

TERMINATION AND SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE OF CLAIMS

THIS TERMINATION AND SETTLEMENT AGREEMENT (this "Agreement") is entered into this 23rd day of January, 2007, by and between the California Department of Water Resources, an agency of the State of California, acting solely under the authority and powers created by AB1-X, codified as Sections 80000 through 80270 of the California Water Code (the "Act"), and not under its powers and responsibilities with respect to the State Water Resources Development System (the "Department" or the "Buyer"), and Clearwood Electric Company, LLC, a limited liability corporation organized and existing under the laws of the State of Delaware (the "Seller"). Seller and the Department are sometimes hereinafter referred to collectively as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, the Parties executed that certain Amended and Restated Unit Contingent Energy Purchase Agreement dated July 2, 2004 ("PPA"); and

WHEREAS, certain disputes have developed between the Parties with respect to Seller's alleged obligations under the PPA; and

WHEREAS, the Parties have concluded that termination of the PPA and a full release of claims is in their mutual interest; and

WHEREAS, capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the PPA;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which is acknowledged by both Parties, and in order to completely settle and finally resolve any and all disputes and claims arising prior to the date of this Agreement, known or unknown, regarding the Agreement, the Parties hereby agree as follows:

- 1) **Termination Payment; Termination of PPA.** Seller has agreed to pay the Department the sum of two hundred thousand dollars (\$200,000) ("Termination Payment") on or before January 29, 2007 as full consideration for the Department's agreement (a) to terminate the PPA and (b) to release all claims against Seller and its Affiliates arising under the PPA, including, but not limited to, any claim that the Department may have to the electrical output of the "Nevada Facility," as such term is defined in the PPA. The termination of the PPA and the Parties' release of all claims arising out of the PPA shall be effective upon receipt of the Termination Payment by the Department. "Affiliates", as used herein, shall mean Amp Capital Partners, LLC, Amp Resources, LLC, Amp Resources (Stillwater), LLC, Amp Resources, (Surprise Valley), LLC, Amp Resources (Salt Wells), LLC, Amp Resources (Cove Fort), LLC and any additional affiliates under common control with Clearwood or

which direct and control the operations of Clearwood. Such payment shall be made in cash by wire transfer in immediately available funds pursuant to wire instructions to be provided by the Department. Upon receipt of the Termination Payment by the Department (a) the PPA shall automatically terminate, and be no longer of any force or effect; (b) the Parties' claims shall be released, as provided in Section 3 below; and (3) the responsibilities of the Parties shall be defined solely by the terms of this Agreement.

- 2) **Cooperation of the Department with Regard to Proceedings before the Nevada Public Utilities Commission.** As partial consideration for the Termination Payment, upon payment of the Termination Payment, the Department agrees to acknowledge in writing to the Nevada Public Utilities Commission that the Department has no right to the output of, or any other interest in, "Nevada Facility," the Stillwater geothermal project, or any other geothermal project being developed by Seller or its Affiliates.
- 3) **Scope of Settlement and Release; Release of Claims.** The Parties agree that this Agreement represents a full and complete settlement of all disputes and claims under the PPA, or related to the PPA, except for claims arising out of a breach of this Agreement by either Party. The Parties further agree that upon payment of the Termination Payment all claims shall be released as follows:
 - a) Clearwood, for and on behalf of itself and each and every one of its Affiliates, assigns, successors and administrators, release and forever discharges the Department and each of its past, present, and future insurers, and the officers, directors, agents, employees of Clearwood and its Affiliates, insurance companies, dealers, divisions, successors, and representatives, whether herein named or referred to or not, who together with the Department and its insurers and/or any of the other aforementioned persons, may be jointly or severally liable to Clearwood (the "Department Indemnified Parties"), from any and all claims, actions, causes of action, liens, demands, rights, damages, punitive damages, costs, attorneys' fees, expenses, and compensation of any nature whatsoever that Clearwood may have had, may now have, may claim to have, or may hereafter have or claim to have in any way growing out of any act, omission, or commission of the Department Indemnified Parties prior to the date of this Agreement with respect to the PPA, ("Clearwood's Released Claims").
 - b) Without in any way further limiting the generality of the foregoing, the consideration referred to herein is acknowledged by the Parties to be paid in full settlement, accord, and satisfaction for any and all damages, punitive damages, costs, interests, attorneys' fees, expenses, and compensation of every kind sustained or that may be hereafter accrued or sustained by Clearwood or its Affiliates, assigns, executors, successors and administrators arising out of, in whole or in part, Clearwood's Released Claims.
 - c) The Department, for and on behalf of itself and each and every one of its assigns, successors and administrators, release and forever discharges Clearwood and each of its past, present, and future insurers, and all Affiliates, officers, directors, agents, employees, insurance companies, dealers, divisions, successors, and representatives, whether herein named or referred to or not, who together with Clearwood and its insurers and/or any of the other aforementioned persons, may be jointly or severally liable to the Department

(the "Clearwood Indemnified Parties"), from any and all claims, actions, causes of action, liens, demands, rights, damages, punitive damages, costs, attorneys' fees, expenses, and compensation of any nature whatsoever that the Department may have had, may now have, may claim to have, or may hereafter have or claim to have in any way growing out of any act, omission, or commission of the Clearwood Indemnified Parties prior to the date of this Agreement with respect to the PPA, including any claim that the Department may have to the output of the "Nevada Facility," the Stillwater geothermal project being developed by Amp Resources (Stillwater), LLC, or any other geothermal project being developed by an Affiliate of Clearwood ("Department's Released Claims").

d) Without in any way further limiting the generality of the foregoing, the consideration referred to herein is acknowledged by the Parties to be paid in full settlement, accord, and satisfaction for any and all damages, punitive damages, costs, interests, attorneys' fees, expenses, and compensation of every kind sustained or that may be hereafter accrued or sustained by the Department or its assigns, executors, successors and administrators arising out of, in whole or in part, the Department's Released Claims.

e) The Parties specifically acknowledge that the foregoing releases extend to claims about which a Party has no knowledge and no reason to suspect may exist as of the date of this release, or which, if known to it, would have materially affected the settlement hereunder.

The Parties hereto acknowledge and agree that they have been informed by their respective attorneys and advisors of, and are familiar with, and hereby expressly waive, the provisions of section 1542 of the California Civil Code, and any similar statute, code, law, or regulation of any state of the United States, or of the United States, to the fullest extent that it may waive such rights and benefits. Section 1542 provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

f) The Parties agree that the above releases will not be effective unless and until the Department receives the Termination Payment.

4) Warranty as to Ownership of Claims and Authority. Each of the Parties make the following warranties to the other Party:

- a) Such Party is the owner of the claims being compromised, settled, discharged and released pursuant to this Agreement;
- b) Such Party has not previously assigned its rights or obligations under the Agreement;
- c) Such Party has not previously assigned all or any part of the claims it may have under the Agreement to another entity or person; and
- d) The person executing this Agreement on behalf of such Party has the authority to bind the Party for whom such person acts. The execution, delivery and performance of this Agreement have been duly authorized by all required

company action. No third party approvals or consents are required for the execution and delivery of this Agreement.

- 5) **Enforcement of This Agreement.** This Agreement may be pleaded as a full and complete defense to any claim that may be instituted, prosecuted or attempted in breach of this Agreement. The Parties further agree that their respective duties and obligations hereunder may be specifically enforced through an action seeking equitable relief by the Party for whose benefit such duty or obligation is to be performed, but no breach of any duty or obligation by either Party hereunder shall entitle the other Party to rescind or terminate this Agreement. In any such action, and in any action to enforce the provisions of the Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.
- 6) **Acknowledgments.** Each Party declares and acknowledges that it has read and fully understands the terms of this Agreement and that it has been given the time and opportunity to involve or consult attorneys of its own choice with regard to the execution of this Agreement and that it executes this Agreement voluntarily after consultation with its attorneys.
- 7) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, purchasers, assigns, heirs, and survivors of the Parties. Nothing in this Agreement shall be construed or interpreted to impart any rights or obligations to any third party.
- 8) **Complete Agreement.** This Agreement constitutes and represents the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, negotiations, representations, warranties, and understandings of the Parties with regard to the subject matter set forth herein.
- 9) **Supplements, Modifications, Amendments, and Waiver.** No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the Parties. No waiver of any provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether similar or not similar nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless set forth in writing, signed by the Party making the waiver.
- 10) **Severability.** If any provision of this Agreement is held to be invalid or unenforceable on any occasion or in any circumstance, such holding shall not be deemed to render this Agreement invalid or unenforceable, and to that extent the provisions of this Agreement are severable; provided, however, that this provision shall not preclude a court of competent jurisdiction from refusing to sever any provision if severance would be inequitable to one or more of the Parties.
- 11) **Choice Of Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, without reference to any conflict of law provisions that might dictate application of the laws of another state.

- 12) Execution in Counterparts.** This Agreement may be executed in two or more counterparts, all of which together shall be one instrument and all of which shall be considered duplicate originals.
- 13) Authority.** By signing below, each signatory for a Party represents and warrants that he/she is authorized to sign this Agreement on such Party's behalf and to thereby bind such Party to the terms of the Agreement.
- 14) Performance of Additional Acts.** Each Party agrees that it shall execute and deliver any and all documents and perform any and all acts required on its part or those which may be reasonably necessary to effectuate, complete and facilitate the provisions of this Agreement.
- 15) Disputed Claims.** In entering into this Agreement, or otherwise acting hereunder, neither Party admits the claims or defenses of the other which are released herein. Each Party disputes such claims and defenses. This Agreement is in compromise of the disputed claims between the Parties and shall never be treated as an admission of liability by either Party as part of the proceedings before any court, arbitrator(s), mediator(s), or dispute resolution panel.
- 16) Mistake of Fact or Law.** In entering and making this Agreement, the Parties assume the risk of any mistake of fact or law. If either Party should later discover that any fact it relied upon in entering this Agreement is not true, or that its understanding of the facts or law was incorrect, the Party shall not be entitled to seek rescission of this Agreement by reason thereof. This Agreement is intended to be final and binding upon the Parties regardless of any mistake of fact or law.


(Signature Page Follows)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

California Department of Water Resources

By: _____
Name:
Title:

Clearwood Electric Company LLC

By:  _____
Name: KENT W. GOATES
Title: CFO

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

California Department of Water Resources

Approved as to legal form
and sufficiency: _____

By: JOHN PACHECO
Name: JOHN PACHECO
Title: ACTING CHIEF, CONTRACT
MANAGEMENT OFFICE

David C. Sandino
Acting Chief Counsel, Department
of Water Resources

Clearwood Electric Company LLC

By: _____
Name:
Title: