

## **IMPLEMENTATION AGREEMENT**

This IMPLEMENTATION AGREEMENT (the "Agreement"), dated as of \_\_\_\_, \_\_\_\_, by and among the ATTORNEY GENERAL OF THE STATE OF CALIFORNIA (the "Attorney General"), the CITY OF SAN DIEGO (the "City"), the CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY (the "Authority"), and the DEPARTMENT OF WATER RESOURCES with respect to its responsibilities pursuant to the Department Act (as hereinafter defined) regarding the Fund (as hereinafter defined) separate and apart from its powers and responsibilities with respect to the State Water Resources Development System (in such capacity, the "Department") (each individually a "Party" and collectively the "Parties").

### **RECITALS**

WHEREAS, the Governor of the State of California, acting on behalf of the agencies, departments, subdivisions, boards, and commissions of the executive branch of the State of California, including without limitation the California Department of Water Resources; the California Electricity Oversight Board; the California Public Utilities Commission; the People of the State of California, by and through the Attorney General; The Williams Companies, Inc.; and Williams Energy Marketing & Trading Company and other named parties entered into a Settlement Agreement as of November 11, 2002 (the "Settlement Agreement"),

WHEREAS, the Settlement Agreement, among other things, transferred and assigned to the Attorney General six (6) LM 6000 Gas Turbine Generator Sets and all related rights thereto;

WHEREAS, certain payments were made to the Attorney General pursuant to the Settlement Agreement;

WHEREAS, the Attorney General is willing to transfer four LM 6000 Gas Turbine Generator sets and related rights to the City for the purpose of developing, acquiring, constructing and operating a generating facility in the City;

WHEREAS, the Attorney General is willing to advance certain moneys in escrow for the development of such facility;

WHEREAS, the Authority has agreed to serve as escrow agent with respect to such moneys;

WHEREAS, the Department and the City have entered into the Power Purchase Agreement;

WHEREAS, the Power Purchase Agreement provides that either party may terminate the Power Purchase Agreement at any time upon ten (10) days written notice if the City fails to enter into an Implementation Agreement (as defined therein) by January 31, 2003,

WHEREAS, the Parties wish to set forth herein the undertakings of the Parties with respect to the matters set forth above,

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. Unless otherwise defined herein or in any appendix hereto, the following terms shall have the respective meanings in this Agreement:

“Assets” means [four] (6) LM 6000 Gas Turbine Generator Sets described in the GE Agreement and all rights with respect thereto under the GE Agreement relating thereto.

“Authority Option Date” means December 31, 2003 or as such date may be extended in six month increments on approval in the sole discretion of both the Authority and the Attorney General for good cause.

“Bill of Sale” means, collectively, the Bill of Sale, Assignment and Assumption Agreement(s) providing for transfer and assignment of the Assets to the City or its designee(s) in the form of Exhibit 3 hereto.

“City Shortfall Amount” means any amounts expended by the City in excess of the Escrow Amount.

“Closing Date” means \_\_\_\_.

“Commercial Operation Date” means (a) if the Facility is undertaken pursuant to Section 3.01(a), Commercial Operation Date shall have the meaning set forth in the Power Purchase Agreement, and (b) if the Facility is undertaken pursuant to Section 3.01(c), Commercial Operation Date shall have the meaning set forth in the agreement providing for the acquisition and construction of the Facility between the City and a prime contractor.

“Department Commitment Time” shall have the meaning set forth in the Power Purchase Agreement.

“Environmental Audit” means a Phase One environmental site assessment (the scope and performance of which meets or exceeds ASTM Standard Practice E1527-93 Standard Practice for Environmental Site Assessments: Phase One Environmental Site Assessment Process) of the Facility.

“EPC Contract” means a contract with a creditworthy contractor for the engineering, procurement and construction of the Facility at a fixed price in form and substance reasonably satisfactory to the Department.

“Escrow Agreement” means the Escrow Agreements between the Authority and the City substantially in the form attached hereto as Exhibit 1.

“Escrow Account” means the Escrow Account established under the Escrow Agreement and held and administered by the Authority, as escrow agent.

“Escrow Amount” means \$ \_\_\_\_\_.

“Escrow Agent” means the escrow agent or any successor thereto under the Escrow Agreement.

“Facility” means an electric generation facility including the Assets to be located in the City with all other property, structures, equipment necessary for the generation and transmission of power.

“Facility Agreements” means (a) if the Facility is undertaken pursuant to Section 3.01(a), this Agreement, the Power Purchase Agreement, the EPC Contract, the Management Agreement(s), the Bill of Sale and the Escrow Agreement, and (b) if the Facility is undertaken pursuant to Section 3.01(c), this Agreement, the Bill of Sale and the Escrow Agreement.

“Facility Cost” shall have the meaning set forth in the Power Purchase Agreement.

“GE Agreement” means that certain Agreement between State Street Trust Company of Connecticut, National Association, not in its individual capacity, but solely as Owner Trustee, and GE Packaged Power, Inc. for six LM6000 Turbine Generator Sets, dated October 18, 2001, as amended on April 16, 2002 in respect of storage of the Units, and on October 22, 2002 to extend the warranties set forth therein.

“Initial Bonds” shall have the meaning set forth in the Power Purchase Agreement.

“Management Agreement” means any agreement(s) in form and substance reasonably satisfactory to the Department, pursuant to which one or more creditworthy entities agrees to (a) operate and maintain the Facility on behalf of City, (b) provide fuel procurement and management, major maintenance, transmission, scheduling, dispatch and other services on behalf of City with respect to the Facility.

“Power Purchase Agreement” means the Power Purchase Agreement between the Department and the City substantially in the form attached hereto as Exhibit 1.

“Unit” means any one of the LM 6000 Gas Turbine Generator Sets described in the GE Agreement.

## ARTICLE II

### UNDERTAKINGS OF THE PARTIES

Section 2.01 Undertakings. The Parties hereto each agree to enter into such agreements and perform such obligations as set forth herein, subject to such limitations as set forth herein.

Section 2.02. Transfer of Assets. The Attorney General shall transfer all of its right, title and interest in the Assets to the City on the Closing Date, including all rights under the GE Agreement. The Attorney General and the City shall enter into the Bill of Sale, Assignment and Assumption Agreement on the Closing Date.

Section 2.03. Deposit of Funds; Escrow Agreement. The City and the Authority shall enter in to the Escrow Agreement on the Closing Date. On the Closing Date the Attorney General shall deposit the Escrow Amount to be held in the Escrow Account under the Escrow Agreement and applied in accordance with the terms and provisions thereof. Section 2.04. Term. The Agreement shall expire upon the Commercial Operation Date.

## ARTICLE III

### DEVELOPMENT OF FACILITIES

Section 3.01. Development of the Facility. (a) Subject to the limitations set forth in, and in accordance with, the Facility Agreements, the City will use its best efforts to develop, acquire, construct, finance and operate the Facility. The City will use its best efforts to meet the milestone schedule set forth in the Power Purchase Agreement.

(b) The City may, in its sole discretion, determine that (i) key approvals or permits for the Facility cannot be obtained on a timely basis or that the City cannot otherwise meet its obligations hereunder or under the Power Purchase Agreement, or (ii) proceeding with the development, acquisition and construction of the Facility will result in unacceptable risk to the City. In such case the City shall have no further obligation to develop the Facility and the City shall exercise its option to terminate the Power Purchase Agreement pursuant to Section 4.02(a) thereof.

(c) The City may, in its sole discretion, at any time after expiration of the Authority’s option referred to in Section 4.01(a)(i) and prior to the Department Commitment Time, determine that the development, acquisition, construction, financing and operation of the Facility with the Power Purchase Agreement will result in a cost of such Facility that is or will become unacceptable or is otherwise not in the best interests of the City. In such case the City shall so advise the Seller in writing and shall develop, acquire, construct, finance and operate the Facility

in accordance with the provisions of this Agreement without the Power Purchase Agreement. In such case the City shall (i) exercise its option to terminate the Power Purchase Agreement pursuant to Section 4.02(a) thereof, and (ii) repay to the Escrow Agent the full amount of Development Costs paid by the Escrow Agent to the City from the Escrow Account pursuant to the Escrow Agreement. Sections 3.06, 3.07 and 3.08 shall not be applicable if the Facility is undertaken by the Seller pursuant to this Section 3.01(c).

Section 3.02. Site; Title Report. City will use its best efforts to identify and control a site(s) in the City for the location of the Facility either through the acquisition of a site or the leasing thereof for a term sufficient to comply with the provisions of the Facility Agreements. Prior to the Department Commitment Time, the City will obtain a [leasehold] title report (together with municipal searches) from a title insurance company reasonably acceptable to the Department with respect to the City's [leasehold] interest in the site.

Section 3.03. Environmental Audit. Prior to acquiring the site pursuant to Section 3.02 hereof, the City will obtain an Environmental Audit reasonably acceptable to the Department.

Section 3.04. Storage of Assets. The City will arrange for the storage of the Assets [in a manner that preserves their value and utility][in accordance with manufacturer warranty requirements] until such Assets are either incorporated into the Facility or sold in accordance with the provisions of this Agreement. The City will arrange for the insurance of the Assets during any shipment, storage, Facility construction and operation periods having terms and provisions reasonable acceptable to the Attorney General, the Authority and the Department. The City will not grant or permit to be imposed on the Assets any lien or other encumbrance prior to the time the Assets are either incorporated into the Facility or sold in accordance with the provisions of this Agreement.

Section 3.05. Permits and Approvals. The City shall use its best efforts to obtain all permits and governmental approvals necessary for the acquisition of the Facility site, and the acquisition, construction and operation of the Facility and to meet its obligations under the Facility Agreements. The City shall submit an application for construction ("AFC") for the Facility to the California Energy Commission ("CEC"), and shall expeditiously provide all required data so that the AFC can be deemed data adequate by the CEC, as soon as reasonably practicable.

Section 3.06. Management Agreement(s). In the event the Facility is undertaken pursuant to Section 3.01(a), the City shall use its best efforts to enter into one or more Management Agreement(s).

Section 3.07. EPC Contract. In the event the Facility is undertaken pursuant to Section 3.01(a), the City shall use its best efforts to enter into an EPC Contract.

Section 3.08. Financing of the Facility. In the event the Facility is undertaken pursuant to Section 3.01(a), the City shall use its best efforts to issue the Initial Bonds to finance the Facility Cost.

## ARTICLE IV

## **OPTIONS; SALE OF ASSETS**

Section 4.01. Authority Purchase Option. (a) In the event that the City has (i) not (A) secured a site for the construction of the Facility, and (B) filed an AFC with the CEC for the Facility, each by the Authority Option Date, or (ii) made a determination referred to in Section 3.01(b) hereof, the Authority shall have the right but not the obligation to purchase any all Units from City at a price of \$2,500,000 per Unit and terminate this Agreement upon \_\_\_ days written notice. The Authority shall pay such purchase price upon the financing of the facility utilizing such Unit(s). Upon the exercise of such option by the Authority, title to the Assets, together with all other transferable rights and property financed with moneys on deposit in the Escrow Account under the Escrow Agreement, shall automatically vest in the Authority. In the event of such termination, the City shall, upon request of the Authority, deliver or cause to be delivered to the Authority such documentation as may be necessary to evidence the City's transfer of its interest in the Assets and such other rights and property.

Section 4.02. Sale of Assets. (a) In the event the the Power Purchase Agreement is terminated pursuant to Section 4.02 thereof , and (b) the Authority does not elect to exercise it option pursuant to Section 4.01 hereof, the City shall promptly sell such Unit(s) by means of a public bidding process. The City shall be entitled to retain the greater of (a) first \$2,500,000 from the sale of a Unit, plus 5% of any amount in excess of \$2,500,000 and (b) the City Shortfall Amount, with any remaining proceeds being deposited in the Electric Power Fund.

(b) This Agreement shall terminate upon the sale of the Assets pursuant to subsection (a). Any proceeds of such sale received by the City shall be the City's exclusive remedy for the City's inability to develop, finance and complete the Facility for any reason. The City shall not have recourse against the Attorney General, the Authority or the Department for any costs in connection with the Facility and the Authority and the Department shall incur no liability to any other person as the result of any termination or abandonment of the Facility by the City.

## **ARTICLE V**

### **OBLIGATIONS OF CITY**

Section 5.01. City's Obligations; No Debt of City. City's execution of this Agreement and its obligations hereunder shall not constitute a debt or liability of the City. The execution of this Agreement shall not directly, indirectly or contingently obligate the City to levy or pledge any form of taxation or make any appropriation for the payment of any amounts under this Agreement. The City shall not be obligated to meet its development obligations as described in Section 3 hereof solely from any funds other than moneys made available to the City for development purposes under the Escrow Agreement.

Section 5.02. City may Delegate to Agents. The City may delegate its obligations under the Facility Agreements to agents acting on its behalf.

## **ARTICLE VI**

## **REPRESENTATIONS**

Section 6.01 Representations. Each Party hereto makes the following representations and warranties:

(a) The Party has the power and authority to execute, deliver and perform this Agreement and its obligations hereunder.

(b) The execution, delivery and performance of this Agreement and the consummation of the transactions by the Party herein contemplated have been duly authorized by all requisite action on the part of the Party and will not violate any provision of law, any order of any court or agency of government, or the charter of the Party, or any indenture, agreement or other instrument to which the Party is a party or by which it or any of its property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever.

(c) This Agreement constitutes the legal, valid and binding obligation of the Party enforceable against the Party in accordance with its terms.

(d) There is no action or proceeding pending or, to the best knowledge of the Party, threatened by or against the Party by or before any court or administrative agency that might adversely affect the ability of the Party to perform its obligations under this Agreement and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Party as of the date hereof in connection with the execution and delivery of this Agreement or in connection with the performance of the obligations of the Party hereunder have been obtained.

## **ARTICLE VII**

### **EVENTS OF DEFAULT**

Section 7.01. Events of Default. An “Event of Default” shall exist mean with respect to a party (“Defaulting Party”) if:

(a) default shall be made by the Defaulting Party in the performance or observance on its part of any of the agreements or obligations contained in this Agreement and such default shall continue for a period of 30 days after written notice thereof to the Defaulting Party by the Non-Defaulting Party.

(b) Any material representation or warranty made by or on behalf of a Party herein shall prove to be false, misleading or incorrect in any material respect as of the date made.

Section 7.02. Remedies for Events of Default. (a) If an Event of Default occurs and is continuing, a Non-Defaulting Party may exercise any remedies available to it at law, in equity, by statute or otherwise, including, but not limited to, the right to seek injunctive relief to prevent irreparable injury to the Non-Defaulting Party or mandamus to compel performance of obligations hereunder.

(b) In addition to any remedies available under subsection (a), upon an Event of Default by the City the Attorney General may repossess the Assets and/or terminate the City's rights to make requisitions from and take possession of the Escrow Account. In the event the Attorney General elect to repossess the Assets, title to the Assets shall automatically vest in the Attorney General and the City shall, upon request of the Attorney General, deliver or cause to be delivered to the Authority such documentation as may be necessary to evidence the City's transfer of its interest in the Assets.

Section 7.03. Remedies not Exclusive. No remedy by the terms of this Agreement conferred upon or reserved to the Non-Defaulting Party is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity or by statute.

Section 7.04. Effect of Waiver and Other Circumstances. No delay or omission of the Non-Defaulting Party to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such default or to be an acquiescence therein and every power and remedy given by this Article to the Non-Defaulting Party may be exercised from time to time and as often as may be deemed expedient by the Non-Defaulting Party. A Non-Defaulting Party may waive any past default hereunder and its consequences. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 7.05. Automatic Termination. In addition to any other termination rights pursuant hereto, this Agreement shall automatically terminate without any requirement of approval of any Party or notice and without recourse against any Party for any damages or other costs and without any further obligation or liability of any Party in the event that the Settlement Agreement is terminated for any reason. [SUBJECT TO REVIEW]

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of California, without regard to the conflicts of laws rules thereof.



Section 8.02. Amendment. Neither this Agreement nor any provision hereof may be amended, waived, discharged or terminated except by an instrument in writing signed by the Department and the City.

Section 8.03. Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by the Parties, each executed counterpart shall have the same force and effect as an original instrument and as if the Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

Section 8.04. Limitations of Liability, Remedies and Damages. Each Party acknowledges and agrees that in no event shall any officer, member of its governing bodies, employee, or affiliate of either Party be liable to any other person or Party for any payments, obligations, or performance due under this Agreement or any breach or failure of performance of either Party, or for any loss or damage to property, loss of earnings or revenues, personal injury, or any other direct, indirect, or consequential damages or injury, or punitive damages, which may occur or result from the performance or non-performance of this Agreement, including any negligence arising hereunder, and the sole recourse for performance of the obligations under this Agreement shall be against City and or against the Department and the Trust Estate, and not against any other person, except for such liability as expressly assumed by an assignee or guarantor pursuant to an assignment of this Agreement.

Section 8.05. Transfer of Interest in Agreement. No Party shall voluntarily assign or transfer this Agreement or any portion thereof, nor any of the obligations or rights hereunder, without the prior written consent and approval of the other Party, which consent shall not be unreasonably withheld or delayed.

Section 8.06. Severability. In the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court, regulatory agency, or other regulatory body having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless a court, regulatory agency, or other regulatory body holds that the provisions are not separable from all other provisions of this Agreement.

Section 8.07. Relationship of the Parties.

(a) Nothing contained herein shall be construed to create an association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or with regard to any one or more of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

(b) All rights of the Parties are several, not joint. No Party shall be under the control of or shall be deemed to control another Party. Except as expressly provided in this Agreement, no Party shall have a right or power to bind another Party without its express written

consent.

Section 8.08. No Agency. In performing their respective obligations hereunder, neither Party is acting, or is authorized to act, as agent of the other Party.

Section 8.09. Third Party Beneficiaries. This Agreement shall not be construed to create any rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established herein.

Section 8.10. Waivers. Any waiver at any time by any Party of its rights with respect to a default under this Agreement, or any other matter under this Agreement, shall not be deemed a waiver with respect to any subsequent default of the same or any other matter.

Section 8.11. Waiver of Consequential Damages. In no event, whether based on contract, indemnity, warranty, tort (including, as the case may be, a Party's own negligence) or otherwise, shall either Party be liable to the other Party or to any other person or party for or with respect to any claims for consequential, indirect, punitive, exemplary, special or incidental damages or otherwise.

Section 8.12. Headings. The headings contained in this Agreement are solely for the convenience of the Parties and should not be used or relied upon in any manner in the construction or interpretation of this Agreement.

Section 8.13. Further Assurances. Each Party agrees to execute and deliver such other instruments and documents and to take such other actions as may be reasonably necessary to complete performance hereunder and otherwise to further the purposes and intent of this Agreement.

Section 8.14. Application of Government Code and the Public Contracts Code. Pursuant to Section 80014(b) of the Water Code, the Department hereby determines 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 such provisions and requirements are therefore not applicable to or incorporated in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative as of the \_\_\_th day of \_\_\_\_\_, 2002.

ATTORNEY GENERAL OF THE STATE OF  
CALIFORNIA

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

Name:

Title:

CALIFORNIA CONSUMER POWER AND  
CONSERVATION FINANCING AUTHORITY

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

Name:

Title:

CITY OF SAN DIEGO

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

Name:

Title:

STATE OF CALIFORNIA DEPARTMENT OF  
WATER RESOURCES, separate and apart from its  
powers and responsibilities with respect to the State  
Water Resources Development System

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

Name:

Title:

Escrow Agreement

Power Purchase Agreement

Form of

**BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Bill of Sale”) is made this \_\_\_\_ day of \_\_\_\_\_, 200\_, by the Attorney General of the State of California (“Transferor”), and the City of San Diego (“Transferee”).

W I T N E S S E T H

WHEREAS, Transferor desires to transfer, assign, and convey to Transferee, effective on the Closing Date (as defined in the Settlement Agreement) all of its (a) right, title, and interest in and to the Units (as such term is defined in that certain Agreement between State Street Trust Company of Connecticut, National Association, not in its individual capacity, but solely as Owner Trustee, and GE Packaged Power, Inc. for six LM6000 Turbine Generator Sets, dated October 18, 2001, as amended on April 16, 2002 in respect of storage of the Units, and on October 22, 2002 to extend the warranties set forth therein (the “GE Agreement”)), and (b) rights and duties under the GE Agreement; and

WHEREAS, Transferee desires to assume all of Transferor’s rights and duties under the GE Agreement;

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto agree as follows:

1. Transferor hereby transfers, assigns, and conveys to Transferee all of Transferor’s right, title, and interest in and to the Units on an “AS IS and “WHERE IS” basis, except to the extent expressly otherwise provided in this Bill of Sale.
2. Transferor hereby assigns to Transferee all of its rights under the GE Agreement.
3. Transferee hereby accepts the foregoing assignment and assumes all of Transferor’s duties arising on and after the Closing Date under the GE Agreement.
4. Transferor represents, warrants, and covenants to and with Transferee as follows:
  - a. Transferor has good right, title, and interest in and to the Units;
  - b. the Units are subject to no existing liens or encumbrances;

- c. Transferor has full power and authority, and is duly authorized, to execute this Bill of Sale, convey the Units to Transferee as aforesaid, and assign to Transferee all of its rights and duties under the GE Agreement;
- d. none of the Units has ever been placed in service;
- e. a true and complete copy of the GE Agreement is attached hereto and has not been modified or amended and no action has been taken to terminate the GE Agreement;
- f. all payments due under the GE Agreement as relate to the Units to and including the Closing Date, including without limitation, and to Transferor's knowledge, any storage charges and any taxes levied by the State of Texas for storage or sale of the Units and the extension of the warranties, have been paid in full to GE or the appropriate taxing authority, as the case may be;
- g. no Transferor default or event the occurrence of which, with the passage of time or service of notice, or both, would constitute a Transferor default, in each case under the GE Agreement has occurred and, to Transferor's knowledge, no GE Packaged Power, Inc. default or event the occurrence of which, with the passage of time or service of notice, or both, would constitute a GE Packaged Power, Inc. default, in each case under the GE Agreement has occurred;
- h. Transferor shall and will warrant and defend this Bill of Sale to Transferee forever against the claims and demands of all persons;
- i. Transferor has not previously transferred, and shall not transfer or permit the transfer of, in any manner its interest in or under the GE Agreement as relates to the Units other than as set forth herein;
- j. the execution of this Bill of Sale does not violate the terms or conditions of any agreement or instrument to which the Transferor is a party or by which it is bound or any law or regulation that would adversely affect Transferee's right, title or interest in the Units or under the GE Agreement; Transferor makes no representation or warranty about whether the Transferee's acceptance of delivery of this Bill of Sale violates the terms or conditions of any agreement or instrument to which the Transferee is a party or by which it is bound or any law or regulation that would adversely affect Transferee's ability to accept delivery of this Bill of Sale.

5. EXCEPT AS SPECIFICALLY PROVIDED IN SECTIONS 4 AND 7 HEREOF, THIS BILL OF SALE IS MADE WITHOUT RECOURSE OR WARRANTY OF ANY NATURE WHATSOEVER, WHETHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR USE.

6. This Bill of Sale shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

7. Transferee acknowledges and agrees that, following consummation of the assignment and assumption and conveyance contemplated in this Bill of Sale, Transferor shall have no further duty or obligation with respect to the Units or the GE Agreement except as specifically provided for herein; provided, however, that Transferor, shall in no event be released from, and Transferor hereby agrees to defend, indemnify, and hold Transferee and each of Transferee's employees, agents, and representatives, and their respective successors and assigns, harmless from and against, any claims, liabilities, expenses, losses or other damages (including, without limitation, reasonable attorneys' fees and expenses) relating to the performance or non performance by Transferor of any of its obligations or duties under the GE Agreement that arose prior to the Closing Date (as such term is defined in the Settlement Agreement).

8. This Bill of Sale shall be governed by and interpreted according to the laws of the State of California, excluding any choice of law provisions or conflict of laws principles which would require reference to the laws of any other jurisdiction. All disputes arising under this Bill of Sale shall be determined by the courts of the State of California and the United States courts located in the State of California. The Transferor hereby consents to the jurisdiction of such courts, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, for the purpose of any suit, action or other proceeding arising out of this Bill of Sale and expressly waives any and all objections it may have as to venue in such courts.

IN WITNESS WHEREOF, Transferor and Transferee have caused this Bill of Sale to be executed and delivered by their duly authorized representative as of the day and year set forth in the opening paragraph of this Bill of Sale.

ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

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

Name:

Title:

CITY OF SAN DIEGO

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

Name:

Title: