

## RESOLUTION NO. 25-11-095

**RESOLUTION OF THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA (CLEAN POWER ALLIANCE) AUTHORIZING THE EXECUTION AND DELIVERY OF CLEAN ENERGY PURCHASE CONTRACTS AND CERTAIN OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY (CCCFA) CLEAN ENERGY PROJECT REVENUE BONDS; AND CERTAIN OTHER ACTIONS REQUIRED TO ENSURE THE REDUCTION IN THE COSTS OF RENEWABLE ENERGY THEREWITH**

**THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

**WHEREAS**, Clean Power Alliance of Southern California ("**Clean Power Alliance**" or "**CPA**") was formed on June 27, 2017, under the provisions of the Joint Exercise Powers Act of the State of California, Government Code section 6500 *et seq.* (the "**JPA Law**");

**WHEREAS**, Clean Power Alliance is duly organized, validly existing, and in good standing under and by virtue of the laws of the State of California, is duly authorized to transact business, having obtained all necessary filings, governmental licenses and approvals in the State of California, and has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage;

**WHEREAS**, Clean Power Alliance maintains an office at 801 S. Grand Ave., Suite 400, Los Angeles, CA 90017, and this is the principal office at which it keeps its books and records;

**WHEREAS**, Clean Power Alliance is a community choice aggregator (as defined in Section 331.1 of the Public Utilities Code of the State of California) (the "**Public Utilities Code**"), and is a public agency (as defined in the JPA Law) that has implemented a CCA program pursuant to Section 366.2 of the Public Utilities Code, and possesses the power to purchase and sell electric energy and enter into related contracts for such purposes;

**WHEREAS**, Clean Power Alliance, acting pursuant to the JPA Law, may enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them and, pursuant to Government Code Section 6588, to exercise certain additional powers;

**WHEREAS**, pursuant to the provisions of the JPA Law, Clean Power Alliance and certain other California community choice aggregators entered into a joint powers agreement (the "**Joint Powers Agreement**") pursuant to which the CCCFA (the "**Issuer**") was organized for the purpose, among other things, of entering into contracts and issuing bonds to assist community choice aggregators, including Clean Power Alliance, in financing the acquisition of supplies of clean energy;

**WHEREAS**, the Issuer is authorized by its Joint Powers Agreement to acquire supplies of clean energy and to issue revenue bonds to finance the cost of acquisition of such supplies, and is vested with all powers necessary to accomplish the purposes for which it was created;

**WHEREAS**, Clean Power Alliance has determined that it is desirable to acquire a long-term supply of clean energy from the Issuer pursuant to separate clean energy prepayment transactions (each a **"Prepayment Transaction"**);

**WHEREAS**, Clean Power Alliance has determined to authorize pursuant to this Resolution and accompanying Resolutions 25-11-093, 25-11-094, and 25-11-096 (each a **"Prepayment Resolution"** and collectively, the **"Other Prepayment Resolutions"**), the undertaking of any or all such Prepayment Transactions with the Prepaid Seller(s) identified in the applicable Prepayment Resolution, but in no event shall Clean Power Alliance be authorized to complete Prepayment Transactions totaling more than \$4.5 billion in an aggregate principal amount of bonds pursuant to the authorization provided for in all such Prepayment Resolutions;

**WHEREAS**, in connection with the foregoing, Clean Power Alliance is requesting the Issuer to agree to purchase on a prepaid basis certain quantities of clean energy from one or more Delaware limited liability companies (each a **"Prepaid Seller"**) owned by Morgan Stanley Capital Group Inc., a Delaware corporation (**"MSCG"**) and to sell such clean energy to Clean Power Alliance, as contemplated herein (each a **"Project"**);

**WHEREAS**, Clean Power Alliance is requesting that the Issuer finance the costs of each Project with the proceeds of its clean energy project revenue bonds, each with a Series designation determined by the Issuer based on the timing and sequence of issuance (the **"Bonds"**);

**WHEREAS**, Clean Power Alliance has determined to authorize the representatives of Clean Power Alliance to take all necessary action to accomplish the purchase of clean energy from the Issuer and to assist the Issuer in the issuance, sale and delivery of the Bonds; and

**WHEREAS**, there have been submitted to this meeting for approval forms of the following agreements to which Clean Power Alliance is a party (collectively, the **"CPA Documents"**):

1. Clean Energy Purchase Contract between Clean Power Alliance and the Issuer;
2. PPA Custodial Agreement by and among Clean Power Alliance, MSCG, Prepaid Seller, the Issuer, and a custodial bank agreed to by the Issuer and Clean Power Alliance;
3. Two Forms of Limited Assignment Agreement, by and among Clean Power Alliance, the counterparty to the power purchase agreements described therein, and either MSCG or Prepay LLC, acknowledged by the Issuer, depending on the selection of PPA seller;

4. Letter Agreement by and among Clean Power Alliance, the Issuer, Prepaid Seller and MSCG regarding matters relating to Limited Assignment Agreements;
5. Operational Services Agreement relating to the Project, by and between Clean Power Alliance and the Issuer; and
6. Memorandum of Understanding between Clean Power Alliance and the Issuer indemnifying Issuer against certain ratings fees.

**WHEREAS**, there has also been submitted to this meeting a form of the following additional document relating to the Project:

1. Appendix A to the Preliminary Official Statement to be used in connection with the offering and sale of the Bonds (together with the CPA Documents, the “**Project Documents**”);

**NOW, THEREFORE, IT IS HEREBY DETERMINED, AFFIRMED, AND ORDERED BY THE BOARD OF DIRECTORS OF THE CLEAN POWER ALLIANCE** as follows:

Section 1. **AUTHORIZED REPRESENTATIVES.** The following named individuals are the authorized representatives of Clean Power Alliance with the respective titles specified below (collectively referred to as “**Authorized Representatives**” and individually referred to as an “**Authorized Representative**”):

<b><u>NAMES</u></b>	<b><u>TITLES</u></b>
Deborah Klein Lopez	Chair of the Board
Ted Bardacke	Chief Executive Officer
David McNeil	Chief Financial Officer
Matthew Langer	Chief Operating Officer
Nancy Whang	General Counsel

Section 2. **CPA Documents.** The proposed forms of the CPA Documents, attached hereto as Exhibit A, are hereby approved. The form of Limited Assignment Agreement may be used, in a substantially similar form, for assignments of the initial or any additional Clean Power Alliance power purchase agreements, as needed to maintain the transactions approved hereby, and any such Limited Assignment Agreements shall be included in the CPA Documents are hereby approved. Subject to the parameters set forth in Section 5 of this Resolution, any Authorized Representative is hereby authorized and directed, for and on behalf of Clean Power Alliance, to execute and deliver the CPA Documents in substantially similar form, with such changes and insertions therein as the Authorized Representatives executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. **Appendix A to the Preliminary Official Statement.** Appendix A to the Preliminary Official Statement is hereby approved. Any Authorized Representative is hereby authorized and directed, for and on behalf of Clean Power Alliance, to execute and deliver a certificate as to the information regarding Clean Power Alliance contained in such Appendix A, with such changes and insertions therein as the Authorized

Representative approving the same may deem necessary or appropriate. Clean Power Alliance hereby authorizes the inclusion of such Appendix A in the Preliminary Official Statement and the final Official Statement, in each case with such changes as may be approved as aforesaid.

**Section 4. Actions Authorized.** The Authorized Representatives, each acting alone, are hereby authorized and directed, for and in the name and on behalf of Clean Power Alliance, to execute and deliver any and all documents, including, without limitation, any tax certificate relating to its expected use of the energy to be purchased by it from each Project, any continuing disclosure certificate or similar agreement required for the offering or sale of the Bonds, and any and all closing certificates to be executed in connection with the issuance of the Bonds and to take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which Clean Power Alliance has approved in this Resolution, for the issuance, sale and delivery of the Bonds, and to consummate by Clean Power Alliance the transactions contemplated by the Clean Energy Purchase Contract for each Project. Documents approved hereby and the other Project Documents presented to the Board herewith, including any subsequent amendments, waivers or consents entered into or given under or in accordance with such documents.

**Section 5. Transaction Parameters.** The approvals provided for herein shall be subject to the following parameters:

(a) the Bonds will not be obligations of Clean Power Alliance, but will be limited obligations of the Issuer payable solely from the revenues and other amounts pledged thereto, including amounts payable by Clean Power Alliance under the Clean Energy Purchase Contract;

(b) the total principal amount of the aggregate Prepayment Transactions shall not exceed \$4.5 billion;

(c) with respect to each Prepayment Transaction, the aggregate principal amount of the related Series of Bonds shall not exceed \$1,500,000,000;

(d) the "Monthly Discount" and "Minimum Discount" as provided for in the Clean Energy Purchase Contract for each Project shall be at least 5% of the fixed cash flows or equivalent \$ per MWh; and

(e) Total cost of issuance including all underwriting, legal and consultant fees for each Project will not exceed 1.25% of the amount of the proceeds of the Bonds issued by CCCFA with respect to such Project.

**Section 6.** Execution and delivery of the CPA Documents by an Authorized Representative shall be conclusive evidence that the parameters set forth in Section 5 have been met, and all actions heretofore taken by the Authorized Representatives with respect to the issuance of the Bonds are hereby ratified, confirmed, and approved.

**Section 7.** If Section 5 and Section 6 listed herein have been met, an Authorized Representative may direct CCCFA to make payments to vendors that provided

professional services to CPA to complete the CPA Documents and ultimately the issuance of the Bonds with respect to each Project. These professional services include legal counsel, bond counsel, tax counsel, municipal financial advisor, swap advisor, trustee and trustee counsel, underwriter of the bonds, underwriter's counsel, and any other vendor required to complete the issuance of the Bonds. Payment to these vendors is considered a cost of issuance and will be paid by CCCFA out of the proceeds of the sale of the Bonds.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that the actions and approvals authorized in Sections 1-7, inclusive, of this Resolution shall terminate on June 30, 2027.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that the Authorized Representatives are duly elected, appointed, or employed by or for Clean Power Alliance, as the case may be. This Resolution now stands of record on the books of Clean Power Alliance, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that any and all acts authorized pursuant to this Resolution and performed prior to the passage of this Resolution are hereby ratified and approved.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that this Resolution shall take effect upon its passage, shall be continuing and shall remain in full force and effect unless and until expressly revoked by further resolution of the Board of Directors.

**ADOPTED AND APPROVED this 6<sup>th</sup> day of November 2025.**

  
\_\_\_\_\_  
Deborah Klein Lopez, Chair

**ATTEST:**

  
\_\_\_\_\_  
Gabriela Monzon, Secretary

**[EXHIBIT A]**

**CPA Documents**

(see attached)

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CLEAN ENERGY PURCHASE CONTRACT

between

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

and

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

Dated as of [\_\_\_\_], 2025

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Exhibit A-3	-	Annual Quantity
Exhibit B	-	Notices
Exhibit C	-	Form of Remarketing Termination Notice
Exhibit D	-	Form of Federal Tax Certificate
Exhibit E	-	Forms of Opinions of Counsel to Project Participant
Exhibit F	-	Monthly Discount
Exhibit G	-	Form of Closing Certificate
Exhibit H	-	Form of Remediation Certificate

## CLEAN ENERGY PURCHASE CONTRACT

This Clean Energy Purchase Contract (hereinafter, this “Agreement”) is made and entered into as of [\_\_\_\_], 2025 (the “Execution Date”), by and between California Community Choice Financing Authority, a joint powers authority and a public entity of the State of California established pursuant to the provisions of the Joint Exercise of Powers Act (Article 1, Chapter 5, Division 7, Title 1, Section 6500 *et seq.* of the California Government Code, as amended) (“Issuer”) and Clean Power Alliance of Southern California, a California joint powers authority (“Project Participant”).

### W I T N E S S E T H:

WHEREAS, Issuer has planned and developed a project to acquire long-term Energy supplies from Energy Prepay [\_\_\_\_], LLC (“Prepay LLC”) pursuant to a Prepaid Energy Sales Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “Prepaid Agreement”) to meet a portion of the Energy supply requirements of Project Participant through an energy prepayment project (the “Clean Energy Project”); and

WHEREAS, Issuer will finance the prepayment under the Prepaid Agreement, and the other costs of, the Clean Energy Project by issuing the Bonds; and

WHEREAS, Project Participant is a [joint powers authority organized pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code and a community choice aggregator pursuant to the provisions of Section 366.2 of the California Public Utilities Code with authority to sell electricity to retail electric consumers within its service area]<sup>1</sup>; and

WHEREAS, Project Participant is agreeable to purchasing a portion of its Energy requirements from Issuer under the terms and conditions set forth in this Agreement and Issuer is agreeable to selling to Project Participant such supplies of Energy under the terms and conditions set forth in this Agreement; and

WHEREAS, concurrently with the execution of this Agreement, Project Participant has assigned to Prepay LLC certain Assigned Rights and Obligations, including the right to receive Assigned Product, which Assigned Product will be delivered to Issuer under the Prepaid Agreement and then resold by Issuer hereunder; and

WHEREAS, as a condition precedent to the effectiveness of the Parties’ obligations under this Agreement, Issuer shall have entered into the Prepaid Agreement and shall have issued the Bonds.

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<sup>1</sup> SM NTD: CPA to confirm or revise.

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Issuer and Project Participant (the “Parties” hereto; each is a “Party”) agree as follows:

## **ARTICLE I DEFINITIONS**

Section 1.1 Defined Terms. The following terms, when used in this Agreement and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

“Affiliate” means, with respect to either Party, any entity which is a direct or indirect parent or subsidiary of such Party or which directly or indirectly (i) owns or controls such Party, (ii) is owned or controlled by such Party, or (iii) is under common ownership or control with such Party. For purposes of this definition, “control” of an entity means the power, directly or indirectly, either to (a) vote 50% or more of the securities having ordinary voting power for the election of directors or Persons performing similar functions or (b) direct or cause the direction of the management and policies, whether by contract or otherwise.

“Agreement” has the meaning specified in the preamble and shall include exhibits, recitals and attachments referenced herein and attached hereto and all amendments, supplements and modifications hereto and thereto.

“Annual Quantity” means, with respect to each Contract Year of the Delivery Period, the quantity (in MWh) of Assigned Product for such Contract Year as set forth on Exhibit A-3; provided that the Annual Quantity for any Contract Year shall be reduced by the aggregate amount of any quantities of Base Energy required to be remarketed under this Agreement for any given Contract Year.

“Annual Refund” means the annual refund, if any, provided to Project Participant and calculated pursuant to the procedures specified in Section 3.2(b).

“Applicable Rating Agencies” means, at any given time, each Rating Agency then rating the Bonds.

“Assigned Delivery Point” has the meaning specified in the applicable Assignment Agreement.

“Assigned Energy” has the meaning specified in the applicable Assignment Agreement; provided that any Assigned Energy shall be EPS Compliant Energy as set forth in the Assignment Letter Agreement.

“Assigned Paygo Quantity” means any Assigned Products delivered under this Agreement in excess of the Annual Quantity for any Contract Year.

“Assigned PPA” has the meaning specified in the PPA Custodial Agreement.

“Assigned PPA Index Adder” means the amount (in \$/MWh) specified in Exhibit A-2 for each Month of the Delivery Period.

“Assigned Product” means, as applicable, PCC1 Product, PCC2 Product, Long-Term PCC1 Product, Assigned Energy, Assigned RECs and any other product included in an Assignment Agreement.

“Assigned RECs” means any RECs to be delivered to MSCG or Prepay LLC pursuant to any Assigned Rights and Obligations.

“Assigned Rights and Obligations” means a portion of Project Participant’s rights and obligations under a power purchase agreement assigned pursuant to an Assignment Agreement.

“Assignment Agreement” means the Initial Assignment Agreement and any subsequent assignment agreement entered into consistent with the Assignment Letter Agreement.

“Assignment Letter Agreement” means that certain Letter Agreement, dated as of [the date hereof], by and among MSCG, Prepay LLC, Issuer and Project Participant.

“Assignment Period” has the meaning specified in the applicable Assignment Agreement.

“Available Discount” means, for each Reset Period, the amount, expressed in cents per MWh (rounded down to the nearest one-half cent), determined by the Calculation Agent pursuant to the Re-Pricing Agreement for such Reset Period. The Available Discount shall equal the sum of the Monthly Discount and any anticipated Annual Refunds for the applicable Reset Period.

“Balancing Authority” has the meaning specified in the CAISO Tariff.

“Base Energy” means Firm (LD) Energy.

“Billing Date” has the meaning specified in Section 14.1(b).

“Billing Statement” has the meaning specified in Section 14.1(b).

“Bond Closing Date” means the first date on which the Bonds are issued pursuant to the Trust Indenture.

“Bonds” means the bonds issued pursuant to the Trust Indenture.

“Business Day” means any day other than (i) a Saturday or Sunday, (ii) a Federal Reserve Bank Holiday, (iii) any other day on which commercial banks in either New York, New York or the State of California are authorized or required by Law to close, or (iv) any other day excluded pursuant to the Trust Indenture.

“CAISO” means California Independent System Operator or its successor.

“CAISO Tariff” means CAISO’s FERC-approved tariff, as modified, amended or supplemented from time to time.

“Calculation Agent” has the meaning specified in the Re-Pricing Agreement.

“California Long-Term Contracting Requirements” means the long-term contracting requirement set forth in the Clean Energy and Pollution Reduction Act of 2015 (SB 350), California Public Utilities Code section 399.13(b), and CPUC Decision 17-06-026 and CPUC Decision 18-05-026, as may be modified by subsequent decision of the California Public Utilities Commission or by other Law.

“CCA Revenues” means all charges received for, and all other income and receipts derived by Project Participant from, the operation of its CCA System, including income derived from the sale of electric energy by its CCA System.

“CCA System” means Project Participant’s community choice aggregation program that provides electric energy supply service to retail customers located within its service area.

“Claiming Party” has the meaning specified in Section 11.1.

“Claims” means all claims or actions, threatened or filed, that directly or indirectly relate to the indemnities provided herein, and the resulting losses, damages, expenses, attorneys’ fees, experts’ fees, and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

“Clean Energy Project” has the meaning specified in the recitals.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commercially Reasonable” or “Commercially Reasonable Efforts” means, with respect to any purchase or sale or other action required to be made, attempted or taken by a Party under this Agreement, such efforts as a reasonably prudent Person would undertake for the protection of its own interest under the conditions affecting such purchase or sale or other action, including without limitation, the amount of notice of the need to take such action, the duration and type of the purchase or sale or other action, the competitive environment in which such purchase or sale or other action occurs, and the risk to the Party required to take such action.

“Contract Price” means (i) with respect to Monthly Projected Quantities, (A) [the Day-Ahead Market Price for each Hourly interval during the Initial EPS Energy Period]<sup>2</sup> and the Day-Ahead Average Price during any other EPS Energy Period, minus in each case (B) the Monthly Discount; and (ii) with respect to Monthly Excess Quantities and Assigned Paygo Quantities, the Day-Ahead Market Price during the Initial EPS Energy Period and the Day-Ahead

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<sup>2</sup> NTD: Subject to confirmation of pricing terms under initial assigned PPA.

Average Price during any other EPS Energy Period. For the avoidance of doubt, the Contract Price for Assigned Energy is inclusive of any amounts due in respect of other Assigned Products.

“Contract Quantity” means (i) with respect to Assigned Energy, the Annual Quantity of Assigned Energy for each Contract Year of the Delivery Period; and (ii) with respect to Base Energy, the Hourly Quantity of Base Energy set forth in Exhibit A-1 for any Month, as such Exhibit A-1 shall be updated from time to time in accordance with Section 6.2.

“Contract Year” means each period of 12 Months from [ ] 1 until [ ] [31] during the Delivery Period; provided that (x) the initial Contract Year shall be a pro-rated [ ] Month period from [ ] 1, 2025 until December 31, 2025 and (y) the Annual Quantity for 2025 set forth in Exhibit A-3 reflects the pro-rated Annual Quantity for such [ ] Month period in 2025].

“Day-Ahead Average Price” means, for any Assigned Energy [after the Initial EPS Energy Period], (x) the sum of the Day-Ahead Market Prices for each Pricing Interval in a Month divided by (y) the number of Pricing Intervals in such Month plus (ii) the Assigned PPA Index Adder for the relevant Month. As used in this definition, “Pricing Interval” means each unit of time for which CAISO establishes a separate price.

“Day-Ahead Market Price” means The Day Ahead Market or Locational Marginal Price for the Energy Delivery Point for each applicable hour as published by CAISO, or as such price may be corrected or revised from time to time by such independent system operator or other entity in accordance with its rules.

“Default Rate” means, as of any date of determination, the lesser of (a) the sum of (i) the rate of interest per annum quoted in The Wall Street Journal (Eastern Edition) under the “Money Rates” section as the “Prime Rate” for such date of determination, plus (ii) one percent per annum, or (b) if a lower maximum rate is imposed by applicable Law, such maximum lawful rate.

“Delivery Hours” means each Hour commencing at 00:00 (PPT) on the first day of the Delivery Period, and each Hour thereafter during the Delivery Period.

“Delivery Period” means the period beginning on [ ] 1, 2025 and ending on [ ], 20[ ]; provided that the Delivery Period shall end immediately upon the effective termination date of the Prepaid Agreement or early termination of this Agreement pursuant to Article XVII hereof.

“Delivery Point” means (i) the applicable Assigned Delivery Point(s) for Assigned Energy and (ii) the applicable Energy Delivery Point for Base Energy (as set forth in Exhibits A-1 and A-2).

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in MWhs.

“Energy Delivery Point” has the meaning specified in Exhibit A-1.

“EPS” means California’s Emissions Performance Standards, as set forth in Sections 8340 and 8341 of the California Public Utilities Code, as implemented and amended from time to time, and any successor Law.

“EPS Compliant Energy” means Energy that Project Participant can contract for and purchase in compliance with EPS requirements that are applicable to Project Participant.

“EPS Energy Period” means the Initial EPS Energy Period and any subsequent EPS Energy Period established by a future assignment of a power purchase agreement consistent with the Assignment Letter Agreement.

“Execution Date” has the meaning specified in the preamble.

“Federal Tax Certificate” means the executed Federal Tax Certificate delivered by Project Participant in the form attached as Exhibit D.

“FERC” means the Federal Energy Regulatory Commission and any successor thereto.

“Firm (LD)” means, with respect to the obligation to deliver Energy, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure.

“Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the Execution Date, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Project Participant’s markets; (ii) Project Participant’s inability economically to use or resell the Energy purchased hereunder; (iii) the loss or failure of Issuer’s supply except if such loss or failure results from curtailment by a Transmission Provider; or (iv) Issuer’s ability to sell the Energy at a higher price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (a) such Party has contracted for firm transmission with such Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (b) such curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the Transmission Provider’s tariff; *provided*, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that Force Majeure as defined in the first sentence hereof has occurred. Notwithstanding the foregoing or anything to the contrary herein, (I) any invocation of Force Majeure by Prepay LLC under the Prepaid Agreement shall constitute Force Majeure in respect of Issuer hereunder; (II) to the extent that (x) a PPA Supplier fails to deliver any Assigned Energy and claims force majeure with respect to such failure to deliver or (y) a PPA Supplier otherwise is unable to deliver any portion of the Annual Quantity due to an event that would be considered Force Majeure under this Agreement if it affected Issuer directly, then such event shall be deemed to constitute Force Majeure in respect of Issuer hereunder; and (III) to the extent that an



Assignment Agreement is terminated early, such termination shall constitute Force Majeure with respect to Issuer until the earlier of (A) the commencement of an “Assignment Period” under a replacement Assignment Agreement, (B) the commencement of the delivery of EPS Compliant Energy procured by MSCG consistent with the Assignment Letter Agreement or (C) the end of the second Month following the Month in which such early termination occurs.

“Government Agency” means the United States of America, any state thereof, any municipality, or any local jurisdiction, or any political subdivision of any of the foregoing, including, but not limited to, courts, administrative bodies, departments, commissions, boards, bureaus, agencies, or instrumentalities.

“Hour” means each 60-minute period commencing at 00:00 PPT during the Delivery Period. The term “Hourly” shall be construed accordingly.

“Hourly Quantity” means, with respect to each Delivery Hour during the Delivery Period, the quantity (in MWh) of Base Energy set forth on Exhibit A-1 for the Month in which such Delivery Hour occurs (as such Exhibit A-1 may be updated from time to time in accordance with Section 6.2).

“Initial Assignment Agreement” means that certain Limited Assignment Agreement, dated as of [the date hereof], by and among Project Participant, [MSCG/Prepay LLC] and the Initial PPA Supplier, as from time to time amended, restated, supplemented or otherwise modified.

“Initial EPS Energy Period” means the [“Assignment Period”] as defined in the Initial Assignment Agreement.

“Initial PPA Supplier” means [\_\_\_\_\_].

“Initial Reset Period” means the period beginning on [\_\_\_\_] 1, 2025 and ending on [\_\_\_\_], 20[\_\_\_\_].

“Interest Rate Period” has the meaning specified in the Trust Indenture.

“Issuer” has the meaning specified in the preamble.

“Issuer Default” has the meaning specified in Section 17.1.

“Law” means any statute, law, rule or regulation or any judicial or administrative interpretation thereof having the effect of the foregoing enacted, promulgated, or issued by a Government Agency whether in effect as of the Execution Date or at any time in the future.

“Long-Term PCC1 Product” means bundled renewable energy and RECs meeting the requirements of Portfolio Content Category 1, and the California Long-Term Contracting Requirements, to be delivered to MSCG, Prepay LLC or any successors thereto pursuant to any Assigned Rights and Obligations.

“Minimum Discount” means no less than \$[ ] per MWh for each Reset Period after the Initial Reset Period. Such amount is inclusive of any projected Annual Refund.

“Month” means, during the Delivery Period, a calendar month. The term “Monthly” shall be construed accordingly.

“Monthly Discount” means (i) for the Initial Reset Period, an amount (when taken together with any Annual Refund) that is not less than the Minimum Discount and is specified in Exhibit F, which Exhibit F shall be provided by Issuer to Project Participant on the Bond Closing Date, and (ii) for each subsequent Reset Period, a portion of the Available Discount for such Reset Period determined by the Calculation Agent pursuant to the Re-Pricing Agreement and set forth in an updated Exhibit F provided by Issuer after such determination.

“Monthly Excess Quantity” means, for any Month, the amount, if any, by which the total quantity (in MWh) of Assigned Product delivered under an Assigned PPA in such Month exceeds the Monthly Projected Quantity for such Assigned PPA for such Month.

“Monthly Projected Quantity” means, with respect to each Assigned PPA and each Month of the Assignment Period for each Assigned PPA, the quantity (in MWh) of Assigned Product for such Month as set forth on Exhibit A-2 for such Assigned PPA (as such Exhibit A-2 may be updated from time to time in accordance with Section 6.2).

“MSCG” means Morgan Stanley Capital Group Inc., a Delaware corporation.

“MWh” means megawatt-hour.

“Non-Priority Energy” means Energy that is not Priority Energy.

“Participant Custodian” means [PARTICIPANT CUSTODIAN], a [ ].

“Party” has the meaning specified in the recitals.

“PCC1 Product” means bundled renewable energy and RECs meeting the requirements of Portfolio Content Category 1 to be delivered to MSCG, Prepay LLC or any successors thereto pursuant to any Assigned Rights and Obligations.

“PCC2 Product” means bundled renewable energy and RECs meeting the requirements of Portfolio Content Category 2 to be delivered to MSCG, Prepay LLC or any successors thereto pursuant to any Assigned Rights and Obligations.

“Person” means any individual, limited liability company, corporation, partnership, joint venture, trust, unincorporated organization or Government Agency.

“Portfolio Content Category 1” 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” 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.

“Potential Remarketing Termination Event” has the meaning specified in Section 3.4(b).

“PPA Custodial Agreement” means that certain Custodial Agreement, dated as of the Bond Closing Date, by and among Project Participant, Issuer, Prepay LLC, MSCG and the Participant Custodian.

“PPA Supplier” means the Initial PPA Supplier and any subsequent supplier who enters into an Assignment Agreement consistent with the terms of the Assignment Letter Agreement.

“PPT” means Pacific Prevailing Time.

“Prepaid Agreement” has the meaning specified in the recitals.

“Prepay LLC” has the meaning specified in the recitals.

“Priority Energy” means the Contract Quantity to be purchased by Project Participant under this Agreement, together with Energy that Project Participant is obligated to take under a long-term agreement, which Energy either (i) has been purchased by Project Participant or a joint action agency in a prepayment transaction using the proceeds of bonds, notes, or other obligations, the interest on which is excluded from gross income for federal income tax purposes, or (ii) is generated using capacity that was constructed using the proceeds of bonds, notes, or other obligations, the interest on which is excluded from gross income for federal income tax purposes (provided that, with respect to clause (ii), Priority Energy shall not include Energy that is generated using capacity that was wholly or partially financed through the monetization of renewable tax credits, whether such monetization is accomplished through a tax equity investment or otherwise, or that is generated from federally owned and operated hydroelectric facilities, including through the United States Army Corps of Engineers and the United States Bureau of Reclamation, and marketed by the Bonneville Power Administration or the Western Area Power Administration).

“Project Participant” has the meaning specified in the preamble.

“Project Participant Default” has the meaning specified in Section 17.2.

“Project Participant’s Statement” has the meaning specified in Section 14.1(a).

“Qualifying Use Requirements” means, with respect to any Energy delivered under this Agreement, such Energy is used (i) for a “qualifying use” as defined in U.S. Treas. Reg. § 1.148-1(e)(2)(iii), (ii) in a manner that will not result in any “private business use” within the meaning of Section 141 of the Code, and (iii) in a manner that is consistent with the Federal Tax Certificate attached as Exhibit D.

“Rating Agency” has the meaning specified in the Trust Indenture.

“Re-Pricing Agreement” means the Re-Pricing Agreement, dated as of the Bond Closing Date, by and between Issuer and Prepay LLC.

“Remarketing Termination Deadline” means, for any Reset Period, the last date and time by which the Project Participant may provide a Remarketing Termination Notice, which shall be 4:00 p.m. PPT on the 10th day of the Month (or, if such day is not a Business Day, the next succeeding Business Day) prior to the first delivery Month of a Reset Period with respect to which a Potential Remarketing Termination Event has occurred.

“Remarketing Termination Notice” has the meaning specified in Section 3.4(b).

“Renewable Energy Credit” or “REC” has the meaning specified for “Renewable Energy Credit” 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.

“Reset Period” means each “Reset Period” under the Re-Pricing Agreement.

“Reset Period Notice” has the meaning specified in Section 3.4(a).

“RPS” means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as 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.

“Schedule”, “Scheduled” or “Scheduling” means the actions of Issuer, Project Participant and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity of Energy to be delivered during any given portion of the Delivery Period at a specified Delivery Point.

“Transmission Provider(s)” means any entity or entities transmitting or transporting Energy on behalf of Issuer or Project Participant to or from the Delivery Point.

“Trust Indenture” means (i) the Trust Indenture to be entered into prior to the commencement of the Delivery Period between Issuer and the Trustee, as supplemented and amended from time to time in accordance with its terms, and (ii) any trust indenture entered into in connection with the commencement of any Interest Rate Period after the initial Interest Rate Period between Issuer and the Trustee containing substantially the same terms as the indenture described in clause (i) and which is intended to replace the indenture described in clause (i) as of the commencement of such Interest Rate Period.

“Trustee” means [TRUSTEE], and its successors as Trustee under the Trust Indenture.

“Voided Remarketing Termination Notice” has the meaning specified in Section 3.4(b).

“WREGIS” means the Western Renewable Energy Generation Information System or its successor.

Section 1.2 Definitions; Interpretation. References to “Articles,” “Sections,” “Schedules” and “Exhibits” shall be to Articles, Sections, Schedules and Exhibits, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the scope of such general statement, term or matter. Any reference herein to any agreement or document includes all amendments, supplements or restatements to and of such agreement or document as may occur from time to time, and any reference to a party to any such agreement includes all successors and assigns of such party thereunder permitted by the terms hereof and thereof.

## **ARTICLE II**

### **EXECUTION DATE AND DELIVERY PERIOD; NATURE OF CLEAN ENERGY PROJECT**

Section 2.1 Execution Date; Delivery Period. Unless this Agreement is terminated pursuant to Article XVII, delivery of Energy under this Agreement shall commence and continue for the Delivery Period.

Section 2.2 Termination Due to Failure to Issue Bonds. Each Party shall have a right to terminate this Agreement with the effect that this Agreement shall be of no further force or effect and the Parties shall have no rights or obligations hereunder if the Bonds are not issued on or before the [Prepayment Outside Date] (as defined in the Prepaid Agreement).

Section 2.3 Nature of Clean Energy Project. Project Participant acknowledges and agrees that Issuer will meet its obligations to provide Energy to Project Participant under this Agreement exclusively through its purchase of long-term supplies of Energy from Prepay LLC pursuant to the Clean Energy Project and that Issuer is financing its purchase of such long-term supplies through the issuance of the Bonds.

Section 2.4 Pledge of this Agreement. Project Participant acknowledges and agrees that Issuer will pledge its right, title, and interest under this Agreement and the revenues to be received under this Agreement to secure Issuer’s obligations under the Trust Indenture.

## **ARTICLE III**

### **SALE AND PURCHASE**

Section 3.1 Sale and Purchase of Energy. Issuer agrees to sell and deliver or cause to be delivered to Project Participant, and Project Participant agrees to purchase and take or cause

to be taken from Issuer, in each case, on a Firm (LD) basis, the Contract Quantity of Energy pursuant to the terms and conditions set forth in this Agreement. The Parties acknowledge and agree that Issuer's delivery obligation for (i) Assigned Products will be measured on an annual basis and (ii) Base Energy will be measured on an Hourly basis, as reflected in the definition of Contract Quantity and further set forth in the terms of this Agreement.

### Section 3.2 Payments.

(a) For each MWh of Assigned Product delivered to Project Participant, Project Participant shall pay Issuer the applicable Contract Price, provided that (x) Issuer shall owe a payment to Project Participant to the extent that the Contract Price for Energy delivered is negative and (y) Project Participant's payment of the [Retained Payment Amount] (as defined in the PPA Custodial Agreement) to the Participant Custodian consistent with the terms of the PPA Custodial Agreement shall satisfy Project Participant's obligations hereunder with respect to Monthly Excess Quantities and Assigned Paygo Quantities, as applicable.

(b) In addition to any Monthly Discount, Issuer shall credit such Annual Refund to Project Participant as may be available for distribution by Issuer pursuant to [Section 5.12] of the Trust Indenture, subject to the provisions of this Section 3.2(b). Such Annual Refund, if any, shall be credited to the next amount due from Project Participant following the release of funds for such purpose to Issuer under the terms of the Trust Indenture. In determining the amount of such Annual Refund, if any, to be credited to Project Participant, Issuer may reserve such funds (i) as may be required under the terms of the Trust Indenture or (ii) with the prior written consent of Project Participant (a) to fund or maintain the Minimum Discount for any future Reset Period, (b) to fund or maintain any rate stabilization or working capital reserve, (c) to reserve or account for unfunded liabilities and expenses or (d) for other costs of the Clean Energy Project. As of the Execution Date, the projected Annual Refund for the Initial Reset Period is \$[ ]<sup>3</sup> per MWh.

Section 3.3 No Obligation to Take Base Energy. Notwithstanding anything to the contrary in this Agreement, Project Participant shall not be required to purchase and receive any Base Energy hereunder, and Issuer shall cause Prepay LLC to remarket any portion of the Contract Quantity that is Base Energy pursuant to the provisions of Exhibit C to the Prepaid Agreement.<sup>4</sup>

### Section 3.4 Reset Period Remarketing.

(a) Reset Period Notice. For each Reset Period, Issuer shall provide to Project Participant, at least ten (10) days prior to the Remarketing Termination Deadline, formal written notice (a "Reset Period Notice") setting forth (i) the duration of such Reset Period, (ii) the [Estimated Available Discount] (as defined in the Re-Pricing Agreement) for such Reset Period, and (iii) the applicable Remarketing Termination Deadline. Issuer may thereafter update such notice at any time prior to the Remarketing Termination Deadline and may extend the Remarketing Termination Deadline, only to the extent consented to in writing by Prepay LLC.

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<sup>3</sup> SM NTD: MS to provide.

<sup>4</sup> SM NTD: Given that Base Quantities are required to be remarketed under Section 3.3, a Communications Protocol covering Base Quantities is not required in this document.

(b) Remarketing Termination. If the Reset Period Notice (or any update thereto) indicates that the Available Discount in such notice is not at least equal to the Minimum Discount for that Reset Period, then: (i) a “Potential Remarketing Termination Event” shall be deemed to exist, and (ii) Project Participant may, not later than the Remarketing Termination Deadline, issue a written notice in the form attached hereto as Exhibit C (a “Remarketing Termination Notice”) to Issuer, Prepay LLC and the Trustee electing for this Agreement and the Assignment Agreements to be terminated; *provided*, however, if the Issuer and Prepay LLC are able to achieve an actual Available Discount, as finally determined under the Re-Pricing Agreement, that is equal to or greater than the Minimum Discount, then Project Participant’s Remarketing Termination Notice shall be void (any such notice, a “Voided Remarketing Termination Notice”) and this Agreement and the Assignment Agreements shall remain in full force and effect for such Reset Period. For the avoidance of doubt, in the event that Project Participant issues a Remarketing Termination Notice (other than a Voided Remarketing Termination Notice), any rights and obligations assigned to Prepay LLC or MSCG, as applicable under the Initial Assignment Agreement or a subsequent Assignment Agreement including, without limitation, the right to receive Assigned Energy, shall revert to Project Participant as of the end of the Initial Reset Period or the then-current Reset Period, as applicable.

(c) Final Determination of Available Discount. The Parties acknowledge and agree that the final Available Discount for any Reset Period following the Initial Reset Period will be determined on the applicable [Re-Pricing Date] (as defined in the Re-Pricing Agreement), and that such Available Discount may differ from the estimate or estimates of such Available Discount provided to Project Participant prior to the applicable Remarketing Termination Deadline. Accordingly, the Parties agree that:

(i) the Available Discount for any Reset Period will not be less than the Minimum Discount applicable to such Reset Period, unless Issuer has provided notice of a Potential Remarketing Termination Event to Project Participant in accordance with Section 3.4(b); and

(ii) if Project Participant receives notice of a Potential Remarketing Termination Event and has not provided a Remarketing Termination Notice prior to the applicable Remarketing Termination Deadline, Project Participant shall be deemed to have elected to continue to purchase and receive its Contract Quantity at a Contract Price that reflects the Monthly Discount portion of the Available Discount as finally determined on the applicable Re-Pricing Date, plus Project Participant’s right to its share of Annual Refunds, if any, and all delivery and purchase obligations under this Agreement shall continue in full force and effect for the applicable Reset Period.

(d) Reduction of Contract Quantity. The Parties recognize and agree that the Contract Quantity may be reduced in a Reset Period pursuant to the re-pricing methodology described in the Re-Pricing Agreement if necessary to achieve a successful remarketing of the Bonds. The Parties agree further that if, pursuant to the Re-Pricing Agreement, Issuer and the Calculation Agent determine in connection with the establishment of any new Reset Period that: (i) such Reset Period will be the final Reset Period and (ii) such Reset Period will end prior to the end of the original Delivery Period, then (A) Issuer will notify Project Participant, (B) the Delivery Period will be deemed to be modified so that it ends at the end of such Reset Period, and (C) the

Contract Quantity for the last Month in such Reset Period may be reduced as provided in the Re-Pricing Agreement.

#### **ARTICLE IV FAILURE TO DELIVER OR TAKE ENERGY**

Notwithstanding anything herein to the contrary, neither Project Participant nor Issuer shall have any liability or other obligation to one another for any failure to Schedule, take, or deliver Assigned Product.

#### **ARTICLE V TRANSMISSION AND DELIVERY; COMMUNICATIONS**

Section 5.1 Delivery of Energy. All Assigned Energy delivered under this Agreement shall be Scheduled at the applicable Assigned Delivery Point and in accordance with the terms of the applicable Assignment Agreement. All other Assigned Product shall be delivered consistent with the terms of the applicable Assignment Agreement. Except as set forth in the two foregoing sentences, Project Participant and Issuer shall have no liability or obligations under this Article V with respect to Assigned Product.

Section 5.2 Scheduling. Scheduling of Assigned Energy shall be in accordance with the applicable Assignment Agreement.

Section 5.3 Title and Risk of Loss. Title to the Energy delivered under this Agreement and risk of loss shall pass from Issuer to Project Participant at the Assigned Delivery Point. The transfer of title and risk of loss for all Assigned Product other than Assigned Energy shall be in accordance with the applicable Assignment Agreement; provided that all Assignment Agreements shall provide for the transfer of Renewable Energy Credits in accordance with WREGIS.

Section 5.4 PCC1 Product, Long-Term PCC1 Product and PCC2 Product. To the extent that any Assigned Product is PCC1 Product, Long-Term PCC1 Product, or PCC2 Product the following provisions apply:

(a) Eligibility. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project 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 Project'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. **[STC 6, Non-Modifiable. (Source: D.07-11-025, Attachment A.) D.08-04-009]**. As used above, "Seller" means "Issuer", Buyer means "Project Participant", and any other capitalized terms not otherwise defined herein shall have the meaning specified in the Assignment Agreement.

(b) Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the



Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. 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. **[STC REC-1, Non-modifiable. D.11-01-025]**. As used above, “Seller” means “Issuer”, Buyer means “Project Participant”, and any other capitalized terms not otherwise defined herein shall have the meaning specified in the Assignment Agreement.

(c) Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. **[STC REC-2, Non-modifiable. D.11-01-025]**. As used above, “Seller” means “Issuer”, Buyer means “Project Participant”, and any other capitalized terms not otherwise defined herein shall have the meaning specified in the Assigned Agreement.

(d) 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. **[STC 17, Non-Modifiable. (Source: D.07-11-025, Attachment A) D.08-04-009]**.

(e) Issuer Representations and Warranties.

Issuer represents and warrants:

- (i) Issuer has the right to sell the Assigned Product from the Applicable Project;
- (ii) Issuer has not sold the Assigned Product or any REC or other attributes of the Assigned Product to be transferred to Project Participant to any other person or entity;
- (iii) the Energy component of the Assigned Product produced by the Applicable Project and purchased by Issuer for resale to Project Participant hereunder is not being sold by Issuer back to the Applicable Project or PPA Supplier;
- (iv) Assigned Energy and Assigned RECs to be purchased and sold pursuant to this Agreement are not committed to another party;
- (v) the Assigned Product is free and clear of all liens or other encumbrances;
- (vi) Issuer will deliver to Project Participant all Assigned Energy and associated RECs generated by the Applicable Project for PCC1 Product in compliance with the requirements set forth in California

Public Utilities Code 399.16(b)(1) and the California RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052, if applicable;

- (vii) Issuer will deliver to Project Participant all Assigned Energy and associated RECs generated by the Applicable Project for PCC2 Product in compliance with the requirements set forth in California Public Utilities Code 399.16(b)(2) and the California RPS compliance requirements for Portfolio Content Category 2 as set forth in CPUC Decision 11-12-052, if applicable;
- (viii) Issuer will deliver to Project Participant all Assigned Energy and associated RECs generated by the Applicable Project for Long-Term PCC1 Product in compliance with the California Long-Term Contracting Requirements, if applicable;
- (ix) the Assigned Product supplied to Project Participant under this Agreement that is Long-Term PCC1 Product will be sourced solely from Applicable Projects that have an Assignment Period of ten (10) years or more in length, or otherwise in compliance with the California Long Term Contracting Requirements; and
- (x) Issuer will cooperate and work with Project Participant, the CEC, and/or the CPUC to provide any documentation required by the CPUC or CEC to support the Product's classification as Portfolio Content Category 1 or Portfolio Content Category 2, as applicable, as set forth in California Public Utilities Code Section 399.16(b)(1) or 399.16(b)(2), as applicable, and compliance with the California Long-Term Contracting Requirements, if applicable.

Issuer further represents and warrants to Project Participant that, to the extent that the PCC1 Product sold by Issuer is a resale of part or all of a contract between Issuer and one or more third parties, Issuer represents, warrants and covenants that the resale complies with the following conditions in (i) through (iv) below during the Assignment Period and throughout the generation period:

- (i) the original upstream third-party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1);
- (ii) this Agreement transfers only electricity and RECs that have not yet been generated prior to the Assignment Period;
- (iii) the electricity transferred by this Agreement is transferred to Project Participant in real time; and
- (iv) if the Applicable Project has an agreement to dynamically transfer electricity to a California balancing authority, the transactions implemented under this Agreement are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

Issuer further represents and warrants to Project Participant that, to the extent that the PCC2 Product sold by Issuer is a resale of part or all of a contract between Issuer and one or more third parties, Issuer represents, warrants and covenants that the resale complies with the following conditions in (i) through (v) below during the Assignment Period and throughout the generation period:

(i) the original upstream third-party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(2);

(ii) this Agreement transfers only electricity and RECs that have not yet been generated prior to the Assignment Period;

(iii) this Agreement transfers the original arrangement for substitute electricity (e.g., source and quantity);

(iv) this Agreement retains the scheduling of the substitute electricity into a California balancing authority as set out in the original firming and shaping transaction; and

(v) this Agreement continues to provide incremental electricity scheduled into a California balancing authority.

(f) Subsequent Changes in Law. In the event that the qualifications or requirements of the RPS program, PCC1 Product, PCC2 Product or the California Long-Term Contracting Requirements change, Issuer shall take commercially reasonable actions to meet the amended qualifications or requirements of the RPS Law, PCC1 Product, PCC2 Product or the California Long-Term Contracting Requirements but will not be required to incur any unreimbursed costs to comply with the RPS Law, PCC1, PCC2 or the California Long-Term Contracting Requirements, collectively.

(g) Limitations. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree as follows:

(i) Issuer has relied exclusively upon the representations and warranties of each respective seller set forth in the Assignment Agreements in making the representations and warranties set forth in this Section 5.4 and has not performed any independent investigation with respect thereto;

(ii) Prepay LLC has agreed under the Prepaid Agreement to terminate or cause MSCG to terminate the applicable Assignment Period in the event that any representation or warranty in this Section 5.4 proves to be incorrect in any respect; and

(iii) Project Participant agrees that its sole recourse for any breach of the provisions of this Section 5.4 shall be the termination of the applicable Assignment Period and Project Participant shall have no other recourse against Issuer or remedies under this Agreement.

Section 5.5 Deliveries within CAISO or Another Balancing Authority. The Parties acknowledge that Energy delivered by Issuer at a Delivery Point within CAISO or another Balancing Authority will be delivered in accordance with the CAISO Tariff and rules of the Balancing Authority as applicable. Scheduling such Energy in accordance with the requirements of the applicable Energy into the applicable Balancing Authority shall constitute delivery of such Energy to Project Participant hereunder.

Section 5.6 Assigned Products. Notwithstanding anything to the contrary herein, the Parties shall have no liability under this Article V with respect to any Assigned Products.

## **ARTICLE VI PARTIAL ASSIGNMENTS OF PPAS**

Section 6.1 Future PPA Assignments. In connection with the expiration or termination of an EPS Energy Period, each of the Parties agrees to satisfy its obligations under the Assignment Letter Agreement, including but not limited to (a) Project Participant's obligation to exercise Commercially Reasonable Efforts to assign a portion of Project Participant's rights and obligations under a power purchase agreement under which Project Participant is purchasing EPS Compliant Energy to MSCG or Prepay LLC pursuant to an Assignment Agreement and (b) the Parties' obligations to cooperate in good faith with MSCG and Prepay LLC with respect to any proposed assignments.

### Section 6.2 Updates to Exhibits A-1 and A-2.

(a) To the extent that an EPS Energy Period terminates or expires and Assigned Energy is not available for delivery immediately following (i) the end of the period for which Force Majeure is deemed to occur in the event of an early termination of an EPS Energy Period or (ii) the expiration of an EPS Energy Period, the Parties shall update (A) Exhibit A-1 to reflect an increase in the Hourly Quantities of Base Energy and (B) Exhibit A-2 to reflect a decrease in the Monthly Projected Quantities associated with the relevant Assigned PPA, in each case, in an amount equal to the Assigned Energy associated with the EPS Energy Period that terminated or expired. For the avoidance of doubt, any updates to Exhibits A-1 and A-2 due to an early termination of an EPS Energy Period shall be effective as of the earlier of (1) the commencement of an Assignment Period under a replacement Assignment Agreement or (2) the start of the third Month following the Month in which such early termination occurs.

(b) In connection with the execution of any subsequent Assignment Agreement, the Parties shall update Exhibits A-1 and A-2 to reflect any changes in the Hourly Quantities of Base Energy and Monthly Projected Quantities of Assigned Energy and any other changes in connection therewith.

## **ARTICLE VII USE OF ENERGY**

Section 7.1 Tax Exempt Status of the Bonds. Project Participant acknowledges that the Bonds will be issued with the intention that the interest thereon will be exempt from federal taxes under Section 103 of the Code. Accordingly, Project Participant agrees that it will (a) provide such information with respect to its CCA System as may be requested by Issuer in order to

establish the tax-exempt status of the Bonds, and (b) act in accordance with such written instructions as Issuer may provide from time to time in order to maintain the tax-exempt status of the Bonds. Project Participant further agrees that it will not at any time take any action, or fail to take any action, that would adversely affect the tax-exempt status of the Bonds.

Section 7.2 Priority Energy. Subject to Section 7.5(a), Project Participant agrees to take the Contract Quantities to be delivered under this Agreement (a) in priority over and in preference to all Non-Priority Energy; and (b) on at least a *pari passu* and non-discriminatory basis with other Priority Energy.

Section 7.3 Remarketing Sales.

(a) Remarketing of Assigned Product. If notwithstanding Project Participant's compliance with Section 7.2, a quantity of Assigned Product less than the Annual Quantity is delivered hereunder in any Contract Year for any reason other than Force Majeure, then MSCG shall be deemed to remarket such undelivered quantity of Assigned Product consistent with [Section 5(a) of Exhibit C] to the Prepaid Agreement. For the avoidance of doubt, Project Participant will not have any payment obligation with respect to Assigned Energy that is remarketed pursuant to the foregoing sentence.

(b) Remarketing of Base Energy. Consistent with Section 3.3, to the extent any portion of the Contract Quantity is Base Energy, Issuer shall cause Prepay LLC to remarket or purchase such Energy for the account of Prepay LLC under the remarketing provisions of the Prepaid Agreement, and Issuer shall credit against the amount owed by Project Participant for such Contract Quantities the amounts received from Prepay LLC for such remarketing services, less all directly incurred costs or expenses, including but not limited to remarketing administrative charges paid to Prepay LLC under the Prepaid Agreement, but in no event shall the amount of such credit be more than the Contract Price. For the avoidance of doubt, Project Participant will not have any payment obligation with respect to Base Energy that is remarketed pursuant to the foregoing sentence.

(c) Prepay LLC Remarketing Fees. Project Participant shall not in any case have an obligation to make a payment to Issuer with respect to any Remarketing Fee (as defined in the Prepaid Agreement) charged by Prepay LLC under the Prepaid Agreement

Section 7.4 Qualifying Use. Subject to Section 7.5, Project Participant agrees that, without limiting Project Participant's other obligations under this Article VII, it will use all of the Energy purchased under this Agreement in compliance with the Qualifying Use Requirements. Project Participant agrees that it will provide such additional information, records and certificates as Issuer may reasonably request to confirm Project Participant's compliance with this Section 7.4.

Section 7.5 Remediation. To the extent that (a) all or a portion of the Contract Quantity is remarketed under Section 7.3(a) or Section 7.3(b), [(b) Project Participant has exercised Commercially Reasonable Efforts (as determined by [Special Tax Counsel] (as defined in the Trust Indenture)) to obtain EPS Compliant Energy for delivery hereunder consistent with the

Assignment Letter Agreement and (c)] Project Participant is not otherwise in default under this Agreement, then:

(a) Prepay LLC shall be obligated under the remarketing provisions of the Prepaid Agreement to purchase the remarketed Energy for its own account at the applicable price specified in Exhibit C to the Prepaid Agreement (the proceeds of any such purchases, “Disqualified Remarketing Proceeds”), which Disqualified Remarketing Proceeds are for the benefit of Project Participant in that such proceeds reduce its payment obligations hereunder;

(b) Project Participant shall (i) exercise Commercially Reasonable Efforts to use an amount equivalent to such Disqualified Remarketing Proceeds to purchase Non-Priority Energy and use such Non-Priority Energy in compliance with the Qualifying Use Requirements in order to remediate such Disqualified Remarketing Proceeds and (ii) apply its purchases of Non-Priority Energy to remediate Disqualified Remarketing Proceeds under this Agreement prior to remediating such proceeds under any other contract that provides for the purchase of Priority Energy;

(c) in order to track compliance with Project Participant’s obligations under Section 7.5(b) above, Project Participant shall deliver a Remediation Certificate in the form of Exhibit H hereto to Issuer and Prepay LLC by the tenth day of the Month subsequent to any relevant Non-Priority Energy purchases (which may include purchases of Energy from CAISO to the extent such Energy is used in compliance with the Qualifying Use Requirements);

(d) for Disqualified Remarketing Proceeds remediated under this Section 7.5, Issuer shall pay Project Participant any portion of Monthly Discount associated with such Disqualified Remarketing Proceeds and available for distribution under the Trust Indenture on the last Business Day of the Month following the Month in which Project Participant provides a certificate under clause (c) evidencing such remediation; and

(e) to the extent any Disqualified Remarketing Proceeds are not remediated within twelve Months of the date on which such proceeds were received by Issuer, then Prepay LLC shall be obligated under the Prepaid Agreement to exercise Commercially Reasonable Efforts to remediate such Disqualified Remarketing Proceeds under the Prepaid Agreement and Project Participant’s ability to remediate such remarketing proceeds shall be subject to Prepay LLC’s successful remediation of such proceeds through sales to other Project Participant(s);

provided that, for the avoidance of doubt, to the extent [Special Tax Counsel] (as defined in the Trust Indenture) determines at any time that Project Participant has failed to exercise Commercially Reasonable Efforts to obtain EPS Compliant Energy for delivery hereunder consistent with the Assignment Letter Agreement, then Project Participant shall not be entitled to remediate any Disqualified Remarketing Proceeds related to the resulting remarketing of Base Energy by Prepay LLC.

## **ARTICLE VIII REPRESENTATIONS AND WARRANTIES; ADDITIONAL COVENANTS**

Section 8.1 Representations and Warranties of the Parties. As a material inducement to entering into this Agreement, each Party, with respect to itself, hereby represents and warrants to the other Party as of the Execution Date as follows:

(a) for Issuer as the representing Party, Issuer is a joint powers authority organized pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code;

(b) for Project Participant as the representing Party, Project Participant is a joint powers authority organized pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code and a community choice aggregator pursuant to the provisions of Section 366.2 of the California Public Utilities Code, duly organized and validly existing under the Laws of the State of California;

(c) it has all requisite power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Agreement;

(d) there is no litigation, action, suit, proceeding or investigation pending or, to the best of such Party's knowledge, threatened, before or by any Government Agency, which could reasonably be expected to materially and adversely affect the performance by such Party of its obligations under this Agreement or that questions the validity, binding effect or enforceability hereof, any action taken or to be taken by such Party pursuant hereto, or any of the transactions contemplated hereby;

(e) the execution, delivery and performance of this Agreement by such Party has been duly authorized by all necessary action on the part of such Party and does not require any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party;

(f) this Agreement has been duly executed and delivered on behalf of such Party by an appropriate officer or authorized Person of such Party and constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights generally and by general principles of equity;

(g) the execution, delivery and performance of this Agreement by such Party shall not violate any provision of any Law, decree or other legal or regulatory determination applicable to it;

(h) the execution, delivery and performance by such Party of this Agreement, and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its financial obligations under this Agreement, shall not result in any violation of any term of any material contract or agreement applicable to it, or any of its charter or bylaws or of any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, Law or ordinance applicable to it or any of its properties or to any obligations incurred by it or by which

it or any of its properties or obligations are bound or affected, or of any determination or award of any arbitrator applicable to it, and shall not conflict with, or cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets, except with respect to Issuer, the lien of the Trust Indenture;

(i) to the best of the knowledge and belief of such Party, no consent, approval, order or authorization of, or registration, declaration or filing with, or giving of notice to, obtaining of any license or permit from, or taking of any other action with respect to, any Government Agency is required in connection with the valid authorization, execution, delivery and performance by such Party of this Agreement or the consummation of any of the transactions contemplated hereby other than those that have been obtained; and

(j) it enters this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by both Parties, considers this Agreement a legally enforceable contract.

Section 8.2 Warranty of Title. Issuer warrants that it will have the right to convey and will transfer good and merchantable title to all Energy sold under this Agreement and delivered by it to Project Participant, free and clear of all liens, encumbrances, and claims.

Section 8.3 Disclaimer of Warranties. EXCEPT FOR THE WARRANTIES EXPRESSLY MADE BY ISSUER IN THIS ARTICLE VIII, ISSUER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Section 8.4 Continuing Disclosure. Project Participant agrees to provide to Issuer: (a) such financial and operating information as may be requested by Issuer including its most recent audited financial statements for use in Issuer's offering documents for the Bonds; and (b) annual updates to such information and statements to enable Issuer to comply with its continuing disclosure undertakings under Rule 15(c)2-12 of the United States Securities and Exchange Commission. Failure by Project Participant to comply with its agreement to provide such annual updates shall not be a default under this Agreement, but any such failure shall entitle Issuer or an owner of the Bonds to take such actions and to initiate such proceedings as may be necessary and appropriate to cause Project Participant to comply with such agreement, including without limitation the remedies of mandamus and specific performance.

## **ARTICLE IX TAXES**

Issuer shall (i) be responsible for all ad valorem, excise and other taxes assessed with respect to Energy delivered pursuant to this Agreement upstream of the Delivery Point, and (ii) indemnify Project Participant and its Affiliates for any such taxes paid by Project Participant or its Affiliates. Project Participant shall (i) be responsible for all such taxes assessed at or downstream of the Delivery Point, and (ii) indemnify Issuer and its Affiliates for any such taxes paid by Issuer or its Affiliates.

## **ARTICLE X DISPUTE RESOLUTION**



Section 10.1 Arbitration. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. (“JAMS”) pursuant to its Comprehensive Arbitration Rules and Procedures. Within 15 days after the commencement of arbitration, each of the Parties shall select one person to act as arbitrator, and the two so-selected arbitrators shall select a third arbitrator (the “chairperson”) within 30 days of the commencement of the arbitration. If either Party is unable or fails to select one person to act as arbitrator, such arbitrator shall be appointed by JAMS. If the Party-selected arbitrators are unable or fail to agree upon a chairperson, the chairperson shall be appointed by JAMS. The chairperson shall be a person who has experience in renewable energy-related transactions, and none of the arbitrators shall have been previously employed by either Party or have any direct pecuniary interest in either Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by each of the Parties. The Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. In any arbitration arising out of or related to this Agreement, the arbitrators shall award to the prevailing Party, if any, the costs and attorneys’ fees reasonably incurred in seeking to enforce the application of this Section 10.1 and by the prevailing party in connection with the arbitration. Notwithstanding the foregoing provisions of this Section 10.1, any costs incurred by a Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Party against whom such court order is obtained. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction.

Section 10.2 Judicial Reference.

(a) Judicial Reference. Without limiting the provisions in Section 10.1, if Section 10.1 is ineffective or unenforceable, any dispute between the Parties arising out of or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) (each, a “Dispute”) shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (“CCP”), or their successor sections (a “Reference Proceeding”), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 10.2(b).

(b) Notice of Dispute. Prior to initiating the Reference Proceeding, a Party (the “Disputing Party”) shall provide the other Party (the “Responding Party”) with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the “Notice of Dispute”). Within 10 days after receiving the Notice of Dispute, the Responding Party shall provide the Disputing Party with a written notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the “Dispute Response”). Thereafter, the Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Parties do not resolve the dispute by mutual agreement within 60 days after receipt of the Dispute Response, then either Party may provide to the other Party written notice of intent for judicial reference (the “Impasse Notice”) in accordance with the further provisions of this Section 10.2.

(c) Applicability; Selection of Referees.

(i) The Party that provides the Impasse Notice shall nominate one (1) referee at the same time it provides the Impasse Notice. The other Party shall nominate one referee within 10 days of receiving the Impasse Notice. The two (2) referees (the “Party-Appointed Referees”) shall appoint a third referee (the “Third Referee”, together with the Party-Appointed Referees, the “Referees”). The Party-Appointed Referees shall be competent and experienced in matters involving the electric energy business in the United States, with at least 10 years of electric industry experience as a practicing attorney. The Third Referee shall be an active or retired California state or federal judge. Each of the Party-Appointed Referees and the Third Referee shall be impartial and independent of either Party and of the other referees and not employed by any of the Parties in any prior matter.

(ii) If the Party-Appointed Referees are unable to agree on the Third Referee within 45 days from delivery of the Impasse Notice, then the Third Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the “Court”), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP Section 170.6, each Party shall have one (1) peremptory challenge to the referee selected by the Court.

(d) Discovery; Proceedings.

(i) The Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within 20 days after the date of selection of the Third Referee, (ii) if practicable, try all issues of law or fact within 180 days after the date of the conference, and (iii) report a statement of decision within 20 days after the matter has been submitted for decision.

(ii) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Parties, or if they cannot agree, as determined by the Third Referee after discussion with the Parties regarding the need for discovery and other pre-hearing procedures.

(iii) Any matter before the Referees shall be governed by the substantive law of California, its Code of Civil Procedure, Rules of Court, and Evidence Code, except as otherwise specifically agreed by the Parties and approved by the Referees. Except as expressly set forth herein, the Third Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Parties, or if not agreed by the Parties, by the Third Referee, in San Francisco, California.

(iv) All proceedings and hearings conducted before the referees, except for trial, shall be conducted without a court reporter, except that when any Party so requests, a court reporter will be used at any hearing conducted before the referees, and the referees will be provided a courtesy copy of the transcript. The Party making such a request shall have the obligation to arrange for and pay the court reporter.

(e) Decision. The referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the Court. The Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

(f) Expenses. Each Party shall bear the compensation and expenses of its respective Party-Appointed Referee, own counsel, witnesses, consultants and employees. All other expenses of judicial reference shall be split equally between the Parties.

## **ARTICLE XI FORCE MAJEURE**

Section 11.1 Applicability of Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the “Claiming Party”) gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations with respect to this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall mitigate the Force Majeure with all reasonable dispatch. For the duration of the Claiming Party’s non-performance (and only for such period), the non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

Section 11.2 Settlement of Labor Disputes. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance, and the failure of a Party to settle such strikes, lockouts or other industrial disturbances shall not prevent the existence of Force Majeure or of reasonable dispatch to remedy the same.

## **ARTICLE XII GOVERNMENTAL RULES AND REGULATIONS**

Section 12.1 Compliance with Laws. This Agreement shall be subject to all present and future Laws of any Government Agency having jurisdiction over this Agreement or the transactions to be undertaken hereunder, and neither Party has knowingly undertaken or will knowingly undertake or knowingly cause to be undertaken any activity that would conflict with such Laws; *provided*, however, that nothing herein shall be construed to restrict or limit either Party's right to object to or contest any such Law, or its application to this Agreement or the transactions undertaken hereunder, and neither acquiescence therein or compliance therewith for any period of time shall be construed as a waiver of such right.

Section 12.2 Contests. Excluding all matters involving a contractual dispute between the Parties, no Party shall contest, cause to be contested or in any way actively support the contest of the equity, fairness, reasonableness or lawfulness of any terms or conditions set forth or established pursuant to this Agreement, as those terms or conditions may be at issue before any Government Agency in any proceeding, if the successful result of such contest would be to preclude or excuse the performance by either Party of this Agreement or any provision hereunder.

Section 12.3 Defense of Agreement. Excluding all matters involving a contractual dispute between the Parties, each Party shall hereafter defend and support this Agreement before any Government Agency in any proceeding, if the substance, validity or enforceability of all or any part of this Agreement is hereafter directly challenged or if any proposed changes in regulatory practices or procedures would have the effect of making this Agreement invalid or unenforceable or would otherwise materially affect the rights or obligations of the Parties under this Agreement.

## **ARTICLE XIII ASSIGNMENT**

The terms and provisions of this Agreement shall extend to and be binding upon the Parties and their respective successors, assigns, and legal representatives; *provided*, however, that, subject to Section 18.14, neither Party may assign this Agreement or its rights and interests, in whole or in part, under this Agreement without the prior written consent of the other Party. Prior to assigning this Agreement, Project Participant shall deliver to Issuer (i) written confirmation from each of the Applicable Rating Agencies, *provided* that such agency has rated and continues to rate the Bonds, that the assignment will not result in a reduction, qualification, or withdrawal of the then-current ratings assigned by the Applicable Rating Agencies to the Bonds; or (ii) written confirmation from each of the Applicable Rating Agencies, that the assignee has an outstanding long-term senior, unsecured, unenhanced debt rating equivalent to or higher than the ratings assigned by the Applicable Rating Agencies to the Bonds. Whenever an assignment or a transfer

of a Party's interest in this Agreement is requested to be made with the written consent of the other Party, the assigning or transferring Party's assignee or transferee shall expressly agree to assume, in writing, the duties and obligations under this Agreement of the assigning or transferring Party. Upon the agreement of a Party to any such assignment or transfer, the assigning or transferring Party shall furnish or cause to be furnished to the other Party a true and correct copy of such assignment or transfer and assumption of duties and obligations.

## **ARTICLE XIV PAYMENTS**

### **Section 14.1 Monthly Statements.**

(a) No later than the fifth (5<sup>th</sup>) day of each Month during the Delivery Period (excluding the first (1<sup>st</sup>) Month of the Delivery Period) and the first (1<sup>st</sup>) Month following the end of the Delivery Period, Project Participant shall deliver to Issuer a statement (a "Project Participant's Statement") listing any amounts due to Project Participant in connection with this Agreement with respect to the prior Month(s).

(b) No later than the fifteenth (15<sup>th</sup>) day (or if such day is not a Business Day, the preceding Business Day) of each Month during the Delivery Period (excluding the first (1<sup>st</sup>) Month of the Delivery Period) and the first (1<sup>st</sup>) Month following the end of the Delivery Period (the "Billing Date"), Issuer shall deliver a statement (a "Billing Statement") to Project Participant indicating (i) the total amount due to Issuer for Energy delivered in the prior Month, (ii) any other amounts due to Issuer or Project Participant in connection with this Agreement with respect to the prior Month(s), and (iii) the net amount due to Issuer or Project Participant; provided that invoicing for Monthly Excess Quantities and Assigned Paygo Quantities shall occur under the PPA Custodial Agreement. Additionally, if a [Participant Monthly Statement] (as defined in the PPA Custodial Agreement) for an [Assigned PPA] (as defined in the PPA Custodial Agreement) has not been delivered by the fifteenth (15<sup>th</sup>) day (or if such day is not a Business Day, the preceding Business Day) of the Month following deliveries, and absent any mutual agreement by the Parties (and mutual agreement of the parties under the Prepaid Agreement and the Energy Management Agreement) to settle based upon preliminary meter data, Issuer shall provisionally prepare or cause to be prepared a Billing Statement for this Agreement that assumes all of the Monthly Projected Quantities were delivered under the applicable Assigned PPA for such Month, and any subsequent resettlements required with respect thereto shall occur under the PPA Custodial Agreement.

(c) Upon request by either Party, the other Party shall deliver such supporting documentation of the foregoing as such requesting Party may reasonably request.

### **Section 14.2 Payment.**

(a) If the Billing Statement indicates an amount due from Project Participant, then Project Participant shall remit such amount to the Trustee for the benefit of the Issuer by wire transfer (pursuant to the Trustee's instructions for amounts due under this Agreement, provided that amounts due from Project Participant with respect to Monthly Excess Quantities and Assigned Paygo Quantities, as applicable, shall be paid pursuant to the terms of the PPA Custodial Agreement), in immediately available funds, on or before the twenty second (22<sup>nd</sup>) day of the

Month following the most recent Month to which such Billing Statement relates, or if such day is not a Business Day, the preceding Business Day. If the Billing Statement indicates an amount due from Issuer, then Issuer shall remit such amount to Project Participant by wire transfer (pursuant to Project Participant's instructions), in immediately available funds, on or before the twenty-eighth (28<sup>th</sup>) day of the Month following the most recent Month to which such Billing Statement relates, or if such day is not a Business Day, the following Business Day.

(b) If Project Participant fails to issue a Project Participant's Statement with respect to any Month, Issuer shall not be required to estimate any amounts due to Project Participant for such Month, provided that Project Participant may include any such amount on subsequent Project Participant's Statements issued within the next sixty (60) days. The sixty (60) day deadline in this subsection (b) replaces the two (2) year deadline in Section 14.5(b) with respect to any claim by any non-delivering Party of inaccuracy in any estimated invoice issued or payment made pursuant to this subsection (b).

#### Section 14.3 Payment of Disputed Amounts; Correction of Index Price.

(a) If Project Participant disputes any amounts included in the Issuer's Billing Statement, Project Participant shall (except in the case of manifest error) nonetheless pay any amount required by the Billing Statement in accordance with Section 14.2 without regard to any right of set-off, counterclaim, recoupment or other defenses to payment that Project Participant may have; *provided*, however, that Project Participant shall have the right, after payment, to dispute any amounts included in a Billing Statement or otherwise used to calculate payments due under this Agreement pursuant to Section 14.5. If Issuer disputes any amounts included in the Project Participant's Statement, Issuer may withhold payment to the extent of the disputed amount; *provided*, however, that interest shall be due at the Default Rate for any withheld amount later found to have been properly due.

(b) If a value published for any rate or index used or to be used in this Agreement is subsequently corrected and the correction is published or announced by the Person responsible for that publication or announcement within thirty (30) days after the original publication or announcement, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If, not later than thirty (30) days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount shall, not later than three (3) Business Days after the effectiveness of that notice, pay, subject to any other applicable provisions of this Agreement, to the other Party that amount, together with interest on that amount at the Default Rate for the period from and including the day on which a payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

Section 14.4 Late Payment. If Project Participant fails to remit the full amount payable within one (1) Business Day of when due, interest on the unpaid portion shall accrue from the date due until the date of payment at the Default Rate.

#### Section 14.5 Audit; Adjustments.



(a) A Party shall have the right, at its own expense, upon reasonable notice to the other Party and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party to the extent reasonably necessary, but only to such extent, to verify the accuracy of any statement, charge, payment, or computation made under this Agreement. This right to examine, audit, and obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Agreement.

(b) Each Project Participant's Statement and each Billing Statement shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such Project Participant's Statement or Billing Statement is objected to in writing, with adequate explanation and/or documentation, within two (2) years after the applicable Month of Energy delivery.

(c) All retroactive adjustments shall be paid in full by the Party owing payment within thirty (30) days of notice and substantiation of such inaccuracy. If the Parties are unable to agree upon any retroactive adjustments requested by either Party within the time period specified in Section 14.5(b), then either Party may pursue any remedies available with respect to such adjustments at law or in equity. Retroactive adjustments for payments made based on an incorrect Billing Statement shall bear interest at the Default Rate from the date such payment was made.

Section 14.6 Netting; No Set-Off. The Parties shall net all amounts due and owing, including any past due amounts (which, for the avoidance of doubt, shall include any accrued interest), arising under this Agreement such that the Party owing the greater amount shall make a single payment of the net amount to the other Party in accordance with this Article XIV. Notwithstanding the foregoing, payment for all amounts set forth in a Billing Statement provided to Project Participant shall be made without set-off or counterclaim of any kind.

Section 14.7 Source of Project Participant's Payments. Project Participant covenants and agrees to make payments due hereunder from CCA Revenues, and only from such CCA Revenues, as an operating expense of its CCA System; *provided*, however, that Project Participant may apply any legally available monies to the payment of amounts due hereunder.

Section 14.8 Rate Covenant. Project Participant hereby covenants and agrees that it will establish, fix, prescribe, maintain, and collect rates, fees, and charges from the customers of its CCA System so as to provide CCA Revenues sufficient to enable Project Participant to pay any other amounts legally payable from CCA Revenues, and to maintain any required reserves for Project Participant's CCA System. Project Participant further covenants and agrees that it shall not furnish or supply Energy services free of charge to any Person, except any such service free of charge that Project Participant is supplying on the date hereof as has been specifically identified by Project Participant to Issuer in writing, and it shall promptly enforce the payment of any and all accounts owing to Project Participant for the sale of Energy to its customers. Notwithstanding anything herein to the contrary, Project Participant shall not be obligated to make any payments hereunder except from CCA Revenues.

Section 14.9 Pledge of CCA Revenues. Project Participant shall not grant any lien on or security interest in, or otherwise pledge or encumber, the CCA Revenues if the terms or effect of

such lien, pledge or other encumbrance results in such lien, pledge or other encumbrance having priority over the obligations of Project Participant to pay the Contract Price, which obligations constitute operating expenses of Project Participant.

**Section 14.10 Financial Responsibility.** In the event the Issuer receives notice from Prepay LLC pursuant to [Section 2.12] of the Receivables Purchase Provisions (as defined in the Trust Indenture) that it requires adequate assurance of performance from the Issuer, Issuer shall provide notice thereof to Project Participant and Project Participant shall (a) notify the Issuer of its agreement to provide such adequate assurance within forty-eight (48) Hours but at least one (1) Business Day of Project Participant's receipt of such notice and (b) provide such adequate assurance to Issuer within seventy-two (72) Hours but at least two (2) Business Days of Project Participant's receipt of such notice. Adequate assurance shall mean sufficient security in the form and for a term reasonably specified by Prepay LLC pursuant to [Section 2.12] of the Receivables Purchase Provisions, including but not limited to a standby irrevocable letter of credit, a prepayment, a deposit to an escrow account, or a performance bond or guaranty by a creditworthy entity. In the event Issuer is entitled to demand adequate assurance of performance under this Section 14.10, Issuer may demand at a minimum a prepayment by Project Participant of an amount equal to (i) the amount owed by Project Participant with respect to all Energy delivered by Issuer to Project Participant as of the date of the demand for adequate assurance of performance, plus (ii) the amount, as determined and adjusted from time to time by Issuer (with the input of Prepay LLC pursuant to the [Receivables Purchase Provisions] (as defined in the Trust Indenture)) in a Commercially Reasonable manner, expected to be owed by Project Participant with respect to the Energy to be delivered by Issuer to Project Participant during the remainder of the then-current Month and the following Month. The Parties agree that in the event Project Participant fails to provide such adequate assurance as demanded, Issuer shall have the right to suspend its performance under this Agreement, including the making of deliveries of Energy to Project Participant, immediately upon written notice and shall not be obligated to restore such performance until the later of (A) the first day of the Month after such demand has been satisfied, and (B) the completion of the term of deliveries to any replacement sales customer to which Prepay LLC has remarketed the Energy on behalf of Issuer.

## **ARTICLE XV [RESERVED]**

## **ARTICLE XVI NOTICES**

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to the other Party (or to a third party) shall be in writing and shall either be sent by electronic means, courier, or personally delivered (including overnight delivery service) to each of the notice recipients and addresses specified in Exhibit B for the receiving Party. Any such notice, demand, or request shall be deemed to be given (i) on the date it is delivered by electronic means or (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service). Each Party shall have the right, upon 10 days' prior written notice to the other Party, to change its list of notice recipients and addresses in Exhibit B. The Parties may mutually agree in writing at any time to deliver notices, demands or requests through alternate or additional methods. Notwithstanding the foregoing, a Party may at any time notify the other Party



that any notice, demand, statement or request to it must be provided by email transmission for a specified period of time or until further notice, and any communications delivered by means other than email transmission during the specified period of time shall be ineffective.

## **ARTICLE XVII DEFAULT; REMEDIES; TERMINATION**

Section 17.1 Issuer Default. Each of the following events shall constitute an “Issuer Default” under this Agreement:

(a) any representation or warranty made by Issuer in this Agreement proves to have been incorrect in any material respect when made; or

(b) Issuer fails to perform, observe or comply with any covenant, agreement or term contained in this Agreement, and such failure continues for more than thirty (30) days following the earlier of (i) receipt by Issuer of notice thereof or (ii) an officer of Issuer obtaining actual knowledge of such default.

Section 17.2 Project Participant Default. Each of the following events shall constitute a “Project Participant Default” under this Agreement:

(a) Project Participant fails to pay when due any amounts owed to Issuer pursuant to this Agreement and such failure continues for one (1) Business Day following the earlier of (i) receipt by Project Participant of notice thereof or (ii) an officer of Project Participant becoming aware of such default;

(b) Project Participant (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days of the institution or presentation thereof; (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its of assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter; (viii) causes or is subject to any event with respect to it which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified

in clauses (i) through (vii); or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

(c) any representation or warranty made by Project Participant in this Agreement proves to have been incorrect in any material respect when made; or

(d) Project Participant fails to perform, observe or comply with any covenant, agreement or term contained in this Agreement, and such failure continues for more than fifteen (15) days following the earlier of (i) receipt by Project Participant of notice thereof or (ii) an officer of Project Participant becoming aware of such default.

Section 17.3 Automatic Non-Default Termination Event. Project Participant's issuance of a valid Remarketing Termination Notice (other than a Voided Remarketing Termination Notice) in accordance with Section 3.4(b) shall constitute an "Automatic Non-Default Termination Event" under this Agreement.

Section 17.4 Remedies Upon Default.

(a) Termination.

- (i) If an Automatic Non-Default Termination Event occurs, then (A) the Delivery Period shall end as of the end of then-current Reset Period (i.e., as of the end of the Reset Period preceding the Reset Period for which Project Participant issues a valid Remarketing Termination Notice other than a Voided Remarketing Termination Notice), (B) this Agreement shall terminate upon payment by the Parties' of any outstanding amounts due under this Agreement and (C) Project Participant shall exercise its right to terminate any Assignment Agreements in effect.
- (ii) If at any time an Issuer Default or a Project Participant Default has occurred and is continuing, then the non-defaulting Party may do any or all of the following (i) by notice to the defaulting Party specifying the relevant Issuer Default or Project Participant Default, as applicable, terminate this Agreement effective as of a day not earlier than the day such notice is deemed given under Article XVI and/or (ii) declare all amounts due to the non-defaulting Party under this Agreement or any part thereof immediately due and payable, and the same shall thereupon become immediately due and payable, without notice, demand, presentment, notice of dishonor, notice of intent to demand, protest or other formalities of any kind, all of which are hereby expressly waived by the defaulting Party; *provided*, however, this Agreement shall automatically terminate and all amounts due to the non-defaulting Party hereunder shall immediately become due and payable as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition that upon the occurrence of a

Project Participant Default specified in Section 17.2(b)(iv) or, to the extent analogous thereto, Section 17.2(b)(viii). In addition, during the existence of an Issuer Default or a Project Participant Default, as applicable, the non-defaulting Party may exercise all other rights and remedies available to it at Law or in equity, including without limitation mandamus, injunction and action for specific performance, to enforce any covenant, agreement or term of this Agreement.

(b) Additional Remedies. In addition to the remedies set forth in Section 17.4(a) (and without limiting any other provisions of this Agreement), during the existence of any Project Participant Default, Issuer may suspend its performance hereunder and discontinue the supply of all or any portion of the Energy otherwise to be delivered to Project Participant by it under this Agreement. If Issuer exercises its right to suspend performance under this Section 17.4(b), Project Participant shall remain fully liable for payment of all amounts in default and shall not be relieved of any of its payment obligations under this Agreement. Deliveries of Energy may only be reinstated, at a time to be determined by Issuer, upon (i) payment in full by Project Participant of all amounts then due and payable under this Agreement and (ii) payment in advance by Project Participant at the beginning of each Month of amounts estimated by Issuer to be due to Issuer for the future delivery of Energy under this Agreement for such Month. Issuer may continue to require payment in advance from Project Participant after the reinstatement of Issuer's supply services under this Agreement for such period of time as Issuer in its sole discretion may determine is appropriate. In addition, and without limiting any other provisions of or remedies available under this Agreement, if Project Participant fails to accept from Issuer any Energy tendered for delivery under this Agreement, Issuer shall have the right to sell such Energy to third parties on any terms that Issuer, in its sole discretion, determines are appropriate.

(c) Effect of Early Termination. As of the effectiveness of any termination date in accordance with clause (i) of Section 17.4(a), (i) the Delivery Period shall end, (ii) the obligation of Issuer to make any further deliveries of Energy to Project Participant under this Agreement shall terminate, and (iii) the obligation of Project Participant to receive deliveries of Energy from Issuer under this Agreement will terminate. Neither this Agreement nor the Delivery Period may be terminated for any reason except as specified in this Article XVII. Without prejudice to any payment obligation in respect of periods prior to termination, no payments will be due from either Party in respect of periods occurring after the effective termination date of this Agreement.

Section 17.5 Termination of Prepaid Agreement. Project Participant acknowledges and agrees that (i) in the event an Energy Delivery Termination Event occurs under and as defined in the Prepaid Agreement for any reason prior to the end of the Delivery Period, this Agreement shall terminate on the Energy Delivery Termination Date (which date shall be the last date upon which deliveries are required under the Prepaid Agreement, subject to all winding up arrangements) and (ii) Issuer's obligation to deliver Energy under this Agreement shall terminate upon the termination of deliveries of Energy to Issuer under the Prepaid Agreement. Issuer shall provide notice to Project Participant of any early termination date of the Prepaid Agreement. The Parties recognize and agree that, in the event that the Prepaid Agreement terminates because of a [Failed Remarketing (as defined in the Trust Indenture)] of the Bonds that occurs in the first Month of a Reset Period, Issuer shall deliver Energy under this Agreement for the remainder of

such first Month, and, notwithstanding anything in this Agreement to the contrary, no Monthly Discount or Annual Refunds shall be associated with such deliveries and the Contract Price shall be adjusted accordingly.

Section 17.6 Limitation on Damages. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS HEREIN 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. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE. 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 WITHOUT LIMITATION THE NEGLIGENCE OF EITHER PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID UNDER THIS AGREEMENT ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. IN DETERMINING THE APPROPRIATE MEASURE OF DAMAGES THAT WOULD MAKE THE PARTIES WHOLE, THE PARTIES HAVE THOROUGHLY CONSIDERED, INTER ALIA, THE UNCERTAINTY OF FLUCTUATIONS IN COMMODITY PRICES, THE ABILITY AND INTENTION OF THE PARTIES TO HEDGE SUCH FLUCTUATIONS, THE BARGAINED-FOR ALLOCATION OF RISK, THE KNOWLEDGE, SOPHISTICATION AND EQUAL BARGAINING POWER OF THE PARTIES, THE ARMS-LENGTH NATURE OF THE NEGOTIATIONS, THE SPECIAL CIRCUMSTANCES OF THIS TRANSACTION, THE ACCOUNTING AND TAX TREATMENT OF THE TRANSACTION BY THE PARTIES, AND THE ENTERING INTO OF OTHER TRANSACTIONS IN RELIANCE ON THE ENFORCEABILITY OF THE LIQUIDATED DAMAGES PROVISIONS CONTAINED HEREIN.

## **ARTICLE XVIII MISCELLANEOUS**

Section 18.1 Indemnification Procedure. With respect to each indemnification included in this Agreement, the indemnity is given to the fullest extent permitted by applicable Law and the following provisions shall be applicable. The indemnified Party shall promptly notify the indemnifying Party in writing of any Claim and the indemnifying Party shall have the right to assume its investigation and defense, including employment of counsel, and shall be obligated to pay related court costs, attorneys' fees and experts' fees and to post any appeals bonds; *provided*, however, that the indemnified Party shall have the right to employ at its expense separate counsel and participate in the defense of any Claim. The indemnifying Party shall not be liable for any

settlement of a Claim without its express written consent thereto. In order to prevent double recovery, the indemnified Party shall reimburse the indemnifying Party for payments or costs incurred in respect of an indemnity with the proceeds of any judgment, insurance, bond, surety or other recovery made by the indemnified Party with respect to a covered event.

Section 18.2 Deliveries. Contemporaneously with this Agreement (unless otherwise specified): Each Party shall deliver to the other Party evidence reasonably satisfactory to it of (i) such Party's authority to execute, deliver and perform its obligations under this Agreement and (ii) the appropriate individuals who are authorized to sign this Agreement on behalf of such Party;

(a) as of the Bond Closing Date, Project Participant shall deliver to Issuer a fully executed Federal Tax Certificate in the form attached hereto as Exhibit D;

(b) on the Bond Closing Date, Project Participant shall deliver to Issuer opinions of counsel to Project Participant in the forms attached hereto as Exhibit E;

(c) on the Bond Closing Date, Project Participant shall deliver to Issuer a Closing Certificate in substantially the form set forth hereto as Exhibit G.

Section 18.3 Entirety; Amendments. This Agreement, including the exhibits and attachments hereto, constitutes the entire agreement between the Parties and supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those expressed herein. Except for any matters that, in accordance with the express provisions of this Agreement, may be resolved by oral agreement between the Parties, no amendment, modification, supplement or change hereto shall be enforceable unless reduced to writing and executed by both Parties.

Section 18.4 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO ANY CONFLICTS OF LAW PRINCIPLE THAT WOULD DIRECT THE APPLICATION OF ANOTHER JURISDICTION'S LAW.

Section 18.5 Non-Waiver. No waiver of any breach of any of the terms of this Agreement shall be effective unless such waiver is in writing and signed by the Party against whom such waiver is claimed. No waiver of any breach shall be deemed a waiver of any other subsequent breach.

Section 18.6 Severability. If any provision of this Agreement, or the application thereof, shall for any reason be invalid or unenforceable, then to the extent of such invalidity or unenforceability, the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent permissible under applicable Law, so long as the economic and legal substance of the transactions contemplated hereby is not affected in any materially adverse manner as to either Party.

Section 18.7 Exhibits. Any and all Exhibits referenced in this Agreement are hereby incorporated herein by reference and shall be deemed to be an integral part hereof.

Section 18.8 Winding Up Arrangements. All indemnity and confidentiality obligations, audit rights, and other provisions specifically providing for survival shall survive the expiration or termination of this Agreement. The expiration or termination of this Agreement shall not relieve either Party of (a) any unfulfilled obligation or undischarged liability of such Party on the date of such termination or (b) the consequences of any breach or default of any warranty or covenant contained in this Agreement. All obligations and liabilities described in the preceding sentence of this Section 18.8, and applicable provisions of this Agreement creating or relating to such obligations and liabilities, shall survive such expiration or termination.

Section 18.9 Relationships of Parties. The Parties shall not be deemed to be in a relationship of partners or joint venturers by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Agreement is intended to secure and provide for the services of each Party as an independent contractor.

Section 18.10 Immunity. Each Party represents and covenants to and agrees with the other Party that it is not entitled to and shall not assert the defense of sovereign immunity or governmental immunity with respect to its obligations or any Claims under this Agreement, and each hereby waives any such defense of sovereign or governmental immunity to the full extent permitted by Law.

Section 18.11 Rates and Indices. If the source of any publication used to determine the index or other price used in the Contract Price should cease to publish the relevant prices or should cease to be published entirely, an alternative index or other price will be used based on the determinations made by Issuer and Prepay LLC under [Section 18.11] of the Prepaid Agreement. Issuer shall provide Project Participant the opportunity to provide its recommendations and other input to Issuer for Issuer's use in the process for selecting such alternative index or other price under [Section 18.11] of the Prepaid Agreement.

Section 18.12 Limitation of Liability. Notwithstanding anything to the contrary herein, all obligations of Issuer under this Agreement, including without limitation all obligations to make payments of any kind whatsoever, are special, limited obligations of Issuer, payable solely from the [Trust Estate] (as such term is defined in the Trust Indenture) as and to the extent provided in the Trust Indenture, including with respect to [Operating Expenses] (as such term is defined in the Trust Indenture). Issuer shall not be required to advance any moneys derived from any source other than the [Revenues] (as such term is defined in the Trust Indenture) and other assets pledged under the Trust Indenture for any of the purposes in this Agreement mentioned. Neither the faith and credit of Issuer nor the taxing power of the State of California or any political subdivision thereof is pledged to payments pursuant to this Agreement. Issuer shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reasons of or in connection with this Agreement, except solely to the extent [Revenues] (as such term is defined in the Trust Indenture) are received for the payment thereof and may be applied therefor pursuant to the terms of the Trust Indenture.

Section 18.13 Counterparts. This Agreement may be executed and acknowledged in multiple counterparts and by the Parties in separate counterparts, each of which shall be an original and all of which shall be and constitute one and the same instrument.

Section 18.14 Third Party Beneficiaries; Rights of Trustee. Project Participant acknowledges and agrees that (a) Issuer will pledge and assign its rights, title and interest in this Agreement and the amounts payable by Project Participant under this Agreement to secure Issuer's obligations under the Trust Indenture, (b) the Trustee shall be a third-party beneficiary of this Agreement with the right to enforce Project Participant's obligations under this Agreement, (c) the Trustee or any receiver appointed under the Trust Indenture shall have the right to perform all obligations of Issuer under this Agreement, (d) Prepay LLC shall be a third-party beneficiary of this Agreement with the right to enforce the provisions of Section 3.4 and (e) in the event of any Project Participant Defaults under Section 17.2(a), (i) Prepay LLC may, to the extent provided for in, and in accordance with, the [Receivables Purchase Provisions] (as defined in the Trust Indenture), take assignment from Issuer of receivables owed by Project Participant to Issuer under this Agreement, and Prepay LLC or any third party who takes transfer of such receivables shall thereafter have all rights of collection with respect to such receivables, and (ii) if such receivables are not so assigned, the [Commodity Swap Counterparty] (as defined in the Trust Indenture) shall have the right to pursue collection of such receivables to the extent of any non-payment by Issuer to the Commodity Swap Counterparty that was caused by Project Participant's payment default. Pursuant to the terms of the Trust Indenture, Issuer has irrevocably appointed the Trustee as its agent to issue notices and as directed under the Trust Indenture, to take any other actions that Issuer is required or permitted to take under this Agreement. Project Participant may rely on notices or other actions taken by Issuer or the Trustee and Project Participant has the right to exclusively rely on any notices delivered by the Trustee, regardless of any conflicting notices that it may receive from Issuer.

Section 18.15 Waiver of Defenses. Project Participant waives all rights to set-off, counterclaim, recoupment and any other defenses that might otherwise be available to Project Participant with regard to Project Participant's obligations pursuant to the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

**[Separate Signature Page(s) Attached]**

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT A-1**  
**BASE ENERGY HOURLY QUANTITIES**

[To be attached.]

**EXHIBIT A-2**  
**EPS ENERGY PERIOD MONTHLY PROJECTED QUANTITIES**

[To be attached.]

**[EXHIBIT A-3  
ANNUAL QUANTITY]**

[To be attached.]

**EXHIBIT B**  
**NOTICES**

**IF TO ISSUER:** California Community Choice Financing Authority  
1125 Tamalpais Avenue  
San Rafael, CA 94901  
[ ]

**IF TO PROJECT PARTICIPANT:** Clean Power Alliance of Southern California  
801 South Grand Avenue, Suite 400  
Los Angeles, CA 90017  
Email: [prepays@cleanpoweralliance.org](mailto:prepays@cleanpoweralliance.org)

**EXHIBIT C**  
**FORM OF REMARKETING TERMINATION NOTICE**

[\_\_\_\_\_]   
Energy Prepay [ ], LLC  
c/o Morgan Stanley & Co. LLC  
[1585 Broadway  
New York, NY 10036-8293]  
Email: CCCFA\_202[ ][X]\_ms\_notices@morganstanley.com  
*With a mandatory copy to:*  
msdoc-misc-notices@morganstanley.com

[TRUSTEE]

[\_\_\_\_\_]   
[\_\_\_\_\_]

To the Addressees:

The undersigned, duly authorized representative of Clean Power Alliance of Southern California, a California joint powers authority (the "Project Participant"), is providing this notice (the "Remarketing Termination Notice") pursuant to the Clean Energy Purchase Contract, dated as of [\_\_\_\_], 2025 (the "Supply Contract"), between California Community Choice Financing Authority and the Project Participant, as from time to time amended, restated, supplemented or otherwise modified. Capitalized terms used herein shall have the meanings set forth in the Supply Contract.

Pursuant to Section 3.4(b) of the Supply Contract, the Project Participant has elected to terminate this Agreement unless Issuer and Prepay LLC are able to achieve an Available Discount equal to or greater than the Minimum Discount.

Given this [\_\_\_\_] day of [\_\_\_\_], 20[\_\_\_\_].

CLEAN POWER ALLIANCE OF  
SOUTHERN CALIFORNIA

By: \_\_\_\_\_  
Printed Name:  
Title:

**EXHIBIT D**

**FORM OF FEDERAL TAX CERTIFICATE**

This Federal Tax Certificate is executed in connection with the Clean Energy Purchase Contract dated as of [\_\_\_\_], 2025 (the “Supply Contract”), by and between California Community Choice Financing Authority (“Issuer”) and Clean Power Alliance of Southern California, a California joint powers authority (“Project Participant”). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Supply Contract or in the Trust Indenture.

WHEREAS Project Participant acknowledges that Issuer is issuing the Bonds to fund the prepayment price under the Prepaid Agreement; and

WHEREAS the Bonds are intended to qualify for tax exemption under Section 103 of the Internal Revenue Code of 1986, as amended; and

WHEREAS Project Participant’s use of Energy acquired pursuant to the Supply Contract and certain funds and accounts of Project Participant will affect the Bonds’ qualification for such tax exemption.

NOW, THEREFORE, PROJECT PARTICIPANT HEREBY CERTIFIES AS FOLLOWS:

1. Project Participant is a community choice aggregator organized as a joint powers authority under the laws of the State of California. As a community choice aggregator, the Project Participant is a load-serving entity providing electricity to customers within the boundaries of cities and/or counties that have elected to participate in Project Participant’s community choice aggregation program. For purposes of this Certificate, the term “service area” of the Project Participant means the boundaries of the cities and/or counties that have elected to participate in the Project Participant’s community choice aggregation program, as well as any other area recognized as the service area of the Project Participant under state or federal law.
2. Project Participant will resell all of the Energy acquired pursuant to the Supply Contract to its retail Energy customers within its service area, with retail sales in all cases being made pursuant to regularly established and generally applicable tariffs or under authorized requirements contracts.
3. From [\_\_\_\_, \_\_\_\_] to [\_\_\_\_, 202\_\_] the annual average amount of Energy purchased (other than for resale) by customers of Project Participant who are located within the service area of Project Participant is [\_\_\_\_\_] MWh. Over the term of the Supply Contract, the Project Participant expects the annual average amount of Energy purchased (other than for resale) by customers of the Project Participant who are located within the service area of the Project Participant to be at least [\_\_\_\_\_] MWh. The maximum annual amount of Energy in any year being acquired pursuant to the Supply Contract is [\_\_\_\_\_] MWh. The annual average amount of Energy which Project Participant otherwise has a right to acquire as of the Bond Closing Date (including rights to capacity to generate electricity, whether owned, leased or otherwise contracted for) is [\_\_\_\_\_] MWh. The sum of (a) the maximum amount of Energy in any year being acquired pursuant to the

Supply Contract, and (b) the amount of Energy that Project Participant otherwise has a right to acquire (including rights to capacity to generate electricity, whether owned, leased or otherwise contracted for) in the year described in the foregoing clause (a), is [\_\_\_\_\_] MWh. Accordingly, the amount of Energy to be acquired under the Supply Contract by Project Participant, supplemented by the amount of Energy otherwise available to Project Participant as of the Bond Closing Date, during any year does not exceed [\_\_\_\_\_] % of the expected annual average amount of Energy to be purchased (other than for resale) by customers of Project Participant who are located within the service area of Project Participant.

4. In the event of the expiration or termination of an EPS Energy Period, Project Participant agrees to comply with its obligations under the Assignment Letter Agreement, including but not limited to its obligations to (a) exercise Commercially Reasonable Efforts to assign a portion of Project Participant's rights and obligations under a power purchase agreement under which Project Participant is purchasing EPS Compliant Energy to MSCG or Prepay LLC pursuant to an Assignment Agreement and (b) cooperate in good faith with Issuer, MSCG and Prepay LLC with respect to any proposed assignments.

5. Project Participant expects to pay for Energy acquired pursuant to the Supply Contract solely from funds derived from its operations as a community choice aggregator. Project Participant expects to use current CCA Revenues of its CCA System to pay for current Energy acquisitions. Neither the Project Participant nor any person who is a related party to the Project Participant will hold any funds or accounts in which monies are set aside and invested and which are reasonably expected to be used to pay for Energy more than one year after such monies are set aside. No portion of the proceeds of the Bonds will be used directly or indirectly to replace funds of Project Participant or any persons who are related Persons to Project Participant that are or were intended to be used for the purpose for which the Bonds were issued.

\_\_\_\_\_, 2025

By: \_\_\_\_\_  
[Name]  
[Title]

**EXHIBIT E**  
**FORMS OF OPINIONS OF COUNSEL TO PROJECT PARTICIPANT**

[INSERT CPA LETTERHEAD]

[\_\_\_\_\_] , 2025

California Community Choice Financing Authority  
San Rafael, California

Morgan Stanley & Co. LLC  
New York, NY

Re: California Community Choice Financing Authority [Clean Energy Project Revenue Bonds, 2025 Series [X]]

Ladies and Gentlemen:

I am general counsel to Clean Power Alliance of Southern California, a California joint powers authority (“CPA”). This opinion is being provided in connection with the issuance by the California Community Choice Financing Authority (the “Issuer”) of its [Clean Energy Project Revenue Bonds, 2025 Series [X]]. This opinion is rendered in connection with the Bond Purchase Contract, dated [\_\_\_\_\_] , 2025 (the “Bond Purchase Contract”), by and between [Morgan Stanley & Co. LLC, as underwriter]<sup>5</sup>, and the Issuer. Capitalized terms used herein shall have the meanings given to them in the Bond Purchase Contract.

In rendering this opinion, I have examined or reviewed copies of such records and other documents as I have deemed necessary and relevant for purposes of this opinion. In my examination, I have assumed the genuineness of all signatures, the authenticity of all documents submitted to me as originals, and the conformity of all original documents submitted to me as copies. In basing the opinion set forth in this letter on “my knowledge”, the words “my knowledge” signify that no facts have come to my attention that would give me actual knowledge or actual notice that such opinion is not accurate. Except as otherwise stated in this opinion, I have undertaken no investigation or verification of such matters.

The opinion or conclusions herein may be affected by actions taken or omitted or events occurring after the date hereof. I have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to my attention after the date hereof. Accordingly, this opinion is not intended to, and may not, be relied upon in connection with any such actions, events or matters. In reviewing the documents and matters referred to above, I have assumed the due and legal execution and delivery thereof by, and the validity against, any parties other than CPA. I have assumed, without undertaking to verify,

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<sup>5</sup> SM NTD: Underwriter(s) to be determined.



the accuracy of the factual matters represented, warranted or certified in such documents. I have further assumed compliance with all covenants and agreements contained in such documents.

Based upon and subject to the foregoing and in reliance thereon, as of the date hereof, to my knowledge, after due inquiry, there is no litigation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to my knowledge, threatened against CPA, affecting the existence of CPA or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the execution and delivery of the Clean Energy Purchase Contract, or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of CPA or any authority for the execution and delivery of the Clean Energy Purchase Contract, nor, to my knowledge, is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Clean Energy Purchase Contract.

I express no opinion as to any matter other than as expressly set forth above, and I express no opinion on the laws of any jurisdiction other than the State of California and the United States of America. I disclaim any obligation to update this letter.

Very truly yours,

[\_\_\_\_\_]
General Counsel

[CHAPMAN AND CUTLER LETTERHEAD]

[\_\_\_\_\_] , 2025

To the Addressees on  
Schedule I attached hereto

We have acted as counsel to Clean Power Alliance of Southern California, a California joint powers authority (the “Project Participant”) in connection with the issuance by the California Community Choice Financing Authority (the “Issuer”) of its [Clean Energy Project Revenue Bonds, 2025 Series [X]] (the “Bonds”). This opinion is rendered pursuant to the Bond Purchase Contract, dated [\_\_\_\_], 2025 (the “Bond Purchase Contract”), by and between [Morgan Stanley & Co. LLC, as underwriter (the “Underwriter”)] and the Issuer.

In rendering this opinion, we have examined executed copies of the following documents or, with respect to the forms of Limited Assignment Agreements referenced in paragraph (d) below, unexecuted copies, in the forms approved by the Board of Directors of the Project Participant pursuant to Project Participant Resolution (collectively, the “Project Participant Documents”):

(a) Resolution No. 2025-[\_\_\_\_] adopted by the Board of Directors of the Project Participant on [\_\_\_\_], 2025 (the “Project Participant Resolution”);

(b) Clean Energy Purchase Contract between the Project Participant and the Issuer (the “Clean Energy Purchase Contract”);

(c) PPA Custodial Agreement by and among the Project Participant, Energy Prepay [\_\_\_\_], LLC (the “Energy Supplier”), Morgan Stanley Capital Group Inc. (“MSCG”) and [CUSTODIAN], as custodian;

(d) forms of Limited Assignment Agreements by and among the Project Participant, the Energy Supplier and either MSCG, as seller, or a third party, as seller, under the power purchase agreement to which such assignment relates;

(e) Letter Agreement by and among the Project Participant, the Issuer, the Energy Supplier and MSCG regarding matters relating to Limited Assignment Agreements; and

(f) Clean Energy Project Operational Services Agreement relating to the Project, by and between the Project Participant and the Issuer;

We have also reviewed copies of such records and other documents as we have deemed necessary and relevant for purposes of this opinion. In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity of all original documents submitted to us as copies.

As to factual matters, we have relied solely upon our review of the foregoing, the representations and warranties of the Project Participant contained in the Project Participant Documents, the Preliminary Official Statement, the Official Statement, the joint powers agreement of the Project Participant, and various certificates and other documents furnished to us by authorized officers of the Project Participant. In basing the opinions set forth in this letter on “our knowledge”, the words “our knowledge” signify that, in the course of our representation, no facts have come to our attention that would

give us actual knowledge or actual notice that any such opinions or other matters are not accurate. Except as otherwise stated in this opinion, we have undertaken no investigation or verification of such matters.

We are of the opinion that:

1. The Project Participant is a joint powers authority created and existing under the laws of the State of California (the “State”), specifically the Joint Exercise of Powers Act, constituting Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code, as amended and supplemented from time to time (the “Act”), and has full legal right, power and authority under the Act to (a) enter into, execute and deliver the Project Participant Documents, and (b) carry out and consummate the transactions contemplated by the Project Participant Documents.

2. By all necessary official action, the Project Participant has duly authorized all necessary action to be taken by it for (a) the adoption of the Project Participant Resolution, (b) the approval, execution and delivery of, and the performance by the Project Participant of the obligations on its part, contained in the Project Participant Documents, and (c) the consummation by it of all other transactions contemplated by the Preliminary Official Statement, the Official Statement and the Project Participant Documents.

3. The Project Participant Resolution was duly and validly adopted by the Project Participant in compliance with all applicable procedural requirements of the Project Participant and in compliance with the Act, and the Project Participant Resolution is in full force and effect and has not been amended.

4. The Project Participant Documents have been duly authorized, executed and delivered by the Project Participant, and constitute legal, valid and binding obligations of the Project Participant enforceable against the Project Participant in accordance with their respective terms, except to the extent limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws and equitable principles of general application relating to or affecting the enforcement of creditors’ rights.

5. All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Project Participant of its obligations under the Project Participant Documents have been obtained.

6. The execution and delivery of the Project Participant Documents and compliance by the Project Participant with the provisions thereof, under the circumstances contemplated therein, will not conflict with or constitute on the part of the Project Participant a material breach of or a default under any agreement or instrument to which the Project Participant is a party, or violate any existing law, administrative regulation, court order, or consent decree to which the Project Participant is subject.

7. To our knowledge, the statements contained in the Preliminary Official Statement as of its date and in the Official Statement under the captions “INTRODUCTION – CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,” “COMMUNITY CHOICE AGGREGATORS,” in the second paragraph under the caption “LITIGATION,” and in Appendix A – “THE PROJECT PARTICIPANT” are true and correct in all material respects and the statements under the caption “THE CLEAN ENERGY PURCHASE CONTRACT” fairly summarize the matters described therein in all material respects.

Notwithstanding anything to the contrary contained above, the foregoing opinion is expressly made subject to the following exceptions, qualifications, and assumptions:

- (i) We express no opinion with respect to the validity or enforceability of any provisions of the Project Participant Documents or any other documents that may be read to require the Project Participant to indemnify any party.
- (ii) We express no opinion with respect to regulatory compliance by the Project Participant under any applicable law, including the California Public Utilities Code, as amended or supplemented from time to time, as determined by any governmental authority, including the California Public Utilities Commission, regarding the purchase of Energy (as defined in the Official Statement) by the Project Participant under the Clean Energy Purchase Contract.
- (iii) We express no opinion as to the enforceability of provisions waiving, directly or indirectly, expressly or impliedly, defenses to obligations or rights granted by law, where such waivers are prohibited by law or are against public policy.
- (iv) Our opinion as to enforceability is limited by standards of good faith, fair dealing, materiality, and reasonableness that may be applied by a court to the exercise of certain rights and remedies; limitations based on statutes or on public policy limiting a person's right to waive the benefit of statutory provisions or of a common law right; and limitations releasing a party from or indemnifying a party against liability for its own wrongful or negligent act when such release or indemnification is contrary to public policy.
- (v) Our opinion is limited to the matters stated herein and no opinion may be inferred or implied beyond the matters expressly stated herein. The opinions expressed in this letter are given solely for your use and benefit in connection with the transactions referred to herein and no other person may use or rely on this opinion letter, nor may it be used or relied upon in any other transaction which is not related to transactions referred to herein, without our prior express written consent. This opinion is provided to you as a legal opinion only and not as a warranty or guarantee with respect to the matter described herein or in the documents referred to herein.
- (vi) The scope of this opinion is limited to those issues and parties specifically considered herein and no further or more expansive opinion is implied or should be inferred from any opinion expressed herein. On such basis, any variation or difference in the facts upon which this opinion is based might affect our conclusions in an adverse manner and make them inaccurate.

This opinion is rendered solely for the use and benefit of the parties listed on Schedule I hereto and may not be relied upon other than in connection with the transactions contemplated by the Project Participant Documents, or by any other person or entity for any purpose whatsoever, nor may this opinion be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity, without the prior written consent of the undersigned.

Respectfully submitted,

CHAPMAN AND CUTLER LLP

DAB:JC

## EXHIBIT F

### MONTHLY DISCOUNT

Monthly Discount:	\$[ ] per MWh
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**EXHIBIT G**  
**FORM OF CLOSING CERTIFICATE**

**CLOSING CERTIFICATE OF PROJECT PARTICIPANT**

\_\_\_\_\_, 2025

Re: California Community Choice Financing Authority [Clean Energy Project  
Revenue Bonds, 2025 Series [X]]

The undersigned \_\_\_\_\_ of Clean Power Alliance of Southern California, a California joint powers authority (the "*Project Participant*"), hereby certifies as follows in connection with the Clean Energy Purchase Contract dated as of \_\_\_\_\_, 2025 (the "*Agreement*") between the Project Participant and California Community Choice Financing Authority ("*Issuer*") and the issuance and sale by Issuer of the above-referenced bonds (the "*Bonds*") (capitalized terms used and not defined herein shall have the meanings given to them in the Agreement):

1. Project Participant is a community choice aggregator, duly created and validly existing as a joint powers authority, and is in good standing, under the laws of the State of California (the "*State*"), and has the corporate power and authority to enter into and perform its obligations under the Agreement.

2. By all necessary official action on its part, the Project Participant has duly authorized and approved the execution and delivery of, and the performance by the Project Participant of the obligations on its part contained in the Agreement, and such authorization and approval has not been amended, supplemented, rescinded or modified in any respect since the date thereof.

3. The Agreement constitutes the legal, valid and binding obligation of the Project Participant.

4. The authorization, execution and delivery of the Agreement and compliance with the provisions on the Project Participant's part contained therein (a) will not conflict with or constitute a breach of or default under (i) any instrument relating to the organization, existence or operation of Project Participant, (ii) any ruling, regulation, ordinance, judgment, order or decree to which Project Participant (or any of its officers in their respective capacities as such) is subject or (iii) any provision of the laws of the State relating to Project Participant and its affairs, and (b) will not result in, or require the creation or imposition of, any lien on any of the properties or revenues of Project Participant pursuant to any of the foregoing.

5 The Project Participant is not in breach of or default under any applicable constitutional provision, law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Project Participant is a party or to which the Project Participant or any of its property or assets are subject, and no event has occurred and is continuing which constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default by the Project Participant under any of the foregoing.

6. Payments to be made by the Project Participant under the Agreement shall constitute operating expenses of the Project Participant's CCA System (as defined in the Agreement) payable solely from the revenues and other available funds of Project Participant's CCA System as a cost of purchased electricity. The application of the revenues and other available funds of the Project Participant's CCA System to make such payments is not subject to any prior lien, encumbrance or other restriction.

7. No litigation, proceeding or tax challenge is pending or, to its knowledge, threatened, against the Project Participant in any court or administrative body which would (a) contest the right of the officials of the Project Participant to hold and exercise their respective positions, (b) contest the due organization and valid existence of the Project Participant, (c) contest the validity, due authorization and execution of the Agreement or (d) attempt to limit, enjoin or otherwise restrict or prevent the Project Participant from executing, delivering and performing the Agreement, nor to the knowledge of the Project Participant is there any basis therefor.

8. All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Project Participant of its obligations under the Agreement have been duly obtained.

9. The representations and warranties of the Project Participant contained in the Agreement were true, complete and correct on and as of the date thereof and are true, complete and correct on and as of the date hereof.

10. The statements and information with respect to the Project Participant contained in the Official Statement dated \_\_\_\_\_, 2025 with respect to the Bonds, including Appendix B thereto (the "*Official Statement*"), fairly and accurately describe and summarize the financial and operating position of the Project Participant for the periods shown therein, and such statements and information did not as of the date of the Official Statement and do not as of the date hereof contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make such statements and information, in the light of the circumstances under which they were made, not misleading.

11. No event affecting the Project Participant has occurred since the date of the Official Statement which should be disclosed therein in order to make the statements and information with respect to the Project Participant contained therein, in light of the circumstances under which they were made, not misleading in any material respect.

IN WITNESS WHEREOF the undersigned has executed this Certificate on and as of the date first written above.

CLEAN POWER ALLIANCE OF SOUTHERN  
CALIFORNIA

By \_\_\_\_\_

Name:

Title:



**EXHIBIT H**

**FORM OF REMEDIATION CERTIFICATE**

[\_\_\_\_], 20\_\_

[\_\_\_\_\_]

Energy Prepay [\_\_\_\_], LLC  
c/o Morgan Stanley & Co. LLC  
[1585 Broadway  
New York, NY 10036-8293]  
Email: CCCFA\_202[\_\_\_\_][X]\_ms\_notices@morganstanley.com  
With a mandatory copy to:  
msdoc-misc-notices@morganstanley.com

Re: Clean Energy Purchase Contract with California Community Choice Financing  
Authority: [Section 7.5] Remediation

To the addressees:

The undersigned, duly authorized representative of Clean Power Alliance of Southern California, a California joint powers authority (“Project Participant”), hereby certifies as follows in connection with the Clean Energy Purchase Contract, dated as of [\_\_\_\_], 2025 (the “Contract”), between Project Participant and California Community Choice Financing Authority and remediation of Disqualified Remarketing Proceeds pursuant to [Section 7.5] of the Contract. Capitalized terms used herein shall have the meanings set forth in the Contract.

Set forth as Attachment 1 hereto is a copy of Project Participant’s invoice for the Month of [\_\_\_\_] for purchases of Energy from [\_\_\_\_] ***[NOTE: Insert reference to supplier]*** pursuant to that certain [\_\_\_\_] ***[NOTE: Insert reference full requirements supply agreement in effect at the time.]*** Project Participant hereby certifies that (x) all of such Energy was used in compliance with the Qualifying Use Requirements and (y) none of such Energy is (i) Priority Energy or (ii) has been or will be utilized to remediate any remarketing proceeds for Priority Energy other than the Disqualified Remarketing Proceeds referenced in the first paragraph above.

In witness whereof the undersigned has executed this Certificate on and as of the date first written above.

CLEAN POWER ALLIANCE OF SOUTHERN  
CALIFORNIA

By \_\_\_\_\_  
[Name]  
[Title]



## CONSOLIDATED PPA CUSTODIAL AGREEMENT

This Consolidated PPA Custodial Agreement (this “Agreement”) is made and entered into as of [ ], 2025, by and among California Community Choice Financing Authority, a joint powers authority and a public entity of the State of California established pursuant to the provisions of the Joint Exercise of Powers Act (Article 1, Chapter 5, Division 7, Title 1, Section 6500 *et seq.* of the *California Government Code*, as amended) (defined below) (the “Issuer”), Clean Power Alliance of Southern California, a California joint powers authority (“Participant”), Morgan Stanley Capital Group Inc., a Delaware corporation (“MSCG”), Energy Prepay [ ], LLC, a Delaware limited liability company (“Prepay LLC”), and [CUSTODIAN], (the “Custodian” and together with the Issuer, Participant, Prepay LLC and MSCG, the “Parties”, and each individually, a “Party”).

### RECITALS:

WHEREAS, in connection with the issuance of one or more series of bonds by Issuer, MSCG (or Prepay LLC with respect to power purchase agreements with MSCG as seller), Issuer and Participant will enter into a series of Assignment Agreements (the “Assignment Agreements”, which definition shall include any new Assignment Agreement identified by MSCG’s delivery of an updated Exhibit A consistent with Section 3(c)) with the sellers under certain power purchase agreements (each, individually, a “PPA Seller” and collectively the “PPA Sellers”, which definitions shall include any new PPA Seller identified by MSCG’s delivery of an updated Exhibit A consistent with Section 3(c)), pursuant to which Participant will partially assign its rights and obligations under its [Power Purchase and Sale Agreements] (“Assigned PPAs”) to MSCG or a Prepay Seller (as defined below, as applicable, for redelivery under the Prepay Contract Chains); and

WHEREAS, the Parties propose to enter into this Agreement in order to administer payments to be received by the PPA Seller(s), and which definitions shall include any new PPA Seller identified by MSCG’s delivery of an updated Exhibit A consistent with Section 3(c).

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

#### Section 1. Defined Terms.

(a) Any capitalized term used herein and not otherwise defined herein (including in the recitals) shall have the meaning assigned to such term in the Clean Energy Purchase Contract. The following additional terms, when used in this Agreement (including the preamble or recitals to this Agreement) and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:


“Annual Quantity” has, with respect to any Prepay Contract Chain, the meaning specified in the relevant Prepay Contract Chain.

“Assigned Product Price” has, with respect to any Assigned PPA, the meaning specified in Exhibit A, as may be updated from time to time consistent with the terms hereof.

“Assignment Period” has, with respect to any Assigned PPA, the meaning specified in Exhibit A, as may be updated from time to time consistent with the terms hereof.

“Clean Energy Purchase Contracts” means each of the Clean Energy Purchase Contracts by and between Participant and Issuer as set forth in Exhibit B to this Agreement, which Exhibit B may be updated from time to time in accordance with Section 3(c).

“Delivered Product Payment Amount” means, in respect of each PPA Monthly Statement, an amount equal to the lesser of (a) (i) the Monthly Projected Quantity under the relevant Assigned PPA for such Month with respect to an Undivided Assigned PPA or (ii) the sum of the Monthly Projected Quantities for the relevant Assigned PPA with respect to a Divided Assigned PPA, as applicable, multiplied by the Assigned Product Price for such Assigned PPA, and (b) the actual quantity of Assigned Product reflected in such PPA Monthly Statement multiplied by the Assigned Product Price then in effect under the relevant Assigned PPA, minus in all cases the face amount of any Receivables (as defined in the relevant Prepaid Agreement(s)) delivered by PPA Assignee to the Custodian in respect of such Assigned PPA pursuant to Section 4(e). Notwithstanding the foregoing or anything to the contrary herein, there shall be no Delivered Product Payment Amount with respect to any Assigned Paygo Quantities or Monthly Excess Quantities.



“Energy Management Agreements” mean each of the Energy Management Agreements by and between a Prepay Seller and MSCG as set forth in Exhibit B to this Agreement, which Exhibit B may be updated from time to time in accordance with Section 3(c).

“Issuer Negative Pricing Payment Amount” means the positive difference, if any, for any Month between (a) amounts due from Issuer to Participant under [Section 3.2(a)] of a Clean Energy Purchase Contract with respect to negatively priced Energy and (b) amounts due from Participant to Issuer under [Section 3.2(a)] of a Clean Energy Purchase Contract with respect to positively priced Energy.

“Monthly Gross Amount” means, in respect of each PPA Monthly Statement, an amount equal to the total net amount due to the applicable PPA Seller in respect of such PPA Monthly Statement and shall consist of the following components: (a) the Delivered Product Payment Amount and (b) the Retained Payment Amount (if such amount is a positive number for such Month).

“Monthly Projected Quantity” has, with respect to each Assigned PPA and each Prepay Contract Chain, the meaning specified in the Clean Energy Purchase Contract for such Prepay Contract Chain.

“Participant Monthly Statement” has the meaning set forth in Section 3(a).

“PPA Assignee” means MSCG or, to the extent that MSCG is a PPA Seller under the applicable Assigned PPA, a Prepay Seller, in each case, in its capacity as the limited assignee under the applicable Assignment Agreement.

“PPA Assignee Resettlement Amount” means, in respect of any PPA Monthly Statement that (a) is delivered after the delivery of the Billing Statement under the relevant Clean Energy Purchase Contract(s) for such Month and (b) reflects that a quantity of Assigned Product less than the total Monthly Projected Quantity was delivered in such Month under the relevant Assigned PPA, an amount equal to the product of (i) the total Monthly Projected Quantity for such Month minus the quantity of Assigned Product actually delivered under the Assigned PPA in such Month, multiplied by (ii) [the Day-Ahead Market Price during the Initial EPS Energy Period and the Day-Ahead Average Price during any EPS Energy Period subsequent to the Initial EPS Energy Period]<sup>1</sup>. Notwithstanding the foregoing or anything to the contrary herein, there shall be no PPA Assignee Resettlement Amount or any other obligations of PPA Assignee with respect to any Assigned Paygo Quantities or Monthly Excess Quantities.

“PPA Custodial Agreement Payment Date” means, with respect to any Assigned PPA, the last Business Day preceding the PPA Monthly Statement Payment Date.

“PPA Monthly Statement” means, with respect to any Assigned PPA, the monthly consolidated invoice delivered to PPA Assignee and Participant consistent with the terms of the applicable Assignment Agreement.

“PPA Monthly Statement Payment Date” means the last Business Day on which payment with respect to a PPA Monthly Statement may be made before any incremental interest arises thereon or any default or breach arises under the Assigned PPA.

“Prepay Contract Chain” means, with respect to each bond issuance by Issuer detailed in Exhibit B, the Energy Management Agreement, Prepaid Agreement and Clean Energy Purchase Contract relating thereto.

“Prepay Seller” means the “Seller” as defined in a Prepaid Agreement and specified in Exhibit B hereto for the relevant Prepay Contract Chain.

“Provisional Payment” has the meaning specified in the Prepaid Agreements.

“Responsible Officer” means any vice president, assistant secretary or any other officer or other Person within the corporate office of the Custodian having direct responsibility for the administration of this Agreement or to whom any matter is referred because of his or her knowledge of and familiarity with the particular situation, who is authorized to act for the Custodian in matters relating to, and binding upon, the Custodian and who has direct responsibility for the administration of this Agreement.

“Retained Payment Amount” means, in respect of each PPA Monthly Statement, an amount equal to (a) all amounts owed to the applicable PPA Seller for such Month, less (b) the sum of the Delivered Product Payment Amount and the PPA Assignee Resettlement Amount, if any; provided that, to the extent the Retained Payment Amount is negative in any Month, then the absolute value of such amount shall represent an amount to be paid by the Custodian to Participant pursuant to Section 4(c)(ii) hereof; provided furthermore that all amounts due with respect to any

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<sup>1</sup> NTD: Pricing mechanics subject to change based upon identification and review of underlying PPA(s).

Assigned Paygo Quantities and Monthly Excess Quantities for the relevant Prepay Contract Chain(s) shall be Participant's sole responsibility as a portion of the Retained Payment Amount.

[REDACTED]

(b) Except where expressly provided otherwise, any reference herein to any agreement or document includes all amendments, supplements or restatements to and of such agreement or document as may occur from time to time in accordance with its terms and the terms hereof, and any reference to a party to any such agreement includes all successors and assigns of such party thereunder permitted by the terms hereof and thereof.

Section 2. Appointment of Custodian. Participant, Prepay LLC and MSCG hereby appoint [CUSTODIAN] as Custodian under this Agreement, with such rights and obligations as are specifically set forth herein. The Custodian hereby accepts such appointment under the terms and conditions set forth herein.

Section 3. Payment Instructions to Custodian; Assigned PPA Exhibits.

(a) [REDACTED]

(b) PPA Assignee shall notify Participant and each other Party promptly following Participant's delivery of a Participant Monthly Statement if PPA Assignee believes any information included on such PPA Monthly Statement is incorrect. Following receipt and verification of the information included in any such notice from PPA Assignee, Participant shall, to the extent appropriate and in consultation with PPA Assignee, issue a corrected PPA Monthly Statement to all Parties.

(c) Assigned PPA and Prepay Contract Chain Details.

(i) Exhibit A to this Agreement sets forth certain information regarding the Assigned PPAs as of the date hereof, including the Assignment Periods, Assigned Product Prices, the relevant Prepay Contract Chain for each Assigned PPA (including any percentage allocation of any such Assigned PPA to more than one Prepay Contract Chain), the PPA Sellers thereunder and the payment instructions for payments to the PPA Sellers.

MSCG shall deliver an updated Exhibit A to each of the other Parties hereto to reflect any changes to the information set forth therein, including due to the expiration, extension or termination of an Assignment Period, the commencement of a new Assignment Period or a reallocation of Assigned Product under an Assigned PPA pursuant to Section 3(d).

(ii) Exhibit B to this Agreement sets forth certain information regarding the Prepay Contract Chains in effect as of the date hereof. MSCG shall deliver an updated Exhibit A to each of the other Parties hereto to reflect any changes to the information set forth therein, including due to the execution of a new Prepay Contract Chain in connection with a bond issuance by Issuer.

(d)



(e) Execution of New Prepay Contract Chains. MSCG and Participant shall promptly notify the Custodian in writing upon the subsequent execution of new Prepay Contract Chains for which Assigned PPA payments will be administered under this Agreement.

#### Section 4. Assigned PPA Payments Account.

(a) Custodial Account. With respect to payments required to be made by PPA Assignee and Participant to the PPA Sellers under the Assigned PPAs, there is hereby established with the Custodian, the custodial account listed below (the "Assigned PPA Payments Account")

and all payments made by PPA Assignee and Participant hereunder shall be wired to such Assigned PPA Payments Account:

[CUSTODIAN BANK NAME]

ABA# [ ]

ACCOUNT NUMBER: [ ]

ACCOUNT NAME: [ ]<sup>2</sup>

(b) PPA Assignee and Participant Monthly Payments.

(i) PPA Assignee shall make payment of the Delivered Product Payment Amount and any PPA Assignee Resettlement Amount into the Assigned PPA Payments Account on the PPA Custodial Agreement Payment Date for each Month of any Assignment Period; provided that, to the extent that (i) the Delivered Product Payment Amount and any PPA Assignee Resettlement Amount are due and (ii) PPA Assignee pays some portion of such amounts but less than the total amount due, PPA Assignee's partial payment shall be applied first to the Delivered Product Payment Amount.

(ii) For each Month of any Assignment Period for which the Retained Payment Amount is a positive number, Participant shall make payment of such amount into the Assigned PPA Payments Account on the PPA Custodial Agreement Payment Date. For each Month of any Assignment Period for which the Retained Payment Amount is a negative number, Participant shall have no payment obligation for such Month with respect to the Retained Payment Amount and the Custodian will pay the absolute value of such amount to Participant consistent with Section 4(c)(ii).

(iii) For each Month, if any, of an Assignment Period for which there is an Issuer Negative Pricing Payment Amount under the relevant Clean Energy Purchase Contract(s), Participant shall make payment of such amount(s) into the Assigned PPA Payments Account on the PPA Custodial Agreement Payment Date; provided that, notwithstanding the foregoing, Participant shall have no payment obligation hereunder with respect to an Issuer Negative Pricing Payment Amount to the extent that PPA Assignee receives such amount from the PPA Seller pursuant to the terms of the applicable Assignment Agreement.

(c) Transfers by Custodian.

(i) For any Month in an Assignment Period for which the Retained Payment Amount is equal to or greater than zero (0), the Custodian shall withdraw the amounts on deposit in the Assigned PPA Payments Account to make payment of the Monthly Gross Amount on the PPA Monthly Statement Payment Date by a single wire transfer to the applicable PPA Seller of the amounts received from each of PPA Assignee and Participant.

(ii) For any Month in an Assignment Period for which the Retained Payment Amount is a negative number, the Custodian shall withdraw amounts on deposit in the Assigned PPA Payments Account (A) first to make payment of the Monthly Gross Amount

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<sup>2</sup> SM NTD: Custodian to provide bank account information prior to Pricing Date of the Bonds.



to the applicable PPA Seller in respect of each PPA Monthly Statement on the relevant PPA Monthly Statement Payment Date pursuant to the payment instructions set forth on Exhibit A; and (B) immediately thereafter to make payment of the absolute value of such Retained Payment Amount to Participant pursuant to the payment instructions set forth on Exhibit B. If the amounts on deposit in the Assigned PPA Payments Account are insufficient to pay the entirety of either such amounts, the Custodian shall apply the amounts available in the order specified in the preceding sentence.

(iii) For any Month in an Assignment Period for which an Issuer Negative Pricing Payment Amount is due from Participant with respect to the relevant Clean Energy Purchase Contract(s), the Custodian shall, after application of amounts on deposit in the Assigned PPA Payments Account pursuant to clause (i) or (ii) above, as applicable, withdraw amounts on deposit in the Assigned PPA Payments Account to make payment of the Issuer Negative Pricing Payment Amount(s) to PPA Assignee.

(d) Amounts deposited in the Assigned PPA Payments Account shall be held in trust for the benefit of Participant until applied as set forth in Section 4(c) and Section 14, as applicable, and there is hereby granted to Participant a lien on and security interest in the Assigned PPA Payments Account pending such application. Except for any amounts due and payable to Participant pursuant to Section 4(c)(ii), the Custodian shall not be required to comply with any orders, demands, or other instructions from Participant with respect to the Assigned PPA Payments Account, including, without limitation, items presented for payment, or any order or instruction directing the disposition of funds or other assets held in or credited to the Assigned PPA Payments Account, and Participant agrees that, except as set forth in Section 4(c)(ii), prior to the termination of this Agreement in accordance with the terms hereof, it shall have no right to direct the disposition of funds or other assets held in or credited to the Assigned PPA Payments Account, or to withdraw or otherwise obtain funds or other assets held in or credited to the Assigned PPA Payments Account, whether by order or instruction to the Custodian or otherwise.

(e) With respect to each PPA Monthly Statement, to the extent PPA Assignee has purchased Receivables (as defined in the Prepaid Agreements) for amounts owed by Participant for the Month to which such PPA Monthly Statement relates, PPA Assignee may, at its option, (i) notify the Custodian that it intends to transfer all or any portion of such Receivables to the PPA Seller, and (ii) reduce the Delivered Product Payment Amount by the face amount of such Receivables to be transferred. To the extent PPA Assignee has notified the Custodian of its intent to transfer any such Receivables, PPA Assignee shall cause such Receivables to be transferred to the PPA Seller not later than the relevant PPA Monthly Statement Payment Date.

## Section 5. Provisional Payments Account.

(a) Custodial Account. With respect to Provisional Payments required to be made by a Prepay Seller to Issuer under a Prepaid Agreement, as reflected in the [Billing Statement] (as defined in the Prepaid Agreements) which shall be delivered by Prepay LLC to each of the parties hereof consistent with [Section 14.1(b)] of the Prepaid Agreements, there is hereby established with the Custodian, the following custodial account listed below (the “Provisional Payments Account”) and all payments made by Prepay LLC hereunder shall be wired to such Provisional Payments Account:

[CUSTODIAN BANK NAME]  
ABA# [ ]  
ACCOUNT NUMBER: [ ]  
ACCOUNT NAME: [ ]<sup>3</sup>

(b) Prepay Seller Monthly Payments. For each Month of the Delivery Period under a Prepaid Agreement, the relevant Prepay Seller shall make payment of the Provisional Payment, if any, due under such Prepaid Agreement for such Month into the Provisional Payments Account on or before the payment due date set forth in such Prepaid Agreement for each Month of the Delivery Period. The Parties acknowledge and agree that any Provisional Payment due shall be reflected in the Billing Statement (as defined in the Prepaid Agreements) delivered by the relevant Prepay Seller under [Section 14.1(b)] of the relevant Prepaid Agreement, which each Prepay Seller has agreed to deliver to each of the Parties hereunder.

(c) Transfers by Custodian; Segregation and Application of Discount Dollars.

(i) Upon receipt of any Provisional Payment under Section 5(b), the Custodian shall promptly (x) withdraw the portion of such Provisional Payment that represents the Net Participant Price (as defined in the relevant Prepaid Agreement) that would otherwise be payable by Participant to Issuer with respect thereto under the relevant Clean Energy Purchase Contract, as reflected in the Billing Statement delivered by the relevant Prepay Seller pursuant to [Section 14.1(b)] of the relevant Prepaid Agreement, and (y) transfer such amount to Issuer's Revenue Fund under and as defined in the relevant Trust Indenture.

(ii) The portion of any Provisional Payment in excess of the Net Participant Price (such portion, the "Discount Dollars") shall be segregated by the Custodian and applied as set forth below:

(A) the Custodian shall create separate subaccounts for each Prepay Contract Chain and deposit the Discount Dollars associated with a particular Prepay Contract Chain in the relevant subaccount;

(B) to the extent that (i) there is a positive balance of Discount Dollars being held by the Custodian in the subaccount relating to a Prepay Contract Chain and (ii) any Participant Monthly Statement reflects that Monthly Excess Quantities were delivered under an Assigned PPA relating to such Prepay Contract Chain for any given Month, the Custodian shall withdraw an amount equal to the Monthly Discount under the relevant Clean Energy Purchase Contract(s) per MWh of Monthly Excess Quantities on the relevant PPA Monthly Statement Payment Date and transfer such amount(s) to Participant pursuant to the payment instructions set forth for payments to Participant on Exhibit A; and

(C) The relevant Prepay Seller shall notify the Custodian and each of the other Parties hereto if less than the Annual Quantity under a Prepay Contract Chain is delivered for any Contract Year, and, promptly following receipt of any such

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<sup>3</sup> SM NTD: Custodian to provide prior to the Pricing Date of the Bonds.

notice, the Custodian shall transfer any related Discount Dollars to the Trustee for deposit in the Energy Remarketing Reserve Fund under and as defined in the relevant Trust Indenture(s).

Section 6. Custodian. The Custodian shall have (a) no liability under any agreement other than this Agreement and (b) no duty to inquire as to the provisions of any agreement other than this Agreement and the Assigned PPAs. The Custodian may rely upon and shall not be liable for acting or refraining from acting upon any written notice, document, instruction or request furnished to it hereunder in accordance with the terms hereof and believed by it to be genuine and to have been signed or presented by the proper Party or Parties. The Custodian shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document, notice, instruction or request. The Custodian shall have no duty to solicit or compel any payments which may be due to it, or to take any action to compel PPA Assignee or Participant to make the deposits required under Section 3(c). The Custodian shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines that the Custodian's gross negligence or willful misconduct was the primary cause of any loss to any other Party hereto. In connection with the execution of any of its powers or the performance of any of its duties hereunder, the Custodian may consult with counsel, accountants and other skilled persons selected and retained by it. The Custodian shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons, provided the Custodian exercised due care and good faith in the selection of such person. The permissive rights of the Custodian to take actions enumerated under this Agreement shall not be construed as duties. In the event that the Custodian shall be uncertain as to its duties or rights hereunder or shall receive instructions, claims or demands from any Party hereto which, in its opinion, conflict with any of the provisions of this Agreement, it shall be entitled to refrain from taking any action and its sole obligation shall be to keep safely all property held in escrow until it shall be directed otherwise in writing by all of the other Parties hereto or by a final order or judgment of a court of competent jurisdiction. The Custodian may interplead all of the assets held hereunder into a court of competent jurisdiction or may seek a declaratory judgment with respect to certain circumstances, and thereafter be fully relieved from any and all liability or obligation with respect to such interpleaded assets or any action or non-action based on such declaratory judgment. Anything in this Agreement to the contrary notwithstanding, in no event shall the Custodian be liable for special, indirect, incidental, consequential, or punitive damages, losses or penalties of any kind whatsoever (including but not limited to lost profits), regardless of the form of action. The Custodian may engage and act through agents and attorneys and shall not be liable for the misconduct or negligence of any such agent or attorney appointed with due care. Nothing herein shall obligate or be construed to obligate the Custodian to advance its own funds, or to expend or risk its own funds. The Custodian shall not be liable for any action taken by it in good faith in accordance with instruction received in accordance with this Agreement, or for the application of funds by other actions or omissions of other persons. The Custodian shall be responsible only for funds actually received by it for deposit into the Assigned PPA Payments Account, and the Custodian shall not be obliged to advance or risk its own funds to make any payments required hereunder. The Custodian shall have only those duties expressly set forth in this Agreement and no implied duties shall be read into this Agreement against the Custodian. The Parties hereto acknowledge and agree that the Custodian is not a fiduciary by virtue of accepting and carrying out its obligations under this Agreement and has not accepted any

fiduciary duties, responsibilities or liabilities with respect to its services hereunder. The Custodian shall not be responsible for the perfection of any security interest granted hereunder.

Section 7. Succession. The Custodian may resign and be discharged from its duties or obligations hereunder by giving not less than 30 days' advance notice in writing of such resignation to the other Parties hereto specifying a date when such resignation shall take effect; and such resignation shall take effect upon the day specified in such notice unless a successor shall not have been appointed by the other Parties hereto on such date, in which event such resignation shall not take effect until a successor is appointed. The other Parties hereto shall use their commercially reasonable efforts to make such appointment in a timely fashion, provided that any custodian appointed in succession to the Custodian shall be a bank or trust company organized under the laws of any state or a national banking association and shall have capital stock, surplus and undivided earnings aggregating at least \$50,000,000 and shall be a bank with trust powers or trust company willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Agreement. Any corporation or association into which the Custodian may be merged or converted or with which it may be consolidated, or any corporation or association to which all or substantially all of the Custodian's corporate trust line of business may be transferred, shall be the Custodian under this Agreement without further act. Notwithstanding the foregoing, if no appointment of a successor Custodian shall be made pursuant to the foregoing provisions of this Section 7 within 30 days after the Custodian has given written notice to the other Parties of its resignation as provided in this Section 7, the Custodian may, in its sole discretion, apply to any court of competent jurisdiction to appoint a successor Custodian. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Custodian.

Section 8. Fees. Prepay LLC agrees to pay the Custodian reasonable compensation for the services to be rendered hereunder, which compensation shall be \$[\_\_\_\_]<sup>4</sup> for each year that this Agreement is in effect. The parties hereto acknowledge that this provision shall survive the resignation or removal of the Custodian or the termination of this Agreement.

Section 9. Reimbursement. The Issuer, MSCG, Prepay LLC and Participant agree, jointly and severally (subject to the second proviso of this Section 9), to reimburse the Custodian and its directors, officers, agents and employees for any and all loss, liability or expense (including the fees and expenses of in-house or outside counsel and experts and their staffs and all expense of document location, duplication and shipment) arising out of or in connection with (a) its acting as the Custodian under this Agreement, except to the extent that such loss, liability or expense is finally adjudicated to have been caused primarily by the gross negligence or willful misconduct of the Custodian or such director, officer, agent or employee seeking reimbursement, or (b) its following any instructions or other directions from MSCG, Prepay LLC or Participant, except to the extent that its following any such instruction or direction is expressly forbidden by the terms hereof; provided, however, that any amounts due under this Section 9 shall not duplicate any other amounts due under this Agreement, including without limitation amounts due under Section 15 hereof; provided further, however, that, notwithstanding the joint and several nature of the obligations under this Section 9, any amounts due under clause (b) of this sentence resulting from instructions or directions that are not expressly provided for in this Agreement and are given to the

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<sup>4</sup> SM NTD: Custodian to provide.

Custodian by only one Party shall be the sole obligation of such Party. The Parties hereto acknowledge that this provision shall survive the resignation or removal of the Custodian or the termination of this Agreement.

Section 10. Taxpayer Identification Numbers; Tax Matters. MSCG, Prepay LLC and Participant represent that their correct taxpayer identification numbers assigned by the Internal Revenue Service or any other taxing authority is set forth on the signature page hereof. Any tax returns or reports required to be prepared and filed in connection with the Assigned PPA Payments Account will be prepared and filed by Participant, and the Custodian shall have no responsibility for the preparation and/or filing of any tax return with respect to any income earned on the Assigned PPA Payments Account. In addition, any tax or other payments required to be made pursuant to such tax return or filing shall be paid by Participant. The Custodian shall have no responsibility for making such payment unless directed to do so in writing by the appropriate authorized Party and fully indemnified to the Custodian's satisfaction.

Section 11. Notices.

(a) Any notice, demand, statement or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing and shall either be sent by email transmission or other Electronic Means (defined below), courier, or personal delivery (including overnight delivery service) to each of the notice recipients and addresses specified in Exhibit B for the receiving Party. Any such notice, demand, or request shall be deemed to be given (i) when delivered by email transmission, or (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service); provided that, if a Party delivers a notice, demand or request by any means other than email transmission or other Electronic Means (defined below), such notice shall not be effective unless and until the Party also delivers a copy thereof to the other Parties' email address specified in Exhibit B. Each Party shall have the right, upon 10 days' prior written notice to the other Parties, to change its list of notice recipients and addresses in Exhibit B. The Parties may mutually agree in writing at any time to deliver notices, demands or requests through alternate or additional methods, such as electronic mail. Notwithstanding the foregoing, any Party may at any time notify the others that any notice, demand, statement or request to it must be provided by email transmissions for a specified period of time or until further notice, and any communications delivered by means other than email transmission during the specified period of time shall be ineffective. In the event that the Custodian, in its sole discretion, shall determine that an emergency exists, the Custodian may use such other means of communication as the Custodian deems appropriate.

(b) Exhibit A shall include each PPA Seller's notice and payment information as set forth in the Assigned PPAs, and MSCG and Participant promptly shall cause such information to be updated to the extent there are any changes to such information under the Assigned PPAs.

(c) The Custodian shall have the right to accept and act upon instructions or directions given pursuant to this Agreement, or any other document reasonably relating to the matters described herein, delivered using Electronic Means (defined below); provided, however, that each party giving directions to the Custodian hereunder shall provide to a Responsible Officer of the Custodian an incumbency certificate, substantially in the form attached hereto as Exhibit C, listing persons with the authority to provide such instructions or directions (each an "Authorized Officer")

and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended, with written notice to a Responsible Officer of the Custodian, whenever a person is to be added or deleted from the listing. If a party elects to give the Custodian directions or instructions using Electronic Means (defined below) and the Custodian in its discretion elects to act upon such directions, the Custodian's understanding of such directions shall be deemed controlling. The parties understand and agree that the Custodian cannot determine the identity of the actual sender of such directions and that the Custodian shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided by a party to a Responsible Officer of the Custodian have been sent by such Authorized Officer. The party giving such instructions shall be solely responsible for ensuring that only Authorized Officers transmit such directions to the Custodian and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys issued by the Custodian as confidential and with extreme care. The Custodian shall not be liable for any losses, costs or expenses arising directly or indirectly from the Custodian's reliance upon and compliance with such directions notwithstanding that such directions conflict or are inconsistent with a subsequent written direction. The party giving such directions agrees: (i) to assume all risks arising out of the use of Electronic Means (defined below) to submit directions to the Custodian, including without limitation the risk of the Custodian acting on unauthorized directions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions to the Custodian and that there may be more secure methods of transmitting directions; (iii) that the security procedures (if any) to be followed in connection with its transmission of directions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Custodian immediately upon learning of any compromise or unauthorized use of the security procedures.

(d) As used herein, "Electronic Means" shall mean the following communications methods: e-mail, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Custodian, or another method or system specified by the Custodian as available for use in connection with its services hereunder.

## Section 12. Miscellaneous.

(a) The provisions of this Agreement may be waived, altered, amended or supplemented, in whole or in part, only by a writing signed by all of the Parties hereto.

(b) Neither this Agreement nor any right or interest hereunder may be assigned in whole or in part by any Party, except as provided in Section 7, without the prior written consent of the other Parties.

(c) 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 NEW YORK, WITHOUT REGARD TO ANY CONFLICTS OF LAW PRINCIPLE THAT WOULD DIRECT THE APPLICATION OF THE LAWS ANOTHER JURISDICTION; PROVIDED, HOWEVER, THAT THE AUTHORITY OF PARTICIPANT TO ENTER INTO AND PERFORM ITS

OBLIGATIONS UNDER THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

(d) EACH PARTY HERETO IRREVOCABLY WAIVES ANY OBJECTION ON THE GROUNDS OF VENUE, FORUM NON-CONVENIENS OR ANY SIMILAR GROUNDS AND IRREVOCABLY CONSENTS TO SERVICE OF PROCESS BY MAIL OR IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW AND CONSENTS TO THE EXCLUSIVE JURISDICTION OF (A) THE COURTS OF THE STATE OF NEW YORK LOCATED IN THE BOROUGH OF MANHATTAN, (B) THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK OR (C) THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA IN ANY OTHER STATE WHERE AN OFFICE OF THE CUSTODIAN IS LOCATED. THE PARTIES FURTHER HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LAWSUIT OR JUDICIAL PROCEEDING ARISING OR RELATING TO THIS AGREEMENT.

(e) No Party to this Agreement shall be liable to any other Party hereto for losses due to, or if it is unable to perform its obligations under the terms of this Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control; provided that a Party affected by any such event shall exercise commercially reasonable efforts to resume performance as quickly as possible.

(f) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. All signatures of the Parties to this Agreement may be transmitted by digital pdf transmission, and such pdf will, for all purposes, be deemed to be the original signature of such Party whose signature it reproduces, and will be binding upon such Party. All signatures of the parties to this Agreement may be transmitted by digital pdf transmission under the terms set forth in this Section 12(f). The parties agree that the electronic signature of a party to this Agreement, including all acknowledgements, authorizations, directions, waivers and consents thereto (or any amendment or supplement thereto) shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent via the Internet as a pdf (portable document format) or other replicating image attached to an e mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature. Paper copies or “printouts”, if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

(g) The Custodian shall not be under any obligation to invest or pay interest on amounts held in the Assigned PPA Payments Account from time to time.

(h) Issuer shall have only such duties under this Agreement as are expressly set forth herein as duties on its part to be performed, and no implied duties shall be read into this Agreement against Issuer.

(i) Nothing in this Agreement is intended to create any liabilities between Issuer, Prepay LLC, MSCG and Participant. This Agreement is intended solely to allocate payments that are actually made by Prepay LLC, MSCG and Participant in respect of amounts owed for physically settled Energy under the Assigned PPAs and the Prepay Contract Chains.

Section 13. Compliance with Court Orders. In the event that any amount held by the Custodian hereunder shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court affecting the property deposited under this Agreement, the Custodian is hereby expressly authorized, in its sole discretion, to obey and comply with all writs, orders or decrees so entered or issued, which it is advised by legal counsel of its own choosing are binding upon it, whether with or without jurisdiction, and in the event that the Custodian obeys or complies with any such writ, order or decree it shall not be liable to any of the Parties hereto or to any other person, firm or corporation, by reason of such compliance notwithstanding that such writ, order or decree may be subsequently reversed, modified, annulled, set aside or vacated.

Section 14. Term; Winding Up. This Agreement will expire concurrently with the receipt of written notice from Participant, with a copy to the other Parties, that the Clean Energy Purchase Contract has terminated in accordance with its terms. Following the Custodian's payment of any Monthly Gross Amount due in respect of the final Month of power deliveries prior to such a termination, any remaining balance in the Assigned PPA Payments Account shall be paid to Participant.

Section 15. Indemnification. The Issuer, MSCG, Prepay LLC and Participant, jointly and severally, agree to protect, indemnify, defend and hold harmless, the Custodian, and its affiliates, and each person who controls the Custodian (and each of their respective directors, officers, agents and employees) from and against all claims, damages, losses, liabilities, actions, suits, costs, judgments and expenses (including, without limitation, court costs and reasonable attorneys' fees) arising from its acting as Custodian hereunder (including, for the avoidance of doubt, any costs, expenses and reasonable attorneys' fees incurred in enforcing any payment obligation of an indemnifying Party), except for any claim, damage, loss, liability, action, suit, cost, judgment or expense resulting from the gross negligence or willful misconduct of the Custodian; provided, however, that any amounts due under this Section 15 shall not duplicate any other amounts due under this Agreement, including without limitation amounts due under Section 9 hereof. The obligations of this Section 15 shall survive any resignation or removal of the Custodian and the termination of this Agreement. In addition, notwithstanding anything herein to the contrary, the Custodian shall have all of the rights (including the indemnification rights), benefits, privileges and immunities under this Agreement as are granted to the Trustee under the Trust Indentures, all of which are incorporated, mutatis mutandis, into this Agreement.

Section 16. USA PATRIOT Act. The Issuer, MSCG, Prepay LLC and Participant acknowledge that the Custodian is subject to federal laws, including the Customer Identification Program ("CIP") requirements under the USA PATRIOT Act and its implementing regulations,



pursuant to which the Custodian must obtain, verify and record information that allows the Custodian to identify MSCG, Prepay LLC and Participant. Accordingly, prior to opening the Assigned PPA Payments Account described in Section 3(c) of this Agreement, the Custodian will ask the Issuer, MSCG, Prepay LLC and Participant to provide certain information including but not limited to name, physical address, tax identification number and other information that will help the Custodian identify and verify the Issuer, MSCG, Prepay LLC and Participant's identities, such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information. The Issuer, MSCG, Prepay LLC and Participant agree that the Custodian cannot open any account hereunder unless and until the Custodian verifies the Issuer's MSCG, Prepay LLC and Participant's identities in accordance with its CIP.

Section 17. Limitation of Liability. Notwithstanding anything to the contrary herein, all obligations of the Issuer under this Agreement, including without limitation all obligations to make payments of any kind whatsoever, are special, limited obligations of the Issuer, payable solely from the [Trust Estate] (as such term is defined in the Trust Indentures) as and to the extent provided in the Trust Indentures, including with respect to [Operating Expenses] (as such term is defined in the Trust Indentures). The Issuer shall not be required to advance any moneys derived from any source other than the [Revenues] (as such term is defined in the Trust Indentures) and other assets pledged under the Trust Indentures for any of the purposes in this Agreement mentioned. Neither the faith and credit of the Issuer nor the taxing power of the State of California or any political subdivision thereof is pledged to payments pursuant to this Agreement. The Issuer shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reasons of or in connection with this Agreement, except solely to the extent [Revenues] (as such term is defined in the Trust Indentures) are received for the payment thereof and may be applied therefor pursuant to the terms of the Trust Indentures.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first written above.

CLEAN POWER ALLIANCE OF  
SOUTHERN CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Taxpayer ID Number: \_\_\_\_\_

MORGAN STANLEY CAPITAL GROUP  
INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Taxpayer ID Number: **[13-3200368]**

ENERGY PREPAY [ ], LLC

By: Morgan Stanley Capital Group Inc., its  
Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Taxpayer ID Number: **[13-3200368]**

[CUSTODIAN]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CALIFORNIA COMMUNITY CHOICE  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Taxpayer ID Number: \_\_\_\_\_

**EXHIBIT A**  
**[ASSIGNED PPAs]**

[ ]

## EXHIBIT B

### NOTICE INFORMATION

**PPA Buyer:**

Clean Power Alliance of Southern California  
801 South Grand Avenue, Suite 400  
Los Angeles, CA 90017  
Email: [prepays@cleanpoweralliance.org](mailto:prepays@cleanpoweralliance.org)

*PPA Buyer Payment Information:*<sup>5</sup>

Bank Name: [\_\_\_\_]  
Bank Routing Number: [\_\_\_\_]  
Account Number: [\_\_\_\_]  
FBO: [Clean Power Alliance of Southern California]

**Issuer:**

California Community Choice Financing Authority  
1125 Tamalpais Avenue  
San Rafael, CA 94901  
Email: [\_\_\_\_]

*Issuer Payment Information:*

[CUSTODIAN BANK NAME] <sup>6</sup>  
ABA# [\_\_\_\_]  
ACCOUNT NUMBER: [\_\_\_\_]  
ACCOUNT NAME: [\_\_\_\_]

**MSCG:**

Morgan Stanley Capital Group Inc.  
1585 Broadway  
New York, NY 10036-8293  
Email: [CCCFA\\_202\[ \]\[X\]\\_ms\\_notices@morganstanley.com](mailto:CCCFA_202[ ][X]_ms_notices@morganstanley.com)

**Prepay LLC:**

[Energy Prepay [ ], LLC  
c/o Morgan Stanley & Co. LLC  
[1585 Broadway  
New York, NY 10036-8293]  
Email: [CCCFA\\_202\[ \]\[X\]\\_ms\\_notices@morganstanley.com](mailto:CCCFA_202[ ][X]_ms_notices@morganstanley.com)  
*With a mandatory copy to:*  
[msdoc-misc-notices@morganstanley.com](mailto:msdoc-misc-notices@morganstanley.com)]

**Custodian:**

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<sup>5</sup> SM NTD: CPA to provide bank account information.

<sup>6</sup> SM NTD: Custodian to provide bank account information.

[ ]

[ ]

[ ]

Telephone: [ ]

Attention: [ ]

Fax: [ ]

Email: [ ]

## EXHIBIT C

### FORM OF CERTIFICATE OF INCUMBENCY

The undersigned, a duly Authorized Officer of [\_\_\_\_], in connection with the Consolidated PPA Custodial Agreement by and among California Community Choice Financing Authority (the “Issuer”), Clean Power Alliance of Southern California, a California joint powers authority (“Participant”), Morgan Stanley Capital Group Inc., a Delaware corporation (“MSCG”), Energy Prepay [\_\_\_\_], LLC, a Delaware limited liability company (“Prepay LLC”), and [CUSTODIAN] (the “Custodian”) dated as of [\_\_\_\_], 2025, as from time to time amended, restated, supplemented or otherwise modified (the “PPA Custodial Agreement”), HEREBY CERTIFIES that the persons whose names, titles and signatures appear below are duly qualified and acting representatives of [\_\_\_\_] (“Authorized Representatives”) on the date hereof. Each holds the office set forth beside his/her name, and the signature appearing opposite his/her name is the genuine signature of such Authorized Representative. Only those individuals, or such additional individuals as the undersigned may designate prior to written notice to the Custodian in the future, shall execute and deliver any written instructions, confirmations or certificates on behalf of [\_\_\_\_] in connection with the PPA Custodial Agreement. Custodian shall not be obligated to accept any written instructions, confirmations or certificates executed by an individual other than those listed below or so designated in the future.

NAME	TITLE	PHONE NO.	SIGNATURE

Capitalized terms used herein and not otherwise defined shall have the meaning assigned in the PPA Custodial Agreement.

[\_\_\_\_] acknowledges that Custodian will accept notices by Electronic Means only if [\_\_\_\_] acknowledges and assumes all risks relating to the use of such notices. [\_\_\_\_] hereby acknowledges and assumes all risks relating to the sending of notices by Electronic Means.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be executed for  
and on behalf of [\_\_\_\_\_] this \_\_\_\_ day of \_\_\_\_\_.

[NAME OF PARTY]

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

Name:

Title:

## EXHIBIT B

### FORM OF LIMITED ASSIGNMENT AGREEMENT FOR MSCG AS PPA SUPPLIER

This Limited Assignment Agreement (this “**Assignment Agreement**”) is entered into as of [\_\_\_\_], 20[\_\_\_] (the “**Assignment Agreement Effective Date**”) by and among Morgan Stanley Capital Group Inc., a Delaware corporation (“**PPA Seller**”), Clean Power Alliance of Southern California, a California joint powers authority (“**PPA Buyer**”) and Energy Prepay [\_\_\_], LLC, a Delaware limited liability company (“**Prepay LLC**”).

### RECITALS

**WHEREAS**, PPA Buyer and PPA Seller are parties to that certain PPA identified on Appendix 1 hereto; and

**WHEREAS**, in connection with one or more prepaid Energy transactions entered into between the Issuer and Prepay LLC, and with effect from and including the Assignment Period Start Date, PPA Buyer wishes to transfer by limited assignment to Prepay LLC, and Prepay LLC wishes to accept the transfer by limited assignment of, the Assigned Rights and Obligations with respect to any and all Assignment Appendices during the Assignment Period;

**WHEREAS**, pursuant to this Assignment Agreement, during the Assignment Period, Prepay LLC will receive the Assigned Energy specified in any and all Assignment Appendices in effect from time to time and Prepay LLC will deliver such Assigned Energy to the applicable Issuer, which will deliver such Assigned Energy to PPA Buyer; and

**WHEREAS**, pursuant to this Assignment Agreement, during the Assignment Period, Prepay LLC will assume responsibility for the Delivered Energy Payment Obligation with respect to any and all Assignment Appendices then in effect.

**THEREFORE**, in consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Prepay LLC (the “**Parties**” hereto; each is a “**Party**”) agree as follows:

### AGREEMENT

#### 1. Definitions.

The following terms, when used in this Assignment Agreement and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

“**Assigned Energy**” means any [Energy] to be delivered to Prepay LLC hereunder pursuant to the Assigned Rights and Obligations, as further described and/or limited by Appendix 1.



**“Assigned Rights and Obligations”** means (i) the right of PPA Buyer under the PPA to receive the Assigned Energy of Assigned Energy during the Assignment Period, [as such right may be limited or further described in the “Further Information” section] in Appendix 1, and (ii) the Delivered Energy Payment Obligation, which right and obligation are transferred and conveyed to Prepay LLC hereunder.

**“Assignment Agreement”** has the meaning specified in the first paragraph of this Assignment Agreement.

**“Assignment Agreement Effective Date”** has the meaning set forth in the first paragraph above.

**“Assignment Appendix”** means each Assignment Appendix in the form attached hereto as Appendix 2 and delivered by Prepay LLC hereunder pursuant to Section 11(g).

**“Assignment Appendix End Date”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Assignment Appendix Period”** means, with respect to each Assignment Appendix, the period from the Assignment Appendix Start Date to the Assignment Appendix End Date; provided that no Assignment Appendix Period may commence prior to the Assignment Period Start Date and no Assignment Appendix Period may extend beyond the Assignment Period End Date.

**“Assignment Appendix Start Date”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Assignment Early Termination Date”** has the meaning specified in Section 5(b).

**“Assignment Period”** has the meaning specified in Section 5(a).

**“Assignment Period End Date”** means 11:59:59 p.m. pacific prevailing time on [\_\_\_\_], 20[\_\_\_\_].

**“Assignment Period Start Date”** means [\_\_\_\_] 1, 20[\_\_\_\_].

**“Business Day”** has the meaning specified in the Prepaid Agreement.

**“Claims”** means all claims or actions, threatened or filed, and the resulting losses, damages, expenses, attorneys’ fees, experts’ fees, and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Assignment Agreement, in each case arising under, in respect of or related in any way to the PPA or any transaction thereunder, except for the Delivered Energy Payment Obligation.

**“Day-Ahead Average Price”** has the meaning specified in Appendix 1.

**“Delivered Energy Payment Obligation”** has the meaning specified in Section 3(a).

**“Delivery Point”** has the meaning specified in Appendix 1.

**“Energy”** means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours (MWh).

**“Government Agency”** means the United States of America, any state thereof, any municipality, or any local jurisdiction, or any political subdivision of any of the foregoing, including, but not limited to, courts, administrative bodies, departments, commissions, boards, bureaus, agencies, or instrumentalities.

**“Issuer”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Month”** means a calendar month.

**“MWh”** has the meaning specified in the Prepaid Agreement.

**“Person”** means any individual, limited liability company, corporation, partnership, joint venture, trust, unincorporated organization, or Government Agency.

**“PPA Buyer”** has the meaning specified in the first paragraph of this Assignment Agreement.

**“PPA Seller”** has the meaning specified in the first paragraph of this Assignment Agreement.

**“Prepaid Agreement”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Prepay Clean Energy Purchase Contract”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Prepay LLC”** has the meaning specified (a) in the first paragraph of this Assignment Agreement and (b), with respect to any Assignment Appendices then in effect, the meaning specified in the applicable Assignment Appendix.

**“Receivables”** has the meaning given to such term in Section 3(e).

**“Retained Rights and Obligations”** has the meaning specified in Section 3.

## **2. Transfer and Undertakings.**

(a) PPA Buyer hereby assigns, transfers and conveys to Prepay LLC all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the Assigned Energy during the Assignment Period for any and all Assignment Appendices then in effect. In connection with this assignment, PPA Buyer hereby delegates to Prepay LLC the Assigned Rights and Obligations during the Assignment Period for any Assignment Appendices then in effect.

(b) PPA Seller hereby consents and agrees to PPA Buyer's assignment, transfer and conveyance of all right, title and interest in and to the Assigned Energy and Assigned Rights and Obligations to Prepay LLC and the exercise and performance by Prepay LLC of the Assigned Rights and Obligations during the Assignment Period for any Assignment Appendices then in effect.

(c) Prepay LLC hereby accepts such assignment, transfer and conveyance of the Assigned Rights and Obligations during the Assignment Period for any Assignment Appendices then in effect and agrees to perform any such Assigned Rights and Obligations due from it during the Assignment Period for any Assignment Appendices then in effect to the extent expressly set forth in this Assignment Agreement or any Assignment Appendix.

### 3. **Limited Assignment.**

The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a portion of PPA Buyer's and PPA Seller's rights and obligations under the PPA, and that all rights and obligations arising under the PPA that are not expressly included in the Assigned Rights and Obligations shall be "**Retained Rights and Obligations**", and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer and PPA Seller arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. In this regard:

(a) **Limited to Delivered Energy Payment Obligation.** Prepay LLC's sole obligations to PPA Seller will be to pay the [Day-Ahead Average Price] to PPA Seller for the Assigned Energy set forth on each Assignment Appendix during each Month of the Assignment Period and on each applicable payment date under Section [ ] of the PPA irrespective of the amount of electricity actually delivered by PPA Seller to PPA Buyer (the "**Delivered Energy Payment Obligation**"); provided that, to the extent PPA Buyer uses less than the Assigned Energy in any given Month during the Assignment Period, then PPA Seller shall (i) be deemed to remarket such quantities not taken for the economic benefit of Prepay LLC and (ii) credit against Prepay LLC's Delivered Energy Payment Obligation an amount equal to (A) any such quantities deemed remarketed multiplied by (B) the Day-Ahead Average Price. For the avoidance of doubt, Prepay LLC's obligations hereunder are limited to only the Assignment Appendices then in effect.

(b) **Retained Rights and Obligations.** Any Claims (other than the Delivered Energy Payment Obligation or a failure to perform the same) arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or Prepay LLC, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Energy Payment Obligation, will be included in the Retained Rights and Obligations and any such Claims will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) **Scheduling.** All scheduling of Energy (including Assigned Energy) and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that (i) PPA Buyer and PPA Seller will provide copies of all billing statements and generation reports delivered during the Assignment Period for any Assignment Appendices then in effect to Prepay LLC and Issuer contemporaneously upon delivery

of such statements and reports to the other party to the PPA; (ii) title to Assigned Energy specified in any and all Assignment Appendices then in effect will pass to Prepay LLC upon delivery by PPA Seller at the Delivery Point in accordance with the PPA; (iii) immediately thereafter, title to such Assigned Energy will pass to the Issuer (as set forth in the applicable Assignment Appendix) and then to PPA Buyer upon delivery by Prepay LLC at the same point where title is passed to Prepay LLC pursuant to clause (ii) above and (iv) PPA Buyer will be deemed to be acting as Prepay LLC's agent with regard to scheduling Assigned Energy.

(d) **Amendments.** PPA Buyer and PPA Seller will provide written notice (including copies thereof) of any proposed or actual amendment, waiver, supplement, modification, or other changes to the PPA to Prepay LLC prior to the effectiveness thereof, and the Parties hereby acknowledge and agree that an amendment, waiver, supplement, modification or other change will not have any effect on Prepay LLC's rights or obligations under this Assignment Agreement nor any Assignment Appendix then in effect unless Prepay LLC receives prior written notice thereof.

(e) **Setoff of Receivables.** Pursuant to the Prepaid Agreement, Prepay LLC has agreed to purchase the rights to payment of the net amounts owed by PPA Buyer under the Prepay Clean Energy Purchase Contract ("**Receivables**") in the case of non-payment by PPA Buyer. To the extent any such Receivables relate to Assigned Energy purchased by Prepay LLC pursuant to the Assigned Rights and Obligations, Prepay LLC may transfer such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) to PPA Seller and apply the face amount of such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) as a reduction to any Delivered Energy Payment Obligations; provided, however, that at no time shall PPA Seller be required to pay Prepay LLC for any amounts by which such Receivables exceed any Delivered Energy Payment Obligations then due and owed to PPA Seller.

#### **4. Forward Contract.**

The Parties acknowledge and agree that this Assignment Agreement constitutes a "forward contract" and that the Parties shall constitute "forward contract merchants" within the meaning of the United States Bankruptcy Code.

#### **5. Assignment Period; Assignment Early Termination.**

(a) The "**Assignment Period**" under an Assignment Appendix shall begin on the Assignment Appendix Start Date and extend until the Assignment Appendix End Date or as otherwise terminated early pursuant to Section 5(b); provided that in no event shall the Assignment Period extend beyond an Assignment Early Termination Date with respect to such Assignment Appendix; provided further that the Assignment Period under an Assignment Appendix will automatically terminate upon the expiration or early termination of either the [Delivery Period] (as defined in the PPA) or the PPA.

(b) **Early Termination.** An "**Assignment Early Termination Date**" will occur under the following circumstances and as of the dates and for the applicable Assignment Appendices specified below:

i. the assignment of a Prepay Clean Energy Purchase Contract by PPA Buyer or Issuer pursuant to [Article XIII] thereof shall result in an Assignment Early Termination Date for the Assignment Period under the relevant Assignment Appendix, which Assignment Early Termination Date for the applicable Assignment Period(s) shall occur immediately as of the time of such assignment;

ii. the suspension, expiration, or termination of performance of the PPA by either PPA Buyer or PPA Seller for any reason other than the occurrence of [Force Majeure] under and as defined in the PPA shall result in an Assignment Early Termination Date for all Assignment Appendices then in effect, which Assignment Early Termination Date shall occur immediately as of the time of PPA Seller's last performance under the PPA following such suspension, expiration, or termination;

iii. the election of Prepay LLC in its sole discretion to declare an Assignment Early Termination Date as a result of (a) any event or circumstance that would give either PPA Buyer or PPA Seller the right to terminate or suspend performance under the PPA (regardless of whether PPA Buyer or PPA Seller exercises such right) or (b) the execution of an amendment, waiver, supplement, modification or other change to the PPA that adversely affects the Assigned Rights and Obligations or Prepay LLC's rights or obligations under this Agreement (provided that Prepay LLC shall not have a right to terminate under this Section 5(b)iii to the extent that Prepay LLC (i) receives prior notice of such change and (ii) provides its written consent thereto), which Assignment Early Termination Date shall occur under all Assignment Appendices then in effect upon the date set forth in a written notice of such election delivered by Prepay LLC to PPA Buyer and PPA Seller;

iv. termination or suspension of deliveries for any reason other than force majeure under the applicable Prepaid Agreement or the applicable Prepay Clean Energy Purchase Contract shall result in an Assignment Early Termination Date for the Assignment Period under the relevant Assignment Appendix, which Assignment Early Termination Date for the applicable Assignment Period(s) shall occur immediately as of the time of the last deliveries under the relevant contract following such suspension or termination;

v. the election of PPA Seller in its sole discretion to declare an Assignment Early Termination Date if Prepay LLC fails to pay when due any amounts owed to PPA Seller in respect of any Delivered Energy Payment Obligation and such failure continues for five Business Days following receipt by Prepay LLC of written notice thereof, which Assignment Early Termination Date shall occur under all Assignment Appendices then in effect upon the date set forth in a written notice of such election delivered by PPA Seller or PPA Buyer, as applicable, to Prepay LLC, with a copy to PPA Buyer; or PPA Seller, as applicable; and

vi. the election of PPA Seller or PPA Buyer in its sole discretion to declare an Assignment Early Termination Date if either (a) an involuntary case or other proceeding is commenced against Prepay LLC seeking liquidation, reorganization or other relief with respect to it or its debts under any applicable Federal or State bankruptcy, insolvency,

fraudulent transfer, reorganization, moratorium or similar law now or hereafter in effect or seeking the appointment of a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed, or an order or decree approving or ordering any of the foregoing is entered and continued unstayed and in effect, in any such event, for a period of 60 days, or (b) Prepay LLC commences a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar law or any other case or proceeding to be adjudicated as bankrupt or insolvent, or Prepay LLC consents to the entry of a decree or order for relief in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, files a petition or answer or consent seeking reorganization or relief under any applicable Federal or State law, or consents to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of Prepay LLC or any substantial part of its property, or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, which Assignment Early Termination Date shall occur under all Assignment Appendices then in effect immediately on the date of PPA Seller's delivery of notice of its election to Prepay LLC and PPA Buyer.

(c) **Reversion of Assigned Rights and Obligations.** The Parties acknowledge and agree that upon the occurrence of an Assignment Early Termination Date the Assigned Rights and Obligations under each applicable Assignment Appendix will revert from Prepay LLC to PPA Buyer. Any Assigned Rights and Obligations under an Assignment Appendix that would become due for payment or performance on or after such Assignment Early Termination Date with respect to such Assignment Appendix shall immediately and automatically revert from Prepay LLC to PPA Buyer; provided that (i) Prepay LLC shall remain responsible for the Delivered Energy Payment Obligation with respect to any Assigned Energy delivered to Prepay LLC prior to the Assignment Early Termination Date, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the occurrence of the Assignment Early Termination Date.

## **6. Representations and Warranties.**

(a) **Copy of the PPA.** As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to Prepay LLC that a true, complete, and correct copy of the PPA is attached hereto as Appendix 4.

(b) **No Default.** As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to Prepay LLC that no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

(c) **Other.** As of the Assignment Agreement Effective Date, each of PPA Buyer and PPA Seller represents and warrants to each other and to Prepay LLC that:

- i. it has made no prior transfer (whether by way of security or otherwise) of any interest in the Assigned Rights and Obligations; and
- ii. all obligations of PPA Buyer and PPA Seller under the PPA required to be performed on or before the Assignment Period Start Date have been fulfilled.

(d) **Representations.** Each Party represents to each of the other Parties as of the Assignment Agreement Effective Date:

- i. **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing;
- ii. **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and has taken all necessary action to authorize such execution, delivery and performance;
- iii. **No Violation or Conflict.** Such execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its obligations under this Agreement, will not result in any violation of, or conflict with: (i) any term of any material contract or agreement applicable to it; (ii) any of its charter, bylaws, or other constitutional documents; (iii) any determination or award of any arbitrator applicable to it; or (iv) any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, law, ordinance, rule or regulation of any Government Agency presently in effect, applicable to it or any of its assets or properties or to any obligations incurred by it or by which it or any of its assets or properties or obligations are bound or affected, and shall not cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets;
- iv. **Consents.** All consents, approvals, orders or authorizations of, registrations, declarations, filings or giving of notice to, obtaining of any licenses or permits from, or taking of any other action with respect to, any Person or Government Agency that are required to have been obtained by such Party with respect to this Agreement and the transactions contemplated hereby, including the due authorization of such Party and its governing body and any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party, have been obtained and are in full force and effect and all conditions of any such consents have been complied with;

- v. **Obligations Binding.** Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law));
- vi. **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Parties as investment advice or as a recommendation to enter into this Agreement, it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this Agreement. It is entering into this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by all Parties, considers this Agreement a legally enforceable contract. No communication (written or oral) received from any of the other Parties shall be deemed to be an assurance or guarantee as to the expected results of this Agreement;
- vii. **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement; and
- viii. **Status of Parties.** None of the other Parties is acting as a fiduciary for or an adviser to it in respect of this Agreement.

## **7. Counterparts.**

This Assignment Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by email), each of which will be deemed an original.

## **8. Costs and Expenses.**

The Parties will each pay their own costs and expenses (including legal fees) incurred in connection with this Assignment Agreement and as a result of the negotiation, preparation, and execution of this Assignment Agreement.

## **9. Amendments.**



No amendment, modification, or waiver in respect of this Assignment Agreement will be effective unless in writing and executed by each of the Parties.

#### **10. Notices.**

Any notice, demand, statement or request required or authorized by this Agreement to be given by one Party to another shall be in writing, except as otherwise expressly provided herein. It shall be sent by email transmission, courier, or personal delivery (including overnight delivery service) to each of the notice recipients and addresses for each of the other Parties designated in Appendix 3 hereto. Any such notice, demand, or request shall be deemed to be given (i) when sent by email transmission, or (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service). Each Party shall have the right, upon 10 days' prior written notice to the other Parties, to change its address at any time, and to designate that copies of all such notices be directed to another Person at another address. The Parties may mutually agree in writing at any time to deliver notices, demands or requests through alternate or additional methods. Notwithstanding the foregoing, a Party may at any time notify the other Parties that any notice, demand, statement or request to it must be provided by email transmission for a specified period of time or until further notice, and any communications delivered by means other than email transmission during such time shall be ineffective.

#### **11. Governing Law, Waiver of Jury Trial, Arbitration.**

(a) **Governing Law.** This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Waiver of Right to Trial by Jury.** Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Assignment Agreement.

(c) **Arbitration.** Any dispute, claim or controversy arising out of or relating to this Assignment Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three (3) arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. ("JAMS") pursuant to its Comprehensive Arbitration Rules and Procedures. Within fifteen (15) days after the commencement of arbitration, each of Prepay LLC and PPA Buyer, on the one hand, and PPA Seller, on the other hand, shall select one (1) person to act as arbitrator, and JAMS shall appoint one (1) person to act as an arbitrator (for such an arbitration, Prepay LLC, PPA Buyer and PPA Seller are the "**Arbitration Parties**"), provided that if the arbitration pertains to matters and disputes solely as between PPA Buyer and Prepay LLC, and PPA Seller is neither asserting nor defending a claim in relation thereto, then each of Prepay LLC and PPA Buyer shall select one (1) person to act as arbitrator, and JAMS shall appoint one (1) person to act as an arbitrator (for such

an arbitration, only Prepay LLC and PPA Buyer are the “**Arbitration Parties**”). The JAMS appointed arbitrator shall serve as the chairperson (the “**chairperson**”). If any of the Arbitration Parties are unable or fail to select one (1) person to act as arbitrator, such arbitrator shall be appointed by JAMS. The chairperson shall be a person who has experience in renewable Energy-related transactions, and none of the arbitrators shall have been previously employed by any Arbitration Party or have any direct pecuniary interest in any Arbitration Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by all of the Arbitration Parties. The Arbitration Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Arbitration Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. The responsibility for compensation and expenses of the three (3) arbitrators and all other expenses charged by JAMS shall be shared equally between or among the Arbitration Parties, as the case may be. In any arbitration arising out of or related to this Assignment Agreement, the arbitrators shall award to the prevailing Arbitration Party or Arbitration Parties, if any, the costs and attorney’s fees reasonably incurred in seeking to enforce the application of this Section 11(c) by the prevailing party in connection with the arbitration, and the non-prevailing Arbitration Party or Arbitration Parties shall also be liable to the prevailing Arbitration Party or Arbitration Parties for the compensation and expenses of the three arbitrators and all costs charged by JAMS. Notwithstanding the foregoing provisions of this Section 11(c), any costs incurred by an Arbitration Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Arbitration Party against whom such court order is obtained. The award shall be final and binding on the Arbitration Parties and judgment upon any award may be entered in any court of competent jurisdiction.

(d) **Judicial Reference.** Without limiting the provisions in Section 11(c), if Section 11(c) is deemed ineffective or unenforceable in any respect, any dispute between the Parties arising out of or in connection with this Assignment Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Assignment Agreement and the applicability of any statute of limitation period) (each, a “Dispute”) shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (“CCP”), or their successor sections (a “Reference Proceeding”), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 11(d)(1).

i. **Notice of Dispute.** Prior to initiating the Reference Proceeding, a Party (the “**Disputing Party**”) shall provide the other Parties (the “**Responding Parties**”; and together with the Disputing Party, the “**Dispute Parties**”) with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the “**Notice of Dispute**”). Within 10 days after receiving the Notice of Dispute,

the Responding Parties shall provide the Disputing Party with a written notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the “**Dispute Response**”). If the Notice of Dispute makes no claim or assertion against one of the Responding Parties, and such Responding Party, in making its Dispute Response does not make or assert a claim against either the Disputing Party or the other Responding Party and states that it has no interest in the Dispute, then such Responding Party shall not participate in the resolution of the Dispute and shall not be a “**Dispute Party**” for purposes of this Section 11(d). Thereafter, the Dispute Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Dispute Parties do not resolve the dispute by unanimous agreement within sixty (60) days after receipt of the Dispute Response then any Dispute Party may provide to the other Dispute Party(ies) written notice of intent for judicial reference (the “**Impasse Notice**”) in accordance with the further provisions of this Section 11(d).

ii. Applicability; Selection of Referees. Within 10 days of the delivery of an Impasse Notice, each of Prepay LLC and PPA Buyer, on the one hand, and PPA Seller, on the other hand, shall nominate one (1) referee, provided that if PPA Seller is not a Dispute Party, then each of Prepay LLC and PPA Buyer shall nominate (1) referee, and PPA Seller will not nominate a referee. The two (2) referees (the “**Party-Appointed Referees**”) shall unanimously appoint one (1) additional referee (the “**Additional Referee**”, together with the Party-Appointed Referees, the “**Referees**”). The Party-Appointed Referees shall be competent and experienced in matters involving the electric Energy business in the United States, with at least ten (10) years of electric industry experience as a practicing attorney. The Additional Referee shall be an active or retired California state or federal judge (the “**Head Referee**”). Each of the Party-Appointed Referees and the Additional Referee shall be impartial and independent of each of the Dispute Parties and of the other referees and not employed by any of the Dispute Parties in any prior matter.

(A) If the Party-Appointed Referees are unable to agree on the Additional Referee within 45 days from delivery of the Impasse Notice, then the Additional Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the “**Court**”), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Dispute Parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP Section 170.6, each of PPA Buyer and Prepay LLC, on the one hand, and PPA Seller, on the other hand, shall have one (1) peremptory challenge to the referee selected by the Court, provided that if PPA Seller is not a Dispute Party, then each of Prepay LLC and PPA Buyer shall have one (1) peremptory challenge to the referee selected by the Court.

iii. Discovery; Proceedings.

(A) The Dispute Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the Referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the

matter for a status and trial-setting conference within 20 days after the date of selection of the Head Referee, (ii) if practicable, try all issues of law or fact within 180 days after the date of the conference, and (iii) report a statement of decision within 20 days after the matter has been submitted for decision.

(B) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Dispute Parties, or if they cannot agree, as determined by the Head Referee after discussion with the Dispute Parties regarding the need for discovery and other pre-hearing procedures.

(C) Except as expressly set forth herein, the Head Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Dispute Parties, or if not agreed by the Dispute Parties, by the Head Referee, in San Francisco, California.

(D) All proceedings and hearings conducted before the Referees, except for trial, shall be conducted without a court reporter, except that when any Dispute Party so requests, a court reporter will be used at any hearing conducted before the Referees, and the Referees will be provided a courtesy copy of the transcript. The Dispute Party making such a request shall have the obligation to arrange for and pay the court reporter.

iv. Decision. The Referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the Court. The Dispute Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

(e) Expenses. The Dispute Parties shall bear the compensation and expenses of its respective own counsel, witnesses, consultants and employees. The responsibility for compensation and expenses of the Referees and all other expenses of judicial reference shall be shared equally between or among the Dispute Parties, as the case may be.

(f) U.S. Resolution Stay Protocol. The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol (“ISDA U.S. Stay Protocol”), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and this Agreement shall be deemed a Protocol Covered Agreement for purposes thereof. For purposes of incorporating the ISDA U.S. Stay Protocol, Prepay LLC shall be deemed to be a Regulated Entity, and PPA Buyer and PPA Seller each shall be deemed to be an Adhering Party. In the event of any inconsistencies between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

(g) **Assignment Appendix Prepaid Transaction Details.** From time to time, Prepay LLC may deliver one or more completed Assignment Appendices to the other Parties hereto completing the terms that are currently bracketed therein, and each such Assignment Appendix shall be binding upon each of the Parties hereto; provided that the aggregate sum of the Assigned Energy under all Assignment Appendices then in effect will not exceed the [Contract Quantity] under and as defined in the PPA. [As set forth in Appendix 1 hereto, Prepay LLC's payment obligations are limited to any Assigned Energy delivered pursuant to the Assignment Appendices then in effect.] Each Assignment Appendix will set forth certain details relating to the commodity prepayment transaction pursuant to which all or a portion of the Assigned Energy shall be delivered; provided that Prepay LLC may, by written notice to PPA Seller and PPA Buyer, at any time with the prior consent of PPA Buyer but without the consent of PPA Seller, (i) rescind any Assignment Appendix or (ii) update or amend any Assignment Appendix to change any or all of the terms specified therein, including: an increase or decrease of the volume of Assigned Energy to be delivered into the applicable commodity prepayment transaction (including without limitation a change thereto to reflect that all MWh of Assigned Energy delivered in accordance with the PPA by PPA Seller shall be delivered into one commodity prepayment transaction, subject only the aggregate quantity limit specified above); a change in the relevant commodity prepayment transaction (i.e., the "Prepaid Agreement") pursuant to which the Assigned Energy shall be delivered; a change in the identity of the Prepay Seller; or a change to the Assignment Appendix Start Date and / or the Assignment Appendix End Date. For the avoidance of doubt, (I) more than one Assignment Appendix may be in effect at any time, and (II) at any given time, less than one hundred percent (100%) of the [Contract Quantity] under and as defined in the PPA may be assigned pursuant to the Assignment Appendices then in effect.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

MORGAN STANLEY CAPITAL GROUP INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ENERGY PREPAY [ ], LLC

By: Morgan Stanley Capital Group Inc., its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

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

Name: Garth Salisbury

Title: Treasurer/Controller

## **Appendix 1**

### **Assigned Rights and Obligations**

“PPA” that certain [\_\_\_\_], together with any and all exhibits, schedules or supplements thereto or incorporated therein by reference, by and between PPA Buyer and PPA Seller, as may be amended from time to time.

“**Delivery Point**” has the definition set forth in the PPA.

“**Day-Ahead Average Price**” means the result of (i) (x) the sum of the Day-Ahead Market Prices for each Pricing Interval in a Month divided by (y) the number of Pricing Intervals in such Month plus (ii) the Index Adder, if any, as set forth in an Assignment Appendix for the relevant Month. As used in this definition, “Pricing Interval” means the unit of time for which CAISO (or other entity that publishes such prices) establishes a separate price; and “Day-Ahead Market Price” means the Day Ahead Market or Locational Marginal Price for [\_\_\_\_] for each applicable hour as published by CAISO, or as such price may be corrected or revised from time to time by CAISO in accordance with its rules. For the avoidance of doubt, the Day-Ahead Average Price can be a negative number.

**Further Information:** [Include, if any]

**Appendix 2**  
**Assignment Appendix - [A][B][C]**

**Date: [\_\_\_\_]**

“Assignment Appendix End Date” means 11:59:59 p.m. pacific prevailing time on [\_\_\_\_], 20[\_\_\_\_].

“Assignment Appendix Start Date” means [\_\_\_\_] 1, 20[\_\_\_\_].

“Custodian” means [\_\_\_\_], a [\_\_\_\_].

“Custody Agreement” means the [Consolidated Custodial Agreement] dated as of [\_\_\_\_], among the Issuer, PPA Buyer, [MSCG], each applicable Prepay Seller and the Custodian, as from time to time amended, restated, supplemented or otherwise modified.

“Issuer” means California Community Choice Financing Authority, a joint powers authority and a public entity of the State of California established pursuant to the provisions of the Joint Exercise of Powers Act (Article 1, Chapter 5, Division 7, Title 1, Section 6500 et seq. of the California Government Code, as amended).

“Prepaid Agreement” means that certain Prepaid Energy Sales Agreement, dated as of [\_\_\_\_], 20[\_\_\_\_] by and between Prepay Seller and Issuer, as from time to time amended, restated, supplemented or otherwise modified.

“Prepay Clean Energy Purchase Contract” means that certain Clean Energy Purchase Contract, dated as of [\_\_\_\_], 20[\_\_\_\_] by and between PPA Buyer and Issuer, as from time to time amended, restated, supplemented or otherwise modified.

“Prepay Seller” means [\_\_\_\_], a [\_\_\_\_], or any other Person that is the prepay seller under the terms of the Prepaid Agreement from time to time.

Assigned Energy subject to this Assignment Appendix: As set forth immediately below, [the percentage of Assigned Energy]/[the monthly quantities of Assigned Energy] delivered to the Delivery Point: [\_\_\_\_]



**Appendix 3**  
**Notice Information**

**IF TO PPA SELLER:**

Morgan Stanley Capital Group Inc.  
Attention: Commodities Sales & Trading  
1585 Broadway  
New York, NY 10036-8293  
Email: energyprepay@morganstanley.com

**IF TO PREPAY LLC:**

Energy Prepay ☐, LLC  
c/o Morgan Stanley & Co. LLC  
[1585 Broadway  
New York, NY 10036-8293]  
Email: CCCFA\_202☐[X]\_ms\_notices@morganstanley.com

**IF TO PPA BUYER:**

As set forth in the PPA.

**Appendix 4**  
**Copy of PPA**

[To be attached.]

## EXHIBIT A

### FORM OF LIMITED ASSIGNMENT AGREEMENT FOR THIRD PARTY AS PPA SUPPLIER

This Limited Assignment Agreement (this “**Assignment Agreement**”) is entered into as of [\_\_\_\_], 20[\_\_\_] (the “**Assignment Agreement Effective Date**”) by and among [PPA Seller], a [\_\_\_\_] (“**PPA Seller**”), Clean Power Alliance of Southern California, a California joint powers authority (“**PPA Buyer**”) and Morgan Stanley Capital Group Inc., a Delaware corporation (“**Financing Party**”).

#### RECITALS

**WHEREAS**, PPA Buyer and PPA Seller are parties to that certain PPA identified on Appendix 1 hereto;

**WHEREAS**, in connection with one or more prepaid Energy transactions entered into between the Issuer, and a Prepay Seller, and with effect from and including the Assignment Period Start Date, PPA Buyer wishes to transfer by limited assignment to Financing Party, and Financing Party wishes to accept the transfer by limited assignment of, the Assigned Rights and Obligations with respect to any and all Assignment Appendices during the Assignment Period;

**WHEREAS**, pursuant to this Agreement, during the Assignment Period, Financing Party will receive the Assigned Product specified in any and all Assignment Appendices in effect from time to time and Financing Party will deliver such Assigned Product to Prepay Seller(s), which will deliver such Assigned Product to Issuer for ultimate delivery to PPA Buyer; and

**WHEREAS**, pursuant to this Agreement, during the Assignment Period, Financing Party will assume responsibility for the Delivered Product Payment Obligation with respect to any and all Assignment Appendices then in effect.

**THEREFORE**, in consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the “**Parties**” hereto and each individually a “**Party**”) agree as follows:

#### AGREEMENT

##### 1. Definitions.

Unless the context otherwise specifies or requires, or defined below, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA. The following terms, when used in this Agreement and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

“**Assigned Product**” has the meaning specified in Section 2(a), as further described and/or limited by Appendix 1.

“**Assigned Product Rights**” has the meaning specified in Section 2(a).

“**Assigned Rights and Obligations**” has the meaning specified in Section 2(b).

“**Assignment Agreement**” has the meaning specified in the first paragraph above.

**“Assignment Agreement Effective Date”** has the meaning set forth in the first paragraph above.

**“Assignment Appendix”** means each Assignment Appendix in the form attached hereto as Appendix 2 and delivered by Financing Party hereunder pursuant to Section 9.

**“Assignment Appendix End Date”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Assignment Appendix Period”** means, with respect to each Assignment Appendix, the period from the Assignment Appendix Start Date to the Assignment Appendix End Date; provided that no Assignment Appendix Period may commence prior to the Assignment Period Start Date and no Assignment Appendix Period may extend beyond the Assignment Period End Date.

**“Assignment Appendix Start Date”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Assignment Early Termination Date”** has the meaning specified in Section 3(b).

**“Assignment Period”** has the meaning specified in Section 3(a).

**“Assignment Period End Date”** means 11:59:59 p.m. pacific prevailing time on [\_\_\_\_], 20[\_\_\_\_].

**“Assignment Period Start Date”** means [\_\_\_\_] 1, 20[\_\_\_\_].

**“Business Day”** has the meaning specified in the Prepaid Agreement.

**“Custodian”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Custody Agreement”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Day-Ahead Average Price”** has the meaning specified in Appendix 1.

**“Delivered Product Payment Obligation”** has the meaning specified in Section 2(b).

**“Delivery Point”** has the meaning specified in Appendix 1.

**“Energy”** means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours (“MWh”).

**“Financing Party”** has the meaning specified in the first paragraph of this Agreement.

**“Government Agency”** means the United States of America, any state thereof, any municipality, or any local jurisdiction, or any political subdivision of any of the foregoing, including, but not limited to, courts, administrative bodies, departments, commissions, boards, bureaus, agencies, or instrumentalities.

**“Issuer”** has, with respect to each Assignment Appendix, the meaning specified therein.

**“Month”** means a calendar month.

“**Person**” means any individual, limited liability company, corporation, partnership, joint venture, trust, unincorporated organization, or Government Agency.

“**PPA Buyer**” has the meaning specified in the first paragraph of this Agreement.

“**PPA Buyer Receivables**” has the meaning given to such term in Section 2(e).

“**PPA Seller**” has the meaning specified in the first paragraph of this Agreement.

“**Prepaid Agreement**” has, with respect to each Assignment Appendix, the meaning specified therein.

“**Prepay Clean Energy Purchase Contract**” has, with respect to each Assignment Appendix, the meaning specified therein.

“**Prepay Seller**” has, with respect to each Assignment Appendix, the meaning specified therein.

## **2. Limited Assignment and Delegation.**

- (a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the products described in any and all Assignment Appendices then in effect (collectively, the “**Assigned Product**”) during the Assignment Period, as such rights may be limited or further described in the “Further Information” section on Appendix 1 (the “**Assigned Product Rights**”). All Assigned Product for any and all Assignment Appendices then in effect shall be delivered pursuant to the terms and conditions of this Assignment Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.
- (b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party for any and all Assignment Appendices then in effect pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Assignment Agreement to the contrary, PPA Buyer agrees that it shall have the option to make such payment and that it will be an [Event of Default] pursuant to [Section 11.1] of the PPA if PPA Buyer does not make such payment within five (5) [Business Days]<sup>1</sup> of receiving [Notice] of such non-payment from PPA Seller. For the avoidance of doubt, Financing Party’s obligations hereunder are limited to only the Assignment Appendices then in effect.

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<sup>1</sup> NTD: Certain defined terms and cross references to the PPA are bracketed to ensure future alignment.

- (c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above.
- (d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product specified in any and all Assignment Appendices then in effect will pass from PPA Seller to Financing Party upon delivery of Assigned Product in accordance with the PPA; (ii) immediately thereafter, title to such Assigned Product will pass to one or more Prepay Sellers (as set forth in the applicable Assignment Appendix), Issuer (as set forth in the applicable Assignment Appendix) and then to PPA Buyer upon delivery by Financing Party at the same point where title is passed to Financing Party pursuant to clause (i) above; and (iii) PPA Buyer will be deemed to be acting as Financing Party's agent with regard to scheduling Assigned Product, (iv) PPA Buyer will provide copies to Financing Party of any [Notice] of a [Force Majeure Event] or [Event of Default] or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an [Event of Default] contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (v) PPA Seller will provide copies to Financing Party of annual forecasts of [Energy] and monthly forecasts of available capacity and [Energy] provided pursuant to [Section 4.3] of the PPA; (vi) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to [Section 8.1] of the PPA; provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice, including pursuant to [Section 8.4] of the PPA, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (vii) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product specified in any and all Assignment Appendices then in effect.
- (e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product specified in any and all Assignment Appendices then in effect received from PPA Seller through one or more intermediaries such that all Assigned Product specified in any and all Assignment Appendices then in effect will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Product specified in any and all Assignment Appendices then in effect, the receivables owed by PPA Buyer for such Assigned Product ("**PPA Buyer Receivables**") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer.
- (f) All payments due to PPA Seller in respect of [Section 3.3] of the PPA will be paid (subject to Section 1(e) above) by Financing Party into the custodial account listed in the Custody Agreement described in the applicable Assignment Appendix, and all payments due to PPA Buyer in respect of [Section 3.3] of the PPA will be paid by PPA Seller into the custodial account listed in the Custody Agreement described in the applicable Assignment Appendix.

- (g) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Assignment Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

### 3. Assignment Early Termination.

- (a) The “**Assignment Period**” under an Assignment Appendix shall begin on the Assignment Appendix Start Date and extend until the Assignment Appendix End Date or as otherwise terminated early pursuant to Section 3(b); provided that in no event shall the Assignment Period extend beyond an Assignment Early Termination Date with respect to such Assignment Appendix; provided further that the Assignment Period under an Assignment Appendix will automatically terminate upon the expiration or early termination of either the [Delivery Period] (as defined in the PPA) or the PPA.
- (b) An “**Assignment Early Termination Date**” will occur under the following circumstances:
- (1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties hereto;
  - (2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party’s failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) business days following receipt by Financing Party and PPA Buyer of written notice;
  - (3) delivery of a written notice by PPA Seller if any of the events described in the definition of [Bankrupt] in the PPA occurs with respect to Financing Party; or
  - (4) delivery of a written notice by Financing Party if any of the events described in the definition of [Bankrupt] in the PPA occurs with respect to PPA Seller.
- (c) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 3(b). The Parties acknowledge and agree that upon the occurrence of an Assignment Early Termination Date the Assigned Rights and Obligations under each applicable Assignment Appendix will revert from Financing Party to PPA Buyer. Any Assigned Rights and Obligations under an Assignment Appendix that would become due for payment or performance on or after such Assignment Early Termination Date with respect to such Assignment Appendix shall immediately and automatically revert from Financing Party to PPA Buyer; provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the Assignment Early Termination Date, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the occurrence of the Assignment Early Termination Date.
- (d) The Assignment Period and any and all Assignment Appendices then in effect will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment

Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

**4. Representations and Warranties.** PPA Seller and PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder; and (c) PPA Seller and PPA Buyer represent and warrant to Financing Party that a true, complete, and correct copy of the PPA is attached hereto as Appendix 3.

**5. Notices.** Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with [Article 9] of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following mailing address and email address, as such addresses may be updated by Financing Party from time to time by notice to the other Parties:

Morgan Stanley Capital Group Inc.  
Attention: Commodities Sales & Trading  
1585 Broadway  
New York, NY 10036-8293  
CCCFA\_202[\_][X]\_ms\_notices@morganstanley.com

**6. Miscellaneous.** [Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.5 (Severability), 19.6 (Mobile-Sierra), 19.7 (Counterparts), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of Buyer)] of the PPA are incorporated by reference into this Assignment Agreement, *mutatis mutandis*, as if fully set forth herein.

**[7. U.S. Resolution Stay Provisions.** The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol ("ISDA U.S. Stay Protocol"), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Assignment Agreement, and for the purposes of such incorporation, (i) Financing Party shall be deemed to be a Regulated Entity, (ii) each of PPA Buyer and PPA Seller shall be deemed to be an Adhering Party, and (iii) this Assignment Agreement shall be deemed a Protocol Covered Agreement. In the event of any inconsistencies between this Assignment Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.]<sup>2</sup>

**8. Governing Law, Waiver of Jury Trial, Arbitration.**

- (a) **Governing Law.** This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into

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<sup>2</sup> NTD: PPA Seller to confirm.



and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

- (b) **Waiver of Right to Trial by Jury.** Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Assignment Agreement.
- (c) **Arbitration.** Any dispute, claim or controversy arising out of or relating to this Assignment Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three (3) arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. (“JAMS”) pursuant to its Comprehensive Arbitration Rules and Procedures. Within fifteen (15) days after the commencement of arbitration, each of Financing Party and PPA Buyer, on the one hand, and PPA Seller, on the other hand, shall select one (1) person to act as arbitrator, and JAMS shall appoint one (1) person to act as an arbitrator (for such an arbitration, Financing Party, PPA Buyer and PPA Seller are the “**Arbitration Parties**”); provided that if the arbitration pertains to matters and disputes solely as between PPA Buyer and Financing Party, and PPA Seller is neither asserting nor defending a claim in relation thereto, then each of Financing Party and PPA Buyer shall select one (1) person to act as arbitrator, and JAMS shall appoint one (1) person to act as an arbitrator (for such an arbitration, only Financing Party and PPA Buyer are the “**Arbitration Parties**”). The JAMS appointed arbitrator shall serve as the chairperson (the “**chairperson**”). If any of the Arbitration Parties are unable or fail to select one (1) person to act as arbitrator, such arbitrator shall be appointed by JAMS. The chairperson shall be a person who has experience in renewable energy-related transactions, and none of the arbitrators shall have been previously employed by any Arbitration Party or have any direct pecuniary interest in any Arbitration Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by all of the Arbitration Parties. The Arbitration Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Arbitration Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. The responsibility for compensation and expenses of the three (3) arbitrators and all other expenses charged by JAMS shall be shared equally between or among the Arbitration Parties, as the case may be. In any arbitration arising out of or related to this Assignment Agreement, the arbitrators shall award to the prevailing Arbitration Party or Arbitration Parties, if any, the costs and attorney’s fees reasonably incurred in seeking to enforce the application of this Section 8(c) by the prevailing party in connection with the arbitration, and the non-prevailing Arbitration Party or Arbitration Parties shall also be liable to the prevailing Arbitration Party or Arbitration Parties for the compensation and expenses of the three arbitrators and all costs charged by JAMS. Notwithstanding the foregoing provisions of this Section 8(c), any costs incurred by an Arbitration Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Arbitration Party against

whom such court order is obtained. The award shall be final and binding on the Arbitration Parties and judgment upon any award may be entered in any court of competent jurisdiction.

- (d) **Judicial Reference.** Without limiting the provisions in Section 8(c), if Section 8(c) is deemed ineffective or unenforceable in any respect, any dispute between the Parties arising out of or in connection with this Assignment Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Assignment Agreement and the applicability of any statute of limitation period) (each, a “**Dispute**”) shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (“CCP”), or their successor sections (a “**Reference Proceeding**”), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 8(d)(1).

- (1) Notice of Dispute. Prior to initiating the Reference Proceeding, a Party (the “**Disputing Party**”) shall provide the other Parties (the “**Responding Parties**”; and together with the Disputing Party, the “**Dispute Parties**”) with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the “**Notice of Dispute**”). Within 10 days after receiving the Notice of Dispute, the Responding Parties shall provide the Disputing Party with a written Notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the “**Dispute Response**”). If the Notice of Dispute makes no claim or assertion against one of the Responding Parties, and such Responding Party, in making its Dispute Response does not make or assert a claim against either the Disputing Party or the other Responding Party and states that it has no interest in the Dispute, then such Responding Party shall not participate in the resolution of the Dispute and shall not be a “**Dispute Party**” for purposes of this Section 8(d). Thereafter, the Dispute Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Dispute Parties do not resolve the dispute by unanimous agreement within sixty (60) days after receipt of the Dispute Response, then any Dispute Party may provide to the other Dispute Party(ies) written notice of intent for judicial reference (the “**Impasse Notice**”) in accordance with the further provisions of this Section 8.

- (2) Applicability; Selection of Referees. Within 10 days of the delivery of an Impasse Notice, each of Financing Party and PPA Buyer, on the one hand, and PPA Seller, on the other hand, shall nominate one (1) referee; provided that if PPA Seller is not a Dispute Party, then each of Financing Party and PPA Buyer shall nominate (1) referee, and PPA Seller will not nominate a referee. The two (2) referees (the “**Party-Appointed Referees**”) shall unanimously appoint one (1) additional referee (the “**Additional Referee**”, together with the Party-Appointed Referees, the “**Referees**”). The Party-Appointed Referees shall be competent and experienced in matters involving the electric energy business in the United States, with at least ten (10) years of electric industry experience as a practicing attorney. The Additional Referee shall be an active or retired California state or federal judge (the “**Head Referee**”). Each of the Party-Appointed Referees and the Additional Referee shall be impartial and independent of each of the Dispute Parties and of the other referees and not employed by any of the Dispute Parties in any prior matter.

- i. If the Party-Appointed Referees are unable to agree on the Additional Referee within 45 days from delivery of the Impasse Notice, then the Additional Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the “**Court**”), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Dispute Parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP Section 170.6, each of PPA Buyer and Financing Party, on the one hand, and PPA Seller, on the other hand, shall have one (1) peremptory challenge to the referee selected by the Court; provided that if PPA Seller is not a Dispute Party, then each of Financing Party and PPA Buyer shall have one (1) peremptory challenge to the referee selected by the Court.

(3) Discovery; Proceedings.

- i. The Dispute Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the Referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within 20 days after the date of selection of the Head Referee, (ii) if practicable, try all issues of law or fact within 180 days after the date of the conference, and (iii) report a statement of decision within 20 days after the matter has been submitted for decision.
  - ii. Discovery and other pre-hearing procedures shall be conducted as agreed to by the Dispute Parties, or if they cannot agree, as determined by the Head Referee after discussion with the Dispute Parties regarding the need for discovery and other pre-hearing procedures.
  - iii. Except as expressly set forth herein, the Head Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Dispute Parties, or if not agreed by the Dispute Parties, by the Head Referee, in San Francisco, California.
  - iv. All proceedings and hearings conducted before the Referees, except for trial, shall be conducted without a court reporter, except that when any Dispute Party so requests, a court reporter will be used at any hearing conducted before the Referees, and the Referees will be provided a courtesy copy of the transcript. The Dispute Party making such a request shall have the obligation to arrange for and pay the court reporter.
- (4) Decision. The Referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the

Court. The Dispute Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

- (e) Expenses. The Dispute Parties shall bear the compensation and expenses of its respective own counsel, witnesses, consultants and employees. The responsibility for compensation and expenses of the Referees and all other expenses of judicial reference shall be shared equally between or among the Dispute Parties, as the case may be.

**9. Assignment Appendix Prepaid Transaction Details.** From time to time, Financing Party may deliver one or more completed Assignment Appendices to the other Parties hereto completing the terms that are currently bracketed therein, and each such Assignment Appendix shall be binding upon each of the Parties hereto; provided that the aggregate sum of the Assigned Product under all Assignment Appendices then in effect will not exceed the [Contract Quantity] under and as defined in the PPA. As set forth in Section 2(b) hereto, Financing Party's payment obligations are limited to any Assigned Product delivered pursuant to the Assignment Appendices then in effect. Each Assignment Appendix will set forth certain details relating to the commodity prepayment transaction pursuant to which all or a portion of the Assigned Product shall be delivered; provided that Financing Party may, by written notice to PPA Seller and PPA Buyer, at any time with the prior consent of PPA Buyer but without the consent of PPA Seller, (i) rescind any Assignment Appendix or (ii) update or amend any Assignment Appendix to change any or all of the terms specified therein, including: an increase or decrease of the volume of Assigned Product to be delivered into the applicable commodity prepayment transaction (including without limitation a change thereto to reflect that all MWh of Assigned Product delivered in accordance with the PPA by PPA Seller shall be delivered into one commodity prepayment transaction, subject only the aggregate quantity limit specified above); a change in the relevant commodity prepayment transaction (i.e., the "Prepaid Agreement") pursuant to which the Assigned Product shall be delivered; a change in the identity of the Prepay Seller; or a change to the Assignment Appendix Start Date and / or the Assignment Appendix End Date. For the avoidance of doubt, (I) more than one Assignment Appendix may be in effect at any time, and (II) at any given time, less than one hundred percent (100%) of the [Contract Quantity] under and as defined in the PPA may be assigned pursuant to the Assignment Appendices then in effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

MORGAN STANLEY CAPITAL GROUP INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

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

Name: Garth Salisbury

Title: Treasurer/Controller

## Appendix 1

### Assigned Rights and Obligations

**PPA:** “PPA” means that certain [Power Purchase and Sale Agreement] dated [\_\_\_\_], 20[\_\_\_] by and between Clean Power Alliance of Southern California and [PPA Seller], a [\_\_\_\_], as amended from time to time.

“**Delivery Point**” has the definition [set forth in the PPA].

Assigned Product: “**Assigned Product**” includes (i) [Energy and (ii) Green Attributes (including PCC1 RECs)]; provided, however, that the following are expressly excluded from the definition of Assigned Product and any and all rights and obligations with respect to the following shall remain with PPA Buyer: [Ancillary Services; Capacity Attributes; Resource Adequacy Benefits; Discharging Energy; the right to provide Charging Notices and Discharging Notices or otherwise to charge, discharge or schedule the Storage Facility or the Storage Product; and obligations to supply Charging Energy in accordance with the PPA].

“**Day-Ahead Average Price**” means the result of (i) (x) the sum of the Day-Ahead Market Prices for each Pricing Interval in a Month divided by (y) the number of Pricing Intervals in such Month plus (ii) the Index Adder, if any as set forth in an Assignment Appendix, for the relevant Month. As used in this definition, “Pricing Interval” means the unit of time for which CAISO (or other entity that publishes such prices) establishes a separate price; and “Day-Ahead Market Price” means the Day Ahead Market or Locational Marginal Price for [\_\_\_\_] for each applicable hour as published by CAISO, or as such price may be corrected or revised from time to time by CAISO in accordance with its rules. For the avoidance of doubt, the Day-Ahead Average Price can be a negative number.

**Further Information:** PPA Seller shall continue to transfer the [WREGIS Certificates] associated with all [Renewable Energy Credits] corresponding to all [Metered Energy] under the PPA pursuant to [Section 4.7] of the PPA; provided that the transferee of such [WREGIS Certificates] may be changed from time to time in accordance with the written instructions of both Financing Party and PPA Buyer upon twenty (20) [Business Days’] notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

## **Appendix 2**

### **Assignment Appendix - [A][B][C]**

**Date:** [\_\_\_\_]

“Assignment Appendix End Date” means 11:59:59 p.m. pacific prevailing time on [\_\_\_\_], 20[\_\_\_\_].

“Assignment Appendix Start Date” means [\_\_\_\_] 1, 20[\_\_\_\_].

“Custodian” means [\_\_\_\_], a [\_\_\_\_].

“Custody Agreement” means the [Consolidated Custodial Agreement] dated as of [\_\_\_\_], among the Issuer, PPA Buyer, Financing Party, each applicable Prepay Seller and the Custodian, as from time to time amended, restated, supplemented or otherwise modified.

“Index Adder” means \$[\_\_\_\_]/MWh.

“Issuer” means California Community Choice Financing Authority, a joint powers authority and a public entity of the State of California established pursuant to the provisions of the Joint Exercise of Powers Act (Article 1, Chapter 5, Division 7, Title 1, Section 6500 et seq. of the California Government Code, as amended).

“Prepaid Agreement” means that certain Prepaid Energy Sales Agreement, dated as of [\_\_\_\_], 20[\_\_\_\_] by and between Prepay Seller and Issuer, as from time to time amended, restated, supplemented or otherwise modified.

“Prepay Clean Energy Purchase Contract” means that certain Clean Energy Purchase Contract, dated as of [\_\_\_\_], 20[\_\_\_\_] by and between Prepay Seller and Issuer, as from time to time amended, restated, supplemented or otherwise modified.

“Prepay Seller” means [\_\_\_\_], a [\_\_\_\_], or any other Person that is the prepay seller under the terms of the Prepaid Agreement from time to time.

Assigned Product subject to this Assignment Appendix: As set forth immediately below, [the percentage of Assigned Product]/[the monthly quantities of Assigned Product] delivered to the Delivery Point: [\_\_\_\_]

### **Appendix 3**

#### **Copy of the PPA**

[To be attached.]



## **LETTER AGREEMENT**

[ ], 2025

Clean Power Alliance of Southern California  
801 South Grand Avenue, Suite 400  
Los Angeles, CA 90017  
Email: [prepays@cleanpoweralliance.org](mailto:prepays@cleanpoweralliance.org)

California Community Choice Financing Authority  
1125 Tamalpais Avenue  
San Rafael, CA 94901  
Email: [ ]

### **Re: PPA Assignments for Delivery under Prepay Energy Agreements**

Ladies and Gentlemen:

This Letter Agreement (this “Letter Agreement”) confirms our mutual agreement with respect to the matters set forth below and relates to (i) that certain Clean Energy Purchase Contract (the “Clean Energy Purchase Contract”), dated as of the date hereof, by and between California Community Choice Financing Authority (“Issuer”) and Clean Power Alliance of Southern California (“Project Participant”), (ii) that certain Prepaid Energy Sales Agreement (the “Prepaid Agreement”), dated as of the date hereof, by and between Energy Prepay [ ], LLC, a Delaware limited liability company (“Prepay LLC”) and Issuer, and (iii) that certain Energy Management Agreement dated as of the date hereof, by and between Morgan Stanley Capital Group Inc. (“MSCG”) and Prepay LLC (the “Energy Management Agreement”, and together with the Clean Energy Purchase Contract and the Prepaid Agreement, the “Prepay Energy Agreements”). Any capitalized term used in this Letter Agreement and not otherwise defined herein shall have the meaning assigned to such term in the Clean Energy Purchase Contract. In consideration of each party’s execution of the respective Prepay Energy Agreements, as well as the premises above and the mutual covenants and agreements set forth herein, Issuer, Project Participant, Prepay LLC and MSCG (collectively, the “Parties”) agree as follows:

#### **1. PPA Assignments for Delivery under Prepay Energy Agreements.**

(a) Initial Assignment. Concurrently with the execution of the Prepay Energy Agreements, Project Participant has assigned and Prepay LLC has agreed to assume a portion of Project Participant’s rights and obligations under the initial assigned PPA.

(b) Replacement Assignments. Commencing (i) six months prior to the expiration of any EPS Energy Period or (ii) otherwise immediately upon the early termination or anticipated early termination of an EPS Energy Period, Project Participant shall exercise Commercially Reasonable Efforts to assign a portion of Project Participant’s rights and obligations (the “Assigned Rights and Obligations”) under one or more power purchase agreements under which Project Participant is purchasing EPS Compliant Energy pursuant to an Assignment Agreement substantially in the form of (A) the Limited

Assignment Agreement set forth as Exhibit A hereto if the PPA Supplier is an unrelated third party or (B) the Limited Assignment Agreement set forth as Exhibit B hereto if the PPA Supplier is MSCG (each, an “Assignment Agreement”), and the Parties shall cooperate in good faith with respect to any proposed assignments; provided that:

- (1) any subsequent Assignment Agreement shall provide (I) for the assignment by Project Participant to either (a) Prepay LLC if MSCG is the PPA Supplier or (b) MSCG if the PPA Supplier is an unrelated third party of its right to receive all of the Energy (and any associated products set forth in the Assignment Agreement) delivered under the applicable power purchase agreement for each Month of the applicable EPS Energy Period and (II) for payment by Prepay LLC or MSCG as applicable to the PPA Supplier under such subsequent power purchase agreement of the Day-Ahead Average Price for each Month of the applicable EPS Energy Period, with such amounts to be credited in the PPA Supplier’s monthly invoice to Project Participant against other amounts owed by Project Participant under the Assigned PPA during the EPS Energy Period;
  - (2) any third-party PPA Supplier must satisfy MSCG’s internal credit and approval requirements and other requirements applied on a nondiscriminatory basis, including any “know your customer” rules, policies and procedures, anti-money laundering rules and regulations, Dodd-Frank Act, Commodity Exchange Act, Patriot Act and similar rules, regulations, requirements and corresponding policies;
  - (3) any such assignment must be agreed and consented to by Project Participant, Prepay LLC and MSCG in their reasonable discretion; and
  - (4) the Parties recognize that MSCG will be obligated to sell and deliver Assigned Product it receives from a third-party PPA Supplier to Prepay LLC under the Energy Management Agreement; Prepay LLC will be obligated to deliver Assigned Product that it acquires to Issuer under the terms of the Prepaid Agreement; and Issuer will be obligated to deliver Assigned Product that it acquires to Project Participant under the terms of the Clean Energy Purchase Contract.
- (c) MSCG Procurement of EPS Compliant Energy. To the extent that (i) Project Participant, Prepay LLC and MSCG have not agreed upon a replacement assignment of a power purchase agreement by the date that is 75 days prior to the end of any EPS Energy Period, (ii) an early termination of an EPS Energy Period has occurred and Project Participant, Prepay LLC and MSCG have not agreed upon a replacement assignment of a power purchase agreement, then MSCG shall exercise Commercially Reasonable Efforts to obtain EPS Compliant Energy for ultimate redelivery to Project Participant, provided that:
- (1) Project Participant must consent to MSCG’s procurement of any such EPS Compliant Energy for ultimate redelivery to Project Participant, with such consent not to be unreasonably withheld;

- (2) the Parties shall act in good faith and in a Commercially Reasonable manner to negotiate any necessary amendments to the Prepay Energy Agreements to facilitate the delivery of such EPS Compliant Energy; and
- (3) the period of delivery for any such EPS Compliant Energy (any such period, a “MSCG EPS Energy Period”) shall not exceed the length, as applicable, of (A) the then-current Reset Period if such EPS Compliant Energy is obtained for delivery for the remainder of a Reset Period and (B) the length of the next succeeding Reset Period if such EPS Compliant Energy is obtained for delivery commencing in a subsequent Reset Period.

(d) Tax Opinion. The Parties acknowledge and agree that their ability to enter into a new Reset Period will be contingent on obtaining an Opinion of [Bond Counsel] (as defined in the Trust Indenture), which will be dependent on the availability of EPS Compliant Energy for delivery in such Reset Period.

2. **Failure to Obtain EPS Compliant Energy.** To the extent an EPS Energy Period terminates or expires and Project Participant and MSCG have been unable to obtain EPS Compliant Energy for delivery under the Prepay Energy Agreements pursuant to the provisions of Section 1, then Prepay LLC shall remarket the Base Energy pursuant to the provisions of [Exhibit C] to the Prepaid Agreement, subject to the following:

- (a) the Parties’ obligations set forth in Section 1 shall continue to apply;
- (b) Project Participant shall not make any new commitment to purchase Priority Energy during such a remarketing; and
- (c) consistent with [Section 7.5] of the Clean Energy Purchase Contract, Project Participant shall exercise Commercially Reasonable Efforts to remediate any Disqualified Remarketing Proceeds resulting from Prepay LLC’s remarketing.

3. **Assignment Early Termination.** With respect to any Assignment Agreement entered into among MSCG, Project Participant and a PPA Seller (as defined in the form of Assignment Agreement set forth as Exhibit A hereto), each of MSCG and Project Participant agree that it shall only exercise its right under an at will termination provision of an Assignment Agreement (as set forth in [Section 3(b)(i)] of Exhibit A hereto) to deliver a written notice of termination of an Assignment Period under an Assignment Agreement (or an Assignment Appendix under and as defined in an Assignment Appendix) consistent with the following:

- (a) either MSCG or Project Participant may deliver a notice of termination under the Assignment Agreement if any of the following occur:
  - i. the assignment of the Prepay Clean Energy Purchase Contract by Project Participant or Issuer pursuant to Article XIII thereof, with respect to which the Assignment Early Termination Date shall occur immediately as of the time of such assignment;

- ii. termination or suspension of deliveries for any reason other than force majeure under the Prepaid Agreement or Prepay Clean Energy Purchase Contract, with respect to which the Assignment Early Termination Date shall occur immediately as of the time of the last deliveries under the relevant contract following such suspension or termination; or
- iii. to the extent that MSCG and Project Participant have mutually agreed upon a replacement Assignment Agreement (as defined in the Prepay Clean Energy Purchase Contract) that will replace the Assigned Rights and Obligations under the Assignment Agreement immediately following the termination thereof, with respect to which the Assignment Early Termination Date shall occur effective as of the end of the Month preceding the commencement of the “Assignment Period” under the replacement Assignment Agreement as specified in the notice from MSCG or Project Participant to the PPA Seller and the other Party hereto;

(b) MSCG may, in its sole discretion, deliver a notice of termination of the Assignment Agreement if any of the following occur:

- i. the suspension, expiration, or termination of performance of the PPA by either Project Participant or PPA Seller for any reason other than the occurrence of a Force Majeure Event under and as defined in the PPA, with respect to which the Assignment Early Termination Date shall occur immediately as of the time of PPA Seller’s or Project Participant’s (as applicable) last performance under the PPA following such suspension, expiration, or termination;
- ii. (A) any event or circumstance occurs that would either give either Project Participant or PPA Seller the right to terminate or suspend performance under the PPA (regardless of whether Project Participant or PPA Seller exercises such right), or (B) the execution of an amendment, waiver, supplement, modification or other change to the PPA that adversely affects the Assigned Rights and Obligations or MSCG’s rights or obligations under the Assignment Agreement (provided that MSCG shall not have a right to terminate under this clause (B) to the extent that MSCG (I) receives prior notice of such change and (II) provides its written consent thereto), with respect to which the Assignment Early Termination Date shall occur upon the date set forth in a written notice of such election as determined by MSCG;

(c) Project Participant may, in its sole discretion, deliver a notice of termination of the Assignment Agreement if any of the following occur:

- i. if MSCG fails to pay when due any amounts owed under the Assignment Agreement in respect of any Delivered Product Payment Obligation and such failure continues for three (3) Business Days following receipt by MSCG of written notice thereof, with respect to which the Assignment Early Termination Date shall occur upon the date set forth in a written notice of such election delivered by Project Participant;

- ii. if any change, event or effect occurs, including but not limited a change in applicable laws or regulations, any issues with PPA Seller or the PPA, a dispute under the PPA or other similar circumstance, that individually or collectively have or are reasonably expected by Project Participant to have a material adverse effect upon (A) Project Participant, (B) its rights and obligations under the Assignment Agreement, the Prepay Clean Energy Purchase Contract, or the PPA, or (C) the benefit Project Participant is receiving by assigning the Assigned Rights and Obligations, with respect to which the Assignment Early Termination Date shall be the date set forth in a written notice delivered by Project Participant to the PPA Seller and MSCG; provided that (x) Project Participant will provide notice to the PPA Seller and MSCG as soon as is reasonably possible that Project Participant anticipates exercising this termination right, and (y) Project Participant shall exercise commercially reasonable efforts to propose and agree with MSCG upon a replacement Assignment Agreement prior to exercising this termination right.

Any such notice sent in accordance with the foregoing provisions of this Section 3 shall specify therein the Assignment Early Termination Date.

For the avoidance of doubt, each of the Parties agrees that it shall not terminate an Assignment Agreement pursuant to the at will termination provision thereof (as set forth in [Section 3(b)(i)] of Exhibit A hereto) except as set forth immediately above.

4. **Representations.** Each Party represents to each of the other Parties:

(a) **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.

(b) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and has taken all necessary action to authorize such execution, delivery and performance.

(c) **No Violation or Conflict.** Such execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its obligations under this Agreement, will not result in any violation of, or conflict with: (i) any term of any material contract or agreement applicable to it; (ii) any of its charter, bylaws, or other constitutional documents; (iii) any determination or award of any arbitrator applicable to it; or (iv) any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, law, ordinance, rule or regulation of any Government Agency, applicable to it or any of its assets or properties or to any obligations incurred by it or by which it or any of its assets or properties or obligations are bound or affected, and shall not cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets.

(d) **Consents.** All consents, approvals, orders or authorizations of, registrations, declarations, filings or giving of notice to, obtaining of any licenses or permits from, or taking of any other action with respect to, any Person or Government Agency that are required to have been obtained by such Party with respect to this Agreement and the transactions contemplated hereby, including the due authorization of such Party and its governing body and any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

(e) **Obligations Binding.** Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(f) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Parties as investment advice or as a recommendation to enter into this Agreement; it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this Agreement. It is entering into this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by all Parties, considers this Agreement a legally enforceable contract. No communication (written or oral) received from any of the other Parties shall be deemed to be an assurance or guarantee as to the expected results of this Agreement.

(g) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement.

(h) **Status of Parties.** None of the other Parties is acting as a fiduciary for or an adviser to it in respect of this Agreement.

5. **Counterparts.** This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile or electronic transmission), each of which will be deemed an original.

6. **Costs and Expenses.** The Parties will each pay their own costs and expenses (including legal fees) incurred in connection with this Agreement and as a result of the negotiation, preparation, and execution of this Agreement.

7. **Amendments.** No amendment, modification, or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile or electronic transmission) and executed by each of the Parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.

8. **Notices.** Any notice, demand, statement or request required or authorized by this Agreement to be given by one Party to another shall be in writing, except as otherwise expressly provided herein. It shall be sent by email transmission, courier, or personal delivery (including overnight delivery service) to each of the notice recipients and addresses for each of the other Parties designated in Appendix 2 hereto. Any such notice, demand, or request shall be deemed to be given (i) when delivered by email transmission, or (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service). Each Party shall have the right, upon written 10 days' prior written notice to the other Parties, to change its address at any time, and to designate that copies of all such notices be directed to another person at another address. The Parties may mutually agree in writing at any time to deliver notices, demands or requests through alternate or additional methods. Notwithstanding the foregoing, any Party may at any time notify the other Parties that any notice, demand, statement or request to it must be provided by email transmission for a specified period of time or until further notice, and any communications delivered by means other than email transmission during such time shall be ineffective.

9. **Dispute Resolution.**

(a) **Governing Law.** This Agreement and the rights and duties of the Parties under this Agreement will be governed by and construed, enforced and performed in accordance with the laws of the state of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction's laws; *provided*, however, that the authority of Project Participant and Issuer to enter into and perform their obligations under this Agreement shall be determined in accordance with the laws of the State of California.

(b) **Arbitration.** Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three (3) arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. ("**JAMS**") pursuant to its Comprehensive Arbitration Rules and Procedures. Within fifteen (15) days after the commencement of arbitration, each of MSCG and Project Participant shall select one person to act as arbitrator, and the two so-selected arbitrators shall select a third arbitrator (the "**chairperson**") within thirty (30) days of the commencement of the arbitration. If either MSCG or Project Participant is unable or fails to select one person to act as arbitrator, such arbitrator shall be appointed by JAMS. If MSCG and Project Participant-selected arbitrators are unable or fail to agree upon a chairperson, the chairperson shall be appointed by JAMS. The chairperson shall be a person who has experience in renewable energy-related transactions, and none of the arbitrators shall have been previously employed by any Party or have any direct pecuniary interest in any Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by all of the Parties. The Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to

prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. In any arbitration arising out of or related to this Agreement, the arbitrators shall award to the prevailing Party or Parties, if any, the costs and attorneys' fees reasonably incurred in seeking to enforce the application of this Section 8(b) and by the prevailing party in connection with the arbitration. Notwithstanding the foregoing provisions of this Section 8(b), any costs incurred by a Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Party against whom such court order is obtained. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction.

(c) **Judicial Reference.** Without limiting the provisions in Section 8(b), if Section 8(b) is deemed ineffective or unenforceable in any respect, any dispute between the Parties arising out of or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) (each, a “**Dispute**”) shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (“CCP”), or their successor sections (a “**Reference Proceeding**”), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 8(c)(i).

i. Notice of Dispute. Prior to initiating the Reference Proceeding, a Party (the “**Disputing Party**”) shall provide the other Parties (the “**Responding Parties**”) with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the “**Notice of Dispute**”). Within ten (10) Days after receiving the Notice of Dispute, the Responding Parties shall provide the Disputing Party with a written Notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the “**Dispute Response**”). Thereafter, the Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Parties do not resolve the dispute by unanimous agreement within sixty (60) Days after receipt of the Dispute Response, (the “**Negotiation Period**”), then any Party may provide to the other Parties written notice of intent for judicial reference (the “**Impasse Notice**”) in accordance with the further provisions of this Section 8(c).

ii. Applicability; Selection of Referees.

(A) Within ten days of the delivery of an Impasse Notice, each of MSCG and Project Participant shall nominate one (1) referee. The two (2) referees (the “**Party-Appointed Referees**”) shall appoint a third referee (the “**Third Referee**”).



The Party-Appointed Referees shall be competent and experienced in matters involving the electric energy business in the United States, with at least ten (10) years of electric industry experience as a practicing attorney. The Third Referee shall be an active or retired California state or federal judge. Each of the Party-Appointed Referees and the Third Referee shall be impartial and independent of each of the Parties and of the other referees and not employed by any of the Parties in any prior matter.

(B) If the Party-Appointed Referees are unable to agree on the Third Referee within forty-five (45) Days from delivery of the Impasse Notice, then the Third Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the “**Court**”), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP Section 170.6, each of Project Participant and MSCG shall have one (1) peremptory challenge to the referee selected by the Court.

iii. Discovery; Proceedings.

(A) The Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within twenty (20) days after the date of selection of the Third Referee, (ii) if practicable, try all issues of law or fact within one hundred eighty (180) days after the date of the conference, and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

(B) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Parties, or if they cannot agree, as determined by the Third Referee after discussion with the Parties regarding the need for discovery and other pre-hearing procedures.

(C) Except as expressly set forth herein, the Third Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Parties, or if not agreed by the Parties, by the Third Referee, in San Francisco, California.

(D) All proceedings and hearings conducted before the referees, except for trial, shall be conducted without a court reporter, except that when any Party so requests, a court reporter will be used at any hearing conducted before the referees, and the referees will be provided a courtesy copy of the transcript. The Party

making such a request shall have the obligation to arrange for and pay the court reporter.

iv. Decision. The referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the Court. The Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

v. Expenses. Each of MSCG and Project Participant shall bear the compensation and expenses of its respective Party-Appointed Referee, own counsel, witnesses, consultants and employees. All other expenses of judicial reference shall be split equally between MSCG and Project Participant.

10. **Limitation of Liability.** Notwithstanding anything to the contrary herein, all obligations of Issuer under this Agreement, including without limitation all obligations to make payments of any kind whatsoever, are special, limited obligations of Issuer, payable solely from the [Trust Estate] (as such term is defined in the Trust Indenture) as and to the extent provided in the Trust Indenture, including with respect to [Operating Expenses] (as such term is defined in the Trust Indenture). Issuer shall not be required to advance any moneys derived from any source other than the [Revenues] (as such term is defined in the Trust Indenture) and other assets pledged under the Trust Indenture for any of the purposes in this Agreement mentioned. Neither the faith and credit of Issuer nor the taxing power of the State of California or any political subdivision thereof is pledged to payments pursuant to this Agreement. Issuer shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reasons of or in connection with this Agreement, except solely to the extent [Revenues] (as such term is defined in the Trust Indenture) are received for the payment thereof and may be applied therefor pursuant to the terms of the Trust Indenture.

[Signature Pages Follow]

Very truly yours,

**PREPAY LLC**

ENERGY PREPAY [ ], LLC

By: Morgan Stanley Capital Group Inc., its Manager

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**MSCG**

MORGAN STANLEY CAPITAL GROUP INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ACKNOWLEDGED, ACCEPTED AND AGREED TO as of the date first set forth above:

**PROJECT PARTICIPANT**

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ISSUER**

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

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

Name: Garth Salisbury

Title: Treasurer/Controller

## **EXHIBIT A**

[To be attached.]<sup>1</sup>

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<sup>1</sup> NTD: See document 11.14a.

## **EXHIBIT B**

[To be attached.]<sup>2</sup>

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<sup>2</sup> NTD: See document 11.14b.

## **CLEAN ENERGY PROJECT OPERATIONAL SERVICES AGREEMENT**

This Clean Energy Project Operational Services Agreement (this “Agreement”) is made and entered into as of [\_\_\_\_], 2025, by and between California Community Choice Financing Authority (“CCCFA”) and Clean Power Alliance of Southern California (“CPA”) with respect to the Clean Energy Project (defined below). CCCFA and CPA may be referred to individually herein as a “Party” and collectively as the “Parties”.

### **W I T N E S S E T H:**

WHEREAS, CPA is a “community choice aggregator” under the Public Utilities Code of the State of California, as amended; and

WHEREAS, CCCFA is a joint exercise of powers authority under and pursuant to the Joint Exercise of Powers Act, constituted as Chapter 5 of Division 7 of Title 1 of the California Government Code, being Section 6500 and following, as amended (the “Joint Powers Act”), and pursuant to the Joint Powers Act, a Joint Powers Agreement by and among the Members of CCCFA named therein, including CPA (as the same may be amended or supplemented from time to time in accordance with its terms, the “Joint Powers Agreement”); and

WHEREAS, CCCFA’s purpose is to assist its Members, including CPA, by undertaking the financing or refinancing of energy prepayments that can be financed with tax advantaged bonds and other obligations on behalf of one or more of the Members by, among other things, issuing or incurring bonds and entering into related contracts with Members; and

WHEREAS, CCCFA and CPA are entering into a Clean Energy Purchase Contract, dated as of [\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the “Clean Energy Purchase Contract”), pursuant to which CCCFA has agreed to supply Energy to CPA under the terms set forth therein; and

WHEREAS, in order to provide such Energy to CPA under the Clean Energy Purchase Contract, CCCFA is entering into a Prepaid Energy Sales Agreement, dated [\_\_\_\_], 2025 (the “Prepaid Agreement”), between CCCFA, as buyer, and Energy Prepay [ ] LLC, a Delaware limited liability company, as seller (the “Prepaid Seller”), under which it will make a prepayment to the Prepaid Seller for the purchase and delivery of such Energy; and

WHEREAS, in order to meet its obligations under the Prepaid Agreement, Prepaid Seller will enter into an Energy Management Agreement, dated as of [\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the “EMA”) with Morgan Stanley Capital Group Inc., a Delaware corporation; and

WHEREAS, CCCFA will finance the prepayment under the Prepaid Agreement and related costs by issuing its Clean Energy Project Revenue Bonds, Series 2025[ ] (the “Bonds”) pursuant to a Trust Indenture, dated as of [\_\_\_\_] 1, 2025 (as amended, restated, supplemented or otherwise modified from time to time, the “Trust Indenture”), between CCCFA and [\_\_\_\_], as trustee (together with any successor or replacement trustee under the Trust Indenture, the “Trustee”); and

WHEREAS, the issuance of the Bonds by CCCFA and related undertakings of CCCFA under the Trust Indenture, the acquisition and sale of Energy and related undertakings of CCCFA under the Prepaid Agreement and the Clean Energy Purchase Contract, and the sale to CPA of such Energy and related

undertakings of CPA under the Clean Energy Purchase Contract are referred to herein as the “Clean Energy Project”; and

WHEREAS, the Parties are entering into this Agreement in order to provide for the administration of certain operational matters relating to the Clean Energy Project.

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Trust Indenture, the Clean Energy Purchase Contract or the Prepaid Agreement, as applicable.

Section 2. Assignment Agreements. As contemplated by the EMA, the Prepaid Agreement and the Clean Energy Purchase Contract, prior to the commencement of the Delivery Period, CPA will enter into the Initial Assignment Agreement for the initial Assignment Period and may from time to time enter into additional Assignment Agreements for future Assignment Periods to provide for the assignment of Assigned Product for delivery to CCCFA under the Prepaid Agreement and to CPA under the Clean Energy Purchase Contract. With respect to any Assignment Agreement, the Parties acknowledge and agree that CPA shall determine in its sole discretion when and if any Assignment Agreement is entered into (subject to the consent requirements under the Clean Energy Purchase Contract) or terminated (subject to the terms of the Assignment Letter Agreement) and the underlying power purchase agreement and portion of its Annual Quantities to which such Assignment Agreement relates.

Section 3. Scheduling and Delivery of Assigned Energy. Assigned Energy and any other Assigned Product delivered to CCCFA under the Prepaid Agreement shall be Scheduled by CPA for delivery to CCCFA under the Prepaid Agreement and for re-delivery to CPA under the Clean Energy Purchase Contract, and CCCFA shall have no responsibility for (a) any Scheduling or other operational requirements necessary for the delivery of Assigned Energy to CPA’s Assigned Delivery Point and the transfer of other Assigned Product to CPA, or (b) any accounting for under-deliveries or over-deliveries or other record-keeping requirements with respect to any Assigned Energy and other Assigned Product, all of which shall be the sole responsibility of CPA.

Section 4. Qualified Use; Remarketing of Base Energy. Any Base Energy required to be delivered by the Prepaid Seller is required to be remarketed by the Prepaid Seller pursuant to the Prepaid Agreement. CPA shall be responsible for any notices or other communications required from CCCFA in connection with such remarketing, as well as communications required for the Scheduling and delivery of Base Energy under the communications protocol set forth in Exhibit G to the Prepaid Agreement and any other operational requirements related to the delivery and remarketing of Base Energy under the Prepaid Agreement. CPA will account for any Base Energy subsequently remarketed, including accounting for any remediation of any such remarketing sales as may be required pursuant to the Qualifying Use Requirements and the terms of the Clean Energy Purchase Contract. CPA agrees to provide to CCCFA any information reasonably requested by it in order to comply with any reporting or record-keeping requirements related to such delivery and remarketing of Base Energy, including such information relating to compliance with the Qualifying Use Requirements, as may be required pursuant to the Prepaid Agreement or the Trust Indenture.

Section 5. Directions, Consents and Waivers. CCCFA may be requested or required from time to time to provide certain directions, consents, or waivers under the terms of the Prepaid Agreement,

the Trust Indenture and the Re-pricing Agreement. Provided no event of default has occurred and is continuing with respect to CPA under the Clean Energy Purchase Contract, such direction, consent or waiver shall only be provided by CCCFA in accordance with written instructions provided by CPA.

Section 6. Re-pricing Information. CCCFA shall provide, or cause Prepaid Seller to provide, to CPA such information as is required to be provided by Prepaid Seller to CCCFA in accordance the Re-pricing Agreement at such times as are required under the Re-pricing Agreement. Provided no event of default has occurred and is continuing with respect to CPA under the Clean Energy Purchase Contract, any direction, consent or waiver requested or required to be provided by CCCFA under the Re-pricing Agreement shall only be provided by CCCFA in accordance with written instructions provided by CPA.

Section 7. Project Administration Fee; Reimbursement and Refund of Operating Expenses.

(a) Under the Trust Indenture, Operating Expenses relating to the Clean Energy Project are to be paid from amounts deposited annually in the Administrative Fee Fund, which amount shall be equal to \$[ ] in the aggregate for each annual period ending on [ ] 1 of each year (the "Administrative Fee"). If at any time the amount on deposit in the Administration Fee Fund is not sufficient to pay all such Operating Expenses as the same become due, CPA agrees to pay to the Trustee such amounts as are necessary to pay such Operating Expenses upon receipt of notice of the amount due from the Trustee or CCCFA.

(b) As soon as practicable following the end of each annual period referred to in paragraph (a), CCCFA agrees to reconcile the amounts received in respect of the Project Administration Fee for such annual period with the Operating Expenses paid or accrued for such period. In the event that, following each such reconciliation, it is determined that the amounts received in respect of the Project Administration Fee during the applicable annual period exceed Operating Expenses paid or accrued for such period, CCCFA will provide written notice thereof to CPA and include the amount of such excess in its Annual Refund to CPA under the Clean Energy Purchase Contract.

Section 8. Notices. Notices and other information to be provided by a Party to the other Party under this Agreement shall be provided in accordance with Article XVI of the Clean Energy Purchase Contract.

Section 9. Governing Law. This Agreement and the obligations of the Parties hereunder shall be governed by and determined in accordance with the laws of the State of California.

Section 10. Counterparts. This Agreement may be executed and acknowledged in multiple counterparts and by the Parties in separate counterparts, each of which shall be an original and all of which shall be and constitute one and the same instrument.



IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CALIFORNIA COMMUNITY CHOICE FINANCING  
AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CLEAN POWER ALLIANCE OF SOUTHERN  
CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## MEMORANDUM OF UNDERSTANDING

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**Date:** \_\_\_\_\_, 2025

**To:** Garth Salisbury  
Treasurer/Controller  
California Community Choice Financing Authority  
Gsalisbury@mcecleanenergy.org  
(415) 464-6037

**From:** Clean Power Alliance of Southern California

**Re:** California Community Choice Financing Authority Prepay Transaction on behalf of Clean Power Alliance

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### ***Overview***

The California Community Choice Financing Authority (“CCCFA”) seeks to procure a 30-year supply of energy from Energy Prepay [ ] LLC through the issuance of Clean Energy Project Revenue Bonds 2025[ ] (the “Bonds”) issued by CCCFA. CCCFA will sell all the Prepaid Energy acquired from this transaction to Clean Power Alliance of Southern California (the “Project Participant”).

### ***Rating Agency Fees and Green Bond Opinion Fee***

Rating Agency Fees and expenses (“Rating Agency Fees”) are paid from the proceeds of the Bonds. However, unlike most of the other fees associated with the issuance of the Bonds, payment of the Rating Agency Fees is not contingent upon the issuance of the Bonds.

In the event the Bonds are not issued, and there remains a Rating Agency Fee payable to [Moody’s Investors Service]/[Standard & Poor’s] (the “Rating Agency”), the Project Participant agrees that it will be liable for the costs and make direct payment to the Rating Agency for such fees.

In the event a Green Bond Second Opinion is obtained, and the Bonds are not issued, the fee payable to the Green Bond Second Opinion provider (the “Green Bond Fees”) shall be incurred by the Project Participant and in such event, to the extent the Green Bond Fees were already paid by CCCFA, the Project Participant agrees to reimburse CCCFA.

Sincerely,

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

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

David McNeil

Chief Financial Officer

**ACCEPTED AND AGREED**

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

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

Garth Salisbury

Treasurer/Controller

Date: \_\_\_\_\_, 2025