



ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.:

Utility type:

☐ ELC ☐ GAS ☐ WATER
☐ PLC ☐ HEAT

Contact Person:

Phone #:

E-mail:

E-mail Disposition Notice to:

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas WATER = Water
PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #:

Tier Designation:

Subject of AL:

Keywords (choose from CPUC listing):

AL Type: ☐ Monthly ☐ Quarterly ☐ Annual ☐ One-Time ☐ Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL:

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? ☐ Yes ☐ No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? ☐ Yes ☐ No

Requested effective date:

No. of tariff sheets:

Estimated system annual revenue effect (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed¹:

Pending advice letters that revise the same tariff sheets:

¹Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

ENERGY Advice Letter Keywords

Affiliate	Direct Access	Preliminary Statement
Agreements	Disconnect Service	Procurement
Agriculture	ECAC / Energy Cost Adjustment	Qualifying Facility
Avoided Cost	EOR / Enhanced Oil Recovery	Rebates
Balancing Account	Energy Charge	Refunds
Baseline	Energy Efficiency	Reliability
Bilingual	Establish Service	Re-MAT/Bio-MAT
Billings	Expand Service Area	Revenue Allocation
Bioenergy	Forms	Rule 21
Brokerage Fees	Franchise Fee / User Tax	Rules
CARE	G.O. 131-D	Section 851
CPUC Reimbursement Fee	GRC / General Rate Case	Self Generation
Capacity	Hazardous Waste	Service Area Map
Cogeneration	Increase Rates	Service Outage
Compliance	Interruptible Service	Solar
Conditions of Service	Interutility Transportation	Standby Service
Connection	LIEE / Low-Income Energy Efficiency	Storage
Conservation	LIRA / Low-Income Ratepayer Assistance	Street Lights
Consolidate Tariffs	Late Payment Charge	Surcharges
Contracts	Line Extensions	Tariffs
Core	Memorandum Account	Taxes
Credit	Metered Energy Efficiency	Text Changes
Curtailable Service	Metering	Transformer
Customer Charge	Mobile Home Parks	Transition Cost
Customer Owned Generation	Name Change	Transmission Lines
Decrease Rates	Non-Core	Transportation Electrification
Demand Charge	Non-firm Service Contracts	Transportation Rates
Demand Side Fund	Nuclear	Undergrounding
Demand Side Management	Oil Pipelines	Voltage Discount
Demand Side Response	PBR / Performance Based Ratemaking	Wind Power
Deposits	Portfolio	Withdrawal of Service
Depreciation	Power Lines	

December 27, 2019

California Public Utilities Commission
Energy Division
Attention: Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298

Advice Letter CPA 0004-E

RE: Clean Power Alliance of Southern California's Disadvantaged Communities Green Tariff Program and Community Solar Green Tariff Program Advice Letter

EFFECTIVE DATE

Clean Power Alliance of Southern California ("CPA")¹ requests that this Tier 3 Advice Letter ("Advice Letter") become effective after Commission approval.

TIER DESIGNATION

Pursuant to D.18-06-027, CPA's Advice Letter is submitted with a Tier 3 designation.

PURPOSE

Pursuant to Ordering Paragraph ("OP") 17 of Decision ("D.") 18-06-027 *Alternate Decision Adopting Alternatives to Promote Solar Distributed Generation in Disadvantaged Communities* ("Decision") and Resolution E-4999 ("Resolution"), CPA submits this Tier 3 Advice Letter ("Advice Letter") to create a

- (1) Disadvantaged Communities Green Tariff ("DAC-GT") program including specified rates for eligible customers; and a
- (2) Community Solar Green Tariff ("CSGT") program including specified rates for eligible customers.

¹ CPA is a Community Choice Aggregator whose Joint Powers Agency was formed in June 2017 pursuant to the Joint Exercise of Powers Act, California Government Code section 6500 et seq. CPA consists of 32 member agencies, including the Cities of Agoura Hills, Alhambra, Arcadia, Beverly Hills, Calabasas, Camarillo, Claremont, Carson, Culver City, Downey, Hawaiian Gardens, Hawthorne, Malibu, Manhattan Beach, Moorpark, Ojai, Oxnard, Paramount, Redondo Beach, Rolling Hills Estates, Santa Monica, Sierra Madre, Simi Valley, South Pasadena, Temple City, Thousand Oaks, Ventura, West Hollywood, Westlake Village and Whittier and the Counties of Los Angeles and Ventura (unincorporated areas). CPA will begin to serve Westlake Village in 2020.

Attached as appendices to this Advice Letter are work papers, program budget estimates, and a proposed ME&O plan required in support of this Advice Letter.²

In addition, this Advice Letter includes a detailed summary of implementation describing important program rules and requirements. CPA's DAC-GT and CSGT may collectively be referred to as the "Programs."

BACKGROUND AND AUTHORIZATION

On June 21, 2018, the California Public Utilities Commission ("Commission" or "CPUC") issued D.18-06-027 adopting three new programs to promote the installation of renewable generation among residential customers in disadvantaged communities ("DAC"),³ as directed by the California Legislature in Assembly Bill (AB) 327 (Perea), Stats. 2013, ch 611. Pursuant to D.18-06-027, Community Choice Aggregators ("CCAs") may develop and implement their own DAC-GT and CSGT programs.⁴ CCA programs must abide by all DAC-GT or CSGT rules and requirements adopted in the Decision.⁵ The Decision provides that CCAs must file a Tier 3 advice letter to implement the CCA DAC-GT and CSGT programs and allows CCAs to combine DAC-GT and CSGT proposals into one Tier 3 advice letter.⁶ The Resolution provides that such advice letters must be filed on or before January 1, 2021 or the capacity allocated to the CCA will be reverted to an IOU or another CCA.⁷ Accordingly, CPA files this Tier 3 Advice Letter to create DAC-GT and CSGT programs consistent with all provisions in D.18-06-027, D.18-10-007,⁸ the Resolution, as well as guidance received from the Commission's Energy Division.

EXECUTIVE SUMMARY OF CPA'S DAC-GT AND CSGT PROGRAMS

CPA's DAC-GT and CSGT programs meet the Commission's intent to "provide multiple options for customers in DACs to gain access to clean energy resources."⁹ These two programs are part of a broader suite of CPA market activities and programs that will move towards promoting

² Also provided for informational purposes are DAC-GT and CSGT schedule forms, solicitation protocols, and a pro-forma PPA to further support the Commission's review of this Advice Letter. These documents are pending CPA Board review and approval, and may be updated to reflect the disposition of the CPA Board, but are provided herein as examples of the documents CPA will utilize in implementing the Programs upon Commission approval of this Advice Letter.

³ DACs are defined under D.18-06-027 as communities that are identified in the CalEnviroScreen 3.0 as among the top 25 percent of census tracts statewide, plus the census tracts in the highest five percent of CalEnviroScreen's Pollution Burden that do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data.

⁴ D.18-06-027 at 104, OP 17. The third program established by the Decision is the DAC-Single-family Affordable Solar Housing program which is to be managed by a statewide program administrator.

⁵ *Id.* at 104, OP 17.

⁶ *Id.* at 56, FN 36.

⁷ Resolution E-4999 at 54, Findings and Conclusions ¶ 19.

⁸ D.18-10-007 issued on October 18, 2018 corrected and clarified certain matters in the D.18-06-027 including application of the DAC-GT and CSGT customer bill discount and the definition of "5 miles" with regard to maximum distance between CSGT facilities and subscribing customers.

⁹ D.18-06-027 at 50.

adoption of local renewable generation and solar development. In particular, the DAC-GT and CSGT options address economic barriers (e.g. low customer credit ratings), property ownership barriers (e.g., renters cannot directly adopt rooftop solar), property structure issues (e.g., poor roof condition or sub-optimal roof orientation) and marketing and outreach barriers (e.g., monolingual marketing challenges).¹⁰

Both the DAC-GT and CSGT programs provide a 20 percent discount to eligible customers located in DACs compared to their otherwise applicable rates. Both programs will be funded first through Greenhouse Gas (“GHG”) allowance proceeds. If such funds are exhausted, the programs will then be funded through Public Purpose Program (“PPP”) funds.

As described in detail below, the DAC-GT program will be available to residential customers who live in DACs and meet the income eligibility requirements for the California Alternate Rates for Energy (“CARE”) and Family Electric Rate Assistance (“FERA”) programs. The CSGT program is structured similarly to the DAC-GT program but is intended to drive more local, community-developed solar projects. The CSGT program requires community involvement with the solar project through a local sponsor and will result in a solar facility serving a nearby community.¹¹ The CSGT program is open to all residential customers located in a DAC, with at least 50% of the program’s capacity reserved for CARE and FERA eligible customers.

D.18-06-027 set the DAC-GT and CSGT program participation caps for the investor-owned utilities (“IOUs”).¹² The Resolution allocated a portion of each IOU’s program capacity to CCAs based on the proportional share of residential customers in DACs that each CCA serves within the respective IOU’s territory. CPA received an allocation of 12.19 MW for the DAC-GT program and 3.13 MW for the CSGT program.¹³

This Advice Letter includes the following implementation details for the DAC-GT and CSGT programs:

1. Customer eligibility & enrollment
2. Rate & discount design
3. Procurement
4. Budget and cost recovery
5. Marketing, education, and outreach
6. Reporting
7. Program measurement & evaluation

Attached to this Advice Letter are the following appendices:

1. Two new electric schedules for the Programs: (a) Schedule DAC-GT, *Disadvantaged*

¹⁰ *Id.* at 50-51.

¹¹ *Id.* at 64.

¹² *Id.*

¹³ Resolution E-4999 at 15, Table 2.

Community Green Tariff Program, and (b) Schedule CSGT, *Community Solar Green Tariff Program*. These schedules are provided as information only.

2. A program budget for program years (“PY”) 2020 and 2021.
3. A marketing, education and outreach (“ME&O”) plan for PYs 2020 and 2021.
4. Sample DAC-GT and CSGT procurement solicitation and power purchase agreement templates. These documents are provided as information only.
5. Work papers detailing methodology and assumptions for calculation of generation cost delta and 20-percent customer bill discount budgets.

PROGRAM IMPLEMENTATION DETAILS

1. Customer eligibility and enrollment terms

a. DAC-GT program

i. Customer eligibility

The DAC-GT program will be available to residential customers who live in DACs, receive generation service from CPA, and meet the income eligibility requirements for CARE or FERA programs.¹⁴

Customers who move must re-apply to the program to recertify their eligibility. If the customer is found to still be eligible, CPA will retain their status as a program participant and will not require the customer to go on a waitlist, as long as the customer’s turn-on date at the new location is within 90 days of their final billing date at their original location and their application is received by CPA no more than 90 days after their turn-on date.

Eligibility of customers is determined at the level of the Service Account ID (“SA ID”). Service accounts enrolled under the following rate schedules are not eligible to participate in the DAC-GT program:

- IOU bundled service
- Net energy metering rates, including RES-BCT;
- Non-metered service
- Multi-family master-metered rates
- Rates that are not eligible for CARE or FERA rates such as TOU-EV-1
- Direct access
- Non-residential rates
- Schedule CSGT

¹⁴ See D.18-06-027 at 51, 72; Resolution E-4999 at 3, 20 (providing that customers must be eligible to participate in either the CARE or FERA programs; they are not required to be enrolled under those programs to be eligible to participate in DAC-GT or CSGT. CARE/FERA eligibility is established as currently defined under those programs.).

ii. Customer enrollment

Enrollment of customers occurs at the level of the SA ID. Subscribing customers receive 100% renewable energy based on their actual usage each month, and, as described in Section 2, will receive a 20% discount on their otherwise applicable tariff for the enrolled service accounts. Consistent with the Decision, enrollment is capped at a maximum of 2 MW per customer.

Customers interested in enrolling in the DAC-GT program can sign up with CPA online, by phone, or with a hardcopy application. CPA will verify customer eligibility based on service account address and CARE/FERA eligibility. If a customer is not currently enrolled in the CARE or FERA programs, they will be encouraged to enroll in the IOU's CARE/ FERA programs through the existing IOU enrollment process. CPA will support the customer in the CARE/FERA application process and will engage directly with the utility to enable timely enrollment of the customer in the programs. Customers who decline to enroll in CARE or FERA will be required to certify their CARE/FERA eligibility during the DAC-GT enrollment process. Once a customer's CARE/FERA eligibility has been established, CPA will enroll the customer in the DAC-GT program.

Customer enrollment will be available immediately upon program launch. There is no contract required when enrolling in the DAC-GT program, however, customers will need to meet the eligibility requirements of the DAC-GT tariff. Customers may enroll for any number of months, and there is no enrollment or cancellation fee. A participating customer can remain on the DAC-GT tariff for up to 20 years from the time of enrollment. Customers who, after enrollment into the DAC-GT Program, become ineligible for CARE or FERA will be de-enrolled from this DAC-GT program. Eligible customers may enroll in the program until customer subscriptions reach 12.19 MW (CPA's DAC-GT program cap). Once CPA reaches its DAC-GT program cap, a wait list will be maintained for new subscriptions. When program capacity becomes available, CPA will enroll new eligible customers on a first-come, first-served basis up to the CPA DAC-GT program cap.

A customer's service under this schedule is portable within CPA electric service area as long as the customer continues to live in a disadvantaged community as defined under the program and continues to meet all other eligibility requirements. In the event that CalEnviroScreen is updated, CPA will file a Tier 1 Advice Letter within 30 days of the release of the new version to update program eligibility rules.¹⁵ Customers who are already enrolled in the DAC-GT will retain their eligibility even if their census tract is no longer considered a top 25 percent DAC under the revised CalEnviroScreen.¹⁶

When a customer enrolls in the DAC-GT program, they will be moved from their existing CPA

¹⁵ Resolution E-4999 at 38 (providing that IOUs must file a Tier 1 Advice Letter to update program eligibility rules within 30 days of a new release of the CalEnviroScreen thresholds).

¹⁶ *Id.* at 38.

rate to a DAC-GT rate, which will be priced the same as CPA's Clean Power rate applicable to the customer prior to application of the DAC-GT discount.¹⁷ CPA's DAC-GT rate along with the customer's current SCE distribution and CCA-CRS rate schedules, will collectively become the "otherwise applicable tariff" ("OAT") for these customers for the purpose of calculating the DAC-GT twenty percent bill discount. See "Rate and discount design" section, below, for additional information. If a customer signs up for CARE or FERA in the process of enrolling in the DAC-GT program, the 20 percent discount will be applied to that new rate.¹⁸

b. CSGT program

i. Customer eligibility

The CSGT program will be available to residential customers who live in DACs;¹⁹ receive generation service from CPA; and have a local solar generation project supporting the CSGT program ("CSGT Project") located within five miles of the participating customers' census tract.

Customers who move must re-apply to the program to recertify their eligibility. If the customer is found to still be eligible, CPA will retain their status as a program participant and will not require the customer to go on a waitlist, as long as the customer's turn-on date at the new location is within 90 days of their final billing date at their original location and their application is received by CPA no more than 90 days after their turn-on date.

At least fifty percent of a CSGT Project's capacity must be reserved by low-income customers, defined as those meeting the income qualifications for either the CARE or FERA programs, before any non-low-income-qualified customers, including master-metered customers and project sponsors, can participate.²⁰ Non-residential customers are not eligible to participate, except for project sponsors (project sponsor eligibility rules are described further below).

Eligibility of customers is determined at the level of the SA ID. Service accounts enrolled under the following rate schedules are not eligible to participate in the CSGT program:

¹⁷ CPA's Clean Power rate contains 50% renewable energy content and is currently priced at parity with SCE bundled rates for residential customers. Most CPA customers are enrolled in CPA's Clean Power rate. Although CPA's DAC-GT rate will be priced the same as CPA's Clean Power rate, the energy content will be 100% renewable energy from eligible DAC-GT facilities.

¹⁸ Resolution E-4999 at 21.

¹⁹ As defined above. Resolution E-4999 at 38 (in the event that CalEnviroScreen is updated, CPA will file a Tier 1 AL within 30 days of the release of the new version to update program eligibility rules. As with the DAC-GT program, all residential customers in an eligible DAC at the time of a project's initial energy delivery date will remain eligible to subscribe to that CSGT project, even if their DAC designation changes in subsequent iterations of CalEnviroScreen. This grandfathered eligibility will apply to both existing subscribers and customers not previously subscribed to the project in that same DAC, to enable the project's output to be fully subscribed by customers whose census tract is within 5-miles of the project).

²⁰ As under the DAC-GT program, customers do not need to be currently enrolled under CARE/FERA to be eligible for the CSGT program so long as they can demonstrate that they meet the CARE/FERA income requirements.

- IOU bundled service
- Net energy metering rate, including RES-BCT
- Non-metered service
- Direct access
- Schedule DAC-GT

Master-metered customers may participate in the CSGT program so long as they enroll all of their usage under the master-metered account in the CSGT program. Individual tenants of a master-meter customer are not eligible to participate on an individual basis. Master-metered customers must also meet all other eligibility requirements.²¹

ii. Customer enrollment

As with the DAC-GT, enrollment of customers occurs at the level of the SA ID. Enrollment is capped a maximum of 2 MW per customer.²²

The CSGT program allows eligible customers to purchase renewable electricity produced by a CSGT Project for up to 100% of their electric usage. More specifically, customers subscribe to a percentage of the CSGT Project capacity based on the customer's previous 12-month average monthly usage.²³ As described in Section 2, "Rate & discount design," participating customers will receive a 20% discount on their OAT for eligible, enrolled SA IDs.

The following provides an example of the customer's subscription allocation calculation in more detail. CPA assumes for this example that (i) a residential customer has an average historical usage based on the previous 12-months of 500 kWh per month; and (ii) the customer subscribes to a 100 kW CSGT Project with an estimated average monthly output of 21,900 kWh.²⁴ Based on these assumptions, the customer's subscription allocation would be calculated as follows:

$$\frac{500 \text{ kWh}}{21,900 \text{ kWh}} = 2.3\% \text{ of average monthly output}$$

²¹ See Resolution E-4999, at 56 Findings and Conclusions ¶ 30 (stating "[a]s long as a master-meter property's account is on a residential rate and meets the locational eligibility requirements, it is consistent with the NEM DAC Decision for the property's account to be eligible to subscribe to a CSGT project once the 50 percent low-income threshold is met." The inclusion of master-metered customers applies only to the CSGT program, not the DAC-GT program, as both low-income and non-low-income customers are eligible to participate in the CSGT program. In the case of DAC-GT, D.18-06-027 requires that participating customers must be CARE/FERA eligible. CPA cannot ensure that all tenants under one master-meter meet this requirement, as the sub-metered tenants are not CPA direct customers.

²² This limitation does not apply to the following customers: federal, state, or local government, school or school district, county office of education, the California Community Colleges, the California State University, or the University of California.

²³ If previous 12-month historical usage is not available, the average monthly usage will be derived from as many months as available. For customers establishing new service, the class average monthly usage will be used.

²⁴ Based on a capacity factor of 30%.

In other words, the subscription allocation is a percentage of the average monthly output of the CSGT Project.

In this example, the customer will subscribe to 2.3% of the project's capacity (or 2.3kW of the 100kW system). This percentage allocation is set at the time of customer subscription but may be revisited at least once a year to enable accurate allocations of a CSGT Project's capacity.

Enrollment of new customers in CPA's CSGT program is available until 100% of a CSGT Project's capacity is subscribed. Enrollment attrition will be reviewed on a monthly basis, and the program will be available for new enrollments until the project is fully subscribed.

Low-income customers will be enrolled on a first-come, first-served basis. Once 50 percent of project capacity is subscribed by low-income customers, non-low-income qualified residents in DACs will become eligible for enrollment. These residents can be recruited before the 50 percent subscription requirement for low-income customers is met. However, they will be placed on a waitlist until 50 percent of the capacity of the project is subscribed by low-income customers.

CPA will assess the total subscription rate of low-income customers on a monthly basis after the project comes online. If the low-income subscription rate drops below 50 percent over the life of the project, existing non-low-income customers will not be required to go back onto a waitlist. CPA will inform the Energy Division in writing if the low-income enrollment rate drops below 35% of project capacity.

As with the DAC-GT program, there is no contract required when enrolling for the CSGT program. Customers may enroll for any number of months, and there is no enrollment or cancellation fee. A participating customer can remain on the CSGT tariff for the duration of the project's contract term, or up to 20 years, whichever is less. Customer participation in the program automatically terminates should the Power Purchase Agreement ("PPA") between CPA and the developer for the CSGT facility to which the customer is subscribed be terminated or the delivery term ends.

When a customer enrolls in the CSGT program, they will be moved from their existing CPA rate to a CSGT rate, which will be priced the same as CPA's Clean Power rate applicable to the customer prior to application of the CSGT twenty percent bill discount.²⁵ CPA's CSGT rate along with the customer's current SCE distribution and CCA-CRS rate schedules, will collectively become the "otherwise applicable tariff" ("OAT") for these customers for the purpose of calculating the CSGT twenty percent bill discount. See "Rate and discount design" section, below, for additional information. If a customer signs up for CARE or FERA in the process of enrolling in the DAC-GT program, the 20 percent discount will be applied to that new rate.²⁶

²⁵ CPA's Clean Power rate contains 50% renewable energy content and is currently priced at parity with SCE bundled rates for residential customers. Most CPA customers are enrolled in CPA's Clean Power rate. Although CPA's CSGT rate will be priced the same as CPA's Clean Power rate, the energy content will be 100% renewable energy from eligible CSGT facilities.

²⁶ Resolution E-4999 at 21.

iii. Community Sponsor eligibility

Under the CSGT program, there must be a CSGT Project community sponsor, either a non-profit community-based organization (“CBO”) or a local government entity (e.g., a city, a fire department, school district, etc.) which “sponsors” a CSGT Project on behalf of residents (hereinafter referred to as “Community Sponsor”). A Community Sponsor shall provide a letter of commitment to the developer of the CSGT project to which the Community Sponsor will subscribe, as provided by the Decision.²⁷

The Community Sponsor’s role is to be a catalyst for the community and the Community Sponsor must work with the developer of the CSGT Project to encourage program participation in the community. Community Sponsors are also required to include job training and workforce development in their efforts to benefit the local communities. Additional Community Sponsor requirements are described in the Procurement section below.

For the Community Sponsor to receive the 20% discount described below, the following requirements must be met:

1. The Community Sponsor must be a CPA electric customer;
2. The Community Sponsor must take service on the CSGT;²⁸
3. The Community Sponsor must be located in a DAC and in a census tract that is within 5 miles of the CSGT Project;
4. Fifty percent of the project’s capacity must be subscribed by low-income customers; and
5. The Community Sponsor must meet all other eligibility requirements of other non-low income eligible participating customers, as described above.

Once the 50% low-income threshold is met, the Community Sponsor can retain the 20% bill discount for the life of the project. A CBO or local government entity that does not meet all of the requirements described above may still become a Community Sponsor; however, they will not be eligible to receive the 20 percent discount.

There may be more than one Community Sponsor supporting a single CSGT Project. Multiple sponsors may aggregate or share the duties of being Community Sponsor and may therefore share the 20% discount provided that all Community Sponsors receiving the discount meet the eligibility requirements outlined above. More detail on the Community Sponsor bill discount can be found below.

A Community Sponsor may also be (although is not required to be) a host for a CSGT Project site.²⁹

²⁷ D.18-06-027 at 43.

²⁸ Community Sponsors are the only non-residential customers that are allowed to participate in the CSGT program.

²⁹ For the purposes of this program, the concept of a “host” only refers to a customer site where the project is located. The community solar project must be located in-front-of-the meter, even if located at a

iv. Community Sponsor enrollment

Community Sponsors of a CSGT project are subject to the same enrollment rules and requirements as described above for residential customers participating in the program. For example, enrollment occurs at the level of the SA ID and enrollment is capped at a maximum of 2MW per customer.

The Community Sponsor's subscription allocation is also calculated the same way as for any other participating customer except that a Community Sponsor's subscription allocation is limited to a maximum of 25 percent of the CSGT Project's energy output (not to exceed the Community Sponsor's energy needs).³⁰ Consider an example scenario, in which we assume the same size of community solar project (100 kW with a 21,900 kWh monthly output) as in the prior example. However, the total monthly usage among all of the Community Sponsor's eligible SA IDs is 10,000 kWh, which is larger than 25% of monthly project output (5,475 kWh). In this example, CPA would limit the Community Sponsor's subscription allocation to 25% of project output per month, and the Community Sponsor would only receive the discount on 5,475 kWh.

If two or more Community Sponsors are designated, the Community Sponsors must provide CPA with a written agreement between the Community Sponsors specifying and agreeing on how the "discountable usage" (in this example, 5,475 kWh/monthly) is to be allocated between them.

As with residential customers, when a Community Sponsor enrolls in the CSGT program, they will be moved from their existing CPA rate to a CSGT rate, which will be priced the same as CPA's Clean Power rate applicable to the Community Sponsor prior to application of the CSGT twenty percent bill discount.³¹ CPA's CSGT rate along with the customer's current SCE distribution and CCA-CRS rate schedules, will collectively become the OAT for these customers for the purpose of calculating the CSGT twenty percent bill discount. See "Rate and discount design" section, below, for additional information.

2. Rate and discount design

a. Customer discount

Pursuant to the Decision, eligible customers in the DAC-GT or CSGT programs will receive a 20% discount on their total electricity bill compared to their OAT.³² The discount would apply as long as customers are enrolled under the Programs and they comply with all the eligibility and enrollment terms as specified in CPA's tariff sheets.

customer host site. Accordingly, all concepts and rules of an in-front-of-the-meter program continue to apply.

³⁰ D.18-06-027 at 77.

³¹ CPA's Clean Power rate contains 50% renewable energy content and is currently priced at parity with SCE bundled rates for residential customers. Most CPA customers are enrolled in CPA's Clean Power rate. Although CPA's CSGT rate will be priced the same as CPA's Clean Power rate, the energy content will be 100% renewable energy from eligible CSGT facilities.

³² D.18-06-027, Conclusions of Law (COL) 13.

Pursuant to Resolution E-4999, for low-income customers enrolled in the CARE or FERA programs, and for customers who enroll in CARE or FERA in the process of enrolling in the DAC-GT or CSGT program, the “otherwise applicable rate” is the customer’s existing CARE or FERA rate.³³ Accordingly, the 20% discount for these customers will be applied to low-income customer bills after the CARE/FERA discount has been applied. For customers who are not enrolled in CARE or FERA programs, their current rates will be their OAT.

In order to expedite DAC-GT program launch and customer access to program benefits in advance of Southern California Edison’s (“SCE”) Customer Service Re-Platform (“CSR”) implementation in PY 2020-2021, CPA proposes as an interim approach to calculate the full bill discount for DAC-GT customers based on the generation and delivery OATs, before taxes and fees, and to apply that discount as a line item credit to CCA charges on the customers’ monthly bills. This interim billing approach does not require any additional action by SCE as it will be solely implemented by CPA.

CPA expects to begin enrolling customers in CSGT programs starting in 2022. The CSGT program will involve customers on more diverse and complex IOU tariffs, including commercial tariffs for Community Sponsors that may include demand charges. While CPA is able to calculate discounts on the entire bill for residential customers under the DAC-GT, doing so for commercial customers in the CSGT may not be practicable. Accordingly, beginning January 1, 2022, CPA proposes that SCE calculate and apply the discount to SCE’s portion of the customers’ bill while CPA continues to calculate and apply the discount to CPA’s portion of the bill. CPA therefore requests that the CPUC direct SCE to ensure that the systems and processes are in place for SCE to calculate and apply the customer bill discount on the SCE portion of the bill by no later than January 1, 2022.

CPA’s proposed interim and long-term approaches are driven by the unique circumstances in CPA and SCE territories, in particular SCE’s CSR implementation, and may not be the appropriate or best solutions for the billing of customer discounts in other IOU service territories.

b. Sponsor bill discount

CSGT project sponsors who meet all of the eligibility requirements described above will receive a 20% bill discount on eligible enrolled SA IDs as described above. The sponsor bill discount will be capped at 25% of the project’s energy output, and cannot exceed the sponsor’s usage under the applicable SA IDs. The discount applies as long as sponsors are enrolled under the programs and they comply with all the sponsor eligibility and enrollment terms described above.

If two or more Community Sponsors are designated, the Community Sponsors must provide CPA with a written agreement between the Community Sponsors specifying and agreeing on how the “discountable usage,” capped at 25% of the project’s energy output, are to be allocated among them. CPA will then calculate the applicable discount to each sponsor accordingly.

The sponsor’s discount will be available to sponsors only after the community solar project has

³³ Resolution E-4999 at 55, Findings and Conclusions ¶ 28.

reached its required minimum 50% low-income subscription rate. If the subscription rate of low-income customers drops under 50% of project capacity at any time throughout the life of the project, the sponsor bill credit will not be revoked.

3. Project Siting and Procurement

Per the Resolution, CPA has been allocated 12.19 MW for its DAC-GT program and 3.13 MW for its CSGT program based on the proportional share of residential customers in DACs that each CCA serves.³⁴ The Resolution also allows CCAs that serve customers in the same IOU service territory to share and/or trade program capacity.³⁵ CPA does not request an adjustment of its total capacity allotment in the initial program cycle, but will assess enrollment and opportunities for sharing and trading capacity with other CCAs for future capacity allotment adjustments.³⁶

A sample of the solicitation materials that will be used for the DAC-GT and CSGT RFOs is attached to this Advice Letter in Appendix 4. They are included for information only and are subject to change.

a. DAC-GT program

DAC-GT projects must be located in a DAC within the same IOU service territory as the customers being served. DACs for the purposes of this program are defined as communities that are identified, by using CalEnviroScreen 3.0, as among the top 25 percent of communities statewide, along with the communities in the highest 5 percent of CalEnviroScreen's Pollution Burden that do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data.³⁷ DAC-GT projects located in census tracts that were previously considered a DAC under the program, but are subsequently no longer scored as such, will continue to be eligible to serve customers under the DAC-GT program.³⁸

For the DAC-GT program, eligible projects must be sized between 500 kW and 20 MW;³⁹ however, based on its program allocation, CPA will limit project eligibility to 13 MW. CPA will consider both full deliverability and energy-only projects in the solicitation.

CPA will issue DAC-GT solicitations once a year or as needed until the program cap is reached. As directed by the Decision, the solicitation process will follow the following guiding principles:

1. CPA executes a Power Purchase Agreement ("PPA") with a developer for a solar project;
2. The project is selected through a competitive solicitation;
3. There is no direct relationship between the customer and the project developer;

³⁴ Resolution E-4999 at 54, Findings and Conclusions ¶ 16.

³⁵ *Id.* at 54, Findings and Conclusions ¶ 17.

³⁶ Resolution E-4999 at 54, Findings and Conclusions ¶ 19.

³⁷ D.18-06-027 at 53.

³⁸ Resolution E-4999 at 38.

³⁹ D.18-06-27 at 51.

4. Subscribing customers receive 100% renewable energy; and
5. Subscribing customers receive a defined bill credit.⁴⁰

Eligibility for procurement under the DAC-GT program requires that bid pricing must be at or below the statewide CCA cost cap provided to CCAs by the CPUC's Energy Division Staff via email on September 5, 2019.⁴¹

Pursuant to the provisions of Resolution E-4999, CPA will serve DAC-GT customers on an interim basis with existing resources that meet all of the requirements of the DAC-GT program until the new DAC-GT resources come online. CPA is currently coordinating with SCE regarding the procurement of SCE's existing DAC-GT eligible resources and will bid to purchase these interim DAC-GT resources through SCE's Bundled RPS Energy Sales Request for Offers ("RFO"). Once CPA's new DAC-GT solar resources come online, CPA DAC-GT customers will be transferred to these projects.⁴²

b. CSGT program

CSGT projects must be sited in a DAC within the same IOU service territory as the customers being served and must also be located within 5 miles of the benefitting customers' census tract. The Decision further clarifies that CSGT project must be sited in a top 25% DAC, and the subscribers to the project must be within 5 miles of the project and also within a top 25% DAC (but not necessarily the same DAC).⁴³ CSGT projects located in census tracts that were previously considered a DAC under the program, but are no longer scored as such, will continue to be eligible to serve customers under the CSGT program.

Eligible projects have no minimum project size. The maximum size of any one project is 30% of CPA total allocated CSGT capacity or 3.0 MW, whichever is larger.⁴⁴ CPA will consider both full deliverability and energy-only projects in the solicitations.

CPA will issue CSGT solicitations once a year or as needed until the program cap is reached. Solicitations will be run in conjunction with the DAC-GT program's solicitations. However, the DAC-GT and CSGT programs will each have separate capacity allocations and bid requirements under the same solicitation. The solicitation process for the CSGT program will follow the same guiding principles as established above for the DAC-GT program.

⁴⁰ *Id.* at 51.

⁴¹ Energy Division staff explains in the email from September 5, 2019, that CCAs are expected to compare the unadjusted CSGT project bids to the price cap. In other words, CCAs should use the price cap to screen the submitted bid prices before making adjustments to those prices such as time of delivery adjustments. Energy Division staff also clarified in a workshop that the value of the CCA cost cap will change when all three IOUs procure new resources under the Green Tariff Shared Renewables ("GTSR") program or under the Renewable Auction Mechanism ("RAM") as-available-peaking category. Energy Division will notify the CCAs when this occurs.

⁴² Resolution E-4999 at 24; 47-48.

⁴³ D. 18-06-027 at 66.

⁴⁴ *Id.* at 73.

Eligibility for procurement under the CSGT program requires that bid pricing must be at or below the statewide CCA cost cap provided to CCAs by the CPUC's Energy Division Staff via email on September 5, 2019.⁴⁵

Twenty-five percent of each project's capacity must be subscribed by eligible low-income residents prior to permission to operate ("PTO"). If this requirement is not met, the project will not be able to begin delivery under the contract.⁴⁶

Community sponsorship of the project by a CBO or local government is required to be eligible to bid for the CSGT program. Developers will be required to obtain and provide a letter of commitment from a Community Sponsor (or sponsors) as part of the solicitation process. A letter of commitment from a Community Sponsor must include:⁴⁷

1. Demonstration of substantial interest of community members in subscribing to the project;
2. Estimated number of subscribers, with justification to ensure project is sized to likely demand;
3. A preliminary plan to conduct outreach and recruit subscribers (which may be conducted in conjunction with the developer and/or the utility); and
4. Siting preferences, including community-suggested host sites, and verification that the site chosen for the bid is consistent with community preference.

In addition to these solicitation requirements, D.18-06-07 also established several metrics for prioritization of CSGT project bids.⁴⁸ First, CPA will prioritize projects located in the top 5% census tracts of disadvantaged communities per CalEnviroScreen 3.0 (if applicable). Second, RFO scoring will grant priority for projects that leverage other government funding such as a state Community Services Department ("CSD") grants, or that provide evidence of support or endorsements from programs such as Transformative Climate Communities or other local climate initiatives. Third, the RFO process will also prioritize job training and workforce development factors and will require workforce development for all projects, including local hiring and targeted hiring, to enable creation of job opportunities for low-income communities.⁴⁹

To encourage the development of CSGT projects and to enable CPA to fulfill its total capacity allocation, CPA will take an active role in working with its member agencies and community partners to identify community solar sites within its service territory. As a local government agency, CPA has existing relationships within its communities that can be leveraged to enhance the success of the CSGT program. In order to identify sites, recruit Community Sponsors and

⁴⁵ Energy Division staff clarifies in its September 5, 2019, email that CCAs are expected to compare the unadjusted CSGT project bids to the price cap. In other words, CCAs should use the price cap to screen the submitted bid prices before making adjustments to those prices such as time of delivery adjustments.

⁴⁶ The project can be finalized but payment on the delivery will not be started until 25% low-income customer subscription is achieved.

⁴⁷ D.18-06-027 at 76.

⁴⁸ *Id.* at 82.

⁴⁹ *Id.* at 86-87 and at 99, COL 29.

CSGT Project developers, and assess site feasibility, CPA has allocated program costs for staff and third-party consultants to perform this work. Once sites and Community Sponsors have been identified, CPA will award a PPA to CSGT Project developers using a competitive solicitation process. CSGT Project developers will also need to negotiate development rights with the appropriate siting authority, a process that will be facilitated by CPA. CPA plans to perform an ongoing coordination role between the site host, Community Sponsor, and CSGT Project developer.

4. Budget and cost recovery

This section describes the rules and requirements regarding program costs and budget, funding and cost recovery mechanisms, and the process of reviewing program costs.

a. Budget

The Resolution describes the process for program budget submission and review.⁵⁰ It establishes that Program Administrators⁵¹ must submit annual program budget estimates via a Tier 1 Advice Letter by February 1st of every year for the following program year. Each Advice Letter must include separate program budget estimates for the DAC-GT and CSGT programs and must clearly identify any costs that are shared between the programs.

Annual budget submissions will include, at a minimum, the following budget line items:

1. Generation cost delta, if any⁵²
2. 20 percent bill discount for participating customers;
3. Program administration costs; and
4. Marketing, education and outreach (ME&O) funding.

Program costs will not be charged to participating customers and will thus not appear on customers' bills. Instead, the cost categories described above will be tracked and charged as program costs to the DAC-GT and CSGT programs.

i. Generation cost delta

For subscribed energy, the generation cost delta is the net renewable resource costs and other generation-related costs incurred through the program that are more or less than the customers'

⁵⁰ Resolution E-4999 at 26.

⁵¹ Resolution E-4999 speaks directly to the implementation of IOU programs but CCAs are proposing to apply similar budget processes to CCA programs.

⁵² Resolution E-4999 establishes that above market generation costs should include net renewable resource costs in excess of the otherwise applicable class average generation rate that will be used to calculate the customers' bills. In conversations with the CPUC's Energy Division after the release of the Resolution, it was clarified that this budget line item is intended to cover both a potential higher, as well as lower, cost of the DAC-GT/ CSGT resources than the otherwise applicable class average generation rate. Hence, the term is updated to state the "Delta of generation costs between the DAC-GT/ CSGT resources and the otherwise applicable class average generation rate"

otherwise applicable class average generation cost.

CPA will calculate the generation cost delta by comparing the generation cost for DAC-GT and CSGT resources to the generation cost for the base product that customers would otherwise receive if they were not participating in the programs.⁵³ The generation cost for the base product will be a weighted average of the generation costs of the product's renewable and non-renewable content, including Resource Adequacy. The delta between this weighted average cost and the generation cost of the DAC-GT or CSGT resource will then be multiplied by the volume served each month by each program to arrive at the total above-market procurement cost or below-market procurement savings from the program. This methodology is detailed in Appendix 5.

The generation cost delta, if any, will not be charged to participating customers and thus will not appear on the customers' bills. Instead, the cost delta, if any, will be tracked in the background and will be charged as program costs and recovered through GHG allowance revenue and PPP funds as outlined below.

Because the facility will be contracted to CPA to provide all of its output, any potential above-market costs associated with unsubscribed output will also be covered by the same program funds that cover the above-market costs for subscribed customers of the program.⁵⁴ Unsubscribed project energy will be trued-up annually, and CPA will either sell such unsubscribed energy or use it to meet the renewable energy needs of non-participating customers. Any generation cost delta on unsubscribed output will be calculated and applied in the same way as for subscribed energy, as detailed in Appendix 5.

ii. Participant bill discount

As described in section 2, program participants will receive a 20-percent discount on the otherwise applicable rate of eligible SA IDs. Annual program budgets will include the estimated total amount of the customer bill discount to be recovered based on forecasted monthly enrollment in each program and average monthly bills by customer class in CPA's service territory. The methodology and assumptions used to estimate the customer bill discount for PY 2020-2021 are included in Appendix 5.

iii. Program administration and ME&O costs

The Resolution establishes a budget cap of 10% of the total budget for program administration costs and a budget cap of 4% of the total budget for ME&O costs.⁵⁵ However, administrative and ME&O costs may be higher than these budget allocations in the first two years of program implementation, acknowledging that program start-up costs may be higher. The Resolution provides that Program Administrators may propose administrative and ME&O costs that are above the 10 percent and 4 percent caps established in the Resolution for the first two program

⁵³ The base product is the customer's existing rate schedule (e.g. DOM-CARE) at CPA's Clean Power rate tier.

⁵⁴ D.18-06-027 at 83.

⁵⁵ Resolution E-4999 at 27 (and providing that Program Administrators can submit a Tier 3 Advice Letter requesting an adjustment to the budget allocations if the need arises).

budget years.⁵⁶

Annual program budget submissions must include supporting budget worksheets that detail the line item estimates described above:

- Each program's existing capacity and forecasted capacity for the PYs in question
- Customers currently served and forecasted customer enrollment for the PYs in question
- Workpaper for the calculation of the generation cost delta
- Workpaper for the calculation of the 20% bill discount to participating customers
- Administrative budget must be broken out into, at a minimum, (1) program management, (2) IT, (3) billing operations, (4) regulatory compliance, and (5) procurement costs.
- ME&O budgets must detail costs for staff and for each outreach delivery method. For CSGT, the ME&O budget must identify any funding that will be allocated to local CBOs and community sponsors.

Supporting worksheets used in substantiating cost estimates, including direct labor, management and/or supervisor costs, and any vendor costs, along with a breakdown of staff or contractor position descriptions, loaded hourly rates, and total hours anticipated for each task, will be provided if available. If this level of detail is not available, CPA will provide a narrative statement explaining the analysis it has performed to establish the reasonableness of vendor costs.

In addition to the budget line items describe above, the Resolution requires IOUs to include a budget set aside to cover the costs of an independent evaluator to review the DAC-GT and CSGT programs in 2021 and every three years thereafter.⁵⁷ CPA will include a budget line item for an independent evaluator review in future program budgets following direction from the Commission's Energy Division, as discussed in section 7, "Program measurement and evaluation", below.

CPA submits a budget estimate for PYs 2020 and 2021 in Appendix 2. CPA requests that the budgets proposed herein be approved by the Commission and that the Commission direct SCE to transfer funds sufficient to meet CPA approved annual budgets per the funding mechanisms discussed in the next section.

b. Cost recovery and CCA program funding mechanism

Pursuant to D.18-06-027, the DAC-GT and CSGT programs are funded first through available GHG allowance proceeds. If such funds are exhausted, the programs will be funded through public purpose program ("PPP") funds. More specifically, if total forecasted annual program costs for the programs for all Program Administrators in an IOU's service territory (i.e., IOU and CCAs) are less than the estimated GHG allowance revenues available for the programs in that IOU's service territory, all estimated program costs will be set aside from GHG allowance

⁵⁶ *Id.* at 29-30.

⁵⁷ Resolution E-4999 at p.32

revenues.⁵⁸ If total forecasted annual program costs for both programs for all PAs in an IOU service territory are greater than the GHG allowance revenues available for the programs, all available GHG allowance revenues will be set aside for the programs, and the shortfall in funds will be allocated to PPP funds.

D.18-06-027 authorizes CCAs to access GHG allowance revenues and/or PPP funds to run the DAC-GT and CSGT programs.⁵⁹ The IOUs administer the GHG allowance revenues and collect PPP funds, and have established balancing accounts for the DAC-GT and CSGT programs. CCAs are not in the position to either access those funds directly or establish balancing accounts to track program costs. Therefore, CPA requests that the Commission authorize SCE to modify its DAC-GT and CSGT balancing accounts to include a sub-account to track the funding and costs of CPA DAC-GT and CSGT programs in a manner consistent with D.18-06-027 and SCE's own DAC programs. Additionally, SCE will be responsible for determining and tracking whether and how much of the funding for the CPA DAC-GT and CSGT programs comes from GHG-allowance revenues versus PPP funds.

CPA proposes the following budgeting and fund transfer procedures for CCA DAC-GT and CSGT programs, in accordance with the details on budget submission and review process provided in the Resolution.⁶⁰ CPA will file, by February 1 of each program year, a Tier 1 Budget Advice Letter.⁶¹ In its Annual Budget Advice Letter filing, CPA will:

1. Request approval of its estimated budget for the upcoming program year (e.g., by February 1, 2021 for the 2022 PY);
2. Report its actual expenditures during the prior program year (e.g.; by February 1, 2021 for the 2020 PY).
3. Reconcile the prior year's budget estimate with actual expenditures.

Any unspent funds from the prior PY will be used to offset the forecasted budget for the upcoming PY. If actual expenditures exceeded the forecast in the previous program year, CPA will add the shortfall to the forecasted budget for the upcoming program year. This Annual Budget Advice Letter will be the mechanism for the Commission and stakeholders to review CPA CSGT and DAC-GT program costs and performance. Accordingly, SCE will not be responsible for supporting the reasonableness of CPA's DAC-GT and CSGT program costs in either SCE's ERRA forecast or its ERRA compliance applications.

Once the Commission approves CPA's Annual Budget Advice Letter, SCE will include the total

⁵⁸ Any GHG allowance revenue available for funding program that is not utilized in a given year may be utilized in future years. For example, if the 15% of the GHG allowance revenues available for clean energy and EE programs is \$45 million in year 1 and the estimated program budgets for SOMAH, DAC-SASH, DAC-GT and CSGT total \$35 million, the \$10 million of GHG allowance revenue not utilized in year 1 is available to fund program budgets in future years. This is in addition to the 15% of the GHG allowance revenues that may be set aside for clean energy and EE programs in those future years.

⁵⁹ D.18-06-027 at 104, OP 17.

⁶⁰ Resolution E-4999 at 26-27.

⁶¹ The budgets for PY 2020 and 2021 are included as an attachment to this filing, hence no additional Tier 1 Advice Letter will be required by February 1, 2020 for the 2021 PY.

budget estimate for the upcoming program year in the ERRA Forecast filing due in early June of each year. Once SCE receives approval of its ERRA Forecast from the Commission, SCE will record CPA's approved budgets in the DAC-GT and CSGT sub account and set aside the total requested CPA budget in a sub-account of its DAC-GT and CSGT balancing accounts. SCE will then remit program funds to CPA in four quarterly installments (by January 1, April 1, July 1 and October 1 of each year). If the ERRA Forecast is not approved by January 1 of a given PY, then SCE will transfer all past due funds to CPA within no less than thirty days of issuance of such approval.⁶²

Once received, CPA will track the program funds and costs in separate accounts (i.e., one account for its CSGT program funds and a separate account for its DAC-GT program funds). These accounts will record all generation cost deltas, customer bill discounts, and program expenses as described in the budget section above and will be the basis for recording actual expenditures in the Annual Budget Advice Letters.

In 2020, depending on the timing of the Commission's approval of this Advice Letter, SCE will include both the PY 2020 and PY 2021 budget estimates in its 2021 ERRA Forecast filing in early June or its 2021 ERRA Forecast update in November. Once the 2021 ERRA Forecast is approved, SCE will transfer all past due PY 2020 funds within thirty days of issuance of such approval along with the appropriate transfer of budgeted funds for the first quarter of 2021.

5. Marketing, education, and outreach

Per D.18-06-027, CPA will establish a Marketing, Education and Outreach ("ME&O") program to promote customer participation in the DAC-GT and CSGT programs. CPA will directly implement the ME&O program and/or hire a third-party to execute outreach. Furthermore, D.18-06-027 directs that utilities should establish a statewide website with information on the programs.

CPA is submitting a ME&O plan for PYs 2020-2021 attached to this Advice Letter as Appendix 3. The ME&O plan follows the guidance in the Resolution⁶³ and discusses specific methods for customer outreach, including any coordination with CBOs and community sponsors, for each of the programs separately. The plan addresses how CPA will work to identify residential customers in DACs who are likely eligible for the CARE and FERA programs but who are not yet enrolled. Finally, the plan discusses how to leverage customer engagement on DAC-GT and CSGT to market other programs (such as the Energy Assistance Savings (ESA) Program) that can benefit the same universe of customers.

Both the ME&O plan and budget are subject to change depending on the date of approval of this Advice Letter in 2020. Per the Resolution, CPA will file annual ME&O plans and detailed budgets by February 1 of each year for the upcoming PY, starting in 2021.

⁶² Per Resolution E-4999 at 45, the CPUC Energy Division hosted an IOU/CCA stakeholder workshop in September, 2019, at which the parties arrived at a joint recommendation on coordination of the CCA budgeting process, IOU ERRA filings, and IOU fund transfers, the details of which have been subsequently reviewed and confirmed by SCE staff.

⁶³ Resolution E-4999 at 31.

6. Reporting

Within 30 calendar days after the end of each calendar quarter, CPA will submit a quarterly report that describes the capacity procured, the capacity online, and customers subscribed for both programs, distinguishing between the DAC-GT and CSGT data. The quarterly reports will also identify the DACs in which projects are located and list the number of participating customers in each DAC within CPA's service territory. Finally, the quarterly reports will include the number of customers who have successfully enrolled in CARE and FERA in the process of signing up for the DAC-GT or CSGT programs. The quarterly report will be served onto the service list of R.14-07-002.

Semi-annually, within 30 calendar days after the end of each six-month period of the year, CPA will report the following information for CSGT projects to the Commission's Energy Division:⁶⁴

1. the number of income-qualified customers subscribed to each project and the capacity those customers are receiving;
2. whether a waitlist of non-income-qualified customers exist and the size of that list;
3. if Community Sponsors are receiving bill credits under CSGT projects and the size of each Community Sponsor's subscription; and
4. the number of master-metered properties served on the CSGT tariff and the total capacity those properties are subscribed to receive.

CPA's first quarterly or semi-annual report will be filed on the first scheduled due date after CPA completes its first RFO or has initiated customer enrollment, whichever occurs first.

7. Program measurement and evaluation

D.18-06-027 directs the Commission's Energy Division to select an independent evaluator to evaluate the progress, effectiveness and efficiency of the DAC-GT and CSGT programs every three years beginning in 2021.⁶⁵ The Decision also notes that the CSGT program should be evaluated after the first year.⁶⁶ The Resolution indicated that it is appropriate to interpret the first year of the CSGT program as the first-year customers are able to subscribe to projects.⁶⁷ The Resolution requires IOUs to include proportional shares of a total of \$400,000 in funding for the independent evaluator in their budgets for 2021, and \$200,000 annually thereafter.⁶⁸

CPA proposes that independent evaluation of CCA DAC-GT and CSGT programs commence in 2022 or after the first full year of program implementation, and will work with Energy Division to determine the appropriate scope, funding level and budget allocations for CCAs to include in their 2022 and subsequent program year budgets.

⁶⁴ Reports will be submitted to Energy Division Central Files.

⁶⁵ D.18-06-027 at 105, OP 18.

⁶⁶ *Id.* at 84.

⁶⁷ Resolution E-4999 at 31.

⁶⁸ *Id.* at 68, OP 5.

In accordance with the Resolution, CPA will seek to ensure that all renewable energy resources procured on behalf of customers participating in the DAC-GT and CSGT programs, as well as interim resources (if any), comply with the California Air Resources Board's ("CARB") Voluntary Renewable Electricity Program. California-eligible GHG allowances associated with these purchases will be retired on behalf of participating customers as part of CARB's Voluntary Renewable Electricity Program. CPA will track the retirement of renewable energy credits ("RECs") through Green-e Energy Certification.⁶⁹

NOTICE

Anyone wishing to protest this advice letter filing may do so by letter via U.S. Mail, facsimile, or electronically, any of which must be received no later than 20 days after the date of this advice filing. Protests should be mailed to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Copies should also be mailed to the attention of the Deputy Executive Director, Energy Division, Room 4004 (same address above).

In addition, protests and all other correspondence regarding this advice letter should be sent by letter or transmitted electronically to the attention of:

Karen Schmidt
Regional Affairs Manager
Clean Power Alliance
555 W. 5th Street, 35th Floor
Los Angeles, CA 90013
Email: kschmidt@cleanpoweralliance.org

There are no restrictions on who may file a protest, but the protest shall set forth specifically the grounds upon which it is based and shall be submitted expeditiously.

In accordance with General Rule 4 of GO 96-B, CPA is serving copies of this advice filing to the interested parties shown on the R. 14-07-002 service list. For changes to these service lists, please contact the Commission's Process Office at (415) 703-2021 or by electronic mail at Process_Office@cpuc.ca.gov.

END OF AL

⁶⁹ *Id.* at 105, OP 1.s.

APPENDIX 1. SCHEDULE DAC-GT, DISADVANTAGED COMMUNITY GREEN TARIFF PROGRAM, AND SCHEDULE CSGT, COMMUNITY SOLAR GREEN TARIFF PROGRAM¹

Clean Power Alliance of Southern California Disadvantaged Communities Green Tariff Program

The purpose of the Disadvantaged Communities Green Tariff Program (“DAC-Green Tariff Program”) is to provide eligible customers residing in disadvantaged communities with a bill credit from having Clean Power Alliance of Southern California (“CPA”) procure 100 percent renewable resources from qualified renewable generating facilities in disadvantaged communities (“Qualified Facilities”) to serve their electricity needs.

APPLICABILITY

This program is available to residential CPA customers who are eligible for the California Alternate Rates for Energy (“CARE”) or Family Electric Rate Assistance (“FERA”) program and reside within a Disadvantaged Community (“DAC”) as defined in the Terms and Conditions below.

Qualified Facilities are defined as new Renewable Portfolio Standard (“RPS”) eligible generating facilities with a nameplate rated generating capacity between 500 kW to 20 MW that are located within a DAC in Southern California Edison’s (“SCE”) service territory and that supply energy to CPA via a Power Purchase Agreement for the purposes of meeting customer subscriptions under this program. Prior to new qualified facilities coming online, CPA will serve DAC-Green Tariff Program customers on an interim basis utilizing existing resources that otherwise meet all of the requirements of the DAC-Green Tariff Program. Once the new DAC-Green facilities come online, CPA’s DAC-Green Tariff customer subscriptions will be served by these projects.

This program is available to customers on a first-come, first-served basis until customer subscriptions reach 12.19 megawatts (“MW”) (CPA’s DAC-Green Tariff Program Cap). Enrollment in the DAC-Green Tariff Program will occur as specified in the Terms and Conditions below. Once CPA reaches its DAC-Green Tariff Program Cap, a wait list will be maintained for new subscriptions. When program capacity becomes available, CPA will enroll new eligible customers on a first-come, first-served basis.

This program is not available to customers served under master metered schedules (i.e., Schedules DM, DMS-1, DMS-2, DMS-3), non-CARE/FERA eligible rates such as TOU-EV-1,

¹ The DAC-GT and CSGT schedule forms in this appendix are provided for informational purposes to further support the Commission’s review of this Advice Letter. These documents are pending CPA Board review and approval, and may be updated to reflect the disposition of the CPA Board, but are provided herein as examples of the documents CPA will utilize in implementing the Programs upon Commission approval of the Advice Letter.

Net Energy Metering rates, or the Community Solar Green Tariff, or to Direct Access customers or SCE bundled customers.

This program will be available for customer participation as of [date TBD, to be specified by CPA Board of Directors].

RATES AND CREDITS

All customers enrolling in CPA's DAC-Green Tariff Program rate will receive 100% renewable electricity generation priced the same as CPA's Clean Power rate tier, and will remain on their current applicable SCE rate schedule(s) for transmission and delivery charges. All charges, credits and provisions of a customer's otherwise applicable tariffs ("OAT") apply.

The total amount billed to the customer will be adjusted by applying a credit to the customer's CPA charges equivalent to a 20 percent discount on their total bill under the OAT (including CPA generation charges, SCE transmission and distribution charges, and SCE CCA-CRS charges) prior to the application of state and local taxes.

Existing CARE or FERA customers, and customers eligible for CARE or FERA who enroll in CARE or FERA in the process of signing up for DAC-Green Tariff, will retain their CARE or FERA discount and the 20 percent DAC-Green Tariff credit will be applied to the customer's CARE or FERA rate.

TERMS AND CONDITIONS

1. **Customer eligibility.** To enroll in this program customers must meet the following eligibility criteria:
 - a. **CPA enrollment:** Program participants must be residential CPA customers. SCE bundled customers and customers served by Direct Access providers are not eligible to participate in this program.
 - b. **CARE/FERA eligibility:** Customers must be eligible for CARE or FERA program. If a customer is not already enrolled in CARE or FERA they may enroll in CARE or FERA prior to signing up for the DAC-Green Tariff program. If they elect not to enroll in CARE or FERA, they will be required to certify their eligibility for one of these programs as part of the process of enrolling in the DAC-Green Tariff.
 - c. **Disadvantaged community:** The customer's service address must be located in a DAC, identified by the CalEnviroScreen 3.0 as scoring among the top 25 percent of census tracts statewide, or census tracts scoring in the highest 5 percent of the CalEnviroScreen's Pollution Burden, but that do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data. In the event the census tract in which a customer resides is not scored as a top 25 percent DAC in a subsequent version of the CalEnviroScreen tool or as one of the census tracts in the top 5 percent of pollution burden, the customer may retain their

eligibility for DAC-Green Tariff.

2. **Participation in Demand Response programs.** Customers served by this program can concurrently participate in any Demand Response (“DR”) Programs for which they are otherwise eligible. All DR payments and credits are based on a customer’s metered usage and are not impacted by participation in this program.
3. **Ineligible rates.** Customers served under the following rate schedules cannot concurrently participate in the DAC-Green Tariff Program:
 - a. Net Energy Metering (“NEM”) schedules or RES-BCT schedules.
 - b. Other 100% renewable energy rates including CPA’s 100% Green Power rate and Community Solar-Green Tariff Program.
 - c. Customers served under a master meter rate schedule (i.e., Schedules DM, DMS-1, DMS-2 or DMS-3).
 - d. TOU-EV-1 or other non-CARE/FERA eligible rates.
 - e. Non-residential rate schedules.
4. **Customer enrollment and term.** After the Program start date, service under this program will become effective within two billing periods after CPA receives a request from a customer to enroll in this program and CPA has confirmed that the customer meets program eligibility requirements.

There is no minimum length of time that a customer must take service under this program. There is also no termination fee associated with de-enrolling from the DAC-Green Tariff Program. In the event a customer elects to no longer receive service under this program, the change will become effective no later than two billing periods after the date that CPA receives the customer’s request to de-enroll from the DAC-Green Tariff Program. Customers are eligible to remain on the DAC-Green Tariff Program for a period of up to 20 years from the date they first began service under this program.

In the event that a customer turns off service at their current address and moves to a new location, the customer will need to recertify eligibility at the new location for service under this program. If they still meet the eligibility requirements the customer will retain their status as a program participant as long as the customer’s turn-on date at the new location is within 90 days of the final billing date at their original location and CPA receives the customer application within 90 days of the customer’s turn-on date.

Customers who, after enrollment into the DAC-Green Tariff Program, become ineligible for CARE or FERA will be de-enrolled from this program.
5. **Maximum subscription per customer.** Enrollment in this program is capped at 2 MW for any single customer.
6. **Metering.** All customers must be metered according to the requirements of their OAT.

**Clean Power Alliance of Southern California
Community Solar Green Tariff Program**

The purpose of the Community Solar Green Tariff Program (“CS-Green Tariff Program”) is to provide eligible customers residing in disadvantaged communities with a bill credit from having Clean Power Alliance of Southern California (“CPA”) procure 100 percent renewable energy from qualifying Community Solar facilities (“CS Facilities”) located within their communities to serve their electricity needs.

APPLICABILITY

This program is available to CPA residential customers who:

1. are eligible for the California Alternate Rates for Energy (“CARE”) or Family Electric Rate Assistance (“FERA”) program (“Qualifying Customers”)
2. reside in a census tract that is within a Disadvantaged Community (“DAC”) as defined in the Terms and Conditions below; and
3. reside in a census tract that is within five miles of a CS Facility as defined below.

Once 50 percent of a CS Facility’s output is subscribed by Qualifying Customers, this program is also available to:

1. Residential customers who are not eligible for the CARE or FERA program but reside within a DAC and in a census tract that is within five miles of the CS facility (“Non-qualifying Customers”); and
2. Community Sponsors, as defined in the Community Sponsor section of this tariff.

This program is available to customers until total program capacity of 3.13 megawatts (“MW”) (CPA’s CS-Green Tariff Program Cap) is reached, however, an individual CS Facility may be smaller and enrollment toward each CS Facility will be capped at the capacity of that facility. Once CPA’s CS-Green Tariff Program Cap is reached for one or all CS Facilities, a wait list will be maintained for new subscriptions. When program capacity becomes available, CPA will enroll new eligible customers on a first-come, first-served basis with priority given to Qualifying Customers.

Customers served under a master metered schedule (i.e., Schedules DM, DMS-1, DMS-2, and DMS-3) are eligible for this program once 50 percent of the CS Facility output is subscribed with Qualifying Customers. This program is not available to customers served under a Net Energy Metering rate schedule, or to Direct Access or SCE bundled customers.

This program will be available for Qualifying Customer participation once a CS facility has achieved commercial operation and for Non-qualifying Customers once the subscription rate for Qualifying Customers reaches the 50% threshold.

COMMUNITY SOLAR FACILITIES

For the purpose of this tariff, a CS Facility is defined as a Renewable Portfolio Standard (“RPS”) eligible generating facility that is located within a DAC and within five miles of the census tracts in which subscribing customers reside. CS Facilities may have a nameplate rated generating capacity no larger than 3 MW for any one project. The developer of a CS Facility must enter into a Power Purchase Agreement (“PPA”) with CPA for the sale and purchase of the power produced by the facility, and is responsible for developing and operating the CS Facility and partnering with one or more Community Sponsors for the project (see below for more information). Customers served by this program are not parties to the PPA and are not third-party beneficiaries to the PPA.

A CS Facility will retain its eligibility to serve customers under this program throughout the life of that project, even if the local qualified DAC designations change in subsequent iterations of CalEnviroScreen.

COMMUNITY SPONSORS

Each CS facility must have one or more Community Sponsors. Community Sponsor are local non-profit community-based organizations or local government entities, including schools, located in CPA’s service territory. Community Sponsors must demonstrate community involvement and awareness by sponsoring a CS-Green Tariff project on behalf of the residents.

A Community Sponsor located within a DAC and in a census tract that is within five miles of the CS facility may take service under this program and is eligible for a 20 percent bill credit for usage up to 25 percent of the project’s estimated output, not to exceed the Community Sponsor’s energy needs. Any usage above 25 percent of the project’s energy output will be billed at the Community Sponsor’s OAT and is not eligible for the 20 percent bill credit. The 20 percent bill credit will apply to the eligible portion of the Community Sponsors bill once 50 percent of the project’s capacity has been subscribed by Qualified Customers. Multiple Community Sponsors can sponsor a single CS-Green Tariff project and share in the 20 percent bill credit up to 25 percent of the project’s energy output provided that all sponsors meet the eligibility requirements above.

RATES AND CREDITS

All customers enrolling in the CS-Green Tariff will receive 100% renewable electricity generation priced at CPA’s Clean Power rate, and will remain on their current applicable SCE rate schedule(s) for transmission and delivery charges. All charges, credits and provisions of a customer’s otherwise applicable tariffs (“OAT”) apply.

The total amount billed to the customer each month will be adjusted by applying a 20 percent credit to the customer’s CPA and SCE charges under the OAT (including CPA generation charges, SCE transmission and distribution charges, and SCE CCA-CRS charges) prior to the application of state and local taxes and fees.

If a customer who is eligible for CARE or FERA enrolls in CARE or FERA in the process of signing up for this Schedule, the 20 percent credit will be applied to the customer's new CARE or FERA bill.

Community Sponsors taking service under this program will be eligible for a 20 percent bill credit on load up to 25 percent of the CS Facility's capacity. Any usage above 25 percent of the project's energy output will be billed at the Community Sponsor's OAT and not subject to the 20 percent bill credit. The Community Sponsor will receive the 20 percent bill credit will once 50 percent of the project's capacity has been subscribed by qualified customers.

TERMS AND CONDITIONS

1. **Customer eligibility.** To enroll in this program customers must meet the following eligibility criteria:
 - a. **CPA enrollment:** To receive service under this program participants must be CPA customers. SCE bundled customers and customers served by Direct Access providers are not eligible to participate in this program.
 - b. **Disadvantaged community:** The customer's service address must be located in a DAC, identified by the CalEnviroScreen 3.0 as scoring among the top 25 percent of census tracts statewide, or census tracts scoring in the highest 5 percent of the CalEnviroScreen's Pollution Burden that do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data.

 In the event the census tract in which a customer resides is not scored in a subsequent version of the CalEnviroScreen tool as a top 25 percent DAC or as one of the census tracts in the top 5 percent of pollution burden, the customer may retain their eligibility for CS-Green Tariff.
 - c. **Proximity to CS Facility:** Customers must reside in a DAC census tract that is within five miles of a CS Facility.
 - d. **CARE/FERA eligibility:** The first 50 percent of the output of a CS Facility will be reserved for residential customers who meet the other eligibility requirements and are eligible for the CARE or FERA program ("Qualifying Customers"). If a customer is not already enrolled in CARE or FERA they may enroll in CARE or FERA prior to signing up for the DAC-Green Tariff program. If they elect not to enroll in CARE or FERA, they will be required to certify their eligibility for one of these programs as part of the process of enrolling in the CS-Green Tariff.
 - e. **Non-qualifying Customers:** After 50 percent of the output of a CS Facility has been subscribed by Qualifying Customers, non-qualifying residential customers as defined in the Applicability section of this tariff, including customers served under a master meter rate schedule (i.e., Schedules DM, DMS-1, DMS-2 or DMS-3), may enroll in the program and receive the 20 percent CS-Green Tariff credit.

- f. **Community Sponsors:** After 50 percent of the output of a CS Facility has been subscribed by Qualifying Customers, Community Sponsors may enroll eligible service accounts and receive the 20 percent CS-Green Tariff credit, subject to the conditions and limitations listed in the Community Sponsors section of this tariff.
2. **Participation in Demand Response programs.** Customers served by this program can concurrently participate on any Demand Response (“DR”) Programs for which they are otherwise eligible. All DR payments and credits are based on a customer’s metered usage and are not impacted by participation in this program.
3. **Ineligible rates.** Customers served under the following rate schedules cannot concurrently participate in the CS-Green Tariff Program:
 - a. Net Energy Metering (“NEM”) and RES-BCT schedules.
 - b. CPA’s Disadvantaged Communities Green Tariff Program.
4. **Customer enrollment and term.** After a CS Facility has achieved commercial operation, service under this Schedule shall become effective within two billing periods after CPA receives an enrollment request from a customer and CPA has confirmed that the customer meets program eligibility requirements.

In the event a customer elects to no longer receive service under this program, the change will become effective no later than two billing periods after the date that CPA receives the customer’s request to de-enroll from the CS-Green Tariff Program.

In the event that a customer moves and turns off service at their current address and moves to a new location, the customer will need to recertify eligibility at the new location for service under this program. The customer will retain their status as a program participant as long as the customer meets all eligibility criteria, program capacity is available, the customer’s turn-on date at the new location is within 90 days of the final billing date at his/her previous location and the application is received by CPA within 90 days of the turn-on date.

Service under this program will automatically terminate at the start of the next billing period if the PPA between CPA and the developer of the CS facility to which the customer is subscribed is terminated or the delivery term ends.
7. **Maximum subscription per customer.** The load served by CPA to an individual customer under this program (subscription) is capped at 2 MW of nameplate rated generating capacity from a CS Facility. Customers cannot be subscribed to more than one CS Facility at any time.
8. **Metering.** All Customers must be metered according to the requirements of their OAT.

APPENDIX 2. PROGRAM BUDGET ESTIMATES FOR 2020-2021

For 2020-2021, Clean Power Alliance of Southern California (“CPA”) proposes a total budget of \$2,530,884 for the DAC-GT and CS-GT programs. This includes \$1,770,139 for DAC-GT and \$760,745 for CSGT. Table 1 shows the proposed program budgets by year using the budget categories required in Resolution E-4999. The specific budget categories are discussed further below. This appendix includes the detailed budget information for both programs.

Table 1. CPA’s Proposed Budgets for DAC-GT and CSGT for 2020-2021

Category	DAC-GT			CSGT			Total
	2020	2021	Total	2020	2021	Total	
Generation Cost Delta	\$4,098	\$77,203	\$81,301	\$0	\$0	\$0	\$81,301
20% Bill Discount	\$18,863	\$355,370	\$374,232	\$0	\$0	\$0	\$374,232
Program Administration	\$287,462	\$334,894	\$622,356	\$307,367	\$409,128	\$716,495	\$1,338,851
Marketing, Education & Outreach	\$282,250	\$410,000	\$692,250	\$20,750	\$23,500	\$44,250	\$736,500
Independent Evaluator	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$592,673	\$1,177,466	\$1,770,139	\$328,117	\$432,628	\$760,745	\$2,530,884

As described in this Advice Letter, CPA will file, by February 1 of each program year, a Tier 1 Budget Advice Letter.¹ In its Annual Budget Advice Letter filing, CPA will request approval of its estimated budget for the upcoming program year (e.g., by February 1, 2021 for the 2022 PY); report its actual expenditures during the prior program year (e.g., by February 1, 2021 for the 2020 PY); and reconcile the prior year’s budget estimate with actual expenditures. Any unspent funds from the prior PY will be used to offset the forecasted budget for the upcoming PY. If actual expenditures exceeded the forecast in the previous program year, CPA will add the shortfall to the forecasted budget for the upcoming program year. This Annual Budget Advice Letter will be the mechanism for the Commission and stakeholders to review CPA CSGT and DAC-GT program costs and performance.

A. Budget Details

Resolution E-4999 requires that annual budget submissions include the following:²

- Line items for any generation cost deltas
- 20 percent bill discount for all participating customers
- Program administration costs

¹ The budgets for PY 2020 and 2021 are included as an attachment to this filing, hence no additional Tier 1 Advice Letter will be required by February 1, 2020 for the 2021 PY.

² Resolution at 67, OP 2.

- ME&O funding

In addition, Resolution E-4999 requires IOUs to include budget for a proportional share of funding for an independent evaluator to review the DAC-GT and CSGT programs every three years beginning in 2021³ and to review the CSGT program after the first year that customers are able to subscribe to the program.⁴ CPA addresses these five requirements in the following subsections.

1. Generation Cost Delta

CPA does not anticipate having new DAC-GT or CSGT projects online in 2020 or 2021 due to permitting, construction, and interconnection processes and timelines, but does anticipate securing existing DAC-GT qualified solar energy and enrolling eligible customers starting in 2020. The budget estimates for the generation cost delta in PY 2020-2021 are summarized in Table 2.

CPA calculated the generation cost delta in PY 2020-2021 by comparing the generation cost for interim DAC-GT resources to the generation cost for the base product that customers would otherwise receive (CPA's "Clean Power" product) if they were not participating in the programs. The generation cost for the base product is be a weighted average of the generation costs of the product's renewable and non-renewable content, including Resource Adequacy. The delta between this weighted average cost and the generation cost of the DAC-GT resource was then be multiplied by the forecasted volume to be served each month to arrive at the total generation cost delta from the program. The methodology and assumptions used to calculate the generation cost deltas are detailed in Appendix 5 of this Advice Letter.

Table 2. CPA's Estimated Generation Cost Delta for DAC-GT and CS-GT for 2020-2021

	DAC-GT			CS-GT		
	2020	2021	Total	2020	2021	Total
Total participating customer load (kWh)	528,750	9,961,650	10,490,400	0	0	0
Total unsubscribed output (kWh)	0	0	0	0	0	0
Total generation volume (kWh)	528,750	9,961,650	10,490,400	0	0	0
Generation cost delta	\$4,098	\$77,203	\$81,301	\$0	\$0	\$0

2. 20-Percent Bill Discount

As described in this Advice Letter, program participants will receive a 20-percent discount on the otherwise applicable rate of enrolled SA IDs, to be applied as a bill credit to their CPA generation charges. CPA's PY 2020 and 2021 budgets include the estimated total amount of

³ *Id.* at 68, OP 5.

⁴ *Id.* at 31.

the customer bill discount to be recovered, as summarized in Table 3. The budget estimates are based on forecasted monthly enrollment in the DAC-GT program and average monthly CARE customer bills in CPA's service territory. The assumptions and calculations used to estimate the customer bill discounts are detailed in Appendix 5.

Table 3. CPA's Estimated 20-Percent Bill Discount Costs for DAC-GT and CSGT for 2020-2021

	DAC-GT			CS-GT			Total
	2020	2021	Total	2020	2021	Total	
Total Customer Enrollment	500	3,200	3,200	0	0	0	3,200
20 Percent Bill Discount	\$18,863	\$355,370	\$374,232	\$0	\$0	\$0	\$374,232

3. Program Administration Costs

Administration costs are broken into program management, IT, billing operations, regulatory compliance, and procurement. These cost categories are discussed further in the following subsections. Resolution E-4999 adopts a cap of 10 percent of each program's total annual budget to be allocated to program administration.⁵ However, the Resolution also acknowledges that startup costs may be higher in the early years of the programs and allows administrative costs above the 10 percent cap for the initial budget.⁶

For 2020-2021, CPA estimates total Program Administration costs of \$622,356 for DAC-GT, which is 35% of the total DAC-GT budget of \$1,770,139. For CSGT in 2020-2021, CPA estimates total Program Administration costs of \$716,495, which is 94% of its the total CSGT budget of \$760,745. The percentage of Program Administration budget compared to the overall program budgets is currently higher than 10 percent cap because 1) the budget includes initial program startup costs, and 2) because the DAC-GT and CSGT programs will not be fully enrolled in 2020-2021, and therefore the total program budgets for 2020-2021 do not include fully enrolled costs for the 20-percent bill discount or above-market generation costs. Table 4 shows the total proposed Program Administration costs for the two programs and the estimates are discussed in further detail on the next page.

⁵ Resolution at 57, Findings and Conclusions ¶ 41.

⁶ *Id.* at 57, Findings and Conclusions ¶ 42.

Table 4. CPA's Proposed Program Administration Budgets for DAC-GT and CSGT for 2020-2021

Category	DAC-GT			CSGT			Total
	2020	2021	Total	2020	2021	Total	
Program Management	\$142,462	\$204,894	\$347,356	\$162,367	\$279,128	\$441,495	\$788,851
Information Technology	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Billing Operations	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Regulatory Compliance	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Procurement	\$145,000	\$130,000	\$275,000	\$145,000	\$130,000	\$275,000	\$550,000
Total	\$287,462	\$334,894	\$622,356	\$307,367	\$409,128	\$716,495	\$1,338,851

a. Program Management

CPA estimates program management costs of \$788,851 for staff time to design and initiate program implementation, marketing, procurement, and ensure coordination with SCE and CPUC for budgetary and regulatory compliance. Because marketing activities in 2020-2021 will be focused almost entirely on the DAC-GT Program, Marketing Manager costs are allocated only to the DAC-GT Program, while the Community Solar Project Manager costs, are allocated solely to the CSGT program. All other program management costs are shared across the two programs and split evenly between the two program budgets.

Table 5. Program Management Budget Details

Position	Hourly Rate	2020 % Yr	2020 Hours	2020 Total Labor Spend	2021 % Yr	2021 Hours	2021 Total Labor Spend
Program Manager	\$80	50%	1,040	\$83,554	100%	2,080	\$167,107
Community Solar Project Manager	\$72	50%	1,040	\$74,984	100%	2,080	\$149,968
Procurement & Contracts Manager	\$117	30%	624	\$73,109	30%	624	\$73,109
Marketing Manager	\$66	40%	832	\$55,079	55%	1,144	\$75,734
Financial Manager	\$87	10%	208	\$18,103	10%	208	\$18,103
Total				\$304,829			\$484,022

b. Information Technology (IT)

CPA does not expect to incur any incremental IT costs for the DAC-GT and CSGT programs during 2020-2021 beyond the website enhancements which are included in the ME&O budget.

c. Billing Operations

CPA does not expect to incur any incremental billing operations costs for the DAC-GT and CSGT programs during 2020-2021 beyond the website enhancements which are included in the ME&O budget.

d. Regulatory Compliance

CPA has included the costs for regulatory compliance associated with the DAC-GT and CSGT programs into its budget line item for Program Management staffing above.

e. Procurement

Based on the solicitation timeline described at the beginning of Section I, CPA estimates total procurement costs of \$550,000 for DAC-GT and CSGT in 2020-2021. Procurement cost estimates were determined by taking actual costs from prior CPA distributed resource solicitations and adjusting them based on the size, scope, and complexity of the solicitations for these programs. With the exception of the Community Solar Consulting expense, which is allocated only to the CSGT program, these costs are shared among the two programs and are spread evenly across the two programs for purposes of setting program-specific budgets.

Table 6. Procurement Budget Details

Category	2020	2021	Total
RFO Administration	\$70,000	\$40,000	\$110,000
RFO Valuation	\$70,000	\$70,000	\$140,000
Community Solar Consulting	\$100,000	\$100,000	\$200,000
Legal	\$50,000	\$50,000	\$100,000
Total	\$290,000	\$260,000	\$550,000

RFO Administration represents costs for a third-party to conduct RFO administration services, including a web-based platform to intake bids, manage communications from and with bidders, and ensure the RFO is conducted in conformance with the RFO Protocol. RFO Valuation represents costs for a third-party to conduct RFO valuation services, including ensuring that bid submissions are in conformance with the RFO project eligibility requirements and performing analysis to determine quantitative and qualitative assessment of bids. As discussed in Section 3b of the Advice Letter, CPA will partner with its member jurisdictions to take an active role in identifying community solar sites within its service territory. The Community Solar Consulting line item represents third-party costs for site and project sponsor identification and site feasibility

analysis. Legal includes costs for external legal counsel to support PPA negotiations, assuming use of the standard pro forma contract with minimal edits.

4. ME&O Funding

Resolution E-4999 adopts a cap of 4 percent of each program's total annual budget to be allocated to ME&O.⁷ However, the Resolution also acknowledges that startup costs may be higher in the early years of the programs and allows ME&O costs above the 4 percent cap for the initial budget.⁸ For 2020-2021, CPA estimates total ME&O costs of \$692,250 for DAC-GT, which is 35% percent of its total budget of \$1,997,446. For CSGT for 2020-2021, CPA estimates total ME&O costs of \$44,250, which is 6% percent of its total budget of \$760,745. ME&O costs are higher in 2020-2021 for the DAC-GT because enrollment is anticipated to begin in 2020, whereas enrollment for the CSGT will not begin until after 2021. The percentage of ME&O budget compared to the overall program budgets is currently higher than 4 percent because it includes start-up and outreach costs and also because the programs will not be fully enrolled in 2020-2021 and therefore the total budget for 2020-2021 does not include fully-enrolled costs for the 20-percent bill discount or above-market generation.

CPA plans to implement the proposed ME&O efforts with a combination of third-party creative and digital agencies and other print and media vendors. These vendors will be awarded contracts based on CPA procurement policies and procedures including a competitive Request for Proposals (RFP) process. To determine the budget estimates for ME&O for DAC-GT and CSGT, CPA worked with its current third-party vendors to develop proxy estimates based on detailed estimated and/or actual spend for similar ME&O activities for similar programs. These estimates include costs for graphic design and production, translation, printing and mailing, website design, and social media and paid media buys.

The ME&O budget also includes a line item for outreach grants to CBOs (including eligible Community Sponsors) with whom CPA will collaborate to support customer outreach, education and enrollment in DAC communities.

A detailed description of CPA's planned ME&O efforts can be found in CPA's ME&O plan, attached as Appendix 3.

⁷ Resolution at 57, Findings and Conclusions ¶ 41.

⁸ *Id.* at 57, Findings and Conclusions ¶ 42.

Table 7. CPA's Proposed ME&O Budget for DAC-GT and CSGT for 2020-2021

Category	DAC-GT			CSGT			Total
	2020	2021	Total	2020	2021	Total	
Grassroots Marketing							
Community-Based Organization outreach grants	\$20,000	\$120,000	\$140,000	\$0	\$0	\$0	\$140,000
Event display materials/ handouts/supplies	\$12,500	\$3,000	\$15,500	\$0	\$5,500	\$5,500	\$21,000
Total	\$32,500	\$123,000	\$155,500	\$0	\$5,500	\$5,500	\$161,000
Targeted Marketing							
Direct mail postage/printing	\$190,000	\$190,000	\$380,000	\$0	\$0	\$0	\$380,000
Targeted media radio ads	\$5,000	\$10,000	\$15,000	\$0	\$0	\$0	\$15,000
Targeted media print ads	\$5,000	\$25,000	\$30,000	\$0	\$0	\$0	\$30,000
Graphic design	\$2,000	\$0	\$2,000	\$0	\$2,000	\$2,000	\$4,000
Translation services	\$3,000	\$0	\$3,000	\$0	\$3,000	\$3,000	\$6,000
Total	\$205,000	\$225,000	\$430,000	\$0	\$5,000	\$5,000	\$435,000
Broad-based Marketing							
Social media ads	\$5,000	\$12,000	\$17,000	\$0	\$0	\$0	\$17,000
Digital ads	\$5,000	\$40,000	\$45,000	\$0	\$0	\$0	\$45,000
Graphic design	\$15,000	\$2,000	\$17,000	\$8,000	\$1,000	\$9,000	\$26,000
Flyers/fact sheets printing	\$3,000	\$5,000	\$8,000	\$0	\$5,000	\$5,000	\$13,000
Translation services	\$9,000	\$3,000	\$12,000	\$9,000	\$3,000	\$12,000	\$24,000
Website graphic design	\$1,000	\$0	\$1,000	\$0	\$1,000	\$1,000	\$2,000
Web page translations	\$3,000	\$0	\$3,000	\$0	\$3,000	\$3,000	\$6,000
Total	\$41,000	\$62,000	\$103,000	\$17,000	\$13,000	\$30,000	\$133,000
Research							
Customer focus groups (participant incentives)	\$1,000	\$0	\$1,000	\$1,000	\$0	\$1,000	\$2,000
Translation services	\$1,000	\$0	\$1,000	\$1,000	\$0	\$1,000	\$2,000
Focus group meeting expenses (childcare)	\$1,750	\$0	\$1,750	\$1,750	\$0	\$1,750	\$3,500
Total	\$3,750	\$0	\$3,750	\$3,750	\$0	\$3,750	\$7,500
TOTAL	\$282,250	\$410,000	\$692,250	\$20,750	\$23,500	\$44,250	\$736,500

5. Independent Evaluator Funding

As discussed in section 7 of this Advice Letter, CPA proposes that independent evaluation of CCA DAC-GT and CSGT programs commence in 2022, after the first full year of program implementation, and hence CPA has not included any budget in 2020-2021 for independent

evaluation. CPA will include a budget allocation for independent evaluation in future Annual Budget Advice Letters following CPUC direction.

B. Program Capacity and Customer Details

The Resolution states, “[f]or each program, the budget submission must include details on the program’s existing capacity, the capacity targeted for procurement in that program year, the number of customers currently served, and the number of additional customers estimated to be served.”⁹ Table 8 provides this information for the 2020 - 2021 budget.

Table 8. CPA Targeted DAC-GT and CSGT Program Capacity and Enrollment

Program Detail	DAC-GT		CSGT	
	2020	2021	2020	2021
Existing Capacity at beginning of period ¹⁰	0 MW	0.97 MW	0 MW	0 MW
Capacity targeted for procurement ¹¹	0.97 MW	6.19 MW	0 MW	0 MW
Number of customers currently served	0	500	0	0
Number of additional customers estimated to be served	500	2,700	0	0

C. GHG Revenue Set Asides

The Resolution requires that “the revised budgets must reflect any greenhouse gas (GHG) revenue approved to be set aside by each utility for DAC-GT and CSGT in its 2019 Energy Resource Recovery Account (ERRA) Forecast Decision.”¹²

Depending on the timing of the Commission’s approval of this Advice Letter, SCE will include both CPA’s PY 2020 and PY 2021 budget estimates in its 2021 ERRA Forecast filing in early June or its 2021 ERRA Forecast update in November. Once the 2021 ERRA Forecast is approved, SCE will remit all past due PY 2020 funds within thirty days of issuance of such approval.

⁹ Resolution at 27.

¹⁰ For PY 2020-2021 this refers to interim DAC-GT resources.

¹¹ *Ibid.*

¹² Resolution at 68, OP 5.

APPENDIX 3. MARKETING, EDUCATION AND OUTREACH PLAN

Clean Power Alliance of Southern California DAC-GT and CSGT Program Marketing, Education & Outreach Plan

I. PURPOSE AND GOALS

The overarching goal of the DAC-GT and CSGT programs is to provide low-income customers living in disadvantaged communities with access to the benefits of locally generated, 100% renewable energy and a 20 percent discount on their otherwise applicable rates. Clean Power Alliance of Southern California (“CPA”) will develop and implement a targeted customer marketing, education, and outreach (“ME&O”) campaign to provide potential customers in DACs with awareness of the opportunity to benefit from these programs. CPA’s ME&O strategy has four main goals: (1) increase awareness of and enrollment in CARE and FERA discount programs (2) enroll eligible customers in the DAC-GT and CSGT programs, (3) increase customer awareness of and enrollment in other CPA customer incentives, discounts, or programs that can provide energy use and bill savings; (4) conduct research, as needed, on barriers and benefits to participation and enhance outreach to DAC and hard-to-reach customers in an accessible and equitable manner. Throughout this process, CPA aims to achieve meaningful and diverse customer engagement through a culturally-competent, multi-lingual approach.

To achieve these goals, CPA will develop a targeted customer engagement campaign that leverages engagement tactics including (1) grassroots customer outreach (door to door, in-person engagement, community events, etc.) by CPA staff in partnership with member agencies and community-based organizations (“CBOs”); (2) targeted marketing to eligible customers in DACs in CPA’s service territory; and (3) broad-based digital and print communications. Ultimately, CPA will measure program success by the number of customers enrolled in the DAC green programs and the CARE and FERA low income assistance programs. CPA will also measure program success by the overall number of customers reached, and the diversity of customers reached.

Section II describes CPA’s overall ME&O approach which is applicable to both the DAC-GT and CS-GT programs. Sections III and IV discuss tactics that are unique to the DAC-GT program and the CSGT program. Section V summarizes the ME&O budget for 2020-2021, and Section VI provides an overview of the timeline for ME&O activities.

II. ME&O APPROACH FOR BOTH DAC-GT & CSGT

This section describes the ME&O approach and tactics that are applicable to both the DAC-GT and CSGT programs.

A. Guiding Principles

CPA is committed to developing diverse and culturally appropriate communication strategies to enable stakeholders to participate in decisions and actions that impact their communities. As such, CPA commits to the following guiding principles throughout the ME&O engagement process for the DAC green program. CPA aims to:

- Achieve diverse and meaningful engagement that reflects the demographics of DAC communities in CPA's service territory to allow for equitable outreach across race, income and age barriers.
- Maintain transparency and accessibility of information by bringing the information directly to customers in their neighborhood, in their community, or interest space to better engage them in the process.
- Build a collaborative process with community partners to consider barriers and benefits to participation in ME&O activities to the maximum extent possible.

B. Target Audience

In accordance with the DAC-GT and CSGT program eligibility criteria, CPA's primary target audience is low-income customers living in DACs within CPA's service territory. CPA's 32 member agencies in Los Angeles and Ventura Counties include an estimated 316 DAC census tracts with an estimated 183,594 residential customers.¹

CPA's M&O outreach will target low-income DAC residents including: renters; individually-metered residents of affordable housing complexes and mobile home parks; underserved communities, including for example African American, Latino, Asian or rural White communities; and monolingual speakers, including for example, Spanish, Chinese, Russian or Tagalog speakers in disadvantaged communities in CPA's service territory including:

- San Gabriel Valley (Alhambra, Temple City, Arcadia, Hacienda Heights, Rowland Heights)
- Oxnard/Ventura
- South L.A. (View Park, Watts/Willowbrook, Lennox, Athens)
- South Bay (Carson, West Carson, Hawthorne)
- Eastside (East LA, East Pasadena, Whittier, West Whittier, Downey)

C. Market research

CPA will conduct multi-lingual marketing research amongst low-income/DAC customers to determine favored and intuitive names, language, and graphics for the two new programs. This will include initial input from focus groups in English, Spanish, Chinese, and Tagalog to test and receive customer feedback on collaterals and messaging prior to branding the programs and developing the collaterals and ads. It will also include customer surveying during and after each year of the program enrollment. CPA will conduct an end of the year marketing and outreach evaluation to determine the ME&O effectiveness and ways to be more responsive in the following year to customer concerns. Having continuous customer input will help enhance culturally competent, resonant messaging and approaches that lead to optimal program enrollment.

¹ UCLA Luskin Center analysis, 2019; Resolution E-4999 at p. 15.

D. Marketing tactics and delivery methods

CPA will conduct a three-tiered multi-lingual ME&O strategy across diverse mediums targeting all customers in DACs:

1. Grassroots marketing via CBOs and CPA staff and member agencies to reach customers in person at events and through direct outreach.
2. Targeted marketing via email and direct mail to CARE/FERA customers in DACs and paid ethnic media ad campaigns.
3. Broad-based marketing via website and social media campaigns and dissemination of print materials.

1. Grassroots marketing

CBO outreach

CPA will expand its recently launched CBO Grant Program² to build awareness of the programs and enroll customers in the program. CBOs bring cultural expertise, community relationships and reputation, and previous engagements and credibility with hard-to-reach and underserved customers.

CBO grantees will receive a training on the DAC-GT and CSGT programs and outreach kits with culturally and linguistically appropriate collaterals and signage, as well as computer tablets for easy digital enrollment.

Collectively, the goal is to engage 40,000 hard to reach low-income and/or monolingual customers by the end of 2020. The CBO grantees should identify eligible customers through community outreach and events as well as through direct outreach to CPA customers in their region who are already enrolled in CARE or FERA. CBO grantees deliverables should include enrolling customers in CARE/FERA, DAC-GT and CSGT programs, and other relevant CPA programs; conducting customer education and relationship building; and building CPA brand awareness. CBO grantees should also conduct a survey (as referenced above) to evaluate ways to optimize program design, messaging, and outreach efforts that they will collect and disseminate to CPA throughout and at the end of their grant cycle.

CPA and member agency outreach

CPA staff will publicize the DAC-GT and CSGT programs at community events, presentations and workshops in coordination with its member agencies and CBO grantees. CPA's Community Advisory Committee ("CAC"), comprised of 15 appointed customers representing 7 different sub-regions within CPA's service territory, will be given outreach kits and trained on how to do

² An annual CPA grant program designed to advance awareness of and enrollment in CPA programs and to build strong community messengers and alliances with hard-to-reach low-income customers. The inaugural CBO Outreach Grant application cycle launched in December 2019 and the first cycle of funding will run from February-December 2020. Funding from CPA's DAC-GT and CSGT ME&O budget would be used to expand the scope of the grant program to include outreach on DAC-GT CSGT programs.

outreach and enrollment within their community networks.

CPA will adapt its DAC-GT and CSGT materials, messaging, social media and website content and create communications kits for our member agencies (the cities and counties that govern our Joint Powers Authority or JPA) and coordinate with the member agencies' Public Information Officers to disseminate to their residents. The disseminated content can include city and board members' websites, newsletters, social media channels, and public television channels.

2. Targeted marketing

Direct mail/email

CPA will send targeted program mailers and emails to CARE/FERA/Medical Baseline enrolled customers located in DACs, identifying preferred language where possible. Email open rates and website click through rates (specifically from email notices), enrollments (and how the customer learned about the program), and call center calls about the program (whether they reference the mailers and/or emails) will be tracked to assess the effectiveness of the messages and tailor future outreach. CPA will work with member agencies to disseminate co-branded mail and email to their contact lists and networks in DACs (e.g., via neighborhood councils).

Targeted Diverse and Underserved Media Paid Advertisements

CPA will launch robust paid media campaigns targeting prominent diverse and underserved community media print and radio outlets in underserved communities highlighting the program benefits and enrollment process. There will be several cycles of ads that tie in different seasonal or cultural messages (for example: Lunar New Year in early 2021 targeting Chinese radio/print).

3. Broad-based marketing

Website

CPA will create a dedicated portion of a webpage on our main website to the DAC-GT and CSGT programs. CPA will create parallel DAC-GT and CSGT sub-pages which, based on DAC customer demographics, are in Spanish and Chinese with translated graphics for the homepages as well. As applicable, CPA will link on-line program resources to the Statewide Green Tariff program website to be developed by the IOUs.

Social media

CPA will conduct extensive and targeted social media campaigns targeting key communities and zip codes where there is high CARE/FERA enrollment by the appropriate language encouraging enrollment by driving customers to our website. CPA will use data from CalEnviroScreen and our CARE/FERA customer enrollment, as well as previous low-income focused social media campaigns to help inform targeting. In addition, CPA's ME&O social media strategies will include creating social media kits for CBOs, stakeholders, member agencies, and others to post culturally relevant visual content to Facebook, Twitter, Next Door, and WeChat.

Print materials

CPA will create culturally appropriate fact sheets, flyers and outreach kit materials targeting diverse segments of DAC dwelling residential customers. All printed materials will be available in Spanish, Chinese, and Tagalog, and other materials may be developed. The materials will explain the program and enrollment process in brief, including the economic and environmental benefits of participation, while highlighting the call center and website. They will be utilized in the customer focus groups and then updated to include focus group feedback. CBOs, CPA staff, and other stakeholders will disseminate the fliers.

E. ME&O measurement

CPA will collect the following metrics for each applicable ME&O channel and will evaluate their effectiveness and areas for improvement in an end of the year analysis:

- Website visits and page views;
- Email click-through and open rates;
- Social media engagement (e.g., likes, followers, shares, re-tweets, click throughs to website);
- Number of media impressions;
- Number of customers reached
- Outreach event and workshop participation;
- Call center mentions of ethnic media ad campaigns, mailers, CBO outreach/events, or social media/digital ads
- Any increase in customers enrolling after marketing campaigns or CBO outreach, particularly by certain regions or monolingual populations

III. ME&O APPROACH SPECIFIC TO THE DAC-GT PROGRAM

ME&O for the DAC-GT program will utilize all of the strategies described above, and will be the primary focus of CPA's ME&O activities during PY 2020-2021. Broad-based marketing will be aimed at income-qualified customers in all DACs in CPA's service territory, with messaging focused on the customer benefits of the 20-percent bill discount as well as the broad community benefits of renewable energy development.

IV. ME&O APPROACH SPECIFIC TO THE CSGT PROGRAM

ME&O for the CSGT program will also utilize all of the tactics described in section II, with greater emphasis on grassroots marketing and targeted marketing in the specific DACs in which CSGT Projects are being or have been developed. All residential customers in a DAC and within 5 miles of the CSGT Project will be targeted for participation. Outreach targets will include non-income qualified residents of those communities as well as property owners and residents of master-metered residential complexes, who will be eligible for enrollment in CSGT after 50 percent of a CSGT Project has been subscribed by income-qualified residents. In addition to the broader messaging about program benefits, the CSGT outreach will speak to the localized benefits specific to the community in which the CSGT Project is located including economic

development, community sponsorship, and community resilience.

Community Sponsors will play a central role in grassroots outreach to potential customers, utilizing many of the same grassroots marketing mechanisms and materials as the CBOs described above. Eligible Community Sponsors may receive support for their ME&O activities via the CBO grant program.

ME&O activities for CSGT in PY 2020-2021 will be limited to customer research and graphic design of digital and print materials in preparation for launch of CSGT projects and customer enrollment starting in 2022.

V. ME&O BUDGET

CPA's total proposed ME&O budget for PY 2020-2021 is \$736,500. The budgets for each program and delivery channel are listed in the table below. Appendix 2 includes detailed budgeted costs for each category.

Table 1. CPA's Proposed DAC-GT and CSGT ME&O Budget By Channel for 2020-2021

Category	DAC-GT			CS-GT			Total
	2020	2021	Total	2020	2021	Total	
Grassroots Marketing	\$32,500	\$123,000	\$155,500	\$0	\$5,500	\$5,500	\$161,000
Targeted Marketing	\$205,000	\$225,000	\$430,000	\$0	\$5,000	\$5,000	\$435,000
Broad-based Marketing	\$41,000	\$62,000	\$103,000	\$17,000	\$13,000	\$30,000	\$133,000
Research	\$3,750	\$0	\$3,750	\$3,750	\$0	\$3,750	\$7,500
Total	\$282,250	\$410,000	\$692,250	\$20,750	\$23,500	\$44,250	\$736,500

This budget includes costs for locally based consultants and contractors CPA will utilize to complete certain deliverables, such as graphic design, web development, translation, printing, and mailing, and grants to CBOs to conduct grassroots outreach. The budgets reflect increased messaging, design, printing, and mailing costs in 2020 to prepare for program launch, while outreach and ad campaign costs will increase in 2021. CPA staff time to oversee and administer the ME&O plan is included in the program management budget in Appendix 2.

VI. ME&O TIMELINE

The tables on the next page show the timeline of ME&O activities for DAC-GT and CSGT in 2020-2021.

DAC-GT ME&O Calendar 2020-2021

CATEGORY	Q3 2020			Q4 2020			Q1 2021			Q2 2021			Q3 2021			Q4 2021		
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
MARKETING RESEARCH																		
Naming Research																		
Message Development																		
Translation																		
Customer focus groups (4)																		
Messaging refinement and analysis																		
COLLATERALS DESIGN																		
Flier development																		
Flier design																		
Mailer development																		
Mailer design																		
Collaterals refinement																		
Collaterals translation																		
EMAIL AND DIRECT MAIL CAMPAIGNS																		
Customer email list development																		
First email campaign																		
Second email campaign																		
Mailer printing																		
First mailer sent																		
Second mailer sent																		
WEBSITE DEVELOPMENT AND SOCIAL MEDIA CAMPAIGNS																		
Website copy development																		
Website graphic design development																		
Social media creative content development																		
First round of social media ads																		
Second round of social media ads																		
CBO ENGAGEMENT																		
DAC-GT CBO Training for 2020 Grantees																		
CBO Outreach on DAC-GT																		
2021 CBO Outreach Grant Cycle																		
DAC-GT CBO Training for 2021 Grantees																		
CBO Outreach																		
PAID ETHNIC MEDIA AD CAMPAIGNS																		
Print and radio ad development																		
Print and radio ad translation																		
Print ad graphic design																		
First paid ad campaign																		
Second paid ad campaign																		

CSGT ME&O Calendar 2020-2021

CATEGORY	Q3 2020			Q4 2020			Q1 2021			Q2 2021			Q3 2021			Q4 2021		
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
MARKETING RESEARCH																		
Naming Research																		
Message Development																		
Translation																		
Customer focus groups (4)																		
Messaging refinement and analysis																		
COLLATERALS DESIGN																		
Flier development																		
Flier design																		
Mailer development																		
Mailer design																		
Collaterals refinement																		
Collaterals translation																		
EMAIL AND DIRECT MAIL CAMPAIGNS																		
Customer email list development																		
First email campaign																		
Second email campaign																		
Mailer printing																		
First mailer sent																		
Second mailer sent																		
Third mailer sent																		
Fourth mailer sent																		
WEBSITE DEVELOPMENT AND SOCIAL MEDIA CAMPAIGNS																		
Website copy development																		
Website graphic design development																		
Social media creative content development																		
First round of social media ads																		
Second round of social media ads																		
CBO ENGAGEMENT																		
2021 CBO Outreach Grant Cycle																		
CS -GT CBO Training for 2021 Grantees																		
2021 CBO Outreach on CSGT																		
PAID ETHNIC MEDIA AD CAMPAIGNS																		
Print and radio ad development																		
Print and radio ad translation																		
Print ad graphic design																		
First paid ad campaign																		
Second paid ad campaign																		



2020 DAC-GT and CS-GT Request for Offers

Launch: [XXXX]

Close: [XXXX]

RFO Protocol

1. Introduction

On June 21, 2018, the California Public Utilities Commission approved [\("D."\)18-06-027](#) *Alternate Decision Adopting Alternatives to Promote Solar Distributed Generation in Disadvantaged Communities* adopting three new programs to promote the installation of renewable generation among residential customers in disadvantaged communities ("DAC")¹, as directed by the California Legislature in Assembly Bill ("AB") 327(Perea), Stats. 2013, ch 611. Pursuant to D.18-06-027, Community Choice Aggregators ("CCAs") may develop and implement their own DAC-GT and CS-GT programs.

Per [Resolution E-4999](#), Clean Power Alliance of Southern California ("CPA") has been allocated 12.19 MW for its DA Green Tariff ("DAC-GT") program and 3.13 MW for its Community Solar Green Tariff ("CS-GT") program. CPA is soliciting competitive proposals for new, in-front-of-the-meter renewable energy resources located in eligible disadvantaged communities. The requirements for these renewable energy resources are listed below in Section 2b.

General instructions for participating in CPA's RFO and product-specific requirements are described in the text of this document ("RFO Protocol").

¹ DACs are defined under D.18-06-027 as communities that are identified in the CalEnviroScreen 3.0 as among the top 25 percent of census tracts statewide, plus the census tracts in the highest five percent of CalEnviroScreen's Pollution Burden that do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data. Resolution E-4999 clarified that Program Administrators must file a Tier 1 Advice Letter to update program eligibility rules within 30 days of a new release of the CalEnviroScreen tool.

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2. Background

a. Description of CPA

Established in 2017, CPA is a Joint Powers Authority made up of 32 local agencies across Los Angeles and Ventura Counties serving electricity to over 1 million customers in the region. CPA was established to provide cost competitive electric services, reduce electric sector greenhouse gas emissions, stimulate renewable energy development, implement distributed energy resources, promote energy efficiency and demand reduction programs, and sustain long-term rate stability for residents and businesses through local control.

CPA seeks to develop an electric supply portfolio with overall lower greenhouse gas (“GHG”) emissions than that of Southern California Edison, to encourage the use and development of cost-effective renewable and distributed energy resources, and to discourage the use of unbundled renewable energy credits (“RECs”). CPA also seeks to provide and manage its energy portfolio and products in a manner that is cost effective to customers, to promote public health in areas impacted by energy production, to achieve regional economic benefits and workforce development, and to offer customers a choice of differentiated renewable product tiers.

b. RFO Overview and Project Eligibility

The goal of this RFO is for CPA to solicit and evaluate offers for renewable energy in order to fill CPA’s eligible program capacity allocation under the DAC-GT and CS-GT programs. Below is a description of eligibility requirements for projects offered in this RFO.

DAC-GT Project Eligibility

- The Project must be physically located in and connecting electrically to a circuit, load, or substation within SCE’s service territory and located within an eligible DAC, as further defined in Section 2c.
- The Project must be a new solar, wind, hydroelectric, or biomass/biogas Renewable Portfolio Standard (“RPS”)-eligible, in-front-of-the-meter generating facility with a nameplate rated generating capacity between 500 kW and 13 MW, inclusive. Behind-the-meter projects, non-renewable technologies, and other complimentary technologies are not eligible.
- The Project must have an online date no later than December 31, 2023.
- The Project must have completed a Phase I Interconnection Study.
- The Project must comply with the California Air Resources Board’s Voluntary Renewable Electricity Program.
- The Project must be Green-e certified.
- The Project must qualify as a DAC-GT Project pursuant to D.18-06-027, [D.18-10-007](#), and Resolution E-4999.

CS-GT Project Eligibility

- The Project must be physically located within 5 miles of a DAC census tract within CPA's service territory², connected electrically to a circuit, load, or substation within SCE's service territory, and located within an eligible DAC, as further defined Section 2c.
- The Project must be a new, RPS-eligible solar, in-front-of-the-meter generating facility with a nameplate rated generating capacity of less than or equal to 3.00 MW_{AC}. Behind-the-meter projects, non-renewable technologies, and other complimentary technologies are not eligible.
- The Project must have an online date no later than December 31, 2023.
- The Project must have completed a Phase I Interconnection Study.
- The Project must comply with the California Air Resources Board's Voluntary Renewable Electricity Program.
- The Project must be Green-e certified.
- The Project must qualify as a CS-GT Project pursuant to D.18-06-027, [D.18-10-007](#), and Resolution E-4999.
- The Project must submit a letter of commitment from a non-profit community-based organization ("CBO") or a local government entity or school that would serve as a sponsor for the CS-GT project on behalf of the residents that are located in a DAC within CPA's service territory for the offered Project which must contain at minimum:
 - Demonstration of substantial interest of community members in subscribing to Project;
 - Estimated number of subscribers, with justification to ensure Project is sized to likely demand;
 - A preliminary plan to conduct outreach and recruit subscribers (which may be conducted in conjunction with the developer and/or CPA); and
 - Siting preferences, including community-suggested host sites, and verification that the site chosen for the bid is consistent with community preference.

c. Disadvantaged Communities

The CPUC has defined an eligible DAC as census tracts that either: (1) score at or above the 75th percentile (i.e., scoring in the top 25 percent statewide) in the California Environmental Protection Agency's ("CalEPA") CalEnviroScreen 3.0 on a statewide basis, or (2) are one of the census tracts that score in the highest five percent of CalEnviroScreen's pollution burden, but that do not have an overall score.

² CPA's service territory includes unincorporated Los Angeles County, unincorporated Ventura County and the cities of: Agoura Hills, Alhambra, Arcadia, Beverly Hills, Calabasas, Camarillo, Claremont, Carson, Culver City, Downey, Hawaiian Gardens, Hawthorne, Malibu, Manhattan Beach, Moorpark, Ojai, Oxnard, Paramount, Redondo Beach, Rolling Hills Estates, Santa Monica, Sierra Madre, Simi Valley, South Pasadena, Temple City, Thousand Oaks, Ventura, West Hollywood, Westlake Village, and Whittier.

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

The CalEPA has created an online map that displays the CalEnviroScreen results, where one can pan and zoom into various areas of California to graphically identify the general location of DACs. There are multiple ways to identify DACs:

A. Via Data List (Spreadsheet). In order to download a data list of areas that correspond to the preceding map, one can:

1. Visit the CalEPA DAC website
2. Download the List of Disadvantaged Communities Excel file
3. Filter the data set (on either tab)

B. Search by Address. One can also determine DAC status of one or more specific addresses. For a single address, go back to the CalEnviroScreen map and, in the “Find address or place” field, input the address and determine the color coding alongside the map’s Legend.

d. RFO Website

All information regarding this RFO will be posted to the RFO website ([XXXX]). Bidders will submit all offers (including narrative, offer form templates, redlined contracts, and all other materials) to the RFO email address: [XXXX]. All Q&A questions from bidders shall also be submitted to the same email address.

e. Acknowledgement of Terms

By participating in CPA’s RFO, respondents (“Bidders”) acknowledge that they have read, understand, and agree to the terms and conditions set forth in this RFO Protocol. CPA reserves the right to reject any offer that does not comply with the requirements identified herein. Furthermore, CPA may, in its sole discretion and without notice, modify, suspend, or terminate the CPA RFO without liability to any organization or individual. The CPA RFO does not constitute an offer to buy or create an obligation for CPA to enter into an agreement with any party, and CPA shall not be bound by the terms of any offer until CPA has entered into a fully executed agreement.

3. Submission Details

a. Registration

To access RFO materials, participate in Q&A, and receive notifications, all Bidders must register online at: [XXXX].

b. Timeline

Date	Item
[XXXX]	RFO issuance and Q&A open
[XXXX]	Bidder Webinar to discuss RFO process at [XXXX]
[XXXX]	Deadline to submit Q&A questions. Submit questions to: [XXXX]
[XXXX]	Q&A responses posted to the CPA RFO website
[XXXX]	Deadline to submit RFO Proposals at [XXXX]
[XXXX]	Bidders notified of shortlist status
[XXXX]	Power Purchase Agreement (“PPA”) negotiations and awards

Responses to the RFO are due [XXXX].

c. Compliant Submission Specifications

All offers must meet the following specifications in order to be considered for selection. Please ensure that proposals conform to the appropriate specifications for the project submitted. Any deviations from the following list will be treated as non-compliant and excluded from consideration.

Price	<p>Fixed \$/MWh with zero percent (0%) annual escalator. Prices must be offered at the project Pnode.</p> <p>Note: Actual payments to bidder will be consistent with the terms of the PPA Agreements for each project.</p>
Number of Offers	<p>Bidders may submit a maximum of one (1) offer per unique facility/location. This project should be the largest size and most competitive offer that meets all compliance requirements. All projects will be evaluated with the assumption that smaller project sizes may be priced and negotiated during final shortlisting negotiations.</p> <p>Alternative configurations, durations, or pricing schemes may be submitted as descriptions within the narrative document (see full description in “Submission Package” section below) but may not be evaluated or considered until final negotiations or at all.</p> <p>NOTE: If a single Bidder wishes to submit multiple unique facilities (at different locations), each project must be submitted as an entirely separate Submission Package with fully completed copies of each relevant document.</p>

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

Term	Bidders must submit a conforming offer with a term of fifteen (15) years. Bidders may also provide additional alternate offers of ten (10) years and twenty (20) years, if desired.
Scheduling Coordinator	For generation only projects, Seller shall be the Scheduling Coordinator ("SC"). Bidders may also provide an alternative offer that reflects CPA as the SC.
Ownership	All projects will be owned by the Bidder, with CPA contracting the output of the resource for the duration of the contract term.
Expected Commercial Operation Date ("COD")	On or prior to December 31, 2023.
Deliverability	Both "Energy Only" projects and projects with Full Capacity Deliverability Status ("FCDS") are eligible for this RFO. Energy Only projects will not receive any value for providing Resource Adequacy benefits.
Seller Security Requirements	\$60/kW of Contract Capacity.
Guaranteed Energy Production	One hundred sixty percent (160%) of proposed estimated annual energy production in each 2-year performance measurement period.
Workforce Development	<p>Prevailing wage requirement: All employees hired by the project developer, and its contractors and subcontractors, that will perform construction work or provide services at the site related to construction of the Facility shall be paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable California law, if any. A project's prevailing wage obligations can be satisfied upon the execution of a project labor agreement related to construction of the Facility.</p> <p>Targeted hire requirements: The project will comply with the following targeted hire requirements (refer to Section 4b of the RFO Protocol for defined terms):</p> <ul style="list-style-type: none"> • A minimum of 40% of all hours of project work shall be performed by Local Targeted Worker • A minimum of 10% of all hours of Project Work shall be performed by Disadvantaged Workers whose primary place of residence is within Los Angeles and Ventura Counties. • 60% of all Journeymen Wiremen working on the project shall be graduates of a state approved electrical apprenticeship program. • At least 10% jobsite electrical workers shall be OSHA 30-hour General Industry Safety and Health Certified.

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

	<ul style="list-style-type: none">• All electrical work will be performed by Journeymen Electricians, or Apprentices currently being trained in a California Approved Electrical Apprenticeship Program under the Supervision of a Journeyman Electrician. <p>All Apprentices will be registered in a state of California approved apprenticeship program under the supervision of a certified electrician.</p>
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d. Submission Package

Projects bids should be submitted via email to [XXXX] by the submission deadline with a subject line of “2020 DAC-GT RFO” or “2020 CS-GT RFO” as appropriate. Submissions must include the following attachments, as detailed in the sections following:

- i. Fully completed Offer Form template
- ii. Project Narrative
 - For CS-GT projects, this must include a sponsor letter of commitment
- iii. Redlined PPA
- iv. Executed non-disclosure agreement
- v. ArcGIS file of project’s geospatial footprint

Project Narrative

Bidders should submit a brief narrative of the proposed project and vendor qualifications. This narrative will be primarily used as a reference for specific project details that are not fully captured in the Offer Form templates and for further assessment of shortlisted proposals. The contents of the narrative will not be used as part of initial quantitative or qualitative project evaluation but is mandatory for promotion to the final shortlist. **The project narrative should be submitted as a pdf document.**

The project narrative must include the following sections in the order listed below:

1. Project summary
 - i. Brief summary of project including location, sizing, and any relevant high-level details (1-2 paragraphs)
2. Project details summary table
 - i. Should include project name, location city and county, capacity size, energy sizing (duration), COD, and pricing (\$/kW-month)
3. Detailed site description
 - i. Detailed description of the current land use of the project footprint, including a detailed site map
 - ii. Describe the project’s proposed interconnection, including proximity to transmission interconnection and any new interconnection facilities that would need to be built
4. Project risk
 - i. Brief overview of project risks, particularly related to status of:
 1. Project interconnection

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

2. Site control and permitting
3. Environmental zoning, studies, and permitting
4. Financing
5. Community experience
 - i. Describe what benefits the project provides the community in which it is located, including resiliency, CPA member agency partnership or co-investment, and grant eligibility
 - ii. Describe completed or planned community outreach and communications strategy
6. Developer experience
 - i. Brief description of developer experience, particularly as relates to previously completed projects of a similar scope and scale
7. Offer variants
 - i. Description of additional variants the bidder would like CPA to consider.
 - ii. If the bidder would like to propose offer variants beyond the one proposed in the Offer Form Template, these variants may be described in text in this section. These additional variants may not be submitted as offer form templates and will not be evaluated in the quantitative evaluation phase but may be assessed for additive value if the initial proposal is chosen for shortlisting consideration.
 1. Alternative offers that might be proposed in this section include distinct CODs, alternative pricing schemes, alternative SC arrangements, or any other arrangements that may provide additional value.
8. **For CS-GT projects only**, the project must attach the sponsor letter of commitment, as referred to in Section 2b, which must contain at minimum:
 - i. Demonstration of substantial interest of community members in subscribing to Project;
 - ii. Estimated number of subscribers, with justification to ensure Project is sized to likely demand;
 - iii. A preliminary plan to conduct outreach and recruit subscribers (which may be conducted in conjunction with the developer and/or CPA); and
 - iv. Siting preferences, including community-suggested host sites, and verification that the site chosen for the bid is consistent with community preference.

Offer Form Template

The excel file data template is the primary source of data for evaluating submissions. **This Offer Form template is mandatory and must be fully completed for a submission to be considered compliant.** The Offer Form template contains the following sections, and a guide for which sheets must be completed is provided on the instructions sheet in each of the two templates. All yellow fields in the sheets relevant to the proposed project should be fully completed, utilizing the drop-down lists when provided.

1. **Participant & Project Info:** these values provide summary information for the project
2. **Hourly Profile:** these values will be used for quantitative modeling of renewable generation resources

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

3. **Qualitative Assessment:** this questionnaire gathers information for qualitative selection criteria. Responses to the qualitative questionnaire will be a significant component to CPA's project evaluation
4. **Development Risk:** these questions are intended to assess potential project development risk

Redlined PPAs

CPA is including the Pro Forma PPA that CPA intends to use as the basis for contracting with successful Bidders. The Pro Forma PPA is the same for all counterparties, and CPA will only accept changes to the Pro Forma PPA related to Project-specific characteristics and information.

Bidders must consider the commercial terms stipulated in this RFO Protocol as well as those commercial terms defined in the agreement when submitting an offer to this RFO. CPA will consider limited requests for adjustments and edits to its form agreements, provided that such requested edits are incorporated as redline edits to the Pro Forma PPA Word document and submitted as part of the submission package. While CPA will consider limited requests for adjustments and edits to its form agreements, adherence to CPA's standard contract terms is an important factor in CPA's evaluative process that will be strongly weighted. Offers that accept CPA's standard contract terms will be given preference during such evaluation. Bidders should be aware that changes to CPA's standard contract terms submitted after the response deadline may result in disqualification of the offer and, if applicable, forfeiture of the Shortlist Deposit provided under the Exclusivity Agreement.

ArcGIS Project File

All projects are required to submit an ArcGIS file of the relevant geospatial footprint of the project. Please refer to Exhibit A: Instructions for ArcGIS Maps and Offer Form Template "Qualitative Assessment" Sheet for further instructions.

Non-Disclosure Agreement

All Bidders are required to sign CPA's standard Non-Disclosure Agreement ("NDA"). CPA will not accept changes to the NDA.

b. Screening and Compliance

After the submission deadline, all submissions will be reviewed for basic compliance and completeness. At the discretion of CPA, developers may be contacted to notify them of deficiencies in their submission materials. **Bidders will have five (5) business days to respond with updated and compliant submission materials or risk rejection from consideration.**

Bidder is solely responsible for checking compliance of all submitted materials. Lack of communication from CPA does not imply confirmation of a compliant submission.

2. Evaluation and Selection Criteria

Projects will be evaluated based on a combination of quantitative and qualitative criteria. Quantitative criteria will focus on project performance and economics, while qualitative criteria will focus on factors

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

related to environmental stewardship, workforce development, development risk, project location, and impact on Disadvantaged Communities. Both categories of criteria will play a major role in project evaluation.

a. Quantitative Evaluation

All projects will be assessed for market performance against the relevant project Pnode. Initial evaluation of all projects will use the hourly generational profile data provided in the Offer Form templates (sheets 3a and 4a) dispatched against simulated Pnode prices to model energy and capacity value over the 15-year project lifetime. Pnode prices will be generated using modeling that accounts for changes in regional fundamentals (congestion, solar generation, storage, etc) over time. This analysis will provide an estimate of energy value for each project, which along with the \$/MWh PPA cost submitted in the proposal will be used to calculate an overall value for each project.

b. Qualitative Evaluation Criteria

In performing this evaluation, CPA will consider a common set of qualitative criteria, a partial list of which is included below. This list may be revised at CPA's sole discretion and includes:

- Overall clarity and quality of response, inclusive of completeness, timeliness, and conformity
- **Development Risk**
 - Development risk refers to project development status, including but not limited to progress toward interconnection, deliverability, siting, zoning, permitting and financing requirements.
 - All projects will be assessed for project development risk using the answers supplied in the "Development Risk" sheet of the Offer Form template. The results of these questions will be used to provide an additional qualitative project score to aid in final project shortlisting.
- **Environmental Stewardship**
 - CPA is committed to be an environmental leader by providing customers with energy that delivers multiple benefits for air, water, and nature and avoids impacts to important lands, species, and waters. CPA will prioritize projects that are considered multi-benefit renewable energy and projects located in areas zoned for renewable energy development. CPA will de-prioritize projects located in high-conflict areas.
- **Workforce Development**
 - CPA is committed to creating community benefits, which includes engaging a skilled and trained workforce and targeted hires. CPA will prioritize projects demonstrating the following:
 - Projects that have secured a 5-trade community benefit or project labor agreement.
 - Projects utilizing a skilled and trained workforce and meet all of the following criteria:

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

- All electrical work³ will be performed by Journeymen Electricians⁴ or Apprentices⁵
- At least 60% of all Journeyman Wiremen are graduates of a state-approved joint labor management apprenticeship training program
- At least 10% jobsite electrical workers shall be OSHA 30-hour General Industry Safety and Health Certified.
- Projects utilizing prevailing hourly wage rates
- Projects utilizing local and targeting hires:
 - A minimum of 40% of all hours of project work shall be performed by Local Targeted Workers⁶, with priority given to residents of Los Angeles and Ventura Counties. If the Contractor/Subcontractor/Employer (“C/S/E”) has exhausted the available pool of local residents, Local Targeted Worker shall refer to workers from Economically Disadvantaged areas.⁷
 - A minimum of 10% of all hours of project work shall be performed by Disadvantaged Workers⁸ whose primary place of residence is within a 25-mile radius of the project.
- **Project Location** – for DAC-GT and CS-GT projects, CPA has a high preference for projects located within CPA’s service territory.

³ Electrical work is defined as the placement, installation, commissioning, testing, programming, erection or connection of any electrical wires, fixtures, appliances, apparatus, raceways, conduits, transmission lines, solar photovoltaic cells or any part thereof, or any upgrade thereto; which generates, transmits, transforms, stores or storage used to integrate eligible renewable resources, add/or utilizes electrical energy, regardless of form or purpose, and regardless of voltage; as well as electrical energy efficiency, which includes but is not limited to: all lighting work, all advanced lighting controls (including third party certification, California Advanced Lighting Control Training Program {also known as “CALCTP”}, all building controls and automation, energy and electric technology related to metering, sub-metering and/or systems related to or regarding demand response.

⁴ Journeymen Electrician is a worker who either: 1) graduated from an apprenticeship program for the applicable occupation that was approved by the chief or located outside California and approved for federal purposes pursuant to apprenticeship regulations adopted by the Secretary of Labor, or 2) has at least as many hours of on-the-job experience in an applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

⁵ An Apprentice means registered in an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code who is performing work covered by the standards of that apprenticeship program and receiving the supervision required by the standards of that apprenticeship program.

⁶ Local Targeted Worker refers to workers located within a 25-mile radius of the project

⁷ Economically Disadvantaged Area" means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

⁸ Disadvantaged Worker means an individual who faces at least one of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran of the United States Armed Services; (9) being an apprentice with less than 15% of the required graduating apprenticeship hours in a program; or (10) residing in an area that falls in the top 15-percentile of the [CalEnviroScreen](#) 3.0 score.

3. Communication Guidelines

CPA will not be answering questions related to the RFO outside of the formal Q&A process. Bidders are prohibited from communicating with CPA personnel, board director or alternate outside of this Q&A process. **If it is discovered that a Bidder contacts and receives information from any CPA personnel, board director or alternate, outside of the rules established by this RFO, CPA may, in its sole determination, disqualify such Bidder's proposal from further consideration or take any other action as CPA may decide.** Please review CPA's Vendor Communication Policy, available at: https://cleanpoweralliance.org/wp-content/uploads/2019/06/CPA2019-010_Policy_Vendor-Communications.pdf.

Bidders' Webinar

CPA will host an informational webinar to review the objectives and process of this RFO. Bidders are encouraged to attend. A registration link for the webinar will be provided via email to Bidders who register on the RFO website.

Q&A

All questions will be answered through a formal Q&A process. Bidders must submit questions to [XXXX] by 11:59 PM Pacific Standard Time on [XXXX]. All questions received and all answers to such questions will be posted in a single response document for all Bidders to view on the CPA RFO website. CPA reserves the right to group questions, combine issues, or organize answers in a manner that CPA finds appropriate.

4. Buyer Security

CPA does not intend to provide collateral or performance security in connection with any PPAs that it may execute in connection with this RFO. By submitting an offer through this RFO, Seller acknowledges and accepts that CPA does not intend to provide collateral or performance security in connection with any PPA, and no such offer submitted will be subject to a requirement that CPA post collateral or security.

5. Exclusivity Agreement

Following Bidder notification (i.e., shortlist selection), in order to continue with the process, selected Bidders will be required to sign CPA's standard Exclusivity Agreement that is attached to the RFO Release documents as "CPA Exclusivity Agreement.docx" and to **submit a deposit of \$3.00/kW AC for all short-listed project capacity ("Shortlist Deposit")**. The Shortlist Deposit is intended to secure the obligations of any shortlisted Bidder(s) during the negotiating period and to ensure that each offer has been carefully considered. The Shortlist Deposit must be in the form of either a cash deposit or a Letter of Credit. "Letter of Credit" means an irrevocable standby letter of credit, in a form reasonably acceptable to CPA, issued either by (i) a U.S. commercial bank, or (ii) a U.S. branch of a foreign commercial bank that meets the following conditions: (A) it has sufficient assets in the U.S. as determined by CPA, and (B) it is acceptable to CPA in its sole discretion. The issuing bank must have a credit rating of at least A- from S&P or A3 from Moody's, with a stable outlook designation. In the event

the issuer is rated by both rating agencies and the ratings are not equivalent then the lower rating will apply. All costs of the Letter of Credit shall be borne by Bidder.

Please refer to the CPA Exclusivity Agreement for additional details regarding the Exclusivity Period (as defined the Exclusivity Agreement) and return of the Shortlist Deposit.

6. No Guarantee of Offer or Agreement

This RFO does not constitute an offer from CPA to buy and creates no obligation to execute any agreement as a consequence of this RFO. Under no circumstances shall CPA be bound by the terms of any Bidder's proposal nor any subsequent agreement until CPA has obtained all necessary approvals of its management and the CPA Board of Directors and all the conditions precedent, if any, set forth in a fully executed agreement have been satisfied or waived.

CPA reserves the right, without qualification and in its sole discretion to: (i) select multiple Bidders or no Bidders at all, or (ii) negotiate one or more agreements on a bilateral basis outside the terms of this RFO. CPA may at any time and for any reason decline to enter into any potential PPA with any Bidder, terminate negotiations with any Bidder, or to abandon the RFO process in its entirety. CPA shall not be liable to any Bidder submitting a proposal in response to this RFO. CPA shall not be liable to any Bidder or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this request for submittals. No implied or express waiver of CPA's rights is intended.

CPA reserves the right to request clarification of information submitted through supplementary follow-up questions or inquiries or to request additional information from any one or more of the Bidders.

Each Bidder's costs for developing its proposals, including all RFO review, bid preparation and submittal costs, are entirely the responsibility of the applicable Bidder, and CPA shall not have any responsibility or liability for such costs.

CPA states that the information in this RFO Protocol is accurate to the best of CPA's knowledge but is not guaranteed to be correct. Bidders are expected to complete all due diligence activities prior to entering into any final contract negotiations with CPA.

7. Collaboration

No Bidder shall collaborate on, coordinate, or discuss with any other Bidder or potential Bidder the substance of this RFO, RFO strategies, or whether CPA has shortlisted certain bids.

8. Non-discrimination

CPA does not give preferential treatment based on race, gender, color, ethnicity, or national origin.

9. Confidentiality

All correspondence with CPA including responses to this solicitation will become the exclusive property of CPA and will become public records under the California Public Records Act (Cal. Government Code

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

section 6250 et seq.) All documents sent by Bidders to CPA may be subject to disclosure, unless exempt due to one of the narrow exceptions to the disclosure requirements.

In order to designate information as confidential, the Bidder must clearly stamp and identify the specific portion of the material designated with the word “Confidential” and provide a citation to the California Public Records Act that supports keeping the information confidential. Bidder should not over-designate material as confidential. Over-designation would include stamping entire pages or series of pages as confidential that clearly contain information that is not confidential.

Therefore, any proposal which contains language purporting to render all or significant portions of their proposal “Confidential”, “Trade Secret” or “Proprietary”, or which fails to provide the exemption information required as described below may be considered a public record in its entirety subject to the procedures described below. **Do not mark your entire proposal as “confidential”.**

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over the CPA, including the California Public Records Act, CPA may release Confidential Information, or a portion thereof, as required. In the event CPA is required to release Confidential Information, it shall notify the Bidder of the required disclosure, such that the Bidder may attempt (if it so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain. By submitting a proposal, Bidder agrees to indemnify and hold harmless CPA, its directors, officers, employees and agents, from any claims, liability, award of attorneys’ fees, expenses, or damages, and to defend any action brought against above said entities for CPA’s refusal to disclose any confidential, trade secret, or other proprietary information to any party.

CPA does not intend to disclose any part of any proposal before it announces a recommendation for approval by CPA’s Board of Directors of a contract, on the ground that there is a substantial public interest in not disclosing proposals during the evaluation or contract negotiation process.

10. Bidder Representations

By submitting a bid, Bidder agrees to be bound by the conditions of the RFO Protocol, and makes the following representations, warranties, and covenants to CPA, which representations, warranties, and covenants will be deemed to be incorporated in their entirety into each of Bidder’s submittals and are deemed to be material to CPA’s consideration of the proposals:

1. Bidder agrees that CPA is not liable to any Bidder or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this request for submittals and that Bidder has no legal recourse against CPA, its Members, CPA’s directors, officers, employees, and agents for rejection of their submittal(s).
2. Bidder acknowledges that it has had the opportunity to seek independent legal and financial advice of its own choosing with respect to this RFO and agrees to be bound by the terms and specifications of this RFO and any addenda subsequently issued prior to the due date of the submittal.
3. Bidder has obtained all necessary authorizations, approvals, and waivers, if any, required by Bidder to submit its bid pursuant to the terms of this RFO and to enter into a final agreement with CPA.

Appendix 4: Sample DAC-GT and CSGT Procurement Materials

4. Bidder acknowledges that CPA reserves the right to enter into relationships with more than one Bidder, can choose not to proceed with any Bidder with respect to one or more identified Tasks, and can choose to suspend this RFO or issue a new RFO that would supersede and replace this RFO.
5. Bidder warrants that it has no employees in its employ who in any capacity have a position at CPA that enable him/her to influence the selection of a Bidder or any competing RFO, nor does Bidder have in its employ any CPA Director, including any Regular or Alternating Directors (collectively "CPA Director") or CPA employee who is the spouse or economic dependent of such a CPA employee. A list of current CPA Directors can be found in CPA's Vendor Campaign Contribution Disclosure Form. This list may be updated from time to time.
6. Bidder's submission complies with all applicable laws.
7. Bidder warrants that all information submitted by Bidder to CPA in connection with this RFO is true and accurate as of the date of Bidder's submission. Bidder also covenants that it will properly update any submitted information immediately upon any material change thereto.

Bidder acknowledges and accepts that CPA does not intend to provide collateral or performance security in connection with any PPA.

Exhibit A: Instructions for ArcGIS Maps and Offer Form Template “Qualitative Assessment” Sheet

1. Create a Data Basin Account,
 - a. Go to www.DataBasin.org, click “Sign Up” and create a user account (free)
2. Load project geospatial data into Data Basin:
 - a. Create an ArcGIS Layer Package of your project footprint, including all associated infrastructure.
 - b. Click on “Create” and select “Import a Dataset”
 - c. Click on “Choose file” and select the ArcGIS Layer Package associated with your project’s geospatial footprint, agree to Data Basin terms of use and Submit. The layer package will load.
 - d. Add additional required metadata and be sure to mark the data layer as “private” in the upper right-hand corner.
 - e. Submit the layer package.
3. Use datasets and maps included in the Clean Power Alliance Gallery on Data Basin to answer questions below related to geospatially-explicit screening criteria:
 - a. Go to the [Clean Power Alliance Gallery](#). The gallery is organized into maps/datasets related to avoidance, and maps/dataset related to renewable energy zones and multi-benefit areas.
 - b. To open map or dataset, click on the hyperlinked name of the map or dataset which will open to a description. Then hover over the image of the map or dataset and click “Open in Map”.
 - c. Once the map or dataset loads into the interactive map platform, click on “layers” drawer. Click on the “Add Dataset” hyperlink at the top.
 - d. Search for Project dataset that you already loaded into Data Basin, select it, and click the “add items” button at the bottom of the screen.
 - e. Compare the screening layers with the project footprint dataset to answer the questions below.

Bidders are required to attach an ArcGIS Layer Package associated with their project’s geospatial footprint as part of the submission package.

Bidders may use the Data Basin links to download layers and screen the project footprint with their own GIS software.



Instructions for Completing the Offer Form Template

These instructions for the Offer Form template describe the following tabs in this spreadsheet, each of which need to be completed in full for each project submission:

1. Participant & Project Information

- Please provide complete information for each section (highlighted in yellow). Notes are provided for most cells to provide clarification of the requested information.
- Data must be supplied in the units requested.

2. Hourly Profile

- Please enter all requested data in the yellow portion of the Hourly Profile data template.
- The sheet has a pink line showing correctly entered example data. Please use this as a reference, and begin entering proposal data in the yellow field below.

3. Qualitative Assessment Questionnaire

- Please provide answers for each section, using the drop-down responses where supplied. This sheet must be completed in its entirety to receive full consideration.
- Additional instructions and definitions are provided in the RFO Protocol.

4. Development Risk Questionnaire

- Please provide answers for each question, using the drop-down responses where supplied. This sheet must be completed in its entirety to receive full consideration.

Note: Each separate project and each project offer must be submitted in its own separate Offer Form Template.

1. Participant & Project Info

YELLOW CELLS ARE INPUTS

Seller Information

Seller:
Contact Name:
Mailing Address:
Email:
Phone Number:

Description

Project Information

Project Name (enter a unique project title):
PNode:
City:
County:
Zip Code:
General Local Capacity Area:
Local Capacity Sub-Area:
Commercial Online Date (MM/DD/YYYY):
DAC Program (select one):
Project Type (select one):
PPA Offer (\$/MWh):
Generator Nameplate Capacity (MW):
Expected Average Annual Generation (MWh):

[illegible]

Must be a CAISO Pnode listed in OASIS with 2 years of historical data

City for project location

County for project location

Zip code for project location

Conforming offer is on or before 12/31/23.

For CS-GT project, this must be Solar

Interconnection Information

Queue ID/Position:
Point of Interconnection:
Interconnection Voltage:
Substation:
Generating Facility Deliverability:

2. Hourly Data Template

INPUT CELLS IN YELLOW

Project Name:

Developer:

Zip Code:

0.000000
0.000000
0.000000

For the projected data section, please provide forecasted hourly generation over the full (15 year) duration of the proposed project.

EXAMPLE:

Proposal Data:

Projected Future Hourly Forecasts (15 years)		
Start DateTime (mm/dd/yyyy HH am/pm)	End DateTime (mm/dd/yyyy HH am/pm)	Expected Energy (MWh)
01/01/2017 03 PM	01/01/2017 04 PM	25
01/01/2017 04 PM	01/01/2017 05 PM	19
1/0/00 12:00 AM	1/0/00 1:00 AM	
1/0/00 1:00 AM	1/0/00 2:00 AM	
1/0/00 2:00 AM	1/0/00 3:00 AM	
1/0/00 3:00 AM	1/0/00 4:00 AM	
1/0/00 4:00 AM	1/0/00 5:00 AM	
1/0/00 5:00 AM	1/0/00 6:00 AM	
1/0/00 6:00 AM	1/0/00 7:00 AM	
1/0/00 7:00 AM	1/0/00 8:00 AM	
1/0/00 8:00 AM	1/0/00 9:00 AM	
1/0/00 9:00 AM	1/0/00 10:00 AM	
1/0/00 10:00 AM	1/0/00 11:00 AM	
1/0/00 11:00 AM	1/0/00 12:00 PM	
1/0/00 12:00 PM	1/0/00 1:00 PM	
1/0/00 1:00 PM	1/0/00 2:00 PM	
1/0/00 2:00 PM	1/0/00 3:00 PM	
1/0/00 3:00 PM	1/0/00 4:00 PM	
1/0/00 4:00 PM	1/0/00 5:00 PM	
1/0/00 5:00 PM	1/0/00 6:00 PM	
1/0/00 6:00 PM	1/0/00 7:00 PM	
1/0/00 7:00 PM	1/0/00 8:00 PM	
1/0/00 8:00 PM	1/0/00 9:00 PM	
1/0/00 9:00 PM	1/0/00 10:00 PM	
1/0/00 10:00 PM	1/0/00 11:00 PM	
1/0/00 11:00 PM	1/1/00 12:00 AM	
1/1/00 12:00 AM	1/1/00 1:00 AM	
1/1/00 1:00 AM	1/1/00 2:00 AM	
1/1/00 2:00 AM	1/1/00 3:00 AM	
1/1/00 3:00 AM	1/1/00 4:00 AM	
1/1/00 4:00 AM	1/1/00 5:00 AM	
1/1/00 5:00 AM	1/1/00 6:00 AM	
1/1/00 6:00 AM	1/1/00 7:00 AM	
1/1/00 7:00 AM	1/1/00 8:00 AM	
1/1/00 8:00 AM	1/1/00 9:00 AM	
1/1/00 9:00 AM	1/1/00 10:00 AM	
1/1/00 10:00 AM	1/1/00 11:00 AM	
1/1/00 11:00 AM	1/1/00 12:00 PM	
1/1/00 12:00 PM	1/1/00 1:00 PM	
1/1/00 1:00 PM	1/1/00 2:00 PM	

3. Qualitative Assessment Questionnaire

INPUT CELLS IN YELLOW

Project Name:		0
Developer:		0

General Instructions

Consistent with Section 4 of the RFO Protocol, CPA will evaluate all submissions on a common set of criteria, including both quantitative and qualitative criteria. CPA places significant importance on qualitative criteria; therefore CPA recommends that bidders provide thorough and complete responses to the questions below. Please note that CPA will validate the accuracy of the submitted responses and will eliminate any submittals that are not responsive or accurate.

To respond to questions Q4 - Q6 and Q12 - Q14 please follow the instructions in Exhibit A of the RFO Protocol for accessing the Clean Power Alliance Gallery on Data Basin.

To respond to questions Q25a - Q29b, please refer to the Workforce Development definitions in Section 4b of the RFO Protocol.

Question	Criteria	Question	Response
1	Environmental Stewardship	Has your project obtained all necessary permits, including land use entitlement permit (e.g., Conditional Use Permit (CUP), Application for Certification (AFC), Record of Decision (ROD)) from lead land use permitting agency and all discretionary permits from other lead, trustee and/or responsible agencies including wildlife agencies?	
2	Environmental Stewardship	If the answer to Q1 is "No", please list permits not yet obtained and describe the planned efforts to obtain these permits, the status of discussions with state and federal wildlife agencies, and any recommendations regarding permits from those agencies.	
3a	Environmental Stewardship	Does the project require a Right of Way permit from BLM, or other federal agency?	
3b	Environmental Stewardship	If the answer to Q3a is "Yes", have you received the Record of Decision?	
4	Environmental Stewardship	If the project is located in LA County, is the project located within an LA County Significant Ecological Area?	
5	Environmental Stewardship	If the project is located in the West Mojave, is the project located in the green areas of the West Mojave Assessment for Least Conflict Solar Energy?	
6	Environmental Stewardship	If the project is located in Ventura County, is it located in a SOAR (Save Open Space & Agricultural Resources) protected area?	
7	Environmental Stewardship	Please state whether the project may impact any federal, state, local or other conservation designations or planning effort, and if yes, what they are:	
8	Environmental Stewardship	If the project is a wind project, please use the BLM's West Wide Wind Mapper to identify the level of siting considerations. What is the level of siting considerations?	
9	Environmental Stewardship	Please describe current and planned surveys to date, and survey findings.	
10	Environmental Stewardship	Please describe the status of any compensatory mitigation plans.	
11	Environmental Stewardship	Please describe any onsite efforts that project has made to avoid impacts to protected areas, habitat and habitat linkages (especially for threatened and endangered species) and open space in urbanized areas.	
12a	Environmental Stewardship	Is your project located in an area specifically designated preferred renewable energy development zone?	
12b	Environmental Stewardship	If the answer to Q12a is "Yes," please explain:	
13	Environmental Stewardship	CPA seeks to prioritize "multi-benefit renewable energy" - renewable energy that provides additional societal, health, economic, water saving, or environmental benefits beyond the climate and GHG reduction benefits of renewable energy. Indicated whether your project has multiple benefits, and identify which benefit your project demonstrates:	
14	Environmental Stewardship	Is your project located on an Environment Protection Agency (EPA) RE-Powering America's Land site (e.g. capped landfills, mine sites, other contaminated land)?	
15	Disadvantaged Community	Is your project located within a Disadvantaged Community (DAC)?	
16a	Disadvantaged Community	Does your project demonstrate benefits to DACs?	
16b	Disadvantaged Community	If the answer to Q16a is "Yes," please describe the benefit:	
17a	Disadvantaged Community	Regardless of whether or not your project is located in a DAC, have you conducted outreach to the communities around the project location?	
17b	Disadvantaged Community	If the answer to Q17a is "Yes" or "Planned in the Future," please describe the community outreach, including outreach methods (i.e. doorknocking, phone banking, internet, social media, mailings, physical notices posted), the languages spoken in communities surrounding the proposed project and the languages in which materials been made available, state the number of responses by community members, describe substantive responses, and describe any changes to the project undertaken in response to community responses.	
18a	Disadvantaged Community	Do you believe this project is consistent with community priorities?	
18b	Disadvantaged Community	If the answer to Q18a is "Yes", please describe why you believe this project is consistent with community priorities.	
19	Project Location	Where is your project located?	

20a	Workforce Development	Has your project secured or will plan to secure a 5-trade community benefit or project labor agreement?	
20b	Workforce Development	If the answer to Q20a is "No," has your project secured or will plan to secure other community benefit or project labor agreements?	
20c	Workforce Development	Please describe any community benefit or project labor agreements your project has secured or will secure.	
21	Workforce Development	Will your workforce be paid a prevailing hourly wage rate?	
22	Workforce Development	Estimate the number of new construction jobs being created by your project for residents located within a 25-mile radius of the project (enter whole # only).	
23	Workforce Development	Estimate the number of new permanent jobs being created by your project for residents located within a 25-mile radius of the project (enter whole # only).	
24	Workforce Development	Please describe the new jobs being created by your project.	
25a	Workforce Development	What percentage of project hours worked will be performed by Local Targeted Workers? (enter ##%)	
25b	Workforce Development	If the answer to Q25a is less than 40%, please explain:	
26a	Workforce Development	What percentage of project hours worked will performed by Disadvantaged Workers? (##%)	
26b	Workforce Development	If the answer to Q26a is less than 10%, please explain:	
27a	Workforce Development	What percentage of your electrical work will be performed by Journeymen Electricians or Apprentices? (enter ##%)	
27b	Workforce Development	If the answer to Q27a is less than 100%, please explain:	
28a	Workforce Development	What percentage of your Journeymen Wiremen workforce will be graduates of a State-approved apprenticeship program? (enter ##%)	
28b	Workforce Development	If the answer to Q28a is less than 60%, please explain:	
29a	Workforce Development	What percentage of electrical workers will be OSHA 30-hour General Industry Safety and Health Certified?	
29b	Workforce Development	If the answer to Q29a is less than 10%, please explain:	
30a	Supplier Diversity	Is the bidder a GO 156 certified business and/or plans to use GO 156 certified businesses?	
30b	Supplier Diversity	If the answer to Q30a is "Yes," please explain:	
31a	Supplier Diversity	Does the bidder have initiatives to promote workplace diversity?	
31b	Supplier Diversity	If the answer to Q31a is "Yes," please explain and provide supporting documentation:	
32	Other	Is there any additional information or clarification related to any of the questions in this form that the bidder would like to include? Only provide short responses to provide specific clarification of previous responses, and notate to which question you are referring.	

4. Development Risk Questionnaire

INPUT CELLS IN YELLOW

Project Name: 0

Developer: 0

Question	Category	Question	Response
1	Site Control	How much of your land have you secured under ownership, lease, or lease option?	
2	Site Control	Do you have site control for the full duration of the 15-year agreement term?	
3	Site Control	Are any outstanding easements for site access or interconnection required?	
4	Interconnection	What is the status of your interconnection agreement?	
5	Interconnection	What are the Interconnection Facility costs (\$/watt)? (enter number only)	
6	Interconnection	What are the Network Upgrade costs (\$/watt)? (enter number only)	
7	Interconnection	What is the estimated interconnection date? (MM/DD/YYYY)	
8	Permitting	Please indicate zoning type of the project site:	
9	Permitting	Has the project completed National Wetlands Inventory (NWI) and state/local level wetlands screens?	
10	Permitting	Has the project completed a wetlands delineation survey?	
11	Permitting	Have you reviewed a FEMA floodplain map to determine if the project intersects with 100-year floodplain?	
12	Permitting	Has the project completed a Federal Fish and Wildlife screen, and if available, a state Fish and Wildlife screen?	
13	Permitting	Has the project completed the required screens for Threatened or Endangered Species?	
14	Permitting	Has the project completed the required screens for Architectural or Archaeological Sites?	
15	Permitting	Has the project completed a FAA screen to determine whether it is within a Notice Criteria Area?	
16	Permitting	Has the project been reviewed for avian issues?	
17	Permitting	Has the project completed a Phase 1 Environmental Site Assessment?	
18	Permitting	Has the project completed a hydrology report?	
19	Permitting	Has the primary local land use Permit (e.g. site plan, special use, etc.) been received?	
20a	Financing	Is there a creditworthy financier, performance guarantee, letter of credit, or other security in place that will enable the project to maintain its offered price?	
20b	Financing	If your answer to 20a was no, enter an explanation.	
21	Financing	How many similarly sized projects has this company completed prior to this submission? (enter whole number only)	
22	Financing	How many complete years has the company been in operation? (enter whole number only)	

CONFIDENTIAL

**CPA PRO FORMA PPA
RENEWABLE ENERGY
OCTOBER 10, 2019 (DRAFT)**

POWER PURCHASE AND SALE AGREEMENT**COVER SHEET****Seller:****Buyer:** Clean Power Alliance of Southern California, a California joint powers authority**Description of Facility:****Guaranteed Commercial Operation Date:****Milestones:**

Identify Milestone	Date for Completion
Evidence of Site Control	
Documentation of Conditional Use Permit if required: CEQA <input checked="" type="checkbox"/> Cat Ex, <input type="checkbox"/> Neg Dec, <input type="checkbox"/> Mitigated Neg Dec, <input type="checkbox"/> EIR	
Seller's receipt of Phase I and Phase II Interconnection study results for Seller's Interconnection Facilities	
Executed Interconnection Agreement	
Financial Close	
Expected Construction Start Date	
Initial Synchronization	
Network Upgrades completed (evidenced by delivery of permission to parallel letter from the Transmission Provider)	
Expected Commercial Operation Date	

Delivery Term: Fifteen (15) Contract Years

Delivery Term Expected Energy:

Contract Year	Expected Energy (MWh)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	

Guaranteed Capacity: ____ MW**Contract Price:** nin

Contract Year	Contract Price (\$/MWh)
1 – 15	\$ XX.XX/MWh (flat) with no escalation

Product:☐ Energy

- ☐ Green Attributes (if Renewable Energy Credit, please check the applicable box below):
 - ☐ Portfolio Content Category 1
 - ☐ Portfolio Content Category 2
 - ☐ Portfolio Content Category 3
- ☐ Capacity Attributes
 - ☐ Full Capacity Deliverability Status
 - a) RA Guarantee Date: [Commercial Operation Date] [NTD: Seller to confirm]

Scheduling Coordinator: Seller

Development Security: \$60/kW of Guaranteed Capacity for as-available; \$90/kW of Contract Capacity for dispatchable

Performance Security: \$60/kW of Installed Capacity for as-available; \$90/kW of Contract Capacity for dispatchable

Guarantor: _____

Notice Addresses:

Seller:

c/o _____

With a copy to:

c/o _____

Scheduling:

c/o _____

Buyer:

Clean Power Alliance of Southern California

555 West 5th Street, 35th Floor
Los Angeles, CA 90013
Attention: Director of Procurement
E-mail: procurement@cleanpoweralliance.org

With a copy to (which shall not be required for Notice purposes):

Clean Power Alliance of Southern California
555 West 5th Street, 35th Floor
Los Angeles, CA 90013
Attention: General Counsel
E-mail: nwhang@cleanpoweralliance.org

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POWER PURCHASE AND SALE AGREEMENT

This Power Purchase and Sale Agreement (“**Agreement**”) is entered into as of _____ (the “**Effective Date**”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**”). All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility;
and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1 DEFINITIONS

1.1 **Contract Definitions.** The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

“**AC**” means alternating current.

“**Accepted Compliance Costs**” has the meaning set forth in Section 3.13.

“**Adjusted Energy Production**” has the meaning set forth in Exhibit G.

“**Affiliate**” means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of “Permitted Transferee”, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

“**Agreement**” has the meaning set forth in the Preamble and includes any Exhibits, schedules and any written supplements hereto, the Cover Sheet, and any designated collateral, credit support or similar arrangement between the Parties.

“**Availability Incentive Payments**” has the meaning set forth in the CAISO Tariff.

“**Available Capacity**” means the capacity of the Facility, expressed in whole MWs, that is available to generate Energy.

“Bankrupt” means with respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (f) is generally unable to pay its debts as they fall due.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. local time for the Party sending a Notice, or payment, or performing a specified action.

“Buyer” has the meaning set forth on the Cover Sheet.

“Buyer Curtailment Order” means the instruction from Buyer to Seller to reduce Facility Energy from the Facility by the amount, and for the period of time set forth in such instruction, for reasons unrelated to a Planned Outage, Forced Facility Outage, Force Majeure Event and/or Curtailment Order.

“Buyer Curtailment Period” means the period of time, as measured using current Settlement Intervals, during which Seller reduces Facility Energy from the Facility pursuant to or as a result of a Buyer Curtailment Order; provided, that the duration of any Buyer Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

“Buyer Default” means an Event of Default of Buyer.

“Buyer’s Indemnified Parties” has the meaning set forth in Section 18.2.

“Buyer’s WREGIS Account” has the meaning set forth in Section 4.8(a).

“CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.

“CAISO Approved Meter” means a CAISO approved revenue quality meter or meters, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy delivered to the Delivery Point.

“CAISO Costs” means the debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Resource ID for the Facility for, or attributable to, Scheduling or deliveries from the Facility under this Agreement in each applicable Settlement Interval.

“CAISO Grid” has the same meaning as “CAISO Controlled Grid” as defined in the CAISO Tariff.

“CAISO Operating Order” means the “operating order” defined in Section 37.2.1.1 of the CAISO Tariff.

“CAISO Revenues” means the credits and other payments incurred or received by Seller, as the Facility’s Scheduling Coordinator, as a result of Scheduling or Facility Energy from the Facility delivered by Seller to any CAISO administered market, including costs and revenues associated with CAISO dispatches, for each applicable Settlement Interval.

“CAISO Tariff” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

“California Renewables Portfolio Standard” or **“RPS”** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), and 350 (2015), codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

“Capacity Attribute” means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased and sold under CAISO market rules, including Resource Adequacy Benefits.

“Capacity Damages” has the meaning set forth in Exhibit B.

“CEC” means the California Energy Commission or its successor agency.

“CEC Certification and Verification” means that the CEC has certified (or, with respect to periods before the date that is one hundred eighty (180) days following the Commercial Operation Date, that the CEC has pre-certified) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Energy delivered to the Delivery Point qualifies as generation from an Eligible Renewable Energy Resource.

“CEC Precertification” means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for CEC Certification and Verification.

“Change of Control” means, except in connection with public market transactions of equity interests or capital stock of Seller’s Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller; provided that in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent’s ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

“COD Certificate” has the meaning set forth in Exhibit B.

“Commercial Operation” has the meaning set forth in Exhibit B.

“Commercial Operation Date” has the meaning set forth in Exhibit B.

“Commercial Operation Delay Damages” means an amount equal to (a) the Development Security amount required hereunder, divided by (b) ninety (90).

“Compliance Actions” has the meaning set forth in Section 3.13.

“Compliance Expenditure Cap” has the meaning set forth in Section 3.13.

“Confidential Information” has the meaning set forth in Section 18.1.

“Construction Start” has the meaning set forth in Exhibit B.

“Construction Start Date” has the meaning set forth in Exhibit B.

“Contract Price” has the meaning set forth on the Cover Sheet.

“Contract Term” has the meaning set forth in Section 2.1.

“Contract Year” means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third -party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

“Cover Sheet” means the cover sheet to this Agreement, which is incorporated into this Agreement.

“CPUC” means the California Public Utilities Commission, or successor entity.

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody’s. If ratings by S&P and Moody’s are not equivalent, the lower rating shall apply.

“Cure Plan” has the meaning set forth in Section 11.1(b)(iii).

“Curtailed Energy” means the amount of energy expressed in MWh that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility and delivered to the Delivery Point during a Curtailment Period, which amount shall be equal to the result of the equation provided by Seller to reasonably calculate the potential generation of the Facility as a function of Available Capacity, weather and other pertinent data for the period of time during the Curtailment Period less the amount of Facility Energy during the Curtailment Period; *provided that*, if the Facility Energy is greater than the calculation of potential generation, then the Curtailed Energy shall be zero (0).

“Curtailment Order” means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, including a CAISO Operating Order, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO’s electric system integrity or the integrity of other systems to which CAISO is connected;

(b) a curtailment ordered by the Transmission Provider for reasons including, but not limited to, (i) any situation that affects normal function of the electric system including, but not limited to, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Transmission Provider’s electric system integrity or the integrity of other systems to which the Transmission Provider is connected;

(c) a curtailment ordered by CAISO or the Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller’s obligations under its Interconnection Agreement with the Transmission Provider or distribution operator;

provided, however, that Buyer may not issue any Curtailment Order or any other instruction to curtail or reduce deliveries or output associated with Energy, Scheduled Energy or Facility Energy.

“Curtailment Period” means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Facility pursuant to a Curtailment Order; provided that the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

“Customer Market Results Interface” has the meaning set forth in the CAISO Tariff.

“Daily Delay Damages” means an amount equal to (a) the Development Security amount required hereunder, divided by (b) one hundred twenty (120).

“Damage Payment” means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to Commercial Operation Date, in a dollar amount set forth in Section 11.3(a).

“Day-Ahead Market” has the meaning set forth in the CAISO Tariff.

“Deemed Delivered Energy” means the amount of energy expressed in MWh that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility during a Market Curtailment Period, which amount shall be equal to the EIRP Forecast, expressed in MWh, applicable to the Market Curtailment Period, whether or not Seller is participating in EIRP during the Market Curtailment Period, less the amount of Facility Energy delivered to the Delivery Point during the Market Curtailment Period; *provided that*, if the Facility Energy is greater than the calculation of potential generation, then the Deemed Delivered Energy shall be zero (0).

“Defaulting Party” has the meaning set forth in Section 11.11.1(a).

“Deficient Month” has the meaning set forth in Section 4.8(e).

“Delay Damages” means Daily Delay Damages and Commercial Operation Delay Damages.

“Delivery Point” has the meaning set forth in Exhibit A.

“Delivery Term” shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

“Development Cure Period” has the meaning set forth in Exhibit B.

“Development Security” means (i) cash, or (ii) a Letter of Credit in the amount set forth on the Cover Sheet.

“Disclosing Party” has the meaning set forth in Section 18.2.

“Early Termination Date” has the meaning set forth in Section 11.2.

“Economic Bid” has the meaning set forth in the CAISO Tariff.

“Effective Date” has the meaning set forth on the Preamble.

“Effective FCDS Date” means the date identified in Seller’s Notice to Buyer (along with a Full Capacity Deliverability Status Finding from CAISO) as the date that the Facility has attained Full Capacity Deliverability Status.

“Electrical Losses” means all transmission or transformation losses between the Facility and the Delivery Point.

“Eligible Intermittent Resource Protocol” or **“EIRP”** has the meaning set forth in the CAISO Tariff or a successor CAISO program for intermittent resources.

“EIRP Forecast” means (a) the current CAISO forecast for intermittent resources using relevant Facility availability, weather, historical and other pertinent data for the applicable period of time, or, if applicable (b) an alternative forecast adopted by the Parties pursuant to Section 4.3.

“Eligible Renewable Energy Resource” has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

“Energy” means electrical energy generated by the Facility, measured in kilowatt-hours or multiple units thereof. Energy shall include without limitation, reactive power and any other electrical energy products that may be developed or evolve from time to time during the Term.

“Event of Default” has the meaning set forth in Section 11.1.

“Excess MWh” has the meaning set forth in Exhibit C.

“Expected Commercial Operation Date” has the meaning set forth on the Cover Sheet.

“Expected Construction Start Date” has the meaning set forth on the Cover Sheet.

“Expected Energy” means the quantity of Energy that Seller expects to be able to deliver to Buyer from the Facility during each Contract Year in the quantity specified on the Cover Sheet.

“Facility” means the solar photovoltaic generating facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment required to deliver PV Energy to the Delivery Point.

“Facility Energy” means the Energy during any Settlement Interval or Settlement Period, net of Electrical Losses and Station Use, as measured by the Facility Meter, which Facility Meter will be adjusted in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses and Station Use.

“Facility Meter” means the CAISO Approved Meter that will measure all Facility Energy. Without limiting Seller’s obligation to deliver Facility Energy to the Delivery Point, the Facility Meter will be located, and Facility Energy will be measured, at the low voltage side of the main step up transformer and will be subject to adjustment in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses and Station Use.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Fifteen Minute Market” or “FMM” has the meaning set forth in the CAISO Tariff.

“Financial Close” means Seller and/or one of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller’s owner(s).

“Force Majeure Event” has the meaning set forth in Section 10.1.

“Forced Facility Outage” means an unexpected failure of one or more components of the Facility that prevents Seller from generating Energy or making Facility Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

“Forward Certificate Transfers” has the meaning set forth in Section 4.8(a).

“Full Capacity Deliverability Status” or **“FCDS”** has the meaning set forth in the CAISO Tariff.

“Full Capacity Deliverability Status Finding” means a written confirmation from the CAISO that the Facility is eligible for Full Capacity Deliverability Status.

“Future Environmental Attributes” shall mean any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by the Facility. Future Environmental Attributes do not include Tax Credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

“Gains” means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and include the value of Green Attributes and Capacity Attributes.

“Governmental Authority” means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided, however*, that “Governmental Authority” shall not in any event include any Party.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other

pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Facility Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Tax Credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. [If the Facility is a biomass or landfill gas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility.] [NTD: Delete last sentence if not applicable.]

“Green Tag Reporting Rights” means the right of a purchaser of renewable energy to report ownership of accumulated “green tags” in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

“Guaranteed Capacity” means the generating capacity of the Generating Facility, as measured in MW(ac) at the Delivery Point, that Seller commits to install pursuant to this Agreement set forth on the Cover Sheet.

“Guaranteed Commercial Operation Date” means the Expected Commercial Operation Date, as such date may be extended by the Development Cure Period.

“Guaranteed Construction Start Date” means the Expected Construction Start Date, as such date may be extended by the Development Cure Period.

“Guaranteed Energy Production” has the meaning set forth in Section 4.74.7.

“Guarantor” means, with respect to Seller, any Person that (a) does not already have any material credit exposure to Buyer under any other agreements, guarantees, or other arrangements at the time its Guaranty is issued, (b) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (c) has a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's, (d) has a tangible net worth of at least One Hundred Million Dollars (\$100,000,000), (e) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (f) executes and delivers a Guaranty for the benefit of Buyer.

“Guaranty” means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit D, or as reasonably acceptable to Buyer.

“Imbalance Energy” means the amount of energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

“Indemnified Party” has the meaning set forth in Section 16.1.

“Indemnifying Party” has the meaning set forth in Section 16.1.

“Initial Synchronization” means the initial delivery of Facility Energy to the Delivery Point.

“Installed Capacity” means the actual generating capacity of the Facility, as measured in MW(ac) at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date of the performance test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto.

“Inter-SC Trade” or **“IST”** has the meaning set forth in CAISO Tariff.

“Interconnection Agreement” means the interconnection agreement entered into by Seller pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Seller’s Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

“Interconnection Facilities” means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

“Interest Rate” has the meaning set forth in Section 8.2.

“Interim Deliverability Status” has the meaning set forth in the CAISO Tariff.

“ITC” means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

“Joint Powers Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

“Joint Powers Agreement” means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

“Law” means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

“Lender” means, collectively, any Person (i) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or

operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

“Letter(s) of Credit” means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, in a form substantially similar to the letter of credit set forth in Exhibit K.

“Licensed Professional Engineer” means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

“Local Capacity Area Resources” has the meaning set forth in the CAISO Tariff.

“Locational Marginal Price” or **“LMP”** has the meaning set forth in the CAISO Tariff.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

“Lost Output” has the meaning set forth in Section 4.7.

“Market Curtailment Period” means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Facility during a Settlement Period or Settlement Interval in which there is a Negative LMP that is equal to or below the Negative LMP Strike Price.

“Milestones” means the development activities for significant permitting, interconnection, financing and construction milestones set forth on the Cover Sheet.

“Moody’s” means Moody’s Investors Service, Inc., or its successor.

“**MW**” means megawatts in alternating current, unless expressly stated in terms of direct current.

“**MWh**” means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

“**Negative LMP**” means, in any Settlement Period or Settlement Interval, whether in the Day-Ahead Market or Real-Time Market, the LMP at the Facility’s PNode is less than zero dollars (\$0).

“**Negative LMP Strike Price**” means zero dollars per MWh (\$0/MWh), as such price may be revised by Buyer by providing Notice to Seller in accordance with Section 3.3(d); provided, however, that in no event shall the Negative LMP Strike Price be greater than zero dollars per MWh (\$0/MWh).

“**Net Qualifying Capacity**” has the meaning set forth in the CAISO Tariff.

“**Network Upgrades**” has the meaning set forth in the CAISO Tariff.

“**Non-Defaulting Party**” has the meaning set forth in Section 11.2.

“**Notice**” shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

“**Party**” has the meaning set forth in the Preamble.

“**Performance Measurement Period**” has the meaning set forth in Section 4.7.

“**Performance Security**” means (i) cash, (ii) a Letter of Credit or (iii) a Guaranty (if permitted by Buyer, in its sole discretion), in the amount set forth on the Cover Sheet. [NTD: Guaranty to be considered on a case-by-case basis for Performance Security only, subject to Guarantor meeting credit criteria and amount gross-up.]

“**Permitted Transferee**” means (i) any Affiliate of Seller solely in connection with the financing of the Facility or in connection with a corporate reorganization, or (ii) any entity that has, or is controlled by another Person that satisfies the following requirements:

(a) A tangible net worth of not less than one hundred fifty million dollars (\$150,000,000) or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody’s; and

(b) At least two (2) years of experience in the ownership and operations of power generation facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

“**Person**” means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust,

incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

“Planned Outage” means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.6(a).

“PNode” has the meaning set forth in the CAISO Tariff.

“Portfolio” means the single portfolio of electrical energy generating or other assets and entities, including the Facility (or the interests of Seller or Seller’s Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

“Portfolio Content Category” means PCC1, PCC2 or PCC3, as applicable.

“Portfolio Content Category 1” or **“PCC1”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

“Portfolio Content Category 2” or **“PCC2”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

“Portfolio Content Category 3” or **“PCC3”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

“Portfolio Financing” means any debt incurred by an Affiliate of Seller that is secured only by a Portfolio.

“Portfolio Financing Entity” means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

“Product” means (i) Energy generated by the Facility, (ii) Green Attributes and (iii) Capacity Attributes.

“Production Tax Credit” or **“PTC”** means the production tax credit for wind-powered electric generating facilities described in Section 45 of the Internal Revenue Code of 1986, as it may be amended or supplemented from time to time.

“Progress Report” means a progress report including the items set forth in Exhibit E.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period with respect to grid-interconnected, utility-scale generating facilities in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale generating facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable reliability criteria, and the criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

“Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

“RA Deficiency Amount” means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 3.9(b).

“RA Guarantee Date” means the date set forth in the deliverability Section of the Cover Sheet which is the date the Facility is expected to achieve Full Capacity Deliverability Status.

“RA Shortfall Month” means, for purposes of calculating an RA Deficiency Amount under Section 3.9(b), any month, commencing on the RA Guarantee Date, during which the Net Qualifying Capacity of the Facility for such month was less than the Qualifying Capacity of the Facility for such month (including any month during the period between the RA Guarantee Date and the Effective FCDS Date, if applicable).

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“Receiving Party” has the meaning set forth in Section 18.2.

“Reliability Network Upgrades” has the meaning set forth in the CAISO Tariff.

“Remedial Action Plan” has the meaning in Section 2.4.

“Renewable Energy Credit” has the meaning set forth in California Public Utilities Code Section 399.12(h), as may be amended from time to time or as further defined or supplemented by Law.

“Renewable Energy Incentives” means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or

substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute or a Future Environmental Attribute.

“Replacement Capacity Attributes” has the meaning set forth in Exhibit G.

“Replacement Energy” has the meaning set forth in Exhibit G.

“Replacement Green Attributes” has the meaning set forth in Exhibit G.

“Replacement Product” has the meaning set forth in Exhibit G.

“Replacement RA” means Resource Adequacy Benefits, if any, equivalent to those that would have been provided by the Facility with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within SP-15 TAC Area and, to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

“Requested Confidential Information” has the meaning set forth in Section 18.2.

“Resource Adequacy Benefits” means the rights and privileges attached to the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Facility.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Delivery Term.

“S&P” means the Standard & Poor’s Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

“Schedule” has the meaning set forth in the CAISO Tariff, and **“Scheduled”** has a corollary meaning.

“Scheduled Energy” means the Facility Energy scheduled by Seller that clears under the applicable CAISO market based on the final Day-Ahead Schedule (as defined in the CAISO Tariff), FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

“Scheduling Coordinator” or **“SC”** means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the

functions specified in “Responsibilities of a Scheduling Coordinator,” of the CAISO Tariff, as amended from time to time.

“Security Interest” has the meaning set forth in Section 8.9.

“Seller” has the meaning set forth on the Cover Sheet.

“Seller’s WREGIS Account” has the meaning set forth in Section 4.8(a).

“Settlement Amount” means the Non-Defaulting Party’s Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party’s Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party’s Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars (\$0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

“Settlement Interval” has the meaning set forth in the CAISO Tariff.

“Settlement Period” has the meaning set forth in the CAISO Tariff.

“Settlement Point” means [PNode/DLAP/SP-15].

“Shared Facilities” means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of energy from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

“Site” means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer, provided that any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer’s approval of such updates in its sole discretion.

“Site Control” means that, for the Contract Term, Seller (or, prior to the Delivery Term, its Affiliate): (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

“SP-15” means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

“Station Use” means:

(a) The Energy produced by the Facility that is used within the Facility to power the lights, motors, control systems and other electrical loads that are necessary for operation of the Facility; and

(b) The Energy produced by the Facility that is consumed within the Facility's electric energy distribution system as losses.

"System Emergency" means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"Tax" or **"Taxes"** means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"Tax Credits" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of renewable energy and/or investments in renewable energy facilities.

"Terminated Transaction" has the meaning set forth in Section 11.2.

"Termination Cure Period" means the period of three hundred sixty (360) days following the Guaranteed Commercial Operation Date, which period shall be (i) reduced by the length of any Development Cure Period provided to Seller hereunder and (ii) extended in accordance with the terms of Section 3(a) of Exhibit B.

"Termination Payment" has the meaning set forth in Section 11.3.

"Test Energy" means Facility Energy delivered (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Facility Energy to the CAISO and (ii) the first date that the Transmission Provider informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date.

"Transmission Provider" means any entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Facility Energy to or from the Delivery Point.

"Transmission System" means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

"Transmission System Outage" means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller's actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving System Energy onto the Transmission System.

"Ultimate Parent" means _____, a [State of organization] [Type of entity].

“Variable Energy Resource” or **“VER”** has the meaning set forth in the CAISO Tariff.

“WECC” means the Western Electricity Coordinating Council or its successor.

“WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

“WREGIS Certificate Deficit” has the meaning set forth in Section 4.8(e).

“WREGIS Certificates” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

“WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS as of May 1, 2018, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

1.2 **Rules of Interpretation.** In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person’s successors and permitted assigns;

(g) the terms “include” and “including” means “include or including (as applicable) without limitation” and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression “and/or” when used as a conjunction shall connote “any or all of”;

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2 TERM; CONDITIONS PRECEDENT

2.1 **Contract Term.**

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions and any contract term extension provisions set forth herein (“**Contract Term**”); **provided, however,** that subject to Buyer’s obligations in Section 3.1, Buyer’s obligations to pay for or accept any Product are subject to Seller’s completion of the conditions precedent pursuant to Section 2.2.

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 **Conditions Precedent.** The Delivery Term shall not commence until Seller completes to Buyer’s reasonable satisfaction each of the following conditions:

(a) Seller shall have delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity on the Commercial Operation Date;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller and the Transmission Provider shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all conditions thereof have been satisfied and shall be in full force and effect;

(e) Seller has received CEC Precertification of the Facility (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days after the Commercial Operation Date);

(f) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system and shall reasonably have assisted Buyer to complete any other requirements to enable Buyer to use the Product toward fulfilling its RPS requirements;

(g) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8; and

(h) Seller has paid Buyer for all amounts owing under this Agreement, if any, including Delay Damages.

2.3 Development; Construction; Progress Reports. Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonable requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. For the avoidance of doubt, Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

2.4 **Remedial Action Plan.** If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days of such missed Milestone completion date, a remedial action plan (“**Remedial Action Plan**”), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller’s detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date; provided, that delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

ARTICLE 3 PURCHASE AND SALE

3.1 **Purchase and Sale of Product.** Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer will purchase all the Product produced by or associated with the Facility at the Contract Price, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of the Product, provided that such resale or use for another purpose will not relieve Buyer of any of its obligations under this Agreement. Subject to Buyer’s obligation to purchase Capacity Attributes in accordance with this Section 3.1, Buyer has no obligation to purchase from Seller any Product for which the associated Facility Energy is not or cannot be delivered to the Delivery Point as a result of an outage of the Facility, a Force Majeure Event, Negative LMPs, or a Curtailment Order.

3.2 **Sale of Green Attributes.** During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the Facility Energy generated by the Facility.

3.3 **Compensation.**

(a) During the Delivery Term, Buyer shall pay Seller the following amounts for each MWh of Facility Energy and Deemed Delivered Energy during a Contract Year up to one hundred fifteen percent (115%) of the amount of Expected Energy for such Contract Year:

(i) For each MWh of Facility Energy in each Settlement Interval, the difference of (A) the Contract Price, minus (B) the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Interval; provided, however, that (x) if the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Interval is less than the Negative LMP Strike Price, then such Day-Ahead Market LMP value will be deemed to be the Negative LMP Strike Price for purposes of this Section 3.3(a)(i), and (y) if the result of the difference of (A) minus (B) above results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller’s monthly invoice); and

(ii) For each MWh of Deemed Delivered Energy in each Settlement Interval, the difference of (A) the Contract Price, minus (B) any associated CAISO Revenues; provided, however, that if the Facility Energy for a Contract Year exceeds one hundred percent (100%) of the Expected Energy for such Contract Year, then (x) Buyer shall not be required to pay for any Deemed Delivered Energy in such Contract Year, and (y) Seller will refund to Buyer any amounts previously paid by Buyer for Deemed Delivered Energy in such Contract Year (which refund may be applied as a credit to Buyer on Seller's monthly invoice).

(b) During the Delivery Term, Buyer shall pay Seller the following amounts for each MWh of Facility Energy and Deemed Delivered Energy during a Contract Year in excess of one hundred fifteen percent (115%) of the Expected Energy for such Contract Year:

(i) For each MWh of Facility Energy in each Settlement Interval, zero dollars per MWh (\$0/MWh); and

(ii) For each MWh of Deemed Delivered Energy in each Settlement Interval, zero dollars per MWh (\$0/MWh).

(c) During the Delivery Term, Seller shall receive no compensation from Buyer for Curtailed Energy or Facility Energy that is delivered in violation of a Curtailment Order.

(d) Negative LMP Strike Price. Buyer may change the Negative LMP Strike Price by providing written notice to Seller at least five (5) Business Days prior to the effective date of such change, which notice must identify the new Negative LMP Strike Price and the effective date for the new Negative LMP Strike Price; provided, however, that the Negative LMP Strike Price identified by Buyer must be less than or equal to zero dollars per MWh (\$0/MWh).

3.4 **Imbalance Energy.** Seller shall use commercially reasonable efforts to deliver the Scheduled Energy. Buyer and Seller recognize that in any given Settlement Period the amount of Facility Energy may deviate from the amount of Scheduled Energy and that to the extent there are such deviations, any costs or revenues from such imbalances shall be solely for the account of Seller.

3.5 **Ownership of Renewable Energy Incentives.** Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.6 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.6(a), and Sections

3.66**Error! Reference source not found.** and 3.13, in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.6(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.7 **Test Energy.** No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, Seller shall notify Buyer of the availability of the Test Energy. If and to the extent the Facility generates Test Energy, Buyer shall have the option to purchase from Seller all Test Energy and any associated Products on an as-available basis for up to ninety (90) days from the first delivery of Test Energy. As compensation for such Test Energy and associated Product, Buyer shall pay Seller for each MWh of Test Energy an amount equal to (a) seventy percent (70%) of the Contract Price, minus (b) the FMM LMP applicable to the Delivery Point for such Settlement Interval. If Buyer does not exercise the option within ten (10) days after receipt of Notice from Seller, Seller will have the right to sell all or any portion of the Product, including any Test Energy, generated by the Facility prior to the Commercial Operation Date to one or more third parties and retain all resulting revenue. For the avoidance of doubt, the conditions precedent in Section **Error! Reference source not found.** are not applicable to the Parties' obligations under this Section **Error! Reference source not found.**7.

3.8 **Capacity Attributes.** Seller shall request Full Capacity Deliverability Status in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term and subject to Section 3.13, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.13, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status or Interim Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits to Seller. Throughout the Delivery Term, and subject to Section **Error! Reference source not found.**, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section **Error! Reference source not found.**3, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

3.9 **Resource Adequacy Failure.**

(a) **RA Deficiency Determination.** Notwithstanding Seller's obligations set forth in Section 4.3 or anything to the contrary herein, for each RA Shortfall Month Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages and/or provide Replacement RA, as set forth in Section 3.9(b), as the sole remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) **RA Deficiency Amount Calculation.** For each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Deficiency Amount**") equal to the product of the difference, expressed in kW, of (i) the Qualifying Capacity of the Facility (or, if applicable, during the period between the RA Guarantee Date and the Effective FCDS Date, the Guaranteed Capacity), minus (ii) the Net Qualifying Capacity of the Facility, multiplied by the price for CPM Capacity as listed in Section 43.7.1 of the CAISO Tariff (or its successor); *provided* that Seller may, as an alternative to paying some or all of the RA Deficiency Amounts, provide Replacement RA in the amount of (X) the Qualifying Capacity of the Facility with respect to such month, minus (Y) the Net Qualifying Capacity of the Facility with respect to such month, not to exceed ten (10%) of the Qualifying Capacity amount in any such Shortfall Month, and provided that any Replacement RA capacity is communicated by Seller to Buyer with Replacement RA product information in a written Notice substantially in the form of Exhibit M at least fifty (50) Business Days before the applicable CPUC operating month for the purpose of monthly RA reporting.

3.10 **CEC Certification and Verification.** Subject to Section 3.13, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain CEC Precertification by the Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall obtain and maintain throughout the remainder of the Delivery Term the final CEC Certification and Verification. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

3.11 **Eligibility.** Subject to Section **Error! Reference source not found.**3, Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Facility qualifies and is certified by the CEC as an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Facility's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall

not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. The term “commercially reasonable efforts” as used in this Section 3.11 means efforts consistent with and subject to Section 3.13.

3.12 **California Renewables Portfolio Standard.** Subject to Section 3.13, Seller shall also take all other actions necessary to ensure that the Energy produced from the Facility is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

3.13 **Compliance Expenditure Cap.** If Seller establishes to Buyer’s reasonable satisfaction that a change in Laws occurring after the Effective Date has increased Seller’s cost to comply with Seller’s obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer’s use of Green Attributes and Capacity Attributes (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term shall be capped at Twenty-Five Thousand Dollars (\$25,000) per MW of Guaranteed Capacity (“**Compliance Expenditure Cap**”).

Any actions required for Seller to comply with its obligations set forth in the first paragraph above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the “**Compliance Actions.**”

If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to Buyer of such anticipated out-of-pocket expenses.

Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the “**Accepted Compliance Costs**”), or (2) waive Seller’s obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.13 within sixty (60) days after Buyer’s receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, these Compliance Actions for the remainder of the Term.

If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller’s actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.14 **Project Configuration.**

In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller will discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; provided that neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except

under terms mutually acceptable to both Parties as set forth in a written agreement.

ARTICLE 4 OBLIGATIONS AND DELIVERIES

4.1 **Delivery.**

(a) **Energy.** Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Seller will be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including without limitation, Station Use, Electrical Losses, and any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The Facility Energy will be scheduled to the CAISO by Seller (or Seller's designated Scheduling Coordinator).

(b) **Green Attributes.** All Green Attributes associated with Test Energy and the Facility Energy during the Delivery Term are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

4.2 **Title and Risk of Loss.**

(a) **Energy.** Title to and risk of loss related to the Facility Energy shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) **Green Attributes.** Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 **Scheduling Coordinator Responsibilities.**

(a) **Seller to be Scheduling Coordinator.** During the Delivery Term, Seller shall act as Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO to Schedule and deliver the Product to the Delivery Point on behalf of Buyer. Each Party shall perform all scheduling and transmission activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement.

(b) CAISO Market Participation. During the Delivery Term, Seller, as the party responsible for all Scheduling Coordinator activities with respect to the Facility, shall submit bids into the Day-Ahead Market and the Real-Time Market with the EIRP Forecast. Seller's bids into the Day-Ahead Market and the Real-Time Market shall be consistent with the EIRP Forecast and at or below the Negative LMP Strike Price and consistent with Prudent Operating Practice.

(c) EIRP Forecast. If either Party determines that an alternative forecast is more accurate than the EIRP Forecast, based upon no less than six months of recorded data comparing the alternative forecast, the EIRP Forecast, and the actual Facility Energy data, then, subject to the other Party's written consent, such alternative forecast may be used in place of the EIRP forecast. Any such successor alternative forecast will itself be subject to periodic review by the Parties under the foregoing criteria. If the Parties are not able to agree upon a commercially reasonable replacement forecast, either Party may submit the matter to Dispute Resolution in accordance with Article 16 of this Agreement. Notwithstanding the foregoing, any successor alternative forecast will be used for determining Deemed Delivered Energy on a prospective basis only.

(d) CAISO Costs and CAISO Revenues. As the Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO Costs and shall be entitled to all CAISO Revenues; provided, that, any net costs or charges assessed by the CAISO which are due to a Buyer Default shall be Buyer's responsibility. The Parties agree that any Availability Incentive Payments are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges or other CAISO charges associated with the Facility not providing sufficient Resource Adequacy capacity are the responsibility of the Seller and for Seller's account. In addition, if during the Delivery Term the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be the Seller's responsibility.

(e) Future Changes to Scheduling Protocols. During the Delivery Term, the Parties agree to discuss in good faith requested changes by either Party to the CAISO scheduling procedures set forth in this Agreement, including the possibility of incorporating Inter-SC Trades in the Day-Ahead Market.

(f) Customer Market Results Interface Access. Seller shall provide to Buyer read-only access to Seller's (or its SC's) Customer Market Results Interface for the Facility.

4.4 **Forecasting**. Seller shall provide the Facility Energy forecasts described below. Seller's Facility Energy forecasts shall include availability for the Facility. Seller shall use commercially reasonable efforts to forecast the Facility Energy of the Facility accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee).

(a) Annual Forecast of Facility Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the beginning of each calendar year for every subsequent Contract Year during the Delivery Term, Seller shall provide a non-binding forecast of each month's average-day expected Facility Energy, by hour, for the following calendar year in a form reasonably acceptable to Buyer.

(b) Monthly Forecast of Facility Energy. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and Buyer's designee (if applicable) a non-binding forecast of the hourly Facility Energy for each day of the following month in a form reasonably acceptable to Buyer.

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of the Expected Energy from the Facility for relevant periods) ("**Day-Ahead Forecast**"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's best estimate of the Facility's Expected Energy for relevant periods. Seller shall provide each Day-Ahead Forecast through Seller's (or its SC's) Customer Market Results Interface for the Facility. If the Customer Market Results Interface is not available, Seller shall provide the Day-Ahead Forecast in the form of a CSV file delivered to Buyer's File Transfer Protocol (FTP) site as set forth in Exhibit N.

(d) Real-Time Forecast Updates. Seller shall arrange for Buyer to be provided real-time data (i) with respect to the Available Generating Capacity, via an Outage Management System ("**OMS**") based on CAISO protocols, and (ii) with respect to hourly expected Energy quantities, via the Facility's EMS, in each case of (i) and (ii) in accordance with such procedures (including appropriate back-up procedures) as may be agreed and implemented by Seller and Buyer and, in the case of Energy forecasts, the Approved Forecast Vendor. Among other information provided through such procedures, Buyer shall be notified if, past the deadlines for Day-Ahead Forecasts provided in Section 4.3(d), there are change(s) in such Day-Ahead Forecasts of one (1) MW / (1) MWh or more, as applicable, in the Available Generating Capacity or the hourly expected Energy, in any case whether due to Forced Facility Outage, Transmission System Outage, Force Majeure or other cause, including (as appropriate) information regarding the beginning date and time of any event resulting in the change in Available Generating Capacity, the expected end date and time of any such event, and any other information required by the CAISO or reasonably requested by Buyer.

(e) CAISO Tariff Requirements. Seller will comply with all applicable obligations for Variable Energy Resources under the CAISO Tariff and the Eligible Intermittent Resource Protocol that may be applicable to the Facility (if any), including, as applicable, providing appropriate operational data and meteorological data.

4.5 Dispatch Down/Curtailment.

(a) General. Seller agrees to reduce the amount of Facility Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order or Buyer Curtailment Order.

(b) Buyer Curtailment. Buyer shall have the right to order Seller to curtail deliveries of Facility Energy through Buyer Curtailment Orders, provided that Buyer shall compensate Seller for Deemed Delivered Energy in accordance with Section 3.3.

(c) Failure to Comply. If Seller fails to comply with a Buyer Curtailment Order or Curtailment Order, then, for each MWh of Facility Energy that is delivered by the Facility to the Delivery Point in contradiction to the Buyer Curtailment Order or Curtailment Order, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such excess MWh and, (B) is the sum, for all Settlement Intervals with a Negative LMP during the Buyer Curtailment Period or Curtailment Period, of the absolute value of the product of such excess MWh in each Settlement Interval and the Negative LMP for such Settlement Interval, and (C) is any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Buyer Curtailment Order or Curtailment Order.

(d) Seller Equipment Required for Curtailment Instruction Communications. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond and follow instructions, including an electronic signal conveying real time and intra-day instructions, to operate the Facility as directed by the Buyer in accordance with this Agreement and/or a Governmental Authority, including to implement a Buyer Curtailment Order or Curtailment Order in accordance with the then-current methodology used to transmit such instructions as it may change from time to time. If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 4.5(c) for failure to comply with a Buyer Curtailment Order or Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies. For the avoidance of doubt, a Buyer Curtailment Order or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

4.6 Reduction in Delivery Obligation. For the avoidance of doubt, and in no way limiting Section 3.1 or Exhibit G:

(a) Facility Maintenance. Seller will provide to Buyer written schedules for Planned Outages for each Contract Year no later than thirty (30) days prior to the first day of the applicable Contract Year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller will in good faith take into account any such comments. Seller will deliver to Buyer the final updated schedule of Planned Outages no later than ten (10) days after receiving Buyer's comments. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) Forced Facility Outage. Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage.

(c) System Emergencies and other Interconnection Events. Seller shall be permitted to reduce deliveries of Product during any period of System Emergency, Transmission System Outage, Buyer Curtailment Period, or upon Notice of a Curtailment Order pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff.

(d) Force Majeure Event. Seller shall be permitted to reduce deliveries of Product during any Force Majeure Event.

(e) Negative LMP. Seller shall be permitted, but not obligated, in its sole discretion to reduce deliveries of Product during any period in which there is a Negative LMP.

(f) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

4.7 **Guaranteed Energy Production**. During the Delivery Term, Seller shall deliver to Buyer no less than the Guaranteed Energy Production (as defined below) in each period of two (2) consecutive Contract Years during the Delivery Term (**“Performance Measurement Period”**). **“Guaranteed Energy Production”** means an amount of Product, as measured in MWh, equal to one hundred sixty percent (160%) of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Force Majeure Events, System Emergency, Transmission System Outage, Buyer’s Default or other failure to perform, and Curtailment Periods or Buyer Curtailment Periods. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer the Product in the amount equal to the sum of: (a) any Deemed Delivered Energy plus (b) Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any Force Majeure Events, System Emergency, Transmission System Outage, Curtailment Periods or Buyer Curtailment Periods (**“Lost Output”**), plus (c) the amount of undelivered Energy during such Performance Measurement Period with respect to which Seller has already (1) paid liquidated damages or (2) has provided Replacement Product in accordance with Exhibit G. If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G; *provided* that Seller may, as an alternative, provide Replacement Product (as defined in Exhibit G) delivered to Buyer at SP 15 EZ Gen Hub within ninety (90) days after the conclusion of the applicable Performance Measurement Period in the event Seller fails to deliver the Guaranteed Energy Production during any such Contract Years (i) upon a schedule reasonably acceptable to Buyer, (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement, and (iii) not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year. Buyer will pay Seller for all such Replacement Product provided pursuant to this Section 4.6 at the rates specified for Facility Energy.

4.8 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.13, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer’s sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.8(g), provided that Seller fulfills its obligations under Sections 4.8(a) through (g) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS (“**Seller’s WREGIS Account**”), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using “**Forward Certificate Transfers**” (as described in the WREGIS Operating Rules) from Seller’s WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller (“**Buyer’s WREGIS Account**”). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller’s WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller’s WREGIS Account to Buyer’s WREGIS Account.

(b) Seller shall cause Forward Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility’s metered data.

(d) Due to the ninety (90) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A “**WREGIS Certificate Deficit**” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month (“**Deficient Month**”) caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused, or the result of any action or inaction by Seller, then the amount of Facility Energy in the Deficient Month shall be reduced by three times the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer’s payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Contract Year; provided, however, that such adjustment shall not apply to the extent that Seller either (x) resolves the WREGIS Certificate Deficit within ninety (90) days after the Deficient Month or (y) provides Replacement Green Attributes (as defined in Exhibit G) within ninety (90) days after the Deficient Month (i) upon a schedule reasonably acceptable to Buyer and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement. Without limiting Seller’s obligations under this Section 4.8, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause

and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Facility Energy in the same calendar month.

(g) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in WREGIS will be taken prior to the first delivery under this Agreement.

4.9 **Financial Statements**. In the event a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

ARTICLE 5 TAXES

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and from its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes from which Buyer claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided, however*, that neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6 MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility**. Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If

Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified on Exhibit N Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Energy to Buyer.

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; *provided* that such agreements (i) shall permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder and (ii) provide for separate metering of the Facility.

ARTICLE 7 METERING

7.1 **Metering.** Seller shall measure the amount of Facility Energy using the Facility Meter, which will be subject to adjustment in accordance with applicable CAISO meter requirements and Prudent Operating Practices, including to account for Electrical Losses and Station Use. The Facility Meter shall be operated pursuant to applicable CAISO-approved calculation methodologies and maintained as Seller's cost. Subject to meeting any applicable CAISO requirements, the Facility Meter shall be programmed to adjust for all losses from the Facility Meter to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. The Facility Meter shall be kept under seal, such seals to be broken only when the Facility Meter is to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Seller's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the Facility Meter reads from the CAISO Operational Meter Analysis and Reporting (OMAR) web and/or directly from the Facility Meter.

7.2 **Meter Verification.** Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the invoices covering the period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period; provided, that (a) such period may not exceed twelve (12) months and (b) such adjustments are accepted by CAISO and WREGIS.

ARTICLE 8 INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing.** Seller shall make good faith efforts to deliver an invoice to Buyer for Product no sooner than twenty (20) Business Days after the end of the prior monthly billing period. Each invoice shall reflect (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Product in MWh delivered during the prior billing period as set forth in CAISO T+12 settlement statements, the amount of Product in MWh produced by the facility as read by the CAISO Approved Meter, deviations between the Scheduled Energy and the Facility Energy, and the applicable LMP prices at the Delivery Point for each Settlement Interval, the Contract Price applicable to such Product, the calculation of Deemed Delivered Energy, and the amount of Replacement Product or Replacement RA delivered during the preceding month; (b) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (c) be in a format reasonably specified by Buyer, covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement.

8.2 **Payment.** Buyer shall make payment to Seller for Product by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyers receipt of the invoice from Seller, and (b) thirty (30) days after the end of the prior monthly billing period. If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the “**Interest Rate**”). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records.** To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days’ Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement.

8.4 **Payment Adjustments; Billing Errors.** Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer’s monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer’s next

monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 Billing Disputes. 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 twelve (12) 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. 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 Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and E, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 Seller's Development Security. To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within thirty (30) days after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (i) Seller's delivery of the Performance Security, or (ii) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement.

8.8 Seller's Performance Security. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form set forth in Exhibit D. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of the Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are

paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral.** To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest (“**Security Interest**”) in, and lien on (and right to net against), and assignment of the Development Security, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer’s Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

- (a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and
- (c) Liquidate all Development Security or Performance Security (as applicable) then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller’s obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer’s obligation to return any surplus proceeds remaining after these obligations are satisfied in full.

ARTICLE 9 NOTICES

9.1 **Addresses for the Delivery of Notices.** Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice.** Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as

follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) and if concurrently with the transmittal of such electronic communication the sending Party provides a copy of such electronic Notice by hand delivery or express courier, at the time indicated by the time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10 FORCE MAJEURE

10.1 **Definition.**

(a) “**Force Majeure Event**” means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term “**Force Majeure Event**” does not include (i) economic conditions or changes in Law that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer’s ability to buy Product at a lower price, or Seller’s ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order; (v)

Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 No Liability If a Force Majeure Event Occurs. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 Notice. In the event of any delay or nonperformance resulting from a Force Majeure Event, the Party suffering the Force Majeure Event shall (a) as soon as practicable, notify the other Party in writing of the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance, and (b) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party; *provided, however*, that a Party's failure to give timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred unless the delay in giving Notice materially prejudices the other Party.

10.4 Termination Following Force Majeure Event. If a Force Majeure Event has occurred that has caused either Party to be wholly or partially unable to perform its obligations hereunder, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party with respect to the Facility experiencing the Force Majeure Event. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security or Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

11.1 Events of Default. An “Event of Default” shall mean,

(a) with respect to a Party (the “Defaulting Party”) that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) days period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section **Error! Reference source not found.**; and except for (1) failure to achieve Full Capacity Deliverability Status by the RA Guarantee Date, the exclusive remedies for which are set forth in Section 3.9, or (2) failures related to the Adjusted Energy Production that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Section **Error! Reference source not found.**) and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) days period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14, if applicable; or

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver electric energy to the Delivery Point for sale under this Agreement that was not generated by the Facility, except for Replacement Product;

(ii) the failure by Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, except as may be excused by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2 of Exhibit B;

(iii) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the Expected Energy amount for such period, and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days ("Cure Plan") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8.8, including the failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(v) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

(vi) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash or (2) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty; or

11.2 **Remedies; Declaration of Early Termination Date.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (“**Non-Defaulting Party**”) shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement (“**Early Termination Date**”) that terminates this Agreement (the “**Terminated Transaction**”) and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment or (ii) the Termination Payment calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, that payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 Termination Payment. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Termination Payment in accordance with this Section 11.3.

(a) Termination Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Termination Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Termination Payment shall be owed to Buyer and shall be equal to the entire Development Security amount and any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon, and any amount of Development Security that Seller has not yet posted with Buyer will be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Initial Delivery Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) If Buyer is the Defaulting Party, then the Termination Payment shall be owed to Seller and shall equal the sum of the actual, documented and verifiable costs incurred by Seller between the Effective Date and the Early Termination Date in connection with the Project, less the fair market value (determined in a commercially reasonable manner) of (A) all Seller's assets individually, or (B) the entire Project, whichever is greater, regardless of whether or not any Seller asset or the entire Project is actually sold or disposed of. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(ii) are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any or all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of

the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 Notice of Payment of Termination Payment or Damage Payment. As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment or Damage Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 Disputes With Respect to Termination Payment or Damage Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 16.

11.6 Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date. If the Agreement is terminated by Buyer prior to the Commercial Operation Date due to Seller's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following the Early Termination Date due to Seller's Event of Default, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provides Buyer with a written offer to sell the Product which provides Buyer the right to select in its sole discretion either the terms and conditions materially similar to the terms and conditions contained in this Agreement (including price) or the terms and conditions to which the third party agreed, and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the Interconnection Queue Position) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative.** Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation.** Any Non-Defaulting Party shall be obligated to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12

LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages.** EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) A THIRD-PARTY IP INFRINGEMENT CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX CREDITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE

TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.9, 4.7, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT G, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13 REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties.** As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a [Type of entity], duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary corporate action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law

presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility is located in the State of California.

13.2 **Buyer's Representations and Warranties.** As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a “local public entity” as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.3 **General Covenants.** Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 **Workforce Development.** The Parties acknowledge that in connection with Buyer’s renewable energy procurement efforts, including entering into this Agreement, Buyer is committed to creating community benefits, which includes engaging a skilled and trained workforce and targeted hires. Accordingly, prior to the Guaranteed Construction Start Date, Seller shall ensure that work performed in connection with construction of the Facility will be conducted using a project labor agreement, community workforce agreement, work site agreement, collective bargaining agreement, or similar agreement providing for terms and conditions of employment with applicable labor organizations, and shall remain compliant with such agreement in accordance with the terms thereof.

ARTICLE 14 ASSIGNMENT

14.1 **General Prohibition on Assignments.** Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that a Change of Control of Seller shall not require Buyer’s consent if the assignee or transferee is a Permitted Transferee. Any such assignment or delegation made without such written consent or in violation of the conditions to assignment set out below shall be null and void. Seller shall be

responsible for Buyer's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement, including without limitation reasonable attorneys' fees.

14.2 Collateral Assignment. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility.

In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**"). The Collateral Assignment Agreement must be in form and substance agreed to by Buyer, Seller and Lender, with such agreement not to be unreasonably withheld, and must include, among others, the following provisions:

(a) Buyer shall give Notice of an Event of Default by Seller to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, before exercising its right to terminate this Agreement as a result of such Event of Default; provided that such notice shall be provided to Lender at the time such notice is provided to Seller and any additional cure period of Lender agreed to in the Collateral Assignment Agreement shall not commence until Lender has received notice of such Event of Default;

(b) Following an Event of Default by Seller under this Agreement, Buyer may require Seller or Lender to provide to Buyer a report concerning:

(i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;

(ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Buyer may reasonably require related to the development, implementation and timetable of the cure plan.

Seller or Lender must provide the report to Buyer within ten (10) Business Days after Notice from Buyer requesting the report. Buyer will have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;

(c) Lender will have the right to cure an Event of Default on behalf of Seller, only if Lender sends a written notice to Buyer before the later of (i) the expiration of any cure period, and (ii) five (5) Business Days after Lender's receipt of notice of such Event of Default from Buyer, indicating Lender's intention to cure. Lender must remedy or cure the Event of Default within the cure period under this Agreement and any additional cure periods agreed in the Collateral Assignment Agreement up to a maximum of ninety (90) days (or one hundred eighty (180) days in the event of a bankruptcy of Seller or any foreclosure or similar proceeding if required by Lender to cure any Event of Default);

(d) Lender will have the right to consent before any termination of this Agreement which does not arise out of an Event of Default;

(e) Lender will receive prior Notice of and the right to approve material amendments to this Agreement, which approval will not be unreasonably withheld, delayed or conditioned;

(f) If Lender, directly or indirectly, takes possession of, or title to the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must assume all of Seller's obligations arising under this Agreement and all related agreements (subject to such limits on liability as are mutually agreed to by Seller, Buyer and Lender as set forth in the Collateral Assignment Agreement); *provided*, before such assumption, if Buyer advises Lender that Buyer will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Event of Default, then Lender at its option, and in its sole discretion, may elect to either:

- (i) Cause such Event of Default to be cured, or
- (ii) Not assume this Agreement;

(g) If Lender elects to sell or transfer the Facility (after Lender directly or indirectly, takes possession of, or title to the Facility), or sale of the Facility occurs through the actions of Lender (for example, a foreclosure sale where a third party is the buyer, or otherwise), then Lender must cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer. Such sale or transfer may be made only to an entity that meets the definition of Permitted Transferee; and

(h) Subject to Lender's cure of any Events of Defaults under the Agreement in accordance with Section 14.2(f), if (i) this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith Lender shall have the right to elect within forty-five (45) days after such rejection or termination, to enter into a replacement agreement with Buyer having substantially the same terms as this Agreement for the remaining term thereof, or (ii) if Lender or its designee, directly or indirectly, takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) after any such rejection or termination of this Agreement, promptly after Buyer's written request, Lender must itself or must cause its designee to promptly enter into a new agreement with Buyer having substantially the same terms as this Agreement for the remaining term thereof, provided that in the event a designee of Lender, directly or indirectly, takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), such designee shall be approved by Buyer, not to be unreasonably withheld.

14.3 Permitted Assignment by Seller. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

- (i) the assignee is a Permitted Transferee;

(ii) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(iii) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

14.4 **Shared Facilities; Portfolio Financing.** Without limiting the foregoing, Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions provided, however, that Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

ARTICLE 15 DISPUTE RESOLUTION

15.1 **Governing Law.** This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

15.2 **Dispute Resolution.** In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a written Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, either Party may seek any and all remedies available to it at Law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees.** In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16 INDEMNIFICATION

16.1 Indemnification.

(a) Each Party (the “**Indemnifying Party**”) agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the “**Indemnified Party**”) from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys’ fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) resulting from the Indemnifying Party’s breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims.** Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 17 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party’s expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party’s counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 17, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 17, the amount owing to the Indemnified Party will be the amount of the Indemnified Party’s damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17 INSURANCE

17.1 Insurance.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of [_____] Million Dollars (\$[_____] ,000,000) per occurrence, and an annual aggregate of not less than [_____] Million Dollars (\$[_____] ,000,000), endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured; and (ii) an umbrella insurance policy in a minimum limit of liability of [_____] Million Dollars (\$[_____] ,000,000) Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar (\$1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods, and naming the Seller (and Lender if any) as the loss payee.

(f) Subcontractor Insurance. Seller shall require all of its subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars (\$1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars (\$1,000,000) per occurrence. All subcontractors shall include Seller as an additional insured to insurance carried pursuant to clauses (f)(i) and (f)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(f).

(g) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. These certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Buyer. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(h) **Failure to Comply with Insurance Requirements.** If Seller fails to comply with any of the provisions of this Article 18, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required general liability, umbrella liability and commercial automobile liability insurance, Seller shall provide a current, full and complete defense to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third-party claim in the same manner that an insurer would have, had the insurance been maintained in accordance with the terms and conditions set forth above. In addition, alleged violations of the provisions of this Article 18 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

ARTICLE 18

CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information.** The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality.** The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders, counsel, accountants or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act

(Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word “Confidential.” The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as “Confidential” that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information (“**Requested Confidential Information**”), Buyer will as soon as practical notify Seller in writing via email that such request has been made. Seller will be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party’s request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents (“**Buyer’s Indemnified Parties**”), from any claims, liability, award of attorneys’ fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer’s Indemnified Parties for Buyer’s refusal to disclose any Requested Confidential Information.

18.3 **Irreparable Injury; Remedies.** Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Permitted Disclosure.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Public Statements.** Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19 MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits.** This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding

between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments.** This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver.** Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease.** Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability.** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra.** Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable law.

19.7 **Counterparts.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery.** This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party, and, if delivery is made by electronic format, the executing Party shall promptly deliver, via overnight delivery, a complete original counterpart that it has executed to the other Party, but this Agreement shall be binding on and enforceable against the executing Party whether or not it delivers such original counterpart.

19.9 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer.** Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract.** The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. § 366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Change in Electric Market Design.** If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 16. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of unaffected

provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

19.13 **Further Assurances.** Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SELLER

**CLEAN POWER ALLIANCE OF
SOUTHERN CALIFORNIA, a California
joint powers authority**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A
DESCRIPTION OF THE FACILITY

Site Name:

Site includes all or some of the following APNs:

County:

Guaranteed Capacity: __ MW

Delivery Point: PNode

Settlement Point:

PNode:

Transmission Provider:

Additional Information:

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility.**

- a. **“Construction Start”** will occur upon Seller’s acquisition of all applicable regulatory authorizations, approvals and permits for the construction of the Facility, has engaged all contractors and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration, and has executed an engineering, procurement, and construction contract and issued thereunder a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller’s delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the **“Construction Start Date.”** The Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

- b. If Construction Start is not achieved by the Guaranteed Construction Start Date, Seller shall pay Daily Delay Damages to Buyer on account of such delay. Daily Delay Damages shall be payable for each day for which Construction Start has not begun after the Guaranteed Construction Start Date. Daily Delay Damages shall be payable to Buyer by Seller until Seller reaches Construction Start of the Facility; provided that in no event shall Seller be obligated to pay aggregate Daily Delay Damages in excess of the Development Security amount required hereunder. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Daily Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller’s receipt of such invoice, Seller shall pay Buyer the amount of the Daily Delay Damages set forth in such invoice. The Parties agree that Buyer’s receipt of Daily Delay Damages shall be Buyer’s sole and exclusive remedy for Seller’s unexcused delay in achieving the Construction Start Date on or before the Guaranteed Construction Start Date, but shall (x) not be construed as Buyer’s declaration that an Event of Default has occurred under any provision of Section 11.1 and (y) not limit Buyer’s right to declare an Event of Default pursuant to Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer’s default right pursuant to Section 11.2. If Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller’s payment of Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller.

2. **Commercial Operation of the Facility.** **“Commercial Operation”** means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the **“COD**

Certificate”). The “**Commercial Operation Date**” shall be the later of (x) the Expected Commercial Operation Date, or (y) the date on which Commercial Operation is achieved.

- a. Seller shall cause Commercial Operation for the Facility to occur by the Expected Commercial Operation Date (as such date may be extended by the Development Cure Period (defined below), the “**Guaranteed Commercial Operation Date**”). Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date.
 - b. If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Seller shall pay Commercial Operation Delay Damages to Buyer for each day after the Guaranteed Commercial Operation Date until the Commercial Operation Date. Commercial Operation Delay Damages shall be payable to Buyer by Seller until the Commercial Operation Date. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month. The Parties agree that Buyer’s receipt of Commercial Operation Delay Damages shall be Buyer’s sole and exclusive remedy for the first ninety (90) days of delay in achieving the Commercial Operation Date on or before the Guaranteed Commercial Operation Date, but shall (x) not be construed as Buyer’s declaration that an Event of Default has occurred under any provision of Section 11.1 and (y) not limit Buyer’s right to receive a Damage Payment upon exercise of Buyer’s default right pursuant to Section 11.2.
3. **Termination for Failure to Achieve Commercial Operation.** If the Facility has not achieved Commercial Operation within ninety (90) days after the Guaranteed Commercial Operation Date, Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.
4. **Extension of the Guaranteed Dates.** The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the “**Development Cure Period**”) for the duration of any and all delays arising out of the following circumstances to the extent the following circumstances are not the result of Seller’s failure to take all commercially reasonable actions to meet its requirements and deadlines:
- a. Seller has not acquired all material permits, consents, licenses, approvals, or authorizations from any Governmental Authority required for Seller to own, construct, interconnect, operate or maintain the Facility and to permit the Seller and Facility to make available and sell Product by the Expected Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or
 - b. a Force Majeure Event occurs; or
 - c. the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the

Guaranteed Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

- d. Buyer has not made all necessary arrangements to receive the Facility Energy at the Delivery Point by the Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed Capacity.** If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) of the Guaranteed Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Capacity is equal to (but not greater than) the Guaranteed Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to Two Hundred Fifty Thousand Dollars (\$250,000) for each MW that the Guaranteed Capacity exceeds the Installed Capacity, and the Guaranteed Capacity and other applicable portions of the Agreement shall be adjusted accordingly. Capacity Damages shall not be offset or reduced by the payment of Development Security, Performance Security, Delay Damages, or any other form of liquidated damages under this Agreement.
6. **Buyer's Right to Draw on Development Security.** If Seller fails to timely pay any Daily Delay Damages or Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof.

EXHIBIT C**CONTRACT PRICE**

The Contract Price of the Product shall be:

Contract Year	Contract Price
1 – 15	\$ ____/MWh (flat) with no escalation

EXHIBIT D

FORM OF GUARANTY

This Guaranty (this “Guaranty”) is entered into as of [_____] (the “Effective Date”) by and between [_____] a [_____] (“Guarantor”), and Clean Power Alliance of Southern California, a California joint powers authority (together with its successors and permitted assigns, “Buyer”).

Recitals

- A. Buyer and [SELLER ENTITY], a [STATE OF FORMATION] [TYPE OF ENTITY] (“Seller”), entered into that certain Power Purchase and Sale Agreement (as amended, restated or otherwise modified from time to time, the “PPA”) dated as of [____], 201_.
- B. Guarantor is entering into this Guaranty as Performance Security to secure Seller’s obligations under the PPA, as required by Section 8.8 of the PPA.
- C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.
- D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA (the “Guaranteed Amount”), provided, that Guarantor’s aggregate liability under or arising out of this Guaranty shall not exceed Six Million Dollars (\$6,000,000). The Parties understand and agree that any payment by Guarantor or Seller of any portion of the Guaranteed Amount shall thereafter reduce Guarantor’s maximum aggregate liability hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller’s receipt of Buyer’s written notice of such failure (the “Demand Notice”), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a “Payment Demand”) for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what

amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

- (i) the extension of time for the payment of any Guaranteed Amount, or
- (ii) any amendment, modification or other alteration of the PPA, or
- (iii) any indemnity agreement Seller may have from any party, or
- (iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or
- (v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statute or regulation, in each such event in any such proceeding, or
- (vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or
- (vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or
- (viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or
- (ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) subject to Section 10, any (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address

specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at

[]
Attn: []
Fax: []

If delivered to Guarantor, to it at

[]
Attn: []
Fax: []

8. Governing Law and Forum Selection. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States or the courts of the State of California sitting in the City and County of Los Angeles, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING

OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE “COURT”) BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A “CLAIM”) AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

- (i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.
- (ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).
- (iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

[Signature on next page]

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By: _____

Printed Name: _____

Title: _____

BUYER:

CLEAN POWER ALLIANCE OF SOUTHERN
CALIFORNIA

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any planned changes to the Facility or the site.
5. Gantt chart schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.
7. Forecast of activities scheduled for the current calendar quarter.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.
9. List of issues that are reasonably likely to affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
11. Progress and schedule of all material agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.
13. Workforce Development or Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.
14. Any other documentation reasonably requested by Buyer.

EXHIBIT F**AVERAGE EXPECTED ENERGY**

[Average Expected Energy, MWh Per Hour]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
FEB																								
MAR																								
APR																								
MAY																								
JUN																								
JUL																								
AUG																								
SEP																								
OCT																								
NOV																								
DEC																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

$$[(A - B) * (C - D)]$$

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the market value of Replacement Green Attributes.

D = the Contract Price, in \$/MWh [NTD: If the Renewable Rate has an annual escalator, this will be the average of the Renewable Rate of the applicable two years in the Performance Measurement Period.]

Additional Definitions:

“Adjusted Energy Production” shall mean the sum of the following: Facility Energy + Deemed Delivered Energy + Lost Output + Replacement Energy.

“Replacement Green Attributes” means Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Product and of the same year of production as the Renewable Energy Credits that would have been generated by the Facility during the Performance Measurement Period for which the Replacement Green Attributes are being provided.

“Replacement Energy” means energy produced by a facility other than the Facility that, at the time delivered to Buyer, qualifies under Public Utilities Code 399.16(b)(1), and has Green Attributes that have the same or comparable value, including with respect to the timeframe for retirement of such Green Attributes, if any, as the Green Attributes that would have been generated by the Facility during the Contract Year for which the Replacement Energy is being provided.

“Replacement Product” means (a) Replacement Energy, (b) Replacement Capacity Attributes, and (c) all Replacement Green Attributes.

No payment shall be due if the calculation of (A - B) or (C - D) yields a negative number.

Within sixty (60) days after Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period, provided that the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H**FORM OF COMMERCIAL OPERATION DATE CERTIFICATE**

This certification (“**Certification**”) of Commercial Operation is delivered by _____ [*licensed professional engineer*] (“**Engineer**”) to Clean Power Alliance of Southern California, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Power Purchase and Sale Agreement dated _____ (“**Agreement**”) by and between [*Seller*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.
2. Seller has installed equipment for the Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Guaranteed Capacity.
3. The Facility’s testing included a performance test demonstrating peak electrical output of no less than ninety-five percent (95%) of the Guaranteed Capacity at the Delivery Point, as adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [*peak output in MW*].
4. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on _____[DATE]_____.
5. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Transmission Provider as appropriate] on _____[DATE]_____.
6. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO tariff on _____[DATE]_____.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

EXHIBIT I**FORM OF INSTALLED CAPACITY CERTIFICATE**

This certification ("**Certification**") of Installed Capacity is delivered by [licensed professional engineer] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

The performance test for the Facility demonstrated peak electrical output of __ MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test ("**Installed Capacity**").

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

EXHIBIT J**FORM OF CONSTRUCTION START DATE CERTIFICATE**

This certification ("**Certification**") of the Construction Start Date is delivered by [Seller Entity] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

- (1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.
- (2) the Construction Start Date occurred on _____ (the "**Construction Start Date**"); and
- (3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:

(such description shall amend the description of the Site in Exhibit A).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ____ day of _____.

[SELLER ENTITY]

By: _____

Its: _____

Date: _____

EXHIBIT K
FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]

Date:

Bank Ref.:

Amount: US\$[XXXXXXXXX]

Beneficiary:

Clean Power Alliance of Southern California,
a California joint powers authority
555 West 5th Street, 35th Floor
Los Angeles, CA 90013

Ladies and Gentlemen:

By the order of _____ (“Applicant”), we, [insert bank name and address] (“Issuer”) hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the “Letter of Credit”) in favor of Clean Power Alliance of Southern California, a California joint powers authority (“Beneficiary”), 555 West 5th Street, 35th Floor, Los Angeles, CA 90013, for an amount not to exceed the aggregate sum of U.S. \$[XXXXXXX] (United States Dollars [XXXXXX] and 00/100) (the “Available Amount”), pursuant to that certain Power Purchase and Sale Agreement dated as of _____ and as amended (the “Agreement”) between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall be of no further force or effect at 5:00 p.m., California time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the “Expiration Date”).

For the purposes hereof, “Business Day” shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. California time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXX] and all amendments accompanied by Beneficiary’s dated statement purportedly signed by Beneficiary’s duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite documents as described above to the Issuer by facsimile at [facsimile number for draws] or such

other number as specified from time-to-time by the Issuer.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Request.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least one hundred twenty (120) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Clean Power Alliance of Southern California, a California joint powers authority, Chief Financial Officer, 555 West 5th Street, 35th Floor, Los Angeles, CA 90013. Only notices to Beneficiary meeting the requirements of this paragraph shall

be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

[Insert officer name]

[Insert officer title]

EXHIBIT A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of [], [ADDRESS], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Power Purchase and Sale Agreement dated as of _____, 20__ (the "Agreement").
2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of [] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [] by wire transfer in immediately available funds to the following account:

[Specify account information]

[]

Name and Title of Authorized Representative

Date_____

EXHIBIT L

Reserved

EXHIBIT M**FORM OF REPLACEMENT RA NOTICE**

This Replacement RA Notice (this “**Notice**”) is delivered by [SELLER ENTITY] (“**Seller**”) to [] (“**Buyer**”) in accordance with the terms of that certain Power Purchase and Sale Agreement dated _____ (“**Agreement**”) by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section [3.7] [3.9(b)] of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information¹

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid (“substation or transmission line”)	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

¹ To be repeated for each unit if more than one.

[SELLER ENTITY]

By: _____

Its: _____

Date: _____

EXHIBIT N**NOTICES**

<i>[SELLER'S NAME]</i> (“Seller”)	CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority (“Buyer”)
All Notices: Street: City: Attn: Phone: Facsimile: Email:	All Notices: Street: City: Attn: Phone: Email:
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: Federal Tax ID Number:
Invoices: Attn: Phone: Facsimile: E-mail:	Invoices: Attn: Phone: E-mail:
Scheduling: Attn: Phone: Facsimile: Email:	Scheduling: Attn: Phone: Email:
Confirmations: Attn: Phone: Facsimile: Email:	Confirmations: Attn: Phone: Email:
Payments: Attn: Phone: Facsimile: E-mail:	Payments: Attn: Phone: E-mail:
Wire Transfer: BNK: ABA: ACCT:	Wire Transfer: BNK: ABA: ACCT:

<i>[SELLER'S NAME]</i> (“Seller”)	CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority (“Buyer”)
Emergency Contact: Attn: Phone: E-mail:	Emergency Contact: Attn: Phone: E-mail:

APPENDIX 5. WORK PAPERS FOR GENERATION COST DELTA AND 20-PERCENT BILL DISCOUNT

A. Generation Cost Delta

Inputs				
CPA Average Generation Cost Inputs				
35.81	\$/MWh	Energy Index Cost		
6.00	\$/MWh	Carbon Free	0%	Percent of "Clean" non-renewable portion
15.50	\$/MWh	PCC1 Cost	100%	Percent of "Clean" renewable portion
7.27	\$/MWh	PCC2 Cost	0%	Percent of "Clean" renewable portion
CPA Estimated DAC-GT/CSGT Cost ¹				
15.50	\$/MWh	DAC-GT/CSGT PCC1 Cost	100%	Percent of DAC-GT/CSGT portfolio renewable portion
CPA "Clean Power" Content				
50%		non-renewable portion of applicable CPA "Clean Power" rate		
50%		renewable portion of applicable CPA "Clean Power" rate		
CPA Resource Adequacy (RA) Costs				
4.19	\$/kWmonth	RA Average		
5.82	\$/MWh	RA Average		
5.82	\$/MWh	RA Average - DAC-GT/CSGT ¹		
CPA DAC-GT/CSGT Customer Load & Unsubscribed Load ¹				
423	kWh/month	average monthly load per customer		
528,750	kWh	total program volume 2020		
9,961,650	kWh	total program volume 2021		

Calculations

CPA Average Generation Costs

\$	0.04162	/kWh	A	average non-renewable generation cost	=	Energy Index + Carbon Free + RA Average
\$	0.05712	/kWh	B	renewable generation cost	=	Energy Index + Weighted PCC1, PCC2 + RA Average
\$	0.05712	/kWh	C	DAC-GT/CSGT program generation cost ¹	=	Energy Index + PCC1 for interim DAC-GT/CSGT resources + RA Average - DAC-GT/CSGT

Estimated Total DAC-GT/CSGT Customer Subscription (kWh)¹

	2020	2021		
	528,750	9,961,650	kWh	total volume
	264,375	4,980,825	kWh	non-renewable volume
	264,375	4,980,825	kWh	renewable volume

Above market generation costs =

[(C-A) * non-renewable volume] + [(C-B) * renewable volume]

\$	0.0155	/kWh	C-A	the additional cost per kWh of generation to procure DAC-GT/CSGT program renewable in place of the non-renewable CPA would otherwise have procured ¹
\$	-	/kWh	C-B	the additional cost per kWh of generation to procure DAC-GT/CSGT program renewable in place of the renewable CPA would otherwise have procured ¹

Total generation cost delta per year

	2020	2021		
\$	4,098	\$ 77,203	(C-A)*volume	total above market cost for non-renewable portion of generation
\$	-	\$ -	(C-B)*volume	total above market cost for renewable portion of generation
\$	4,098	\$ 77,203		total generation cost delta

Projected DAC-GT Enrollment and Volume by Month¹

2020	Month	1	2	3	4	5	6	7	8	9	10	11	12	Total
Total customer enrollment	-	-	-	-	-	-	-	-	-	50	250	450	500	500
Total customer load (kWh)	-	-	-	-	-	-	-	-	-	21,150	105,750	190,350	211,500	528,750
Unsubscribed load (kWh)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Load (kWh)	-	-	-	-	-	-	-	-	-	21,150	105,750	190,350	211,500	528,750

2021	Month	1	2	3	4	5	6	7	8	9	10	11	12	Total
Total customer enrollment	725	950	1,175	1,400	1,625	1,850	2,075	2,300	2,525	2,750	2,975	3,200	3,200	3,200
Total customer load (kWh)	306,675	401,850	497,025	592,200	687,375	782,550	877,725	972,900	1,068,075	1,163,250	1,258,425	1,353,600	9,961,650	
Unsubscribed load (kWh)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Load (kWh)	306,675	401,850	497,025	592,200	687,375	782,550	877,725	972,900	1,068,075	1,163,250	1,258,425	1,353,600	9,961,650	

¹ Generation cost deltas will be calculated and applied based on specific DAC-GT and CSGT facility generation costs, enrollment and unsubscribed load. The estimates shown here are for interim DAC-GT resources in PY 2020-2021 only, as CPA does not anticipate having new DAC-GT or CSGT facilities online before 2022.

APPENDIX 5. WORK PAPERS FOR GENERATION COST DELTA AND 20-PERCENT BILL DISCOUNT (continued)

B. 20% Bill Discount

Assumptions		
Average CARE bill	75.45	\$/month/customer A
Average 20% discount	15.09	\$/month/customer B = A * 0.20

2020

Month	1	2	3	4	5	6	7	8	9	10	11	12	Total
New customers enrolled	-	-	-	-	-	-	-	-	50	200	200	50	500
Total cumulative enrollment	-	-	-	-	-	-	-	-	50	250	450	500	500
20% Bill Discount (\$)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$755	\$3,773	\$6,791	\$7,545	\$18,863

C

B * C

2021

Month	1	2	3	4	5	6	7	8	9	10	11	12	Yr
New customers enrolled	225	225	225	225	225	225	225	225	225	225	225	225	2,700
Total cumulative enrollment	725	950	1,175	1,400	1,625	1,850	2,075	2,300	2,525	2,750	2,975	3,200	3,200
20% Bill Discount (\$)	\$10,940	\$14,336	\$17,731	\$21,126	\$24,521	\$27,917	\$31,312	\$34,707	\$38,102	\$41,498	\$44,893	\$48,288	\$355,370

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