Out-Of-Pocket Costs are estimated to be $2,000,000.

(c) For purposes of this Section 2.09, "Amortization Costs" shall mean amounts borrowed by the Seller to pay costs of purchasing, reconditioning, permitting and testing, starting-up the Generating Facility or otherwise causing the Generating Facility to achieve Commercial Operation. The Seller represents

that, as of the date hereof, Amortization Costs are estimated to be at least $8,000,000.

(d) Initial Cost Credit. In the event that actual Out-Of-Pocket Costs and Amortization Costs (determined in accordance with the procedures below) are less than $10,000,000, the amount of the difference shall constitute the "Initial Cost Credit." Commencing with the first invoice following the determination of the Initial Cost Credit, the Buyer shall receive a credit in an amount equal to the Initial Cost Credit. Such credit shall be reflected on monthly invoices rendered by the Seller to the Buyer and shall reduce the amount that would otherwise be payable by the Buyer pursuant to this Agreement. In the event that Out-Of-Pocket Costs and Amortization Amounts exceed $10,000,000, any such excess shall be the sole responsibility of the Seller, and there shall be no increases in amounts payable by the Buyer hereunder.

(e) In order to determine if the Buyer is entitled to an Initial Cost Credit pursuant to Section 2.09(d), the Seller shall undertake the following procedures:

a. Within 30 days after the execution of this Amendment, the Seller shall prepare a detailed estimated budget of all Out-Of-Pocket Costs and Amortization Costs, and shall provide a copy thereof to the Buyer. The Seller agrees that such budget of Out-Of-Pocket Costs and Amortization Costs may only include costs that are customarily incurred by sellers of power on an arm's length basis in accordance with standard industry construction practices.

b. Within 20 days after receipt of such estimated budget, the Buyer shall identify any elements of cost identified therein which the Buyer believes are inconsistent with standard industry construction practices and should therefore not be included as Out-Of-Pocket Costs and Amortization Costs. The Seller shall thereupon revise the estimated budget or shall meet and confer with the Buyer to discuss the disputed items identified on the budget. The Buyer's review of the estimated budget shall not imply Buyer approval or consent to any of the matters set forth therein, or otherwise constitute any assumption of risk by the Buyer as to the adequacy of the budget or actual Out-Of-Pocket Costs and Amortization Costs. In the event that the Buyer and the Seller cannot agree as to elements of cost identified in the budget, each party shall have the right to pursue dispute resolution in accordance with Section 8.01 of the Agreement.

c. Within 10 days after the end of each month until the Commercial Operation Date, the Seller shall provide the Buyer with a revised budget, identifying any changes in cost from the initial estimated budget provided by the Seller.

d. Within 30 days after the Commercial Operation Date, the Seller shall provide the Buyer with a final actual construction budget, identifying all Out-Of-Pocket Costs and Amortization Costs actually incurred by the Seller. Within 20 days after receipt of such actual budget, the Buyer shall identify any elements of cost identified therein which the Buyer believes are inconsistent with standard industry construction practices and should therefore not be included as Out-Of-Pocket Costs and Amortization Costs. The Seller shall thereupon revise the estimated budget or shall meet and confer with the Buyer to discuss the disputed items identified on the budget. The Buyer's review of the actual

budget shall not imply Buyer approval or consent to any of the matters set forth therein, or otherwise constitute any assumption of risk by the Buyer as to the adequacy of the budget or actual Out-Of-Pocket Costs and Amortization Costs. In the event that the Buyer and the Seller cannot agree as to elements of cost identified in the budget, each party shall have the right to pursue dispute resolution in accordance with Section 8.01 of the Agreement. The final budget submitted by the Seller (as may be modified by the Seller following review by the Buyer) shall be used for purposes of determining the Initial Cost Credit (subject to the Seller's right to dispute resolution pursuant to Section 8.01 if the Seller objects to an element of cost identified on such budget and the parties cannot agree on appropriate revisions).

(f) Annual Cost Credit. Attached hereto as Appendix B is a pro forma statement prepared by the Seller, identifying all elements of cost and revenues relating to the operation of the Facility and performance by the Seller of its obligations pursuant to this Agreement after the Commercial Operation Date. Based on such costs and revenue, Appendix B also contains an estimate of Net Profit for each year following the Commercial Operation Date. The Seller represents that Appendix B is the Seller's good faith estimate of such Net Profit. In the event that the Net Profit actually resulting in any year as set forth in Appendix B is greater than that set forth on Appendix B for such year, the amount of the excess shall constitute the "Annual Cost Credit". Immediately following the determination of the Annual Cost Credit, the Buyer shall receive a credit for the amount of the Annual Cost Credit. Such credit shall be reflected on monthly invoices submitted to the Buyer by the Seller, and shall reduce the amount that otherwise would be payable by the Buyer pursuant to this Agreement. At the end of the Contract Term (as defined in Appendix A), if it is determined that an Annual Cost Credit is owed to the Buyer for the final year, the Buyer shall send an invoice to the Seller for amount owed within 30 days of determining the amount of Annual Cost Credit owed. The Seller shall pay the invoiced amount within 10 days from the date of the invoice. In the event that actual Net Profit for any year is less than the amounts identified on Appendix B, the Buyer shall have no responsibility for the deficiency. Moreover, there shall be no increases to the amount paid by Buyer as the Purchase Price under any circumstances.

(g) In order to determine the Annual Cost Credit under this Section 2.09, the Seller shall undertake the following procedures:

a. At least 30 days prior to the beginning of each year following the Commercial Operation Date, the Seller shall provide the Buyer with a revised pro forma for the upcoming year, prepared in substantially the form attached as Appendix B. Such pro forma shall not contain any Out-of-Pocket Costs and Amortization Costs, and shall only contain costs customarily treated as operating expenses for facilities similar to the Generating Facility in accordance with standard industry practices. Such pro forma shall also contain an estimate of the anticipated revenues for such year. The specific amount of such costs must be reasonable, and shall not exceed the amounts typically paid by operators of facilities similar to the Generating Facility on an arm's length basis. Within 15 days after receipt of such revised pro forma, the Buyer shall identify any

elements of cost identified therein which the Buyer believes are inconsistent (either in type or amount) with standard industry operating practices and should therefore not be included in the pro forma. The Buyer may also identify any revenues which it believes are incorrectly stated. The Seller shall thereupon revise the estimated pro forma or shall meet and confer with the Buyer to discuss the disputed items identified on the pro forma. The Buyer's review of the pro forma shall not imply Buyer approval or consent to any of the matters set forth therein, or otherwise constitute any assumption of risk by the Buyer as to the adequacy of the amounts identified therein. In the event that the Buyer and the Seller cannot agree as to elements of cost or revenue identified in the pro forma, each party shall have the right to pursue dispute resolution in accordance with Section 8.01 of the Agreement.

b. During the course of any year, if the Seller believes that actual or anticipated individual line item costs identified in the pro forma exceed the amount specified in the pro forma by greater than 10% (or revenues will be less than that projected by more than 10%), Seller shall notify Buyer immediately upon such determination and in the periodic reports contemplated herein.

c. Within 30 days after the end of each year following the year in which Commercial Operation was achieved, the Seller shall provide the Buyer with an actual statement of costs and revenues (including Net Revenue) prepared in the form set forth in Appendix B. Within 15 days after receipt of such actual pro forma, the Buyer shall identify any elements of cost identified therein which the Buyer believes are inconsistent (either in type or amount) with standard industry operating practices and should therefore not be included in the pro forma. The Buyer may also identify elements of revenues which it believes are not correctly reflected. The Seller shall thereupon revise the actual pro forma or shall meet and confer with the Buyer to discuss the disputed items identified on the pro forma. The Buyer's review of the pro forma shall not imply Buyer approval or consent to any of the matters set forth therein, or otherwise constitute any assumption of risk by the Buyer as to the adequacy of the amounts identified therein. In the event that the Buyer and the Seller cannot agree as to elements of cost identified in the pro forma, each party shall have the right to pursue dispute resolution in accordance with Section 8.01 of the Agreement.

(h) Audit Rights. In addition to Buyer's Audit Rights under Section 4.05(b) of the Agreement, for purposes of determining the Initial Cost Credit and the Annual Cost Credit (including the review of the estimated construction budget, the actual construction budget, the estimated pro forma for any year or the actual pro forma for any year) the Buyer shall have the right to audit Seller's costs for reasonableness and conformity with Prudent Utility Practices and Generally Accepted Accounting Principals ("GAAP"). Any costs that are deemed to be inconsistent with Prudent Utility Practices and GAAP shall be deemed unacceptable for purposes of calculating the Initial Cost Credit and the Annual Cost Credit pursuant to this Section 2.09. In the event that the audit identifies any amount that should not have been included in the construction budget or the pro formas, then the costs of such audit shall be paid by the Seller. If the audit does not identify any such amounts, then the cost of the audit shall be paid by the Buyer.

(L) Section 4.04 of the Agreement shall be amended and restated in its entirety to read as follows:

Section 4.04 Disputes and Adjustments of Invoices. Either Buyer or Seller (each a "Party") may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twenty-four (24) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution, along with interest accrued at the rate provided in Section 4.03 from and including the due date to, but excluding, the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party that made such overpayment from subsequent payments, with interest accrued at the rate provided in Section 4.03 from and including the date of such overpayment to, but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 4.04 within twenty-four (24) months after the invoice is rendered or any specific adjustment to the invoice is made.

(M) Section 9.01 of the Agreement shall be amended and restated in its entirety to read as follows:

Section 9.01. Department Failure. After the Commercial Operation Date, if Department fails to schedule receipt and /or receive all or part of the Non-Firm Energy and such failure is not excused under the terms of this Agreement or by Seller's failure to perform, then Department shall pay Seller, within ten (10) Business Days of invoice receipt, an amount for all such MWh of deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Purchase Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

(N) Section 9.02 of the Agreement shall be amended and restated in its entirety to read as follows:

Section 9.02. Seller Failure. After the Commercial Operation Date, if Seller fails to schedule delivery and /or deliver all or part of the Non-Firm Energy and such failure is not excused under the terms of this Agreement or by the Department's failure to perform, Department's remedy shall be through the calculation of monthly Availability and the use of early termination pursuant to Appendix A, as applicable.

(Remainder of page is intentionally blank)

(O) Appendix A to the Agreement shall be amended and restated in its entirety to read as follows:

Appendix A

Supplemental Definitions and Terms of Agreement

Description of Generating Plant	Seller is reconditioning a 15 MW (net) biomass-fueled generation plant located at 4655 Coal Mine Road, Ione, California.
Generating Plant Electric Revenue Meter	The CAISO approved electric meter located at the Delivery Point.
Contract Capacity	15 MW (net)
Expected Commercial Operation Date	July 15, 2002
Contract Term	From the Commercial Operation Date through the earlier of: a) 5 years from the Commercial Operation Date, or b) December 31, 2006
Delivery Point	NP15, at the interconnection of Seller's facilities associated with the Generating Plant (on the high side of the Generating Plant's step-up transformer) with the CAISO-controlled transmission grid
Pre-COD Purchase Price	Prior to the Commercial Operation Date, for each MWh of energy that Department elects to purchase and which is delivered to Department and produced by Seller, Department will pay Seller $60/MWh.
Early Purchase Price	In the event that the Generating Facility achieves Commercial Operation prior to July 15, 2002, then for each MWh of energy delivered to Department and produced by Seller, after the Commercial Operation Date but prior to July 15, 2002, Department will pay Seller $60/MWh. For each MWh of energy delivered to the Department and supplied by the Imbalance Energy market, Department will pay the Seller the lesser of the CAISO Imbalance Energy price or $60/MWh.
Purchase Price	After July 15, 2002, for each MWh of energy delivered to Department and produced by Seller's Generating Plant,

	Department will pay Seller $87/MWh. For each MWh of energy delivered to the Department and supplied by the Imbalance Energy market, Department will pay the Seller the lesser of the CAISO Imbalance Energy price or $87/MWh.
Monthly Availability Guarantee Percentage	75% for the months of June – October 70% for the months of January – May and November – December Seller shall not provide replacement energy to avoid a reduction in Availability. Moreover, any energy generated from the use of fossil fuel shall be excluded from the Monthly Availability determination.
Emissions	Seller shall obtain all plant permits and emission offsets needed to operate the Generating Plant for up to 8760 hours per year at Contract Capacity, shall operate the Generating Plant pursuant to the permits, and shall maintain the validity of the permits.
Termination Without Recourse	Department shall have the right, but not the obligation, to terminate the Power Purchase Agreement without recourse against the Department for any Termination Payment or other costs and without further obligation or liability by the Department if: The Commercial Operation Date has not occurred by July 15, 2002.
Early Termination	In addition to any other termination rights in the Agreement, Department shall have the right, but not the obligation, to terminate the Power Purchase Agreement without recourse against the Department for any Termination Payment or other costs and without further obligation or liability by the Department if: 1) Seller has not been granted regulatory authority from all applicable permitting authorities by April 15, 2002, which enables operation in a manner that meets the terms of this Agreement; 2) The output from the Generating Plant yields an Availability that is less than the Monthly Availability Guarantee Percentage for three consecutive months; or

3) Seller has not provided one of the following security provisions by the earlier of the actual or Expected Commercial Operation Date:

(a) Evidence of a credit rating of unsecured long-term debt of BBB or better from Standard & Poor's, or Baa or better from Moody's Investors' Service;
(b) Security for Seller performance obligations in the form of (i) a mortgage on and security interest in the Generating Plant, (ii) collateral assignment of contracts for fuel supply, support services, transmission rights, permits and related rights, (iii) a right to receive notices of default from secured lenders and from parties to the assigned contracts, (iv) a right to step in and cure defaults of developer to lender, and (v) if rights under clause (iv) are exercised, a right to step in and operate the facility. If there is a senior lender that already has a mortgage on and security interest in the Generating Plant, the Department will accept a second mortgage and security interest that will prohibit the Department from taking any action to foreclose on the collateral until the senior lender has been paid in full. Such subordination provisions must be reasonably satisfactory to the senior lender; or
(c) A guaranty to the Department, in a form acceptable to the Department, from a corporate parent that satisfies the credit criteria described in part (a) above.

Major Milestone Activity	**Expected Milestone Completion Date**
Financing Complete	March 20, 2002
Acquisition of Land Use Permit	April 15, 2002
Acquisition of Air Permit	April 15, 2002
Approval of the Gas Interconnection	April 1, 2002
Approval of the Electrical Interconnection	Completed

Delivery of all Required Equipment	Completed
Start of Construction	Upon Contract Execution
Completion of Gas Interconnection	May 1, 2002
Completion of Electric Interconnection	May 15, 2002
Facility ready for test	May 15, 2002
Expected Commercial Operation Date	July 15, 2002
Reports	Upon execution of the Amendment, Seller shall supply monthly progress reports to the Department describing progress towards completion of all Major Milestone Activities for the plant. Commencing within one week of the date upon which Seller fails to complete or first has reasonable cause to believe that it will be unable to complete one or more Major Milestone Activities by its respective Milestone Completion Date, Seller shall supply bi-weekly progress reports to the Department with its revised Milestone Completion Dates, the reasons for the revision, and its plan for and its progress towards its revised schedule and mitigating any past, current, anticipated or future delays.
Prudent Utility Practices	Seller will utilize Prudent Utility Practices with respect to the Generating Plant. Prudent Utility Practices means those practices, methods and procedures as modified from time to time, that are currently and commonly used in electric utilities to design, engineer, select, construct, operate and maintain electric power facilities and equipment dependably, reliably, safely, efficiently, and economically, with due regard to the state-of-the-art in the electric power industry, as applied in the Western Systems Coordinating Council (WSCC) area.

(P) Appendix B is added to the Agreement and shall be as follows:

Appendix B

IONE BIOMASS PLANT - PROFORMA

Plant Capacity:	15MW
Capacity Factor:	90%

	2002	2003	2004	2005	2006	5-Yr Total	Notes
Sale Price-¢/kWh	8.7	8.7	8.7				
Capacity Payment-$/kW	0	0	0				
Revenues ($)							
Energy	5,144,310	10,288,620	10,288,620	10,288,620	10,288,620	46,298,790	
Capacity	0	0	0	0	0	0	
Green Premium	0	0	0	0	0	0	Note
Total Revenues	5,144,310	10,288,620	10,288,620	10,288,620	10,288,620	46,298,790	
						0	
Expenses ($)						0	
Biomass fuel	,341,069	2,762,601	2,845,479	2,930,844	3,018,769	12,898,761	Note 2
Gas	128,750	265,225	273,182	281,377	289,819	1,238,352	Note 3
Salaries	655,760	1,350,865	1,391,391	1,433,133	1,476,127	6,307,276	Note 4
Benefits	157,382	324,208	333,934	343,952	354,270	1,513,746	Note 5
Chemicals	62,940	129,656	133,546	137,552	141,679	605,374	Note 6
Environmental Costs	60,250	124,115	127,838	131,674	135,624	579,501	Note 7
Routine Maintenance	257,500	530,450	546,364	562,754	590,892	2,487,960	Note 8
Major Maintenance	500,000	750,000	1,000,000	1,200,000	1,200,000	4,650,000	Note 9
Ash Hndlg, Disposal	10,000	20,600	21,218	21,855	22,510	96,183	Note 11
Equip Lease	50,000	100,000	100,000	100,000	112,000	462,000	Note 12
Utilities	65,850	135,651	139,721	143,912	148,230	633,363	Note 13
Insurance	214,000	440,840	454,065	467,687	481,718	2,058,310	Note 14
Prop Tax	51,000	103,020	104,050	105,091	106,142	469,303	Note 15
Mgmt Fees	50,000	103,000	106,090	109,273	112,551	480,914	Note 16
Depreciation	0	0	0	0	0	0	Note 17
Amortization	975,000	1,950,000	1,950,000	1,950,000	1,950,000	8,775,000	Note 18
ODC	56,900	117,214	120,730	124,352	128,083	547,280	Note 19
Total Op'n Expenses	4,636,401	9,207,445	9,647,608	10,043,456	10,268,412	43,803,322	
						0	
Net Income ($)	507,909	1,081,175	641,012	245,164	20,208	2,495,468	

Notes:

1. Green Premium may be available, but not added here.
2. Based on $20.00 BDT including freight, Escalated @ 3%.
3. Gas for start-up only, @ $4.50/mmBtu. Escalated @ 3%.
4. Based on staff of 25. Escalated at 3%. See Table on staffing and costs.
5. Assumed as 24% of salaries. See Table on staffing and costs.
6. See Table of chemicals and consumables. Escalated at 3%.
7. Year 2002 estimated. See Table of environmental costs. Escalated at 3%.
8. Routine Maintenance Estimated. Escalated @ 3%.
9. 2002 is restart cost. Remainder estimated.
10. See maintenance notes. This is sum of routine and major maintenance.
11. Based on 10,000 tons per year @ $2/ton disposal cost. Escalated @ 3%.
12. For two loaders, 4-year leases.
13. Includes gas, water & septic, interconnect. See Table on utilities. Escalated @ 3%.
14. Includes general liability, property damage, workers' compensation. See Table on insurance. Escalated @ 3%.
15. Based on 1999 property tax paid by the previous owner.
16. Home office fees. Estimated. Escalated @ 3%.
17. No depreciation included.
18. $8mm amortized over 5 years at 8% per annum.
19. See Table on other direct costs. Escalated @ 3%.

(Remainder of page is intentionally blank)

(Q) Appendix B to the Agreement is changed to Appendix C and shall be amended and restated in its entirety to read as follows:

Appendix C

Addresses

SELLER	DEPARTMENT
Billing Address: Capitol Power P.O. Box 276430 Sacramento, CA 95827	Billing Address: California Department of Water Resources Settlements Unit 3310 El Camino Avenue, Suite 120 Sacramento, California 95821 Attn: Doreen Singh
Notice Address: Capitol Power 4655 Coal Mine Road Ione, CA 95640	Notice Address: California Department of Water Resources Executive Manager, Power Systems 3310 El Camino Avenue, Suite 120 Sacramento, California 95821 Attn: Viju Patel
Authorized Representative: Ron Goldsmith, Plant Manager	Authorized Representative: Peter Garris, Deputy Director

Section 4. Miscellaneous.

(A) Except as expressly modified by this Amendment, the Agreement shall continue to be and remain in full force and effect in accordance with its terms. Any future reference to the Agreement shall, from and after the Effective Time, be deemed to be a reference to the Agreement as amended by this Amendment.

(B) The amendments contained in this Amendment are one-time amendments only, are made only with respect to the specific provisions of the Agreement referenced above and are made only to the extent and for the limited purposes described herein. Such amendments shall not be construed as amendments for any purpose other than as specifically set forth herein.

(C) This Amendment may be executed in any number of counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one instrument.

(D) THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF CALIFORNIA.

(Remainder of page is intentionally blank)

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representative to execute and deliver this Amendment as of the date first above written.

CALIFORNIA DEPARTMENT OF WATER RESOURCES, acting solely under the authority and powers created by AB1-X, codified as Sections 80000 through 80260 of the Water Code (the "Act"), and not under its powers and responsibilities with respect to the State Water Resources Development System

ORIGINAL SIGNED BY
VIJU PATEL

By:_____
Name: Peter S. Garris
for Title: Deputy Director

CAPITOL POWER, INC.

Original signed by

By:_____
Donald Whitmire
President