2075 Woodside Road | Redwood City, CA 94061
(650) 260-0005 | peninsulacleanenergy.com

Regular Meeting of the Board of Directors of the Peninsula Clean Energy Authority (PCEA)
AGENDA

Thursday, July 28, 2022
6:30 p.m.

Zoom Link: https://pencleanenergy.zoom.us/j/82688645399
Meeting ID: 826-8864-5399 **Passcode:** 2075 **Phone:** +1(346)248-7799

NOTE: Please see attached document for additional detailed teleconference instructions.

In accordance with AB 361, the Board will adopt findings that meeting in person would present imminent risks to the health or safety of attendees of in-person meetings. Consistent with those findings, this Board Meeting will be held remotely. PCEA shall make every effort to ensure that its video conferenced meetings are accessible to people with disabilities as required by Governor Newsom's March 17, 2020 Executive Order N-29-20. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials should contact Nelly Wogberg, Board Clerk, at least 2 working days before the meeting at nwogberg@peninsulacleanenergy.com. Notification in advance of the meeting will enable PCEA to make best efforts to reasonably accommodate accessibility to this meeting and the materials related to it.

*If you wish to speak to the Board of Directors, please use the "Raise Your Hand" function in the Zoom platform or press *6 if you phoned into the meeting. If you have anything that you wish to be distributed to the Board of Directors and included in the official record, please send to nwogberg@peninsulacleanenergy.com.*

CALL TO ORDER / ROLL CALL

PUBLIC COMMENT

This item is reserved for persons wishing to address the Committee on any PCEA-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. Members of the public who wish to address the Board are customarily limited to two minutes per speaker. The Board Chair may increase or decrease the time allotted to each speaker.

ACTION TO SET AGENDA AND TO APPROVE CONSENT AGENDA ITEMS

1. Adopt Findings Pursuant to AB 361 to Continue Fully Teleconferenced Board Meetings Due to Health Risks Posed by In-Person Meetings

2. Approval of the Minutes for the June 23, 2022 Board of Directors Meeting

3. Approval of An Amendment to The Existing Retention Agreement with the Law Firm of Keyes & Fox LLP Increasing the Amount By $250,000 for a Total Not-To-Exceed Amount of $650,000

4. Approval of a Modification of the E-Bikes For Everyone Program Budget, Increasing the Amount by $150,000 for a Total Not-to-Exceed Amount of $690,000

5. Approval of the Revised Employee Handbook

6. Authorize Execution of an Agreement Between Peninsula Clean Energy and Maher Accountancy for the Period of July 1, 2022 Through June 30, 2023 in an Amount Not-to-Exceed $243,750

REGULAR AGENDA

7. Chair Report (Discussion)

8. CEO Report (Discussion)

9. Citizens Advisory Committee Report (Discussion)

10. Update on the Diversity, Equity, Accessibility and Inclusion (DEAI) project (Discussion)

11. Authorize the Chief Executive Officer to Execute Necessary Agreements with California Community Power and Participating Community Choice Aggregators for Renewable Resources from Ormat Nevada Inc. and Open Mountain Energy, LLC in amounts not to exceed and terms as follows: (a) Ormat (term 20 years and not to exceed 405 million dollars); and (b) Open Mountain (term 20 years and not to exceed 41 million dollars) (Action)

12. Summary of Findings from Annual Awareness/Perception Research (Discussion)

13. Electrification Messaging: Update on Research and Implications (Discussion)

14. Board Members' Reports (Discussion)

INFORMATIONAL REPORTS

15. Update on Marketing, Outreach Activities, and Account Services

16. Q2 Media Relations Report

17. Update on Regulatory Policy Activities

18. Update on Legislative Activities

19. Update on Community Energy Programs

20. Update on Energy Supply Procurement

21. Industry Acronyms and Terms

ADJOURNMENT

Public records that relate to any item on the open session agenda are available for public inspection. The records are available at the Peninsula Clean Energy offices or on PCEA's Website at: https://www.peninsulacleanenergy.com.

Instructions for Joining a Zoom Meeting via Computer or Phone

Best Practices:

- Please mute your microphone when you are not speaking to minimize audio feedback
- If possible, utilize headphones or ear buds to minimize audio feedback
- If participating via videoconference, audio quality is often better if you use the dial-in option (Option 2 below) rather than your computer audio

Options for Joining

A. **Videoconference with Computer Audio – see Option 1 below**
B. **Videoconference with Phone Call Audio– see Option 2 below**
C. **Calling in via Telephone/Landline – see Option 3 below**

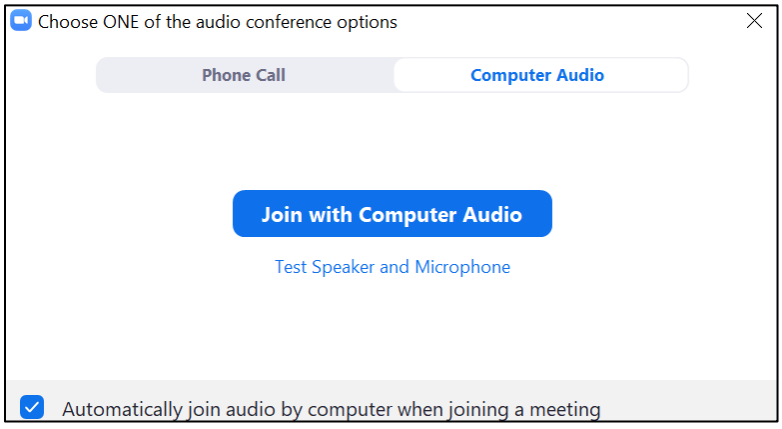
Videoconference Options:

Prior to the meeting, we recommend that you install the Zoom Meetings application on your computer by clicking here https://zoom.us/download.

If you want full capabilities for videoconferencing (audio, video, screensharing) you must download the Zoom application.

Option 1 Videoconference with Computer Audio:

1. From your computer, click on the following link that is also included in the Meeting Calendar Invitation: https://pencleanenergy.zoom.us/j/82688645399
2. The Zoom application will open on its own or you will be instructed to open Zoom.
3. After the application opens, the pop-up screen below will appear asking you to choose ONE of the audio conference options. Click on the Computer Audio option at the top of the pop-up screen.



4. Click the blue, "Join with Computer Audio" button.
5. In order to enable video, click on "Start Video" in the bottom left-hand corner of the screen. This menu bar is also where you can mute/unmute your audio.

Option 2 Videoconference with Phone Call Audio:

1. From your computer, click on the following link that is also included in the Meeting Calendar Invitation: https://pencleanenergy.zoom.us/j/82688645399
2. The Zoom Application will open on its own or you will be instructed to Open Zoom.



3. After the application opens, the pop-up screen below will appear asking you to choose ONE of the audioconference options. Click on the Phone Call option at the top of the pop-up screen.
4. Please dial +1(346)248-7799
5. You will be instructed to enter the meeting ID: **826-8864-5399 followed by #**
6. You will be instructed to enter in your participant ID. Your participant ID is unique to you and is what connects your phone number to your Zoom account
7. After a few seconds, your phone audio should be connected to the Zoom application on your computer
8. In order to enable video, click on "Start Video" in the bottom left-hand corner of the screen. This menu bar is also where you can mute/unmute your audio

Audio Only Options:

Please note that if you call in/use the audio only option, you will not be able to see the speakers or any presentation materials in real time.

Option 3: Calling in via Telephone/Landline:

1. Dial +1(346)248-7799
2. You will be instructed to enter the meeting ID: **826-8864-5399 followed by #**
3. You will be instructed to enter your **Participant ID** followed by #. If you do not have a participant ID or do not know it, you can press # to stay on the line
4. You will be instructed to enter the meeting passcode **2075 followed by #**

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Present

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jan Pepper, Chief Executive Officer, Peninsula Clean Energy Authority

SUBJECT: Resolution to Make Findings Allowing Continued Remote Meetings Under Brown Act

RECOMMENDATION:
Adopt a resolution finding that, as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees.

BACKGROUND:
On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021 for public agencies to transition back to public meetings held in full compliance with the Brown Act. The original Executive Order provided that all provisions of the Brown Act that required the physical presence of members or other personnel as a condition of participation or as a quorum for a public meeting were waived for public health reasons..

On September 16, 2021, the Governor signed AB 361, a bill that formalizes and modifies the teleconference procedures implemented by California public agencies in response to the Governor's Executive Orders addressing Brown Act compliance during shelter-in-place periods. AB 361 allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders when certain circumstances occur or when certain findings have been made and adopted by the local agency.

AB 361 requires that, if the state of emergency remains active for more than thirty (30) days, the agency must make findings by majority vote to continue using the bill's exemption to the Brown Act teleconferencing rules. The findings are to the effect that the need for teleconferencing persists due to the nature of the ongoing public health emergency and the social distancing recommendations of local public health officials. **Effectively, this means that agencies, including PCEA, must agendize a Brown Act**

meeting and make findings regarding the circumstances of the emergency on a thirty (30) day basis. If at least thirty (30) days have transpired since its last meeting, the Boards must vote whether to continue to rely upon the law's provision for teleconference procedures in lieu of in-person meetings.

AB 361 allows for meetings to be conducted virtually *as long as* there is a gubernatorially-proclaimed public emergency in combination with (1) local health official recommendations for social distancing or (2) adopted findings that meeting in person would present risks to health. AB 361 will sunset on January 1, 2024.

On September 25, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361. Out of an abundance of caution given AB 361's narrative that describes each legislative body's responsibility to reauthorize remote meetings, staff and counsel brings this memo and corresponding resolution to the attention of the Board of Directors.

On October 28, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On November 18, 2021 the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On December 16, 2021 the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On January 27, 2022 the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On February 24, 2022 the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On March 24, 2022 the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On April 28, 2022 the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On May 26, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On June 23, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361.

DISCUSSION:

Because of continuing concerns regarding COVID-19 transmission, especially when individuals are grouped together in close quarters, it is recommended that the Peninsula Clean Energy Board of Directors avail itself of the provisions of AB 361 allowing

continuation of online meetings by adopting findings to the effect that conducting in-person meetings would present risk to the health and safety of attendees. A resolution to that effect and directing staff to agendize the renewal of such findings in the event that thirty (30) days has passed since the Board's last meeting, is attached hereto.

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO,

STATE OF CALIFORNIA

*** * * * * ***

RESOLUTION FINDING THAT, AS A RESULT OF THE CONTINUING COVID-19 PANDEMIC STATE OF EMERGENCY DECLARED BY GOVERNOR NEWSOM, MEETING IN PERSON FOR MEETINGS OF THE PENINSULA CLEAN ENERGY BOARD OF DIRECTORS WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES

WHEREAS, on March 4, 2020, the Governor proclaimed pursuant to his authority under the California Emergency Services Act, California Government Code section 8625, that a state of emergency exists with regard to a novel coronavirus (a disease now known as COVID-19); and

WHEREAS, on June 4, 2021, the Governor clarified that the "reopening" of California on June 15, 2021 did not include any change to the proclaimed state of emergency or the powers exercised thereunder, and as of the date of this Resolution, neither the Governor nor the Legislature have exercised their respective powers pursuant to California Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent resolution in the state Legislature; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the "Brown Act"), provided certain requirements were met and followed; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 that provides that a legislative body subject to the Brown Act may continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and,

WHEREAS, on January 5, 2022, Governor Newsom extended the sunset provision of AB361 and Government Code Section 11133(g) to January 1, 2024 due to surges and instability in COVID-19 cases; and,

WHEREAS, California Department of Public Health ("CDPH") and the federal Centers for Disease Control and Prevention ("CDC") caution that COVID-19 continues to be highly transmissible and that even fully vaccinated individuals can spread the virus to others; and,

WHEREAS, the Board has an important governmental interest in protecting the health, safety and welfare of those who participate in its meetings;

WHEREAS, on September 25, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361. Out of an abundance of caution given AB 361's narrative that describes each legislative body's responsibility to reauthorize remote meetings, staff and counsel bring this resolution to the attention of the Board of Directors, and;

WHEREAS, on October 28, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on November 18, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on December 16, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on January 27, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on February 24, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on March 24, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on April 28, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on May 26, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, on June 23, 2022, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Board deems it necessary to find that

meeting in person would present imminent risks to the health or safety of attendees, and thus intends to invoke the provisions of AB 361 related to teleconferencing.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that

1. The recitals set forth above are true and correct.

2. The Board finds that meeting in person would present imminent risks to the health or safety of attendees.

3. Staff is directed to return no later than thirty (30) days, or, alternatively, at the next scheduled meeting of the Board, after the adoption of this resolution with an item for the Board to consider making the findings required by AB 361 in order to continue meeting under its provisions.

4. Staff is directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.

* * * * * *

Regular Meeting of the Board of Directors of the Peninsula Clean Energy Authority (PCEA)
Minutes

Thursday, June 23, 2022
6:30 p.m.
Zoom Video Conference and Teleconference

CALL TO ORDER

Meeting was called to order at 6:33 p.m. in virtual teleconference.

ROLL CALL

Participating Remotely:

Dave Pine, San Mateo County
Warren Slocum, San Mateo County
Rick DeGolia, Atherton, *Chair*
Julia Mates, Belmont
Donna Colson, Burlingame, *Vice Chair*
Raquel Gonzalez, Colma
Roderick Daus-Magbual, Daly City
Carlos Romero, East Palo Alto
Sam Hindi, Foster City arrived at 7:09 p.m.
Harvey Rarback, Half Moon Bay
Tom Faria, Los Banos
Betsy Nash, Menlo Park
Anne Schneider, Millbrae arrived at 6:40 p.m.
Tygarjas Bigstyck, Pacifica
Marty Medina, San Bruno
Rick Bonilla, San Mateo
James Coleman, South San Francisco

Pradeep Gupta, Director Emeritus
John Keener, Director Emeritus

Absent:

Coleen Mackin, Brisbane
Laurence May, Hillsborough
Jeff Aalfs, Portola Valley
Giselle Hale, Redwood City
Laura Parmer-Lohan, San Carlos
Jennifer Wall, Woodside

A quorum was established.

PUBLIC COMMENT

Jeremy

SWEARING IN OF NEW BOARD MEMBERS

Jennifer Stalzer, Associate General Counsel, presided over the official swearing-in of new Board Member Warren Slocum from the County of San Mateo.

ACTION TO SET THE AGENDA AND APPROVE REMAINING CONSENT AGENDA ITEMS

MOTION: Director Bonilla moved, seconded by Director Mates to set the Agenda, and approve Agenda Item Numbers 1-3.

1. Adopt Findings Pursuant to AB 361 to Continue Fully Teleconferenced Committee Meetings Due to Health Risks Posed by In-Person Meetings

2. Approval of the Minutes for the May 26. 2022 Meeting

3. Delegate Authority to the Chief Executive Officer to Decide Whether to Accept an Allocation of the PG&E Voluntary Allocation and Market Offer Renewable Energy Credit Solicitation (Action)

MOTION PASSED: 16-0 (Absent: Brisbane, Foster City, Hillsborough, Portola Valley, Redwood City, San Carlos, Woodside)

JURISDICTION	BOARD MEMBER	YES	NO	ABSTAIN	ABSENT
San Mateo County	Director Pine	X			
San Mateo County	Director Slocum	X			
Atherton	Director DeGolia	X			
Belmont	Director Mates	X			
Brisbane	Director Mackin				X
Burlingame	Director Colson	X			
Colma	Director Gonzalez	X			
Daly City	Director Daus-Magbual	X			
East Palo Alto	Director Romero	X			
Foster City	Director Hindi				X
Half Moon Bay	Director Rarback	X			
Hillsborough	Director May				X
Los Banos	Director Faria	X			
Menlo Park	Director Nash	X			
Millbrae	Director Schneider	X			
Pacifica	Director Bigstyck	X			
Portola Valley	Director Aalfs				X
Redwood City	Director Hale				X
San Bruno	Director Medina	X			
San Carlos	Director Parmer-Lohan				X
San Mateo	Director Bonilla	X			
South San Francisco	Director Coleman	X			
Woodside	Director Wall				X
	Totals	16			7

REGULAR AGENDA

4. Chair Report

Chair DeGolia reported that a Board Subcommittee has been created for the Annual CEO Review including Board Members Colson, Mates and Aalfs.

5. CEO Report

Jan Pepper, CEO, gave a presentation including a staffing update, an update on California Community Power (CC Power), an update on the RFP for Local Government PV Systems, and a Legislative Update.

6. Citizens Advisory Committee Report

Cheryl Schaff, Citizens Advisory Committee (CAC) Vice Chair, gave a presentation recapping the June 9, 2022 CAC Meeting.

7. Approval of Fiscal Year 2022-2023 Budget (Action)

Andy Stern, Chief Financial Officer, gave a presentation on the Fiscal Year 2022-2023 Budget including key budget assumptions, the PG&E and Power Charge Indifference Adjustment (PCIA) rate change summary, the forecast, budget summary, and the 5-year plan.

Vice Chair Colson asked for clarification on what happens if Peninsula Clean Energy exceeds the operating budget. Andy explained that the board would need to approve spending over the budgeted amount and that the Audit and Finance Committee monitors expenses as part of the quarterly package.

Public Comment: Drew

Vice Chair Colson commended Staff's efforts in controllable areas such as the cost of energy and contracts for future demand in a time where the forecasts in the energy market have become increasing unpredictable.

Director Romero shared his appreciation for Andy Stern's thoroughness and offered suggestions for the use of Peninsula Clean Energy's excess cash on hand.

Chair DeGolia suggested to keep an eye on cash on hand over the next year due to the fluctuating market before making any decisions.

Public Comment: Jeremy

MOTION: Director Bonilla moved, seconded by Director Romero to approve the proposed Fiscal Year 2022-2023 Budget and 5-year projections.

MOTION PASSED: 16-0 (Absent: San Mateo County, Brisbane, Hillsborough, Portola Valley, Redwood City, San Carlos, Woodside)

JURISDICTION	BOARD MEMBER	YES	NO	ABSTAIN	ABSENT
San Mateo County	Director Pine	X			
San Mateo County	Director Slocum				X
Atherton	Director DeGolia	X			
Belmont	Director Mates	X			
Brisbane	Director Mackin				X
Burlingame	Director Colson	X			
Colma	Director Gonzalez	X			
Daly City	Director Daus-Magbual	X			
East Palo Alto	Director Romero	X			
Foster City	Director Hindi	X			
Half Moon Bay	Director Rarback	X			
Hillsborough	Director May				X
Los Banos	Director Faria	X			
Menlo Park	Director Nash	X			
Millbrae	Director Schneider	X			
Pacifica	Director Bigstyck	X			
Portola Valley	Director Aalfs				X
Redwood City	Director Hale				X
San Bruno	Director Medina	X			
San Carlos	Director Parmer-Lohan				X
San Mateo	Director Bonilla	X			
South San Francisco	Director Coleman	X			
Woodside	Director Wall				X
	Totals	16			7

8. Approval of New Peninsula Clean Energy Rates to be Effective July 1, 2022 with a Net 5% Discount in Generation Charges for ECOplus Compared to PG&E Generation Rates (Action)

Leslie Brown, Director of Account Services, gave a presentation on the proposed new energy rates for Peninsula Clean Energy including the June 2022 PG&E Rate Change, a recap of the Peninsula Clean Energy rate making methodology, information on the 2016 vintage and 2021 vintage Power Charge Indifference Adjustment (PCIA).

Public Comment: Kathleen Goforth

Chair DeGolia explained that the proposed rate change is to the ECOplus rates which in turn will change the ECO100 rate which equates to the ECOplus rate plus one cent.

MOTION: Director Rarback moved, seconded by Director Colson to Approve a Resolution to implement new Peninsula Clean Energy ECOplus rates effective July 1, 2022 to reflect a net 5% discount relative to June 1, 2022 PG&E rates.

MOTION PASSED: 16-0 (Absent: San Mateo County, Brisbane, Hillsborough, Portola Valley, Redwood City, San Carlos, Woodside)

JURISDICTION	BOARD MEMBER	YES	NO	ABSTAIN	ABSENT
San Mateo County	Director Pine	X			
San Mateo County	Director Slocum				X
Atherton	Director DeGolia	X			
Belmont	Director Mates	X			
Brisbane	Director Mackin				X
Burlingame	Director Colson	X			
Colma	Director Gonzalez	X			
Daly City	Director Daus-Magbual	X			
East Palo Alto	Director Romero	X			
Foster City	Director Hindi	X			
Half Moon Bay	Director Rarback	X			
Hillsborough	Director May				X
Los Banos	Director Faria	X			
Menlo Park	Director Nash	X			
Millbrae	Director Schneider	X			
Pacifica	Director Bigstyck	X			
Portola Valley	Director Aalfs				X
Redwood City	Director Hale				X
San Bruno	Director Medina	X			
San Carlos	Director Parmer-Lohan				X
San Mateo	Director Bonilla	X			
South San Francisco	Director Coleman	X			
Woodside	Director Wall				X
	Totals	16			7

9. Calpine Master Services Agreement Amendment for FlexMarket (Action)

Peter Levitt, Associate Manager, Distributed Energy Resources, gave a presentation on the Calpine Master Services Agreement Amendment for FLEXMarket including an overview of FLEXMarket including the structure of the program, the history, schedule and key points.

Public Comment: Jeremy

MOTION: Director Pine moved, seconded by Director Romero to delegate authority to the CEO to execute the First Amendment to the Master Services Agreement between Peninsula Clean Energy and Calpine, and approve a three-year, $4,678,563 budget for the FLEXmarket program, all reimbursable by the CPUC.

MOTION PASSED: 16-0 (Absent: San Mateo County, Brisbane, Hillsborough, Portola Valley, Redwood City, San Carlos, Woodside)

JURISDICTION	BOARD MEMBER	YES	NO	ABSTAIN	ABSENT
San Mateo County	Director Pine	X			
San Mateo County	Director Slocum				X
Atherton	Director DeGolia	X			

Belmont	Director Mates	X			
Brisbane	Director Mackin				X
Burlingame	Director Colson	X			
Colma	Director Gonzalez	X			
Daly City	Director Daus-Magbual	X			
East Palo Alto	Director Romero	X			
Foster City	Director Hindi	X			
Half Moon Bay	Director Rarback	X			
Hillsborough	Director May				X
Los Banos	Director Faria	X			
Menlo Park	Director Nash	X			
Millbrae	Director Schneider	X			
Pacifica	Director Bigstyck	X			
Portola Valley	Director Aalfs				X
Redwood City	Director Hale				X
San Bruno	Director Medina	X			
San Carlos	Director Parmer-Lohan				X
San Mateo	Director Bonilla	X			
South San Francisco	Director Coleman	X			
Woodside	Director Wall				X
	Totals	16			7

10. 2022 Reach Code Update (Discussion)

Blake Herrschaft, Programs Manager, gave an update on 2022 Reach Codes including background on Reach Codes, 2019 adopters, proposed 2022 Reach Codes and timeline, proposed 2022 Electric Vehicle (EV) Reach Codes, and information on opportunities within existing buildings. Blake also presented information on timing and sample costs.

Director Romero asked for clarification on the difference between high and low power Level 2 EV chargers. Phillip Kobernick, Programs Manager, explained that the difference between the high and low power EV chargers is in the amperage with the high-power charger requiring a 40 amp circuit.

Director Bonilla asked if the lower amperage means that it takes longer to charge the EV. Phillip answered yes, and explained that high power chargers produce about 6.6 kW while the low power chargers produce 3.3kW. Rafael Reyes, Director of Power Resources, added that this primarily affects residential multifamily dwellings.

Public Comment: Drew, Zachary Meyer, Saman de Silva, Claire Shintani, Russell Chiu, Robert Whitehair, Libby Traubman, Vivienne Scott, Suzanne Emerson

Director Schneider shared that the city of Millbrae included a carve out for biotech in the updated new building codes and they have seen success with biotech companies going all-electric. Director Schneider asked Staff to look into existing building Reach Codes in relation to restaurants and housing laws in relation to new building Reach Codes.

Director Rarback shared that when Half Moon Bay was considering existing building Reach Codes there was pushback from the community which resulted in the inclusion of exceptions. Director Rarback believes that public education should begin as soon as possible to make a dent in methane emissions in existing buildings.

Director Bonilla shared that the city of San Mateo has set a goal of eliminating the use of methane by 2030 and that existing building Reach Codes are needed as soon as possible to help achieve that goal.

Director Nash suggested looking into watt diets to avoid panel upgrades and shared that Menlo Park has a partnership with BlocPower to build a workforce training program to help with contractors that are knowledgeable about electrification.

Director Romero shared support for existing residential building electrification in concept but shares a concern for low-income and fixed-income residents to afford upgrades.

Director Hindi shared that most of the power lines in Foster City are underground creating large financial barriers to electrifying existing structures.

Blake Herrschaft shared that Peninsula Clean Energy staff is working on guidelines to work though panel upgrades including working with Electrify My Home.

Director Nash asked about the downside of releasing existing building Reach Codes today. Blake explained that the Reach Codes are still in draft form, and that staff would like feedback from Board Members.

Director Bonilla asked when the Reach Codes will be prepared for use by the cities. Blake explained that the Reach Codes are nearing completion. Rafael added that following a review from CEO, Jan Pepper, these Codes could be available for distribution next week.

11. Board Members' Reports

Vice Chair Colson expressed gratitude to Jan Pepper for attending the ribbon cutting for the Burlingame Community Center and the Green Building Award.

Director Emeritus Keener expressed gratitude to Siobhan Doherty, Director of Power Resources, and Andy Stern, Chief Financial Officer, for their years of service.

Director Faria expressed gratitude to Marc Hershman for attending a retirement celebration as Director Faria retires from teaching.

Chair DeGolia shared that Atherton recently opened their new town center that is 100% electric.

ADJOURNMENT

Meeting was adjourned at 8:44 p.m.

PENINSULA CLEAN ENERGY
JPA Board Correspondence

DATE: July 7, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Present

TO: Honorable PCE Joint Powers Board

FROM: Jan Pepper, Chief Executive Officer, Peninsula Clean Energy

SUBJECT: Approval of An Amendment To The Existing Retention Agreement With The Law Firm Of Keyes & Fox LLP Increasing The Amount By $250,000 For A Total Not-To-Exceed Amount Of $650,000

RECOMMENDATION
Adopt a Resolution authorizing the CEO to execute with the law firm of Keyes & Fox LLP an amendment to the existing retention agreement in substantially the same form as the original agreement previously authorized by the Board on October 27, 2016, and then later amended with approval by the Board on October 25, 2018 and December 16, 2021.

BACKGROUND

Peninsula Clean Energy (PCE) Authority has had a continuing relationship with outside counsel, Keyes and Fox. Over the last five years, Keyes and Fox has provided PCE with broad support with its litigation of complicated regulatory proceedings before the California Public Utilities Commission ("CPUC") on topics ranging from PG&E annual PCIA rate adjustments to PG&E's general rate cases to the Commission's exploration of transportation electrification policy.

The PCE Board originally authorized on October 27, 2016, the retention agreement with Keyes & Fox at an amount not to exceed $100,000. Subsequently, on October 25. 2018 the PCE Board authorized the amendment of this retention agreement to increase the amount not to exceed to $300,000 and later amended this retention agreement again to increase the not to exceed by an additional $100,000 to $400,000 authorized overall.

DISCUSSION
Peninsula Clean Energy retained the services of Keyes & Fox to draft legal contracts and provide other legal counsel in support of advancing the Local Government Solar and Storage Program.

Work to date includes:

- Adaptation of the standard Solar Energy Industry Association Power Purchase Agreement (PPA) to a Customer PPA template between Peninsula Clean Energy and local government customers that accounts for the various requirements specific to the procurement model Peninsula Clean Energy is pursuing;
- Drafting of an Engineer, Procure, and Construct Agreement (EPC Agreement) between Peninsula Clean Energy and a qualified counterparty that can deploy, commission, and maintain solar and solar + storage systems so as to meet Peninsula Clean Energy's obligations under the Customer PPA;
- Legal adivce relating to proposed deal structures and other consultations as required to develop the program

To date, the Local Government Solar and Storage Program has made use of an existing budget authorization for Keyes and Foxintended for general regulatory support. However, the existing authorization is insufficient to support both continued regulatory support and assistance with the Local Government Solar and Storage Program, and staff is requesting an increase in the authorization to account for the additional scope.

As the Local Government Solar and Storage Program progresses, we expect significant additional legal support will be required, including:

- Negotiations and finalization of Customer PPA following review by cities and County
- Negotiations and finalization of EPC or Master PPA contract with equipment installers
- Advice/support as needed in any agreements with tax financing partner(s) or master PPA providers
- Negotiations and finalization of a site lease/license with site hosts for placement of solar system
- Conforming all documents so that they sync with one another
- Ad hoc legal support as needs arise

To support this work and program, staff is requesting an increase of $250,000 to the existing budget authorization for Keyes and Fox. Funds will only be expended as Keyes and Fox services are utilized.

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * * *

RESOLUTION AUTHORIZING PENINSULA CLEAN ENERGY AUTHORITY CEO TO EXECUTE AN AMENDMENT TO THE EXISTING RETENTION AGREEMENT WITH THE LAW FIRM OF KEYES & FOX LLP INCREASING THE AMOUNT BY $250,000 FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $650,000.

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, State of California, that

WHEREAS, the Peninsula Clean Energy Authority ("Peninsula Clean Energy) was formed on February 29, 2016; and

WHEREAS, the JPA Agreement forming the Authority delegates to the Board the power to hire a General Counsel pursuant to Paragraph 3.3.2; and

WHEREAS, the San Mateo County Counsel's Office has been appointed General Counsel and has been delegated authority to retain outside legal services in amounts not to exceed $25,000; and

WHEREAS, the General Counsel has determined it necessary to seek outside legal services related to state regulatory oversight and policy and on October 27, 2016 this Board authorized the General Counsel to retain Keyes & Fox LLP on behalf of

Peninsula Clean Energy for that purpose in an amount not to exceed $100,000 and to execute the retention agreement then presented to the Board; and

WHEREAS, the Board authorized an increased the retention amount by $300,000 on October 25, 2018; and

WHEREAS, the Board authorized an increased the retention amount by $100,000 on December 16, 2021; and

WHEREAS, Keyes & Fox LLP has been providing assistance to PCE to support the Local Government Solar and Storage Program and the cost of its legal services will exceed the amount already authorized and staff is requesting an increase in the retention amount of $250,000 for a total amount not to exceed $650,000.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the CEO is authorized to execute with the law firm of Keyes & Fox LLP amendment to the existing retention agreement already approved by the Board as long as the total amount of all amendments or agreements do not exceed an increase in retention of more than $650,000.

* * * * * *

[CCO-113499]

AMENDMENT "B" TO ENGAGEMENT LETTER BETWEEN PENINSULA CLEAN ENERGY AND KEYES & FOX LLP

This Amendment applies to that specific engagement letter entitled "Engagement Letter – Peninsula Clean Energy Authority" (the "Agreement") between Keyes & Fox LLP and Peninsula Clean Energy dated January 23, 2019 regarding regulatory proceedings at the California Public Utilities Commission and other legal issues Keyes & Fox LLP and Peninsula Clean Energy both mutually agree to undertake. This Amendment is made to increase the not-to-exceed compensation limit in the Agreement from $400,000 (as detailed in Section 3.a to the Agreement) to $650,000. The Agreement is amended as follows:

The fifth paragraph of Section 3.a of the Agreement is amended to read:

> "This letter authorizes payment of fees of up to $650,000 in connection with the Legal Services. Unless otherwise agreed to in writing, PCE will not be obligated for fees in excess of this amount."

By: _____

Tim Lindl
Partner
Keyes & Fox LLP

Date: _____

By: _____

Janis C. Pepper
Chief Executive Officer
Peninsula Clean Energy

Date: _____

PENINSULA CLEAN ENERGY
JPA Board Correspondence

DATE: July 13, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Present

TO: Honorable Peninsula Clean Energy Authority Executive Committee

FROM: Jan Pepper, Chief Executive Officer, Peninsula Clean Energy
Rafael Reyes, Director of Energy Programs

SUBJECT: Approval of E-Bikes for Everyone Program Additional Budget (Action)

RECOMMENDATION

Board approval of a modification of the E-Bikes for Everyone program budget, increasing the among by $150,000 for a total not to exceed amount of $690,000.

BACKGROUND

Peninsula Clean Energy's mission is to reduce greenhouse gas (GHG) emissions and support the target of carbon neutrality by 2035, which Peninsula Clean Energy aims to support through investment in local community programs. Transportation emissions are one of the most significant challenges to decarbonization in San Mateo County, accounting for about 50% of direct emissions.

To support decarbonization efforts, the Board approved the Peninsula Clean Energy Program Roadmap in September 2018. As part of the implementation of the Roadmap in July 2020, the Board approved $300,000 in funds for a low-income e-bike rebate program, named the "E-Bikes for Everyone" program, including $240,000 in incentives (up to 300 e-bikes) and $60,000 for a partnership with Silicon Valley Bicycle Coalition to provide bike safety workshops and outreach. The E-Bikes for Everyone rebate program formally opened on May 26, 2021 and 275 rebates were provided, nearly exhausting the funding. In January 2022, the Board approved an additional $300,000 in incentives for the E-Bikes for Everyone Program (up to a total of 320 e-bikes when combined with leftover funding from the prior round). The second round of funding opened on June 6, 2022. As of mid-July, over 150 rebates have been provided, with approximately 180 additional residents who have had their applications approved and are in the process of shopping for an e-bike. In addition, there are 150 residents who are on the waitlist for a rebate.

DISCUSSION

Due to the ongoing high demand and popularity of the E-Bikes for Everyone program, staff is proposing increasing the incentives budget by $150,000 to accommodate the 150 residents who are on the waitlist. With this budget increase, the number of e-bike rebates to be provided in this round of the program will increase from 320 to 470 rebates. Combined with the prior round, the total program will be on track to provide 745 total rebates since the program first launched in May 2021.

Silicon Valley Bicycle Coalition remains on contract with Peninsula Clean Energy to provide outreach and education events and 4 bike shops are under contract to provide the rebate to customers as a point of sale discount (the list of bike shops is available at https://www.peninsulacleanenergy.com/program/ebikes-participating-shops/). These contracts would continue without modifications.

FISCAL IMPACT: The added funding for the E-Bikes for Everyone program would be within the already approved FY22 Community Energy Programs budget.

Strategic Plan:

Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings

- Key Tactic 1: Drive personal electrified transportation to majority adoption

Objective B: Community Benefits: Deliver tangible benefits throughout our diverse communities

- Key Tactic 1: Invest in programs that benefit underserved communities

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * * *

RESOLUTION APPROVING A MODIFICATION OF THE E-BIKES FOR EVERYONE PROGRAM BUDGET, INCREASING THE AMOUNT BY $150,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF $690,000

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, State of California, that

WHEREAS, PCE was formed on February 29, 2016; and

WHEREAS, E-Bikes are a demonstrated method to reduce greenhouse gas emissions, which also reduce cost, especially for low-income community members; and

WHEREAS, the Board of Directors approved the E-Bikes for Everyone Program on July 23, 2020 with an incentives budget of $240,000; and

WHEREAS, PCE has contracted with multiple bicycle stores to administer e-bike rebates as a point-of-sale discount to qualified customers; and

WHEREAS, the E-Bikes for Everyone program opened in May 2021, and was extremely popular and immediately exhausted the existing budget, providing 275 rebates; and

WHEREAS, the Board of Directors approved a $300,000 budget increase for the E-Bikes for Everyone Program on January 21, 2022; and

WHEREAS, the E-Bikes for Everyone program reopened in June 2022, and has provided over additional 150 rebates, with approximately additional 180 residents with approved rebates who are in the process of shopping for e-bikes, and a further additional 150 residents on the waitlist; and

WHEREAS, Peninsula Clean Energy staff recommends increasing the budget to provide rebates to the 150 residents on the waitlist; and

WHEREAS, rebates in the E-Bikes for Everyone Program are for up to 80% of the purchase price of the e-bike with a maximum value of $1,000; and

WHEREAS, the budget increase required to provide rebates to all residents on the waitlist would be up to $150,000.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board approves a budget increase for the E-Bikes for Everyone Program in an amount of $150,000 for a total net to exceed amount for the E-Bikes for Everyone Program of $690,000.

* * * * * *

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 8, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Andy Stern, Chief Financial Officer

SUBJECT: Approval of the Revised Employee Handbook

RECOMMENDATION:
Approve the revised Peninsula Clean Energy Employee Handbook.

BACKGROUND AND DISCUSSION:
The PCE Employee Handbook is a summary/overview of PCE policies and guidelines. It provides guidance to PCE Staff on policies including Employment, Employee Conduct, Working Conditions, Benefits, Payroll, Leaves of Absences, along with other related issues.

Significant effort was expended to develop the original version of the Handbook, including receiving earlier review from the PCE Executive Committee and input from PCE Staff. The revised Handbook presented to the Board for approval has been reviewed by PCE's legal counsel. The most recent version of the handbook was last approved by the Board of Directors on June 25, 2020.

A copy of the current version and a redline showing edits and changes are both attached to this memo. The revised Handbook incorporates a number of corrections and edits along with several significant changes which are listed below.

- Improved organization for readability and accessibility and/or references
  - Minor corrections for grammar and typos
  - Added references to Los Banos added to PCE after last Handbook was released
  - Renamed Columbus Day to Indigenous People's Day
- Policy additions/deletions/clarifications
  - Added Work-from-Home Policy and Guidelines

- Elimination of monthly auto allowance for employees (managers and above)
- Clarity on the already existing process of receiving final paychecks upon employee terminations
- Revised policy to require all employees to complete one (1) hour of workplace harassment training every year
- Clarify already existing policy describing the effective day that benefits start for new employees
- Addition of language clarifying options for employee retirement contributions; specifically describing Roth after-tax contributions as an option
- Clarification of maximum vacation accrual per employee
- Clarification of already existing Baby Bonding Leave policy
- Added policy describing the adjustment of the annual review/merit increase date following an employee leave that extends longer than 60 days

Upon approval of this Handbook by the Board, PCE will distribute it for use by all PCE employees.

ATTACHMENTS:

1. Redline (showing changes from the prior Version 3) and
2. Clean version of the Employee Handbook (Version 4): - Issue Date July 1, 2022.

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * * *

RESOLUTION BY THE BOARD OF DIRECTORS TO APPROVE ADOPTION OF THE REVISED EMPLOYEE HANDBOOK

RESOLVED, by the Board of Directors of the Peninsula Clean Energy Authority of the County of San Mateo, State of California, that

WHEREAS, the Board of Directors approved Version 3 of the PCE Employee Handbook on June 25, 2020, and

WHEREAS, the current Employee Handbook requires updating to reflect changes in laws, modifications to current policies, and adoption of new employee-related policies all of which have been incorporated into Version 4.

.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors approves the adoption of the revised Employee Handbook.

* * * * * *

EMPLOYEE HANDBOOK

Issue Date (Version 4): July 1, 2022

Peninsula Clean Energy
2075 Woodside Road,
Redwood City, CA 94061

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A. PCE Request to Engage in Supplemental Employment Form

B. PCE Conflict of Interest Code

C. PCE Guidelines on Political Activity

D. PCE Employee Confidentiality Agreement

E. PCE Customer Confidentiality Policy

F. PCE Acceptable Use of Electronic Communications Policy

G. PCE Document Retention and Destruction Policy

H. Social Media Policy (Forthcoming)

I. PCE IT Security Policy

J. Work-from-Home Policy and Guidelines

SECTION 1: INTRODUCTION TO PENINSULA CLEAN ENERGY

1.101 Welcome to Peninsula Clean Energy!

Dear Staff,

On behalf of everyone at Peninsula Clean Energy (PCE), welcome to the team! You are joining PCE at a very exciting time, for PCE, the industry, and our state. Community Choice Aggregators are challenging communities, states, and countries to make clean, renewable, greenhouse gas-free energy the standard. We are proud to be part of this wave of progress.

Starting a new job is exciting, but at times can be overwhelming. This Employee Handbook has been developed to help you become acquainted with PCE and answer many of your initial questions.

As an employee of Peninsula Clean Energy, you are very important. Your contribution cannot be overstated. We are a mission driven organization, and your role is an important part of achieving our mission – to reduce greenhouse gas emissions in California. We do that by providing cleaner and greener electricity at lower rates than PG&E. We also offer energy related programs that use PCE's clean electricity to reduce greenhouse gas emissions by moving to electric transportation methods. And finally, we will offer electrification programs to reduce GHG emissions in buildings by converting from natural gas use to PCE's clean electricity. We hope the success we have had in our parts of California provides a model for other parts of the state, country, and world to also move toward a clean electric economy!

You are an important part of this process, and your work directly influences PCE's reputation.

We are glad you have joined us, and we hope you will find your work to be both challenging and rewarding.

Sincerely,

Jan Pepper
CEO

Employee Handbook Version 4

1.101 About this Handbook

This Employee Handbook contains information about the employment policies and practices of PCE. We expect each employee to read, understand, and comply with all provisions of this Employee Handbook. It describes many of your responsibilities as an employee and outlines the programs developed by PCE to benefit you as an employee. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.

PCE is a Joint Powers Authority (JPA), an independent California public agency that was created separate from any other public agency. The employment laws that apply in the public sector are sometimes different from those in the private sector. If you have previously worked for a for-profit or not-for-profit organization, you may notice some differences.

PCE complies with federal and state law which is in part reflected in this handbook. PCE also complies with any applicable local laws, even though there may not be an express written policy contained in the handbook.

Violations of the policies and procedures outlined in the handbook, as well as violations of any applicable state and/or federal law, may be grounds for discipline up to and including immediate termination.

1.102 New Employee Onboarding

Upon joining PCE, you should have received an e-copy of our Employee Handbook. After reading this Employee Handbook, please sign the receipt page and return it to the Chief Financial Officer (CFO). You will be asked to complete personnel, payroll and if applicable, benefit forms which will need to be provided to the CFO.

PCE is a small Agency that thrives on open communication. The operations of your department are the responsibility of your supervisor. (S)he is a good source of information about PCE and your job. However, feel free to speak to the Chief Executive Officer (CEO) if you have questions about PCE or your position.

SECTION 2: EMPLOYMENT

2.101 Nature of Employment

Except for the policy of at-will employment, PCE reserves the right to revise, delete, and add to the provisions of this Employee Handbook at any time without notice. All such revisions, deletions or additions to the Employee Handbook must be in writing and must be signed by the CEO of PCE. No oral statements or representations can change the provisions of this Employee Handbook.

The provisions of this Employee Handbook are not intended to create contractual obligations with respect to any matters it covers nor is this Employee Handbook intended to create a contract guaranteeing that you will be employed for any specific period of time. Any agreement of employment for a specified time period shall be put into writing and signed by the CEO.

Nothing in this Employee Handbook is intended to unlawfully restrict an employee's right to engage in any of the rights guaranteed them by Section 7 of the National Labor Relations Act, including but not limited to, the right to engage in concerted protected activity for the purposes of their mutual aid and/or protection. Nothing in this Employee Handbook will be interpreted, applied or enforced to interfere with, restrain or coerce employees in the exercise of Section 7 rights.

PCE is an at-will employer. This means that regardless of any provision in this Employee Handbook, either PCE or you may terminate the employment relationship at any time, for any reason, with or without cause or notice. Nothing in this employee handbook or in any document or statement, written or oral, shall limit the right to terminate employment at-will. No officer, employee, or representative of PCE is authorized to enter into an agreement, express or implied, with any employee for employment for a specified period of time unless such an agreement is in a written contract signed by the CEO of PCE.

This Employee Handbook refers to current benefit plans maintained by PCE as of the date of release of this version of the Employee Handbook. Refer to the actual plan documents and summary plan descriptions if you have specific questions regarding the benefit plan. Those documents are controlling.

Likewise, if a written employment contract is inconsistent with the Employee Handbook, the written contract is controlling.

2.102 Job Postings

PCE strives to maintain a current job description for each position in PCE. The job description outlines the essential duties and responsibilities of the position. When the duties and/or responsibilities of a position change, the job description should be revised

to reflect those changes. If you have any questions or wish to obtain a copy of your position's job description, please see your supervisor.

PCE provides employees an opportunity to indicate their interest in open positions and advance within PCE according to their skills and experience. In general, notices of all regular, full-time job openings are posted, although PCE reserve its sole discretionary right not to post a particular opening.

Posted job openings will be added to PCE's website and normally remain open for at least two to three weeks but will stay open until filled. Each job posting notice will include the dates of the posting period (if applicable), job title, job summary, essential duties, and qualifications.

To be eligible to apply for a posted job, employees must have performed competently in their current position. PCE reserves the right not to accept applications for open positions from an employee who is currently on any type of disciplinary action.

Job posting is a way to inform employees of openings and to identify qualified and interested applicants whose interest might not otherwise be known to PCE. Other recruiting sources may also be used to fill open positions in the best interest of PCE.

2.103 Equal Opportunity Employer

PCE is committed to equal employment opportunity. We will not permit discrimination or harassment against employees or applicants for employment on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality, or any other protected class under federal, state, or local law), physical or mental disability (the term disabled or disability shall be construed to apply to those individuals covered by Title 2 California Administrative Code, Sec. 7293.6(c) et seq. and 42 U.S. Code Sec. 12102 and the regulations promulgated pursuant to that section), military or veteran status, or any other basis protected by law,

PCE will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination.

It is the obligation of every employee to comply with this policy in substance, practice, and in spirit.

You may discuss equal employment opportunity related questions with your supervisor or any other designated member of management.

2.104 Nepotism Prohibited

It is the policy of PCE to recruit, hire, and assign all employees based on merit and performance. Nepotism, the employment of relatives within an organization, Is expressly prohibited as it may cause serious conflicts and problems with favoritism and employee morale.

For purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with an employee is like that of persons who are related by blood or marriage, such as those who are living together.

This policy applies to all employees regardless of gender or sexual orientation.

2.105 Immigration Reform and Control Act

In compliance with the federal Immigration Reform and Control Act of 1986 (IRCA), as amended, and any state law requirements, if applicable, PCE is committed to employing only individuals who are authorized to work in the United States.

Each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired may also be required to re-complete the form.

If an employee is authorized to work in this country for a limited period of time, the individual will be required to submit proof of renewed employment eligibility prior to expiration of that period to remain employed by PCE.

2.106 Supplemental Employment

Employees may hold supplemental jobs if they are able to continue to meet the performance standards of their job with PCE and those jobs do not create a conflict of interest. All employees will be judged by the same performance standards and will be subject to PCE's scheduling demands, regardless of any existing supplemental work requirements.

If PCE determines that an employee's supplemental work interferes with performance or the ability to meet the requirements of PCE as they are modified from time to time, the employee may be asked to terminate the supplemental employment if he or she wishes to remain employed by PCE.

An employee who wishes to engage in supplemental employment must complete the Attachment A. Request to Engage in Supplemental Employment Form. The form must be signed by the employee's supervisor and the CEO.

Supplemental employment that constitutes a conflict of interest is strictly prohibited. If you have a concern regarding a potential or actual conflict, please discuss it with the CEO.

2.107 Americans with Disabilities Act

PCE is committed to complying fully with the Americans with Disabilities Act ("ADA") and the California Fair Employment and Housing Act ("FEHA") and ensuring equal employment opportunities to qualified individuals with disabilities. This may include providing reasonable accommodation where appropriate for an otherwise qualified individual to perform the essential functions of the job. All employment practices and activities are conducted on a non-discriminatory basis. Hiring procedures are designed to provide persons with disabilities meaningful employment opportunities. Post-offer pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

It is your responsibility to notify your supervisor of the need for accommodation. Upon doing so, your supervisor may ask you for your input or the type of accommodation you believe may be necessary or the functional limitations caused by your disability. Also, when appropriate, we may need your permission to obtain additional information from your physician or other medical or rehabilitation professionals. PCE will not seek genetic information in connection with requests for accommodation. All medical information received by PCE in connection with a request for accommodation will be treated as confidential.

Reasonable accommodations for qualified individuals with known disabilities will be made unless doing so would be an undue hardship. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

2.108 Access to Personnel Files

PCE maintains a personnel file on each employee. Such files include, but not limited to, employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.

Personnel files are the property of PCE and access to the information they contain is restricted. Generally, only management-level personnel of PCE and your supervisor who have a legitimate reason to review information in a file are permitted to do so.

Upon request, current and former employees may inspect their own personnel files at a mutually agreeable time, on PCE premises in the presence of an authorized PCE management team member. A representative of the employee, with written consent from the employee, may also review an employee's personnel file. You will be permitted to see any records regarding your qualification for employment, promotion, wage increases, earnings and deductions, or discipline. You will also be permitted to respond to anything in writing that is in the personnel file and may request that the response be included in the file. The personnel files are the property of PCE, employees may not remove or add items to their file without approval and the file must remain in the custody of PCE at all times.

Additionally, PCE will provide copies of payroll records within fifteen (15) days after a written request has been received. Exceptions include records regarding criminal investigation and any letters of reference maintained by PCE. You will be allowed to have a copy of any document that relates to your performance or any grievance that concerns you. PCE complies with state law record retention requirements for current and former employees.

For more information, contact the CFO.

2.109 Employment Reference and Background Checks

To ensure that individuals who join PCE are well qualified and have a strong potential to be productive and successful, it is the policy of PCE to check the employment references of all applicants. PCE will also conduct background checks on all potential new employees to verify prior education and employment claims and research other criminal and governmental databases for prior criminal and/or other adverse activity.

Regarding current or former PCE employees, PCE will respond in writing or verbally only to those reference check inquiries that are submitted in writing. Responses to such inquiries will confirm only dates of employment and position(s) held. NO other employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry. Currently, only the CEO is authorized to respond to reference check inquiries. The CEO has the authority to delegate this responsibility as appropriate.

2.110 Changes in Personal Data

To aid you and/or your family in matters of personal emergency, we strive to maintain up to date information. It is the responsibility of each employee to promptly notify PCE of any changes in personal data. Personal mailing addresses, telephone numbers,

number and names of dependents who are enrolled in benefit plan(s) or are beneficiaries of benefit plan(s), individuals to be contacted in the event of an emergency, educational accomplishments or credentials, and other such status reports should be accurate and current. If any personal data has changed, please notify your supervisor and the CFO in writing.

Changes that would impact your paycheck or annual reporting documents should be given to the CFO promptly.

2.111 Separation from Employment

The last day worked is the last day of employment for employees who resign or are terminated from PCE employment. All employees will be paid for all accrued and unused vacation and other applicable benefit accruals.

An employee who voluntarily resigns from PCE service will receive his/her final paycheck on the next regularly scheduled payday after the last day of employment..

An employee whose job has been terminated involuntarily will receive the final paycheck on the last day of employment or as soon thereafter as is reasonably practicable.

Should you decide to leave your employment with us, we ask that you provide your immediate supervisor with at least two weeks' advance written notice. Your thoughtfulness is appreciated and will be noted favorably should you ever wish to reapply for employment with PCE.

All voluntary terminating employees should complete a brief exit interview prior to leaving. All terminating employees, either voluntary or involuntary, will be provided information about employee benefits, conversion privileges, repayment of outstanding debts to PCE, and return of PCE-owned property. All employees are required to return all equipment including, but not limited to, keys, ID cards, and other PCE property prior to leaving PCE on the last day of work.

Continuation of Group Health Benefits- C.O.B.R.A.
In accordance with Federal law, employees and their families, at their expense, may have a temporary extension of health coverage at group rates in certain instances where coverage under the plan would otherwise terminate. Contact the CFO for more information regarding this benefit,

2.112 Social Security Number Privacy

Officers and employees are permitted to access and use certain personal information, such as Social Security Numbers, only as necessary and appropriate for such persons to carry out their assigned tasks for PCE and in accordance with PCE's policy.

The unauthorized access, viewing, use, disclosure, or the intentionally public display of such information and the unauthorized removal of documents from PCE's premises that contain social security number information is prohibited.

If you come into contact with Social Security Numbers or other sensitive personal information without authorization from PCE or under circumstances outside of your job duties/assigned tasks, you may not use or disclose the information further, but must contact your supervisor and turn over to him/her all copies of the information in whatever form.

When necessary, documents containing social security information will be properly destroyed through shredding or other means prior to disposal to ensure confidential social security information is not disclosed.

SECTION 3: EMPLOYEE CONDUCT

3.101 Conflict of Interest/Code of Ethics

A company's reputation for integrity is its most valuable asset and is directly related to the conduct of its officers and other employees. Therefore, employees must never use their positions with PCE, or any of its customers, for private financial gain, to advance personal financial interests, to obtain favors or benefits for themselves, members of their families or any other individuals, corporations or business entities, or engage in activities, investments or associations that compete with PCE, interferes with an employee's business judgment concerning PCE's best interests, or exploits an employee's position with PCE for personal gain.

PCE strives to adhere to the highest legal and ethical standards applicable in our business. All employees of PCE have an obligation to conduct business within the guidelines that prevent actual or potential conflicts of interest and to comply with Attachment B. PCE Conflict of Interest Code.

Employees of PCE will conduct their personal affairs such that their duties and responsibilities to PCE are not jeopardized and/or legal questions do not arise with respect to their association or work with PCE.

POLITICAL ACTIVITY – PCE employees are public employees because PCE is a JPA under California Government Code Section 6500 et seq. The governing body, the Board of Directors, is comprised of publicly elected representatives of its member jurisdictions. While California law prohibits public employers from barring its officers and employees from participation in political activities, the law permits PCE to develop guidelines prohibiting officers and employees from engaging in political activity during work hours, on agency premises, or using agency property to do so, including email. For more information, please see Attachment C. Guidelines on Employee Political Activity.

This policy does not prevent employees from discussing their wages or other terms of employment.

3.101 Standards of Conduct

Each employee has an obligation to observe and follow PCE's policies and to maintain proper standards of conduct at all times. Failure to adhere to PCE's policies will result in corrective disciplinary measures.

Disciplinary action may include a verbal warning, written warning, suspension with or without pay, and/or termination of employment. The appropriate disciplinary action imposed will be determined by PCE. PCE does not guarantee that one form of action will necessarily precede another.

Among other things, the following may result in disciplinary action, up to and including termination of employment:

- Violation of PCE's policies or safety rules;
- Failing to work in a cooperative manner with management, co-workers, customers and others who do business with PCE;
- Unauthorized or illegal possession, use, or sale of alcohol or controlled substances on work premises or during working hours, while engaged in company activities; [Section 3.107]
- Unauthorized possession, use, or sale of weapons, firearms, or explosives on work premises;
- Theft or dishonesty;
- Inappropriate or violent physical contact;
- Harassment; [Section 3.103]
- Discrimination or retaliation in violation of PCE's EEO and No Harassment policies; [Section 3.103]
- Performing outside work or use of company property, equipment, or facilities in connection with outside work while on company time;
- Engaging in unethical or illegal conduct;
- Unauthorized disclosure of business “secrets” or confidential proprietary information; [Section 3.104]
- Poor attendance or poor performance.

These examples are not exhaustive. We emphasize that termination of employment decisions will be based on an assessment of all relevant factors.

Nothing in this policy is designed to limit an employee's rights under Section 7 of the National Labor Relations Act.

Nothing in this policy is designed to modify PCE’s employment-at-will policy.

3.103 No Harassment

We are committed to providing a work environment that is free of unlawful harassment, discrimination and retaliation. In furtherance of this commitment, PCE strictly prohibits all forms of unlawful discrimination and harassment, including: discrimination or harassment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, protected medical condition (including genetic characteristic), genetic information, marital status, sex (including pregnancy, childbirth or related medical condition, or breast feeding), sexual orientation (including homosexuality, bisexuality, or heterosexuality, or any other protected class under federal, state, or local law), gender, gender identity or expression (including transgender), age for individuals over forty years of age, military or veteran status,

sexual orientation, citizenship status, or any other category protected by applicable state or federal law.

PCE's policy against unlawful harassment, discrimination and retaliation applies to all employees, including supervisors and managers, as well as to all unpaid interns and volunteers. PCE prohibits managers, supervisors and employees from harassing co-workers as well as PCE's customers, vendors, suppliers, independent contractors, and others doing business with PCE. Any such harassment will subject an employee to disciplinary action up to and including immediate termination. PCE likewise prohibits its customers, vendors, suppliers, independent contractors and others doing business with PCE from harassing, discriminating, or retaliating against our managers, supervisors and employees.

Examples of Prohibited Sexual Harassment: Sexual harassment includes a broad spectrum of conduct including harassment based on sex, gender, gender identity or expression, and sexual orientation. By way of illustration only, and not limitation, some examples of unlawful and unacceptable behavior include:

- Unwanted sexual advances;
- Offering an employment benefit (such as a raise, promotion or career advancement) in exchange for sexual favors, or threatening an employment detriment (such as termination or demotion) for an employee's failure to engage in sexual activity;
- Visual conduct, such as leering, making sexual gestures, and displaying or posting sexually suggestive and/or derogatory objects or pictures, drawings, cartoons or posters;
- Verbal sexual advances, propositions, requests or comments;
- Sending or posting sexually-related messages, videos or messages via text, instant messaging, or social media;
- Verbal abuse of a sexual nature, graphic verbal comments about an individual’s body, sexually degrading words used to describe an individual, and suggestive or obscene letter, notes or invitations;
- Physical conduct, such as touching, groping, assault, or blocking movement;
- Physical or verbal abuse concerning an individual’s gender, gender identity or gender expression; and
- Verbal abuse concerning a person’s characteristics such as pitch of voice, facial hair or the size or shape of a person’s body, including remarks that a male is too feminine, or a woman is too masculine.

Other Examples of What Constitutes Prohibited Harassment: In addition to the above listed conduct, PCE strictly prohibits harassment concerning any other protected characteristic. By way of illustration only, and not limitation, such prohibited harassment includes:

- Racial or ethnic slurs, epithets, derogatory comments and any other offensive remarks;
- Jokes, whether written, verbal, or electronic;
- Threats, intimidation, and other menacing behavior;
- Assault, impeding or blocking movement, or any physical interference with normal work or movement;
- Inappropriate verbal, graphic, or physical conduct;
- Sending or posting harassing messages, videos or messages via text, instant messaging, or social media; and
- Other harassing conduct based on one or more of the protected categories identified in this policy.

If you have any questions about what constitutes harassing behavior, ask your supervisor or another member of management.

Prohibition Against Retaliation: PCE is committed to prohibiting retaliation against those who themselves or whose family members report, oppose, or participate in an investigation of alleged unlawful harassment, discrimination, or other wrongdoing in the workplace. By way of example only, participating in such an investigation includes, but is not limited to:

- Making or filing an internal complaint with PCE regarding alleged unlawful activity;
- Providing notice to PCE regarding alleged unlawful activity;
- Filing a complaint with a federal or state enforcement or administrative agency;
- Participating in or cooperating with a federal or state enforcement agency conducting an investigation of PCE regarding alleged unlawful activity;
- Testifying as a party, witness, or accused regarding alleged unlawful activity; and
- Assisting another employee who is engaged in any of these activities.

PCE is further committed to prohibiting retaliation against qualified employees who request a reasonable accommodation for any known physical or mental disability and employees who request a reasonable accommodation of their religious beliefs and observances.

Reporting Process – Making a Complaint

Any employee, job applicant, unpaid intern, volunteer, or contractor who believes they been harassed, discriminated against or retaliated against in violation of this policy by another employee, supervisor, manager or third-party doing business with PCE, you should immediately report it orally or in writing to the CEO. In addition, if you observe harassment by another employee, supervisor, manager or non-employee, please report the incident immediately to the CEO. If the CEO is alleged to be involved in the harassment, the Chair of the PCE Board must be notified.

Supervisors who receive any complaint of harassment, discrimination or retaliation must promptly report such complaint immediately to the CEO so that PCE may resolve the complaint internally. As noted above, if the complaint is against the CEO, the Chair of the PCE board should be notified.

Notification of the problem is essential to us. We cannot help to resolve a harassment problem unless we know about it. Therefore, it is your responsibility to bring your concerns and/or problems to our attention, so we can take whatever steps are necessary to address the situation. PCE takes all complaints of unlawful harassment seriously and will not penalize you or retaliate against you in any way for reporting a harassment problem in good faith.

All complaints of unlawful discrimination, harassment, or retaliation which are reported to the CEO or the Chair of the PCE Board, as applicable, will receive a timely response and will be thoroughly investigated in a fair and prompt manner by impartial and qualified personnel. Investigations will be conducted in a manner which provides all parties with appropriate due process, reaches a reasonable conclusion based on evidence collected and ensures timely closure. In addition, PCE will ensure that the investigation is properly documented and tracked for reasonable progress. Upon conclusion of such investigation, appropriate remedial and corrective action will be taken where warranted, including disciplinary action, up to and including immediate termination. PCE prohibits employees, supervisors, and managers from hindering internal investigations and the internal complaint procedure. All complaints of unlawful misconduct reported to the CEO (or the Chair of the PCE Board) will be treated as confidentially as possible, consistent with PCE's need to conduct an adequate and thorough investigation.

Violation of this policy will subject an employee to disciplinary action, up to and including immediate termination. Moreover, any employee, supervisor or manager who condones or ignores potential violations of this policy will be subject to appropriate disciplinary action, up to and including termination. Additionally, under California law, employees may be held personally liable for harassing conduct that violates the California Fair Employment and Housing Act.

This policy is not intended to prohibit employees, job applicants, unpaid interns, volunteers, or contractors from filing complaints with the California Department of Fair Employment and Housing or the federal Equal Employment Opportunity Commission or to prevent them from pursuing other available judicial remedies. These agencies may be contacted as follows:

California Department of Fair Employment and Housing (DFEH)
(800) 884-1684 or www.dfeh.ca.gov
Federal Equal Employment Opportunity Commission (EEOC)
(800) 669-4000 or www.eeoc.gov

PCE requires that every employee complete a one (1) hour workplace harassment prevention training course every twelve (12) months. The CFO will monitor and maintain records of all required trainings. PCE will provide the training through an on-line course.

3.104 Protecting PCE Information

Protecting PCE's information is the responsibility of every employee. You are not to discuss PCE's confidential business or proprietary business matters, or share confidential, personal employee information (such as social security numbers, personal banking or medical information) with anyone who does not work for us such as friends, family members, members of the media, or other business entities.

Upon commencement of employment, each PCE employee must sign the Attachment D. PCE Employee Confidentiality Agreement. The protection of confidential business information and trade secrets is vital to the interest and success of PCE. Such confidential information includes, but is not limited to, the following examples:

- Computer programs and codes
- Customer lists and information
- Customer preferences
- Financial information
- Power supply information
- Marketing strategies
- Pending projects and proposals
- Research and development strategies

Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment, even if they do not actually benefit from the use or disclosure.

As a public agency, PCE is subject to the California Public Records Act and the open meeting requirements of the Brown Act. Disclosures of information in compliance with these or any other open government requirement is not a violation of this policy. However, employees with access to PCE information are required to follow applicable policies, procedures, and supervisory direction when disclosing information to the public so that PCE may assure that the information released in complete, accurate and properly presented. For more information, please see Attachment E. Customer Confidentiality Policy.

Confidential information does not include information pertaining to the terms and conditions of an employee's employment, including wages. Nothing in this policy is designed to limit an employee's rights under Section 7 of the National Labor Relations Act.

3.105 Use of Personal Devices, including PCE Issued Devices

Upon employment with PCE you will be issued a PCE encrypted laptop. Due to the confidential nature of information at PCE, it is PCE's policy that you are not to utilize any other laptop or similar device (including but not limited to tablets, laptops, or computers) to conduct PCE business. Employees must physically secure their PCE issued devices against theft, loss or unauthorized use, including the use of password protection. This is especially critical if your job duties require you to use your PCE device outside the office. All PCE issued devices will be provided with a temporary password which you will be able to change upon your first log in. If any PCE device is lost or stolen, you must immediately contact your immediate supervisor who will notify the appropriate level of management so that your laptop is completely deactivated.

PCE's IT security policy provides that all PCE work product be stored on the cloud storage system, BOX. Work product, even temporary in process files, must all be file saved to BOX. Since BOX is a cloud storage system and your PCE issued laptops are encrypted, you would be able to access files while not in the office in a protected fashion.

Modern communication includes the frequent use of cell/smart phones. PCE does not provide PCE issued cell/smart phones. You will be required to use your personal cell/smart phone for PCE business. A taxable phone allowance will be provided to all employees to compensate them for the use of their personal device for PCE business.

Non-exempt employees may not use their personal devices for work purposes outside of their normal work schedule without authorization in advance from their immediate supervisor. This includes but is not limited to reviewing, sending, and responding to e-mails or text messages, and responding to or making calls. Time spent by non-exempt employees using their own devices to perform work outside of regular working hours must be included on their time sheet.

Employees are expected to exercise the same discretion in using their personal devices while working as is required for using PCE owned devices. This includes, but is not limited to, compliance with PCE policies pertaining to harassment, discrimination, retaliation, trade secrets, proprietary business and confidential information, electronic communications, and ethics. Employees must also comply with all applicable state, federal and local laws governing the use of such electronic devices. Failure to follow policies, procedures and/or applicable laws may result in disciplinary action up to and including termination of employment. Please see Attachment F. Acceptable Use of Electronic Communications Policy and Attachment I. Technology Security Policy for further information.

3.106 Smoking in the Workplace

PCE is committed to providing a safe and healthy environment for employees and visitors. Smoking, including the use of e-cigarettes, is not permitted. In addition, local ordinances and provisions of our office lease regarding smoking must be adhered to. Violations of this policy may result in disciplinary action, up to and including termination of employment.

3.107 Drug and Alcohol Use

It is PCE's desire to provide a drug-free, alcohol-free, healthful, and safe workplace. To comply with the federal Drug-Free Workplace Act of 1988, PCE requires that employees not report to work if their ability to perform their job duties is impaired due to alcohol or drug use. Further, PCE employees may not use alcohol or illegal drugs and/or prescription drugs without a prescription during work hours, breaks, or at any time while on paid status and/or on work premises. Exceptions to the use of alcohol on work premises for special events may be made at the sole discretion of the CEO of PCE.

No employee may directly or through others sell or provide illegal or illegally obtained drugs while in a paid status.

Employees who are convicted of a criminal drug violation occurring in the workplace must notify their supervisors as soon as possible.

PCE will attempt to reasonably accommodate an employee with chemical dependencies (alcohol or drugs) if the employee voluntarily wishes to seek treatment and/or rehabilitation before being found in violation of this policy. Employees desiring that assistance should request an unpaid treatment or rehabilitation leave of absence.

PCE is committed to providing assistance to its employees to overcome substance abuse problems. PCE will reasonably accommodate any employee who wishes to voluntarily enter and participate in an alcohol or drug rehabilitation program. This accommodation may include an adjusted work schedule or time off without pay, provided the accommodation does not impose an undue hardship on PCE. Employees may use any accrued sick or vacation benefits while on leave under this policy. However, additional benefits will not be earned during the unpaid portion of the leave of absence. A leave of absence under this section will be subject to the same provisions and rules as apply to medical leaves of absence. PCE will safeguard the privacy of an employee's participation in a rehabilitation program.

Employees should notify the CEO if they need to request an accommodation under this policy.

PCE support for treatment and rehabilitation does not obligate PCE to employ any person who violates the PCE drug and alcohol abuse policy or whose job performance is impaired because of substance abuse. PCE is also not obligated to continue to

employ any person who has participated in treatment or rehabilitation if that person's job performance remains impaired as a result of alcohol or drug dependency.

Your employment or continued employment with PCE is conditioned upon your full compliance with the foregoing policy. Any violation of this policy may result in disciplinary action, up to and including termination of employment. Further, any employee who violates this policy who is subject to termination of employment, may be permitted in lieu of termination of employment, at PCE's sole discretion, to participate in and successfully complete an appropriate treatment, counseling or rehabilitation program as recommended by a substance abuse professional as a condition of continued employment and in accordance with applicable federal, state, and local laws.

Various federal, state, and local laws protect the rights of individual with disabilities and others with regard to the confidentiality of medial information, medical treatment, and the use of prescription drugs and substances taken under medical supervision. Nothing contained in this policy is intended to violate such regulations or interfere with individual rights thereunder.

3.108 Drug Testing

PCE is committed to providing a safe, efficient, and productive work environment for all employees. In support of this commitment, PCE seeks to provide a workplace that is free from the harmful effects of drug and alcohol abuse. To further its interest in service to the community, avoiding accidents, promoting and maintaining a safe and productive workplace and protecting PCE property, equipment, and operation, PCE may conduct drug and alcohol testing, as provided in this policy. This policy is intended to apply to all employees, regardless of appointment type or time basis, including, without limitation, full-time, part-time, regular, temporary and management employees.

Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. It is also a violation of PCE policy. Please see the policy on Drug and Alcohol Use in Section 3.107 above. To help ensure a safe and healthful working environment, job applicants and employees may be subject to drug and alcohol testing and may be asked to provide body substance samples (such as urine) to determine the use of drugs or alcohol in violation of PCE policies under the following circumstances:

- **Reasonable suspicion testing**: Employees will be subject to testing where there is reasonable suspicion that the employee has violated PCE's drug and alcohol use policies. Reasonable suspicion is the good faith belief based on specific articulable perception and reasonable inferences drawn from such perceptions that an employee may have violated this policy and that testing may reveal facts and evidence related to that perceived violation. Perceptions or reasonable inferences supporting reasonable suspicion may include, but are not

limited to, an employee's manner, disposition, muscular movement, appearance, unusual behavior, speech or breath odor; information provided by an employee, law enforcement official or other person believed to be reliable; or other surrounding circumstances. For purposes of ordering testing, reasonable suspicion will only exist where the CEO and another member of PCE's executive leadership team has reviewed circumstances in a particular case and concurs in the finding of reasonable suspicion.

- **Follow up testing:** An employee who has been found to be in violation of PCE's drug and alcohol use policies may be required to submit to periodic, unannounced testing for one year, starting on a date established by the CEO.

For testing, the employee will be referred to an independent Substance Abuse and Mental Health Services Administration (SAMHSA) certified medical clinic or laboratory, which will administer the test. PCE will pay the cost of the test and reasonable transportation cost to the testing facility. The applicant or employee will have an opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that she or he has taken that may affect the outcome of the test. Positive results from initial screening will be confirmed by a second testing method and will not be reported as positive without confirmation. In the event of a reported positive test, the applicant or employee may have the same sample retested at a laboratory of the employee's choice at the employee's expense.

Testing or drug testing under this policy may include amphetamines and methamphetamines, cocaine, marijuana/cannabinoids (THC), opiates (narcotics), phencyclidine (PCP), barbiturates, benzodiazepines, methaqualone, and alcohol. Cut-off levels for determining a positive test will be those established in the SAMHSA Mandatory Guidelines for Federal Drug Testing Programs. The cut-off level for a positive alcohol test (both initial and confirmation) will be 0.02 percent (0.02 gm/210 liters of breath or 0.02 gm/deciliter of blood or 0.02 mg/ml of urine). Testing will normally be performed by urinalysis or, for alcohol testing, may also include breath testing. The substances for which drug and alcohol tests are performed and cut-off levels may be modified from time-to-time with prior written notice from the CEO or amendment of this policy.

If an employee who is subject to testing refuses to cooperate with the administration of the test, the refusal will be considered a positive test result. A refusal to cooperate includes, but is not limited to, refusing to appear for a test; unreasonably failing to submit a sample for testing; tampering with, substituting, adulterating, masking or water-loading a sample; or obstructing or not fully cooperating with testing procedures.

All records of the circumstances and results of substance testing under this policy will remain confidential applicant or personnel records. Laboratory reports and test results will be maintained in a file separate from an employee's personnel file. Information may only be released to the employee who was tested, or other individuals designated in writing by the employee; to a medical review officer; to the extent necessary to properly

supervise or assign the employee; as necessary to determine what action should be taken in response to the test results and for use in responding to appeals, litigation or administrative proceedings arising from or related to the test or related actions.

Questions concerning this policy, or its administration should be directed to the CEO.

3.109 Attendance and Punctuality

Attendance and punctuality are important factors for your success within PCE. We work as a team which requires that each person be in the right place at the right time. For scheduled days off, employees are required to notify their supervisor as far in advance as possible, and to submit a request through the Personal Time Off (PTO) request system. In addition, it is also required that employees update their company calendar so that their fellow employees are aware of their time off schedule. If you are going to be late for work, notify your supervisor as far in advance as is feasible under the circumstances.

If you are absent for three days without prior approval and/or without notifying PCE, it will be assumed that you have voluntarily terminated your employment with PCE, and you will be removed from the payroll effective as of the first day of that three-day absence.

3.110 Personal Appearance

Employees are expected to maintain high standards of personal cleanliness and present a neat and professional appearance.

Our customers' satisfaction represents the most important and challenging aspect of our business. Whether or not your job responsibilities place you in direct customer contact, you represent PCE with your appearance as well as your actions. The properly attired individual helps to create a favorable image for PCE, to the public and fellow employees. PCE maintains a business casual environment. All employees should use discretion in wearing attire that is appropriate for their job.

3.111 Non-Solicitation

PCE believes employees should have a work environment free from interruptions of a non-work-related nature, as work time is for work. For purposes of this policy, solicitation includes, but is not limited to, collection of any debt or obligation, raffles of any kind or chance taking, the sale of merchandise or business services, or the attempt

to sell any product or service Such interruptions can be both detrimental to the quality of work and efficiency and may not be respectful of others job responsibilities.

Employees may not engage in solicitation for any purpose during work time, which includes the working time of the employee who seeks to solicit and the employee who is being solicited. Although solicitation is not encouraged, it is permitted if it is limited to the employee's break and lunch time and kept out of active working areas. Nothing in this policy is intended to restrict an employee's statutory rights, including discussing terms and conditions of employment.

3.112 Acceptable Use of Electronic Communications/Workplace Monitoring

This policy provides guidelines for electronic communications created, sent, received, used, transmitted, or stored using PCE's communication systems or equipment and employee provided systems or equipment used either in the workplace, during working time or to accomplish work tasks. “Electronic communications” include, among other things, messages, images, text data or any other information used in e-mail, instant messages, text messages, voice mail, fax machines, computers, personal digital assistants (including tablets or similar devices), pagers, telephones, cellular and mobile phones including those with cameras, Intranet, Internet, back-up storage, information on a memory or flash key or card, jump or zip drive or any other type of internal or external removable storage drives. In the remainder of this policy, all these communication devices are collectively referred to as “systems.”

Acceptable Uses of Our Systems: Employees may use our systems to communicate internally with co-workers or externally with customers and other business acquaintances for business purposes.

PCE Control of Systems and Electronic Communications: All electronic communications contained in PCE systems are PCE records and/or property. Although an employee may have an individual password to access our systems, the systems and communications belong to PCE. The systems and electronic communications are accessible to PCE at all times, including periodic unannounced inspections. Our systems and electronic communications are subject to use, access, monitoring, review, recording and disclosure without further notice. Employee communications on our system are not confidential or private.

PCE's maintains the right to access, monitor, record, use, and disclose electronic communications sent on PCE systems without further notice to the employee.

Personal Use of Our Systems: Personal communications in our systems are treated the same as all other electronic communications and will be used, accessed, recorded, monitored, and disclosed by PCE at any time without further notice. Since all electronic

communications and systems can be accessed without advance notice, employees should not assume confidentiality.

Proprietary Business Information: Proprietary business information means confidential and proprietary materials related to PCE's trade secrets, business models, business services, sales agreements, pricing information, customer lists, inventions, vendor agreements, strategic business or marketing plans, expansion plans, contracts, non-public financial performance information and other information that derives economic value by being protected from public consumption or competitors, and may only be used on PCE systems. Proprietary business information **may not** be downloaded, saved, or sent to a personal laptop, personal storage device, or personal email account under any circumstances. Proprietary business information does not restrict employee rights to discuss their wages, hours or other terms of employment.

Prohibited Uses of Our Systems: Employees may not use PCE systems in a manner that is unlawful, wasteful of PCE resources, or unreasonably compromises employee productivity or the overall integrity or stability of PCE's systems. These tools are provided to assist employees with the execution of their job duties and should not be abused. Examples of prohibited uses include, among other things, sexually explicit messages, images, cartoons, or jokes; propositions or love letters; ethnic or racial slurs; or any other message or image that may be in violation of company policies.

In addition, employees may not use PCE systems:

- To download, save, send or access any discriminatory, obscene, or malicious or knowingly false material;
- To download, save, send or access any music, audio or video file unless business related;
- To download anything from the internet (including shareware or free software);
- To download, save, send or access any site or content that PCE might deem “adult entertainment;”
- To attempt or to gain unauthorized or unlawful access to computers, equipment, networks, or systems of PCE or any other person or entity;
- In connection with any infringement of intellectual property rights, including but not limited to copyrights;
- In connection with the violation or attempted violation of any law; and
- To improperly transmit proprietary business information or client material such as pricing information or trade secrets.

Electronic Forgery: An employee may not misrepresent, disguise, or conceal his or her identity or another’s identity in any way while using electronic communications; make changes to electronic communications without clearly indicating such changes; or use another person’s account, mailbox, password, etc. without prior written approval of the account owner and without identifying the actual author.

Intellectual Property Rights: Employees must always respect intellectual property rights, including copyrights and trademarks.

System Integrity, Security, and Encryption: PCE contracts with an IT service provider – All Covered – to provide various IT support, including security. PCE encrypts all computers to maintain system integrity and security. All systems passwords and encryption keys must be available and known to PCE's IT service provider. Employees may not install password or encryption programs. Employees may not use the passwords and encryption keys belonging to others.
Applicable Laws: Numerous state and federal laws apply to electronic communications. PCE complies with applicable laws. Employees also must comply with applicable laws and should recognize that an employee could be personally liable and/or subject to fine and imprisonment for violation of applicable laws.

Consequences of Policy Violations: Violations of this policy may result in disciplinary action up to and including immediate termination of an employee's employment as well as possible civil liabilities or criminal prosecution. Where appropriate, PCE may advise legal officials or appropriate third parties of policy violations and cooperate with official investigations. We will not, of course, retaliate against anyone who reports possible policy violations or assists with investigations.

If you have questions about the acceptable use of our systems or the content of electronic communications, ask the CEO for clarification.

3.113 Company Document Management

PCE uses the cloud-based platform BOX (www.box.com) as a document management system. All employees are required to save all PCE related documents on BOX without exception. This will allow PCE to access the documents in the event of lost laptop/Mac and maintain the security of PCE documents.

3.114 Social Media

"Social media" includes all means of communicating or posting information or content of any sort on the Internet, including an employee's own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or chat room, whether or not the platform is associated or affiliated with PCE.

In general, all official PCE social media postings will be managed by the Communication and Outreach department.

To protect PCE's interests, employees must adhere to the following guidelines:

- Other than for PCE business purposes, employees may not post on a personal blog or personal social networking site during their work hours or at any time using PCE equipment or property. PCE's electronic communication systems are for business use only.

- If an employee identifies himself or herself as an employee of PCE on any social networking site for purposes other than PCE-authorized business purposes, the communication must include a disclaimer that the views expressed do not necessarily reflect the view of the PCE management.

- All rules regarding confidential business information apply to blogs and social networking sites. Any information that cannot be disclosed through a conversation, a written note, or an e-mail also cannot be disclosed on a blog or social networking site. The transmission of confidential or proprietary information without the permission of PCE is prohibited.

- If an employee mentions PCE in a blog or elsewhere on social media, or it is reasonably clear that the employee is referring to PCE or a position taken by PCE, and also expresses a political opinion or an opinion regarding PCE's position, action, or products, the post must specifically disclose the employee's relationship with PCE and note that the opinion expressed is a personal opinion and not PCE's position.

- Any conduct which is impermissible under law if expressed in any other form or forum is impermissible if expressed through a social networking site. For example, posted material that is discriminatory, defamatory, libelous, or malicious is forbidden. PCE's policies, including but not limited to the Equal Employment Opportunity, Sexual Harassment, Harassment and Workplace Violence policies apply equally to employee comments on social networking sites even if done on nonworking time.

Nothing in this policy is designed to limit an employee's right under Section 7 of the National Labor Relations Act, including discussing wages or other terms of employment. If you have questions or need further guidance, please contact the Communications and Outreach Manager.

3.115 Contact with PCE

The location of PCE employees during business hours should be known to a supervisor. All PCE employees will keep an updated electronic calendar reflecting his or her whereabouts during work hours.

3.116 Customer and Public Relations

PCE's reputation is built on excellent service and quality work. To maintain this reputation requires the active participation of every employee.

The opinions and attitudes that customers (and vendors) have toward PCE may be influenced by the actions of one employee for a long period of time. It is sometimes easy to take a customer for granted, but when this occurs, we run the risk of losing not only that customer, but his or her associates, friends, or family who may also be customers or prospective customers. Each employee must be sensitive to the importance of providing courteous treatment in all working relationships.

SECTION 4: WORKING CONDITIONS

4.101 Expectation of Privacy

PCE reserves the right to search, without employee consent, all areas over which PCE maintains control or joint control with the employee. Therefore, employees should have no expectation of privacy at PCE or joint controlled workplace areas which include, but are not limited to, offices, cubicles, work locations, employer provided or designated parking areas, desk, computers (including electronic files), voicemail, e-mail, PCE issued cell phones, or rest or eating areas.

Desks, file cabinets, and other storage devices, including electronic storage, may be provided for the convenience of employees but remain the sole property of PCE. Accordingly, they, as well as any articles found within them, can be inspected by any supervisor or other authorized representative of PCE at any time, with or without prior notice.

4.102 Performance Reviews

Your performance is important to PCE. Once each year, on or about your anniversary date (unless the annual date has been adjusted per the terms of Section 7 relating to leaves longer than 60 days), your supervisor will review your job progress within PCE and help you set new job performance plans. If approved, the annual performance review may be accompanied by a base salary increase.

New employees will generally be reviewed at the end of their introductory period. (Refer to 6.101 for definition)

Our performance review program provides the basis for better understanding between you and your supervisor, with respect to your job performance, potential and development within PCE.

The CFO will monitor the timely completion of the annual performance reviews.

4.103 Coaching, Counseling, and Progressive Discipline

Notwithstanding 4.102, your employment at PCE is at-will and as such may be terminated without advance notice, with or without reason or cause, and without right of appeal. PCE in its sole discretion as an at-will employer maintains the right to provide coaching, counseling, and progressive discipline to employees. Such coaching, counseling, and/or progressive discipline will be provided if, in the opinion of management, it would be of mutual benefit to PCE and the employee.

While performance reviews are generally thought of as being a positive, skill-building process, coaching, counseling, and progressive discipline will be employed, when considered necessary so that employee issues can be corrected at early stage, assist

the employee to correct the problem, prevent reoccurrence, and prepare the employee for satisfactory performance in the future.

If disciplinary action is deemed warranted, it may call for any of five steps which include, but are not limited to: verbal warning, written warning, suspension with or without pay, demotion, or termination of employment. Although PCE may take a progressive discipline approach, the CEO has the right to determine what disciplinary action is appropriate in each situation. The CEO is not required to treat each incident as a step in a series of progressive discipline any may terminate an employee based on his/her discretion.

If a supervisory employee believes an employee needs to be coached, counseled, or disciplined, such conversations will take place with two management/supervisory employees present. Prior to any discussions, the matter should be discussed with the CEO to ensure that the actions being contemplated are appropriate.

4.104 Talk to Us

We encourage you to bring your questions, suggestions and complaints to our attention. We will carefully consider each of these in our continuing effort to improve operations.

If you believe you have a problem, present the situation to your supervisor so that the problem can be settled by examination and discussion of the facts. We hope that your supervisor will be able to satisfactorily resolve most matters.

If you still have questions after meeting with your supervisor or if you would like further clarification on the matter, request a meeting with the CEO who will review the issues and meet with you to discuss possible solutions.

Your suggestions and comments on any subject are important, and we encourage you to take every opportunity to discuss them with us. If at any time you do not feel comfortable speaking with your supervisor or the next level of management, you may discuss your concern with any other member of management with whom you feel comfortable.

4.105 Safety

Safety can only be achieved through teamwork at PCE. Each employee, supervisor and manager must practice safety awareness by thinking defensively, anticipating unsafe situations, and reporting unsafe conditions immediately.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must comply with all occupational safety and health standards and

regulations established by the Occupational Safety and Health Act and state and local regulations. Employees are expected to report all work-related injuries or illnesses immediately to the supervisor. In compliance with California law, and to promote the concept of a safe workplace, PCE maintains an Injury and Illness Prevention Program (IIPP). The PCE - Injury and Illness Prevention Program is available to all employees and/or employee representatives for review by request from the CFO.

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, or with another supervisor or manager. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of retaliation.

A violation of a safety precaution is an unsafe act. A violation may lead to disciplinary action, up to and including termination of employment.

4.106 Visitors

If you are expecting a visitor, please notify your supervisor. All visitors must first check in at the reception area. Visitors are not allowed in any locked and/or secured area of the building without being accompanied by an authorized employee. Under no circumstances will visitors be allowed in confidential and/or unauthorized areas.

4.107 Workplace Violence

Violence by an employee or anyone else against an employee, supervisor or member of management will not be tolerated. The purpose of this policy is to minimize the potential risk of personal injuries to employees at work and to reduce the possibility of damage to PCE property in the event someone, for whatever reason, may be unhappy with a PCE decision or action by an employee or member of management.

If you receive or overhear any threatening communications from an employee or outside third party, report it to the CEO at once. Do not engage in either physical or verbal confrontation with a potentially violent individual. If you encounter an individual who is threatening immediate harm to an employee or visitor to our premises, contact an emergency agency (such as 911) immediately.

All reports of work-related threats will be kept confidential to the extent possible, investigated and documented. Employees are expected to report and participate in an investigation of any suspected or actual cases of workplace violence and will not be subjected to disciplinary consequences for such reports or cooperation. Violations of this policy, including your failure to report or fully cooperate in PCE's investigation, may result in disciplinary action, up to and including termination of employment.

Possession, use, or sale of weapons, firearms or explosives on work premises, while operating PCE equipment or vehicles for work-related purposes or while engaged in PCE business off premises is forbidden except where expressly authorized by PCE and permitted by state and local laws. This policy applies to all employees, including but not limited to, those who have a valid permit to carry a firearm.

If you are aware of violations or threats of violations of this policy, you are required to report such violations or threats of violations to the CEO immediately.

Violations of this policy will result in disciplinary action, up to and including termination of employment.

4.108 Travel/Expense Accounts

PCE will reimburse employees for reasonable expenses incurred through pre-approved business travel or business entertainment. All cash advances must be accounted for, and expense receipts are required.

The following business expenses will be reimbursed, subject to pre-approval:

- Travel Expense, including cab or peer-to-peer ride sharing services
- Automobile/Mileage (rate per mile will be reimbursed at the prevailing IRS rate.
- Airfare or train travel in coach or economy class, or equivalent if personal car is used
- Car rental fees, only for compact or mid-sized cars
- Lodging
- Tips and incidental expenditures
- Cost of meals, provided that the cost is reasonable. Any and all alcohol expenses will be excluded and not reimbursed.

This list is not all-inclusive. See the CFO regarding additional reimbursable business expenses.

SECTION 5: BENEFITS

5.101 Employee Benefits

PCE offers a comprehensive set of employee benefit programs to supplement our employees' regular wages. Several of the programs (e.g., Social Security, workers' compensation, state disability, and unemployment insurance) cover all employees in the manner prescribed by prevailing law.

This Employee Handbook describes the benefit plans maintained by PCE as of the date of publication of the handbook. Refer to the actual plan documents and summary plan descriptions if you have specific questions regarding the most up to date benefit plan.

PCE reserves the right to modify and/or terminate its benefits at any time. We will keep you informed of any changes. Employee access to actual plan documents and Summary Plan Descriptions can be found at this link here.

5.101(a) Health Insurance (Medical, Dental, and Vision)

Eligible full-time employees may enroll in health insurance plans covering medical, dental and vision. Employees are also permitted to enroll their eligible dependents based on the definitions in the plans. Eligibility may be defined by state law and/or by the insurance contract. Participating employees or dependents are also covered under our medical insurance plan's prescription drug program

Following submittal and approval of the plan applications, employees will be covered on the first calendar day of the month following the start of employment. If employment starts on the first calendar day of the month, coverage will be effective on employment start date.

To assist with the cost of this insurance, PCE pays a substantial portion of the cost of insurance coverage. Depending on the insurance coverage, dependent coverage may require sharing of some of the cost of the employee contribution through payroll deductions. Refer to the current HR Benefits Summary located here for a summary description of dependent coverage.

Information regarding eligibility of continuation of coverage following employment termination can be found at Section 5.105.

Refer to the actual plan document and summary plan description if you have specific questions regarding eligibility for coverage or other aspects of each benefit plan. Those documents are controlling.

Enrollment forms and a booklet containing the details of the plan and eligibility requirements are contained in your on-boarding materials. Completed forms should be returned to the CFO.

5.101(b) Long Term Disability Insurance

PCE pays the full cost of long-term disability insurance in the event an employee is unable to work for longer than 90 days due to illness or injury. Coverage is at 60% of the base compensation at the time of disability up to a maximum of $5,000 per month. Coverage begins on the first day of the month following start of employment. In the case that employment starts on the first day of the month, coverage begins on that day.

Refer to the actual plan document and summary plan description if you have for specific questions regarding your eligibility for coverage or other aspects of this benefit plan. Those documents are controlling

5.101(c) Social Security and Unemployment Insurance

During your employment, you and PCE both contribute funds to the federal government to support the Social Security program. This program is intended to provide you with retirement benefit payments and medical coverage once you reach retirement age.

Unemployment Insurance - Upon separation from employment from PCE, you may be entitled to state and federal unemployment insurance benefits. In the event of employment termination, required documents regarding eligibility will be shared with you. Please direct questions to the CFO and/or the CEO.

5.101(d) Life Insurance

Eligible full-time employees may enroll in a plan to provide basic life insurance coverage of $50,000 effective as of the first day of the month following employment start date. If employment starts on the first day of the month, coverage will be effective on employment start date. Eligibility may be defined by state law and/or by the insurance contract. You must complete an insurance form and designate your beneficiary.

PCE pays the full cost of the monthly insurance premium for basic life insurance.

Refer to the actual plan document and summary plan description if you have specific questions regarding your eligibility for coverage or other aspects of this benefit plan. Those documents are controlling.

Employees are also eligible to apply for Supplemental Life Insurance in excess of the basic $50,000 level for themselves or their eligible spouse and/or dependents. The cost of Supplemental life Insurance is fully paid by employees through payroll deduction.

Employees are required to pay for the full cost of supplemental life insurance for their spouse and dependents.

Enrollment forms and a booklet containing the details of the plan and eligibility requirements are contained in your on-boarding materials. Completed forms should be returned to the CFO.

5.101(e) Section 125 Plan

PCE offers a pretax contribution option for employees to participate in a Section 125 plan that enables contributions toward health insurance premiums and out-of-pocket medical expenses and/or dependent care expenses on a “pre- tax”, rather than an “after tax” basis. Eligible full-time employees may enroll in the plan effective on the first day of the month following thirty days of employment, although pre-tax payroll deductions for health insurance premiums will start upon the enrollment date of those plans.

Premium contributions and contributions toward other qualified expenses are deducted from gross pay before income taxes and Social Security is calculated. If you wish to participate in this plan, enrollment forms are contained in your on-boarding materials. Completed forms should be returned to the CFO.

Changes cannot be made to pretax contributions until the next open enrollment period unless your family status changes, or you become eligible for a special enrollment period due to a loss of coverage. We will notify you in advance of any open enrollment period. Family status changes include marriage, divorce, death of a spouse or child, birth or adoption of a child or termination of employment of your spouse. A change in election due to a change in family status shall be effective the next pay period.

5.101(f) Retirement Plans

PCE provides eligible employees with a defined contribution program administered by the County of San Mateo. This plan is made up composed of two parts:

1. 457(b) Deferred Compensation Plan (Employee contributions). Employees can voluntarily contribute to a 457(b) deferred compensation plan according to IRS limits. Employees can choose to allocate portions of their contributions on a pre-tax basis to a traditional 457(a) and/or on a post-tax basis to a Roth version. PCE will match all employee contributions up to 4% of salary (although the PCE contributions will be contributed to the 401(a) plan described below).

2. 401(a) Retirement Plan (PCE contributions). PCE provides a contribution of 6% of salary to a 401(a) retirement plan for all employees. PCE also matches up to 4% of employee contributions to the 457(b) deferred compensation plan (described above) although the match is contributed to the 401(a) plan. All PCE

contributions vest in equal annual amounts over four (4) years based on the first day of employment.

The link to the Summary Plan Description link is shown in an earlier section. In the event of any conflict in the description of any plan, the official plan documents, which are available for your review, shall govern. If you have any questions regarding this plan, please contact the plan administrator.

5.101(g) State Disability Insurance

All employees are eligible for disability insurance benefits when an illness, injury, or pregnancy-related disability prevents them from working and they meet all the eligibility requirements. The benefits are calculated as a percentage of your salary up to a weekly maximum, as specified by law, for up to fifty-two (52) weeks.

Employees who apply for this benefit must provide written notice of disability, including a doctor's certificate stating the nature of the disability and the expected date of return to work. The employee is responsible for filing a claim and other forms promptly and accurately with the Employment Development Department. A claim form may be obtained from the Employment Development Department by telephone, letter, or in person. The cost of this insurance is fully paid by the employee.

5.101(h) California Paid Family Leave Insurance

The State of California may provide partial wage benefits to eligible employees for up to a maximum of six weeks for the following reasons:

- To bond with a new child after birth or placement for adoption or foster care;
- To care for a serious health condition of an employee's child, parent, spouse, registered domestic partner, grandparent, grandchild, sibling or parent-in-law.

The Paid Family Leave Act provides benefits based on past quarter earnings for up to six weeks in a 12-month period. The cost of the insurance is fully paid by PCE. The 12-month period begins on the first day an employee submits a claim.

To be eligible for benefits, employees may be required to provide medical and/or other information that supports a claim for time off to bond with a new child or to care for a child, parent, spouse or registered domestic partner with a serious health condition. In addition, there is a seven-calendar-day waiting period before benefits begin.

You are responsible for filing your claim for family leave insurance benefits and other forms promptly and accurately with the Employment Development Department. A claim

form may be obtained from the Employment Development Department by telephone, letter, the Internet or in person. All eligibility and benefit determinations are made by the Employment Development Department.

You may not be eligible for Paid Family Leave benefits if you are receiving State Disability Insurance, Unemployment Compensation Insurance or Workers' Compensation benefits.

The Paid Family Leave Act does not provide a right to leave, job protection or return to work rights. Further, this policy does not provide additional time off. However, family leave insurance may provide compensation during an approved leave pursuant to any company provided leave.

As noted, PCE will assist you with maneuvering through the various aspects of federal and state allowed leaves, in the event the need arises during your employment.

5.102 Workers' Compensation

Occupational injuries or illnesses are covered by our Workers' Compensation insurance policy. This insurance is provided at no cost to you. If you are injured on the job, no matter how slightly, report the incident to your immediate supervisor as soon as reasonably possible. Consistent with applicable state law, failure to report an injury within a reasonable time period could jeopardize your claim. We ask for your assistance in alerting management to any condition that could lead to or contribute to an employee accident.

PCE will integrate sick leave, vacation, and then compensatory time, with temporary disability payments for an employee who is eligible for workers' compensation. The employee will continue in pay status and receive pay until accumulated paid leave and authorized compensatory time hours have been depleted to the nearest hour. Any employee who is eligible for temporary disability payments under the workers' compensation law will, for the duration of such payments, receive only that portion of the employee's regular salary that, together with said payments, will equal the employee's regular salary. Workers' compensation leave will run concurrently with Family Care Leave.

5.103 Lactation Breaks

PCE will provide a reasonable amount of break time to accommodate an employee's need to express breast milk for the employee's child. The break time should, if possible, be taken concurrently with other break periods already provided. Non-exempt employees should clock out for any time taken that does not run concurrently with

normally scheduled rest periods, and such time generally will be unpaid, in accordance with state law.

No provision of this policy applies or is enforced if it conflicts with or is superseded by any requirement or prohibition contained in a federal, state, or local law or regulation. If you have knowledge of such a conflict or a potential conflict you should contact your immediate supervisor.

For further information, refer to the PCE - Lactation Policy.

5.104 No Pets in the Workplace

PCE is responsible for assuring the health and safety of all employees. In keeping with this objective, PCE does not permit employees to bring pets to work. Animals may pose a threat of infection and may cause allergic reactions in other employees. The only exception to this is if an employee or visitor requires a qualified service dog, as defined by the Americans with Disabilities Act (ADA), California state law, or other relevant statute.

5.105 COBRA

You and/or your covered dependents will have the opportunity to continue medical and/or dental and vision benefits for a period of up to 36 months under the provisions of the Consolidated Omnibus Budget Reconciliation Act (“COBRA”) when group medical and/or dental and vision coverage for you and/or your covered dependents would otherwise end due to your death or because:

- your employment terminates, for a reason other than gross misconduct; or
- your employment status changes due to a reduction in hours; or
- your child ceases to be a "dependent child" under the terms of the medical and/or dental and vision plan; or
- you become divorced or legally separated; or
- you become entitled to Medicare.

In the event of divorce, legal separation, or a child’s loss of dependent status, you or a family member must notify the plan administrator within sixty (60) days of the occurrence of the event. The plan administrator will notify the individuals eligible for continuation coverage of their right to elect COBRA continuation coverage. For more information regarding COBRA, you may contact the CFO.

SECTION 6: PAYROLL

6.101 Categories of Employment

In most cases, PCE employees will be regularly scheduled to work at least a 40-hour workweek. However, for purposes of this handbook, FULL TIME EMPLOYEES are defined as those who are scheduled to regularly work at least a 32-hour workweek. Any schedule that is less than the standard 40-hour workweek would require approval of PCE's CEO. Working time does not include lunch periods or any other periods in which employees are not in paid status.

PART TIME EMPLOYEES are scheduled to regularly work less than 32 hours each week.

In addition to the preceding categories, employees are also categorized as "exempt" or "non-exempt."

NON-EXEMPT EMPLOYEES are entitled to overtime pay as required by applicable law.

EXEMPT EMPLOYEES are not entitled to overtime pay and may also be exempt from minimum wage requirements pursuant to applicable federal and state laws. Managers and directors, who are, by definition, exempt, have defined job responsibilities that may require additional time over and above the standard work week, including attendance at evening meetings or on weekends. See section under Management Leave.

Upon hire, PCE will notify you of your employment classification.

6.101(a) Anniversary Date

The first day you report to work will be entered in PCE's records as your anniversary date. This date is used to calculate some of the benefits PCE offers. If you have any questions regarding your anniversary date, please see your supervisor.

6.102 Licensing Requirements

Driver's License/Driving Record – Employees holding positions where the operation of a motor vehicle is an essential duty of the position must present and maintain a valid driver's license and acceptable driving record. PCE will be responsible for providing such information to our insurer. Changes to your driving record must be reported to your supervisor immediately. Violations of this policy may result in immediate termination of your employment. Please provide a copy of your driver's license to the CFO annually.

6.103 Payday

You will be paid semimonthly on the fifth and the twentieth of the month for the periods that end on the last day of the previous month and the fifteenth of the month, respectively.

PCE provides for direct deposit of your paycheck. If you desire to have your paycheck deposited directly into an account of your choosing, please complete the necessary paperwork (contained in your on-boarding packet) and return it to the CFO. Depending on your date of hire and when you return the necessary paperwork, direct deposit may not take effect for your first paycheck.

When a payday falls on a holiday, PCE will attempt to provide pay on the working day immediately prior to the holiday, but you will be paid no later than (or your bank account will be credited) the first working day after the holiday. If the payday is a Saturday or Sunday, you will be paid (or your bank account will be credited) on the preceding Friday.

Please review your paycheck/paystub for errors at each pay period. If you find a mistake, please report it to the CFO immediately. Corrections, as necessary, will be processed through the next pay period's paycheck.

6.104 Pay Advances

PCE does not provide for pay advances on unearned wages to employees.

6.105 Timekeeping

As noted under 6.101, each employee at PCE will be designated either non-exempt or exempt according to certain aspects of federal and state wage and hour laws. As a public agency, some California wage and hour provisions may not apply to PCE.

Non-exempt employees must record hours worked in addition to time off on their electronic timecard (i.e., Paychex or other as specified by management). The timecard must be submitted to the supervisor on the last day of each reporting period as noted under 6.103. Accurately recording all your time is required in order to ensure that you are paid for all hours worked. You are expected to follow the established procedures in keeping an accurate record of your hours worked. PCE follows the overtime requirements in the by Fair Labor Standards Act ("FLSA") which are further described in 6.106. Additionally, non-exempt employees who are required to drive from home at the beginning of a workday to a location other than PCE offices may count as work any such time that is more than the regular commute to PCE. Overtime work must always

be approved before it is performed, except in the case of an emergency. Non-exempt employees must record all overtime worked on their electronic timecard.

Exempt employees should also accurately record time worked as well as leave time taken through the electronic timecard (i.e., Paychex or other as specified by management).

Altering, falsifying, tampering with time records, or recording time on another employee's time recorded is prohibited. This policy prohibits both over reporting and under reporting of hours worked for non-exempt employees. No supervisor may authorize any non-exempt employee to work "off the books" or "off the clock".

Non-exempt employees should not report to work prior to their scheduled starting time or stay after the scheduled stopping time without express, prior authorization from their supervisor. Federal law does not permit an employer to allow non-exempt employees to volunteer time to their employer in the same capacity as their regular work.

Exempt employees, while receiving a set salary which is intended to compensate the individual for any hours worked, are still required to accurately record time worked in accordance with applicable wage and hour laws. All employees subject to this policy are required to accurately record all time worked and leave taken.

For purposes of this section, a workweek shall be from Monday at 12:01 am through Sunday at 11:59 pm each week.

6.106 Overtime (Non-Exempt Only)

There will be times when non-exempt employees will need to work overtime so that we may meet the needs of our customers. Every attempt will be made to provide you ample notice in the event that extra work time may be required, and managers and employees should make reasonable efforts to adjust schedules to minimize overtime, However, this may not be always possible. If you are a non-exempt employee, you must have all overtime approved in advance by your supervisor.

Generally, unless an alternate workweek is in effect or state law dictates otherwise, non-exempt workers will be paid at a rate of time and one-half their regular rate of pay ("Standard Overtime") for either: (a) each hour worked in excess of forty (40) hours in a week; or (b) for the first eight (8) hours of work on a seventh day of work in a single workweek (as defined in section 6.105). Generally, unless an alternate workweek is in effect or state law dictates otherwise, non-exempt workers will be paid at a rate of double ("Double Time") their regular rate of pay for: (a) hours worked in excess of twelve (12) hours in a day; and (b) hours worked in excess of eight (8) hours on a seventh day of work in a single workweek. In accordance with applicable laws, rest and recovery periods may count as hours worked.

For non-exempt employees, Standard Overtime will be paid as described above. However, in some circumstances as described in Section 7.101, employees may elect to forego the payment of overtime in exchange for Comp Time. If you have any questions concerning overtime pay, please check with the CFO.

6.107 Meal, Rest, and Recovery Time (Non-Exempt Only)

Except for certain exempt employees, all employees who work five or more hours in a day are required to take an uninterrupted 30-minute unpaid duty-free meal period to commence no later than the end of the fifth hour of work and a second uninterrupted 30-minute meal period free from all duty to commence no later than the end of the tenth hour, should an employee work that many hours in any given day. Only in limited circumstances, discussed below, can meal periods be waived. For this reason, unless there is a written agreement for an on-duty meal period approved by PCE, employees must record the beginning and ending time of their meal period in the timekeeping system every day. It is also our policy to relieve such employees of all duties during their meal periods, with the employee being at liberty to use the meal period time as the employee wishes.

An employee cannot be required to work during a meal period, in accordance with applicable law. If PCE fails to provide an employee with a required meal period, the employee will be paid one additional hour of pay at the employee's regular rate of compensation.

PCE schedules all work assignments with the expectation that all employees will take their duty-free meal periods and we encourage you to do so. Employees may be asked to confirm in writing that they have been relieved of all duty and otherwise provided all their daily meal periods during the pertinent pay period, or in the alternative, identify any meal periods they missed. At no time may any employee perform off-the-clock work or otherwise alter, falsify, or manipulate any aspect of their timekeeping records to inaccurately reflect or hide meal periods or time spent working during meal periods.

No PCE manager or supervisor is authorized to instruct an employee how to spend his or her personal time during a meal period. You should immediately report a manager’s or supervisor’s instruction to skip or work during a meal period to the CFO or CEO.

Waiver of Meal Period: You may waive your meal periods only under the following circumstances:

- If you complete your workday in six hours, you may waive your meal period.
- If you work more than ten (10) hours in a day you may waive your second meal period, but only if you have taken your first meal period and you do not work more than twelve (12) hours that day.

Please speak to your immediate supervisor for clarification on whether you are entitled to waive your second meal period. Any time you elect to waive a meal period you must submit a written request and receive prior written authorization from your immediate supervisor.

You may not waive meal periods to shorten your workday or to accumulate meal periods for any other purpose.

On Duty Meal Period: In limited situations, certain designated employees may be required to work an on-duty meal period due to the nature of the employee's duties. Only if the nature of your job duties requires it, and you and PCE have agreed to an on-duty meal period in writing, will you be permitted to take an on-duty meal period. In this situation, your on-duty meal period will be paid and treated as hours worked.

Non-exempt employees will also receive one uninterrupted, duty free 10-minute paid break for every four hours worked (or major fraction thereof). Rest periods will occur as close to the middle of a four-hour work period as is practical. This time must be approved by your supervisor each day.

Rest periods are counted as hours worked, and thus, you are not required to record your rest periods on your timesheets or timecards. However, no supervisor is authorized or allowed to instruct or allow an employee to waive a rest or recovery period, and they cannot be used to shorten the workday or be accumulated for any other purpose. Employees may be required to confirm that they have been provided an opportunity to take all their rest or recovery periods during the pertinent pay period. Meal and rest periods may not be combined.

6.108 Paycheck Deductions and Set-Offs

PCE is required by law to make certain mandatory deductions from your paycheck each pay period. Mandatory deductions typically include federal and state income taxes, Social Security (FICA) and Medicare taxes, and State of California Disability taxes. In addition, depending on your benefits election, there may be additional deductions. All deductions and the amount of the deductions are listed on your pay stub. These deductions are totaled each calendar year for you on your Form W-2, Wage and Tax Statement.

PCE will not make deductions to an employee's pay which are prohibited by state or federal law or regulation, including those established by the United States Department of Labor. You will be reimbursed in full for any isolated, inadvertent, or improper deductions, as defined by law.

If questions or concerns about any pay deductions arise, discuss and resolve them with the CFO.

6.109 Work Location and Schedules

PCE's policies are intended to treat its employees as professionals. As employees of a public agency, PCE expects its employees to understand that the local ratepayers are responsible for employee salaries, and, therefore, employee actions and work should always be fair to those ratepayers. While there are not specific working hours in which every employee must be at work, every employee is scheduled and expected to work at least eight (8) hours per workday, not including mandatory time off for a lunch period.

The management of PCE feels that the company culture is best developed and maintained based on employees building positive and effective working relationships with one another; this relationship building includes face to face, in person interaction. However, PCE management also strives to provide an environment that encourages work-life balance by providing opportunities for remote work and flexible work schedules.

Remote Work
PCE recognizes that employees are working remotely or telecommuting with increased frequency. Please see Attachment J for detailed policies and guidelines related to remote working.

If employees are working remotely, the following guidelines must be adhered to:

- Employees should be available via instant chat for quick resolution of issues for the same hours that would apply if they were working in the office
- Employees should be available to participate in conference calls via phone and/or video, as appropriate, for the same hours that would apply if they were working in the office
- Employees must update their calendars, as far in advance as possible, as to their working status and availability (e.g., "working remotely" or "WFH" or "working offsite")

Employees are asked to exercise reasonable judgment regarding when to work from home and when to be in the office. Such judgment should be based on the value of meetings with external visitors or other employees based on the content and purpose of specific meetings. In addition, employees are asked to follow the lead of their supervisor as to when meetings should be attended in person.

The right to telecommute can be rescinded at any time if the employee's supervisor feels that an employee's performance is not satisfactory for any reason. In addition,

some positions may not be eligible for the same amount, or any telecommuting based on the nature of the work and/or the need to be in PCE's office.

Flexible Work Schedule
PCE recognizes that employees have different commutes and personal clocks. Employees are generally expected to arrive prior to 9:00 am and are expected to work at least eight (8) hours per day, not including mandatory time off for a lunch period (a "normal workday"). With approval of his/her supervisor, an employee is permitted to establish a flexible schedule that enables an employee to regularly arrive between 7:00 am and 10:00 am as long as the workday meets the overall criteria of a normal workday. In the event that an employee is approved for a flexible schedule, each such employee is responsible for reflecting his/her schedule on the company calendar so that all employees are informed about the employee's work schedule. Notwithstanding the above, all employees are required to exhibit flexibility in their schedules to meet with fellow employees outside their normal work schedules to help meet PCE's business needs as required.

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week. PCE reserves the right to assign and change individual work schedules, as needed

6.112 Garnishment/Child Support

When an employee's wages are garnished by a court order, PCE is legally bound to withhold the amount indicated in the garnishment order from the employee's paycheck. PCE will, however, honor applicable federal and state guidelines that protect a certain amount of an employee's income from being subject to garnishment.

SECTION 7: LEAVES OF ABSENCE

7.101 Vacation/Management Leave/Comp Time

All employees are eligible to accrue vacation. At PCE we believe that taking time away from work is essential to maintain both good physical and mental health. To this end, PCE encourages all employees to take full advantage of their earned vacation. Payment in lieu of time-off is not permitted by PCE.

The following provides PCE's vacation policy for both full-time and part-time employees.

All full-time employees are eligible for vacation. Vacation will accrue for full-time employees as follows:

Employment Seniority	Days Accrued/Year	Hours Accrued/Year	Hours Accrued/ Pay Period
Hire date to end of 3rd year of employment	10	80	3.34
Beginning of 4th year to end of 8th year	15	120	5.00
Beginning of 9th year and after	20	160	6.67

Part-time regular employees will accrue vacation according to their FTE percentage.

Vacation benefits do not accrue when an employee is on unpaid leave or during other periods of unpaid absence, except as defined by law.

Vacation accrual may not exceed 240 hours. Once this maximum is reached, all further accruals will cease until leave is taken. For ease of reference, the maximum accruals are:

- Hire date to completion of third year of employment: 15 days (120 hours)
- Beginning of fourth year to completion of eighth year: 22.5 days (180 hours)
- Beginning of ninth year and after: 30 days (240 hours)

Given the small number of staff at PCE, it is generally appreciated if employees can provide their time off plans with as much notice as possible. Employees should request time off by email to their supervisor and either copy the CFO on the request (to ensure that the CFO knows that the supervisor has been made aware of the request) or forward a copy of the supervisor's approval to the CFO. Once the CFO is informed, the request can be approved in PCE's time off tracking system., Length of employment may determine priority in scheduled vacation times.

At the end of employment, eligible employees will be paid for accrued but unused vacation, up to the maximum accrual amount. Any accrued vacation at the end of employment will be paid at the employee's then current base pay rate. It does not

include overtime or any special forms of compensation such as incentive, commission, bonuses, or shift differentials.

Management Leave - As noted in 6.101, directors and managers may at times be required to attend business related meetings and work obligations on weekends or weeknights beyond regularly scheduled PCE Citizens Advisory Committee and PCE Board Meetings. To provide compensation for the additional time necessary to attend such meetings, PCE provides Director and Manager-level employees (and higher, if applicable) 80 hours of management leave granted on the 1st day of each calendar year. However, for an employee that starts employment with PCE at any time after December 31, 2018, management leave will be granted as of the first day of employment per the following schedule applicable for the remainder of the then current calendar year:

- Hire date between January 1 through March 31: 80 hours
- Hire date between April 1 through June 30: 60 hours
- Hire date between July 1 through September 30: 40 hours
- Hire date between October 1 through December 31: 20 hours

The regularly scheduled PCE Citizens Advisory Committee and PCE Board Meetings are part of the regular expected work for managers and directors and are not covered by Management Leave. Management Leave is not carried over, i.e. any management leave not taken in the calendar year in which it was granted will not be carried over to subsequent years. Any unused Management Leave will not be paid out at the end of your employment.

Compensatory Time (Comp Time): Other Exempt Employees - Other exempt employees (i.e., non-managers or directors who are otherwise not eligible for Management Leave) are entitled to one (1) hour of Comp Time for each hour worked on special projects and off-site weekend events (excluding regularly scheduled PCE Citizens Advisory Committee and PCE Board Meetings) during times other than their regular scheduled workweek. The accrual of Comp Time is limited to sixteen (16) hours in any one pay period, and the maximum amount of Comp Time that an employee may have “accrued” at any time is forty (40) hours. Any questions or concerns about the appropriate use or tracking of accrued Comp Time should be discussed with the CFO. Any unused Comp Time will not be paid out at the end of your employment.

Compensatory Time (Comp Time): Non-Exempt Employees – Non-exempt employees may elect to accrue Comp Time in lieu of cash payment for Standard Overtime. At each pay period, eligible employees will either submit Standard Overtime hours through PCE’s payroll system for payment at the rate of one and one-half their regular rate of pay or submit a request that PCE accrue the same hours for future Comp Time use. For each hour of eligible Standard Overtime, employees will accrue one and one-half hours of accrued Comp Time. The accrual of such Comp Time is limited to a maximum of forty (40) hours. Once the accrual maximum is reached, each additional

hour of Standard Overtime will be paid out in cash regardless of the employee's election. Any questions or concerns about the appropriate use or tracking of accrued Comp Time should be discussed with the CFO. Any unused Comp Time accrued by non-exempt employees will be paid out at the end of employment.

7.102 Paid Sick Leave

In accordance with the Healthy Workplaces, Healthy Families Act of 2014, sick leave will accrue and be used according to the terms outlined in this policy for all employees.

All full-time employees are entitled to paid sick leave of up to ten (10) days per year (i.e., 80 hours), accruing at the rate of 3.33 hours per pay period. The maximum accrual is eighty hours of sick leave. Upon reaching the accrued level of eighty hours, further sick leave will not accrue until the sick leave is used and the accrual falls below the maximum threshold. Part-time employees will accrue sick leave based on their FTE percentage subject to a minimum of twenty-four (24) hours per year.

Out of respect for your health and the health of your fellow workers, do not come to work if you are sick. If you come to the office and are sick, you will be sent home.

Accrued paid sick leave may be used for:

1. Diagnosis, care, or treatment or preventive care of an existing health condition, for an employee;
2. Diagnosis, care or treatment or preventative care of an existing health condition for an employee's family member. For the purposes of sick leave under this policy, PCE defines "family member" as the employee's spouse or registered domestic partner and/or either of their parents, sibling, child, child's spouse, grandparents, or grandchildren. Special consideration will also be given to any other person whose association with the employee was similar to any of the above relationships.
3. In addition, with appropriate certification, an employee who is a victim of domestic violence, sexual assault, or stalking may use accrued paid sick leave under this policy for the following reasons:
    - To obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety or welfare of the victim or the victim's child;
    - To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
    - To obtain services from a domestic violence shelter, program or rape crisis center;
    - To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or

- To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

4. Up to five (5) days of sick leave may be used as bereavement leave to take time off due to the death of an immediate family member. This is in addition to the time off described in the Bereavement Leave section. On a case-by-case basis, additional time without pay may be granted for bereavement leave at the discretion of the CEO.

If the need to use paid sick leave is foreseeable, you must provide PCE with reasonable advance notification. If the need to use paid sick leave is not foreseeable, please provide notice to your immediate supervisor of your intent to use paid sick leave as soon as practicable, preferably no later than one hour after your scheduled starting time. Employees who must leave work due to illness or sick leave condition should likewise advise their supervisor. It is the responsibility of every employee to keep his or her supervisor advised as to the anticipated duration and expected date of return.

Accrued, but unused sick leave will not be paid out at the end of your employment. If an employee is separated and rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated, and the employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring.

This leave may run concurrently with any other leave where permitted by state and federal law.

Employees will not be discriminated or retaliated against for taking or requesting leave in accordance with this policy.

Sick leave for Temporary Employees – Sick leave for temporary employees is provided in accordance with the California Healthy Workplace, Healthy Families Act of 2014 (Paid Sick Leave Law – AB 1522). According to the Act and per PCE guidelines for temporary employees, temporary employees hired on or after July 31, 2015, are eligible to accrue twenty-four (24) hours of paid sick leave per year. Pro rata accruals will be provided for contracts that are less than one year in duration. Leave accruals may carry over from year to year. There is no cash out for sick leave upon termination. PCE defines a temporary employee as an employee that has been hired for a contracted specified period (typically for a specified project or assignment).

7.103 Bereavement Leave

Full-time employees are eligible immediately upon hire for three paid days for the death of an immediate family member. Members of the immediate family include spouse, registered domestic partner, parents, brothers, sisters, children, children of registered

domestic partner, grandchildren, grandparents, parents-in-law, and parents of registered domestic partner.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws. Requests for bereavement leave should be made to your immediate supervisor as soon as possible who will communicate this information to the CFO to ensure payroll is processed correctly. PCE reserves the right to request written verification of an employee's familial relationship to the deceased and his or her attendance at the funeral service as a condition of the bereavement pay.

7.104 Family Medical Leave

Family and Medical Leave (FMLA) and California Family Rights Act (CFRA)
Although PCE is subject to FMLA or CFRA, PCE has fewer than 50 employees and therefore, has no eligible employees under the law. However, PCE is committed to providing similar benefits to those provided by federal and state laws for employers of 50 or more employees, by providing family and medical care leave for qualified employees.

For information on Family Care Leave, please refer to the PCE - Family Care Leave Policy.

7.105 New Parent Leave

New Parent Leave is a California law that provides full-time employees time off for the purpose of bonding with the employee's new child. This leave applies to a newborn child, either by birth or adoption, or foster care placement of a child with the employee. The law provides protection of an employee's job during a baby bonding leave period. An employee is eligible for up to 12 weeks of unpaid baby bonding time within one year of the birth of the child, or for an adoption or foster care placement, as long as the employee has met the qualifications of more than 12 months of service and at least 1,250 hours of service with PCE during the 12-month period prior to commencing leave.

In addition to California law, PCE provides supplemental bonding leave. PCE offers 240 hours of leave to full-time employees for the purpose of bonding with the employee's newborn child or the new adoption or foster care placement of a child with the employee (Supplemental Bonding Leave). The first 120 hours of the leave will be fully paid by PCE at the employee's then existing base compensation rate. The remaining 120 hours of the leave will be unpaid. To be eligible, employees must have been employed with PCE full time for at least six months prior to the birth or new placement of the child Employees should request all paid leave under this policy by submitting a request to PCE's PTO tracking system. Both such paid and unpaid leave periods must be taken within a period that ends at the 12-month anniversary of the baby's birth. All leave time

under PCE's supplemental bonding leave will be part of any authorized leave under California's new parent leave provisions described above.

As referenced in an earlier section, California Paid Family Leave (PFL) is available to employees during the baby bonding period to provide pay during those days not covered by PCE's supplemental bonding leave pay if the employee files a claim with EDD. No more than six (6) weeks of PFL benefits may be paid within any 12-month period.

https://www.edd.ca.gov/disability/How_to_File_a_DI_Claim_in_SDI_Online.htm

During a New Parent Leave, employees will be required to pay the normal payroll deduction amount(s) for the employee-paid portion of dependent health coverage and supplemental life insurance under the group health plans that would have applied had the employee not been on leave. Since normal payroll will not be processed, and therefore employee deductions will not be possible, employees will be required to repay PCE for the applicable amount either during the leave or in full upon the employee's return.

For any leave that extends longer than 60 days, the annual performance review date will be adjusted to match the actual number of days of the leave. For example, following a leave of 90 days, a prior annual performance date of August 3 would be adjusted to November 1 of the same year - 90 days later.

7.106 Pregnancy Disability Leave

Pregnant employees are eligible for an unpaid leave of absence up to four (4) months (i.e., the working days you would normally work in one-third of a year or 17 1/3 weeks, unless your hours vary from month to month in which case PCE will use a monthly four-month average of the hours worked prior to commencing leave) for disabilities relating to pregnancy, childbirth, or related medical conditions per pregnancy.

A pregnant employee will be allowed to be absent for the period during which, in the opinion of her attending physician she is temporarily disabled because of pregnancy, childbirth or a related medical condition.

Pregnancy Leave is without pay. However, employees can use any accrued vacation time or other accrued paid time off as part of pregnancy disability leave before taking the remainder of leave on an unpaid basis. The substitution of any paid leave will not extend the duration of pregnancy disability leave. PCE will assist with designing your leave to your best possible financial advantage.

Whenever an employee is also receiving Family Care leave under PCE policy, Pregnancy Disability Leave and Family Care leave will run concurrently. When an employee is eligible for Family Care Leave under PCE's policy, terms and conditions of the Family Care Leave policy also apply to the taking of Pregnancy Disability Leave

Employees who are granted leaves for pregnancy will be returned to their same position to the extent required by state law. Upon the advice of your health care provider, you may also be entitled to reasonable accommodation, to the extent required by law, for conditions related to pregnancy, childbirth or related medical conditions. You should promptly notify PCE of the need for a reasonable accommodation (refer to 7.109). In addition, a transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties may be available pursuant to your request, if such a transfer is medically advisable.

When an employee's leave is foreseeable and at least 30 days' notice has been provided, and if a medical certification is requested, the employee must provide it before the leave begins. Otherwise please give PCE notice as soon as is practicable if the need is an emergency or unforeseeable.

Prior to the start of the leave, PCE will require a written medical certification from the employee's health care provider. The certification must include a statement that the employee is disabled due to pregnancy, the date on which the employee became disabled due to pregnancy, the probable duration of the period or periods of disability, and an explanatory statement that, due to disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

An employee may request a transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties. Such a request must be based on the certification of the health care provider that the transfer is medically advisable and will be granted if the transfer can be reasonably accommodated.

In addition, an employee may request a reasonable accommodation, with the advice of her health care provider when the accommodation is needed due to pregnancy, childbirth or related medical conditions

Sick and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

Leave may be taken intermittently or on a reduced work schedule if the employee's health care provider determines that it is medically advisable for the employee to take intermittent leave. Employees may also take intermittent leave for prenatal care appointments and for pregnancy-related illness. If an employee requests intermittent leave or a reduced schedule leave that is foreseeable based on planned medical treatment, the employee may be transferred to an alternative position for the duration of the leave (unless the employee's health care provider disapproves for medical reasons).

In the event your leave exceeds the anticipated date of return, it is your responsibility to provide further certification from your health care provider that you are unable to perform your job or job duties and the revised anticipated date of return. Depending on your eligibility, medical insurance may be continued during your leave in accordance with the applicable plan document, COBRA, or provisions of federal/state law relating to unpaid medical leave. Employees who choose not to return from leave may be required to refund premium payments made by PCE on their behalf, when permitted by state law.

For any leave that extends longer than 60 days, the annual performance review date will be adjusted to match the actual number of days of the leave. For example, following a leave of 90 days, a prior annual performance date of August 3 would be adjusted to November 1 of the same year - 90 days later.

7.106 Holidays

Full-time employees are eligible to receive holiday pay immediately upon date of hire if they were scheduled to work on the day on which the holiday is observed and worked on both the regularly scheduled working days immediately preceding and immediately following the holiday (unless an absence on either day is approved in advance by the employee's supervisor).

Standard Holidays - PCE normally observes the following standard holidays during the year:

- New Year's Day
- Martin Luther King Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Indigenous People's Day
- Veterans' Day
- Thanksgiving Day
- Day After Thanksgiving Day
- Christmas Day

If a holiday falls on Saturday, it will normally be observed on the preceding Friday. If a holiday falls on Sunday, it will normally be observed on the following Monday. Any unused floating holidays will not be paid out at the end of your employment.

Floating Holidays – Full-time employees are also eligible for up to four (4) floating holidays granted on the 1st day of each calendar year to be used at the employee's

discretion throughout the year. However, for an employee that starts employment with PCE, the number of floating holidays available for the remainder of the then current calendar will be per the following schedule:

- Hire date between January 1 through March 31: 4 days
- Hire date between April 1 through June 30: 3 days
- Hire date between July 1 through September 30: 2 days
- Hire date between October 1 through December 31: 1 day

7.106 Voting Leave

PCE believes that every employee should have the opportunity to vote in state or federal elections, general primary, or special primary. Any employee who does not have sufficient time outside of working hours to vote in a statewide election may request up to two paid hours off to vote. We reserve the right to select the hours you are excused to vote.

Notify your immediate supervisor of the need for voting leave as soon as possible. When you return from voting leave, you must present a voter's receipt to your supervisor. This will provide documentation for your timesheet entry.

7.107 Jury Duty

PCE encourages employees to fulfill their civic responsibilities by serving jury duty when required. Employees may request paid jury duty leave, up to five (5) days. Exempt employees will receive their full weekly salary for any workweek interrupted by jury service if they work at least a portion of the workweek. If an exempt employee does not work at all during the workweek due to jury service, he or she will not be paid for that workweek. Alternatively, in this latter case, the employee could charge the week to vacation.

Employees must show the jury duty summons to their immediate supervisor as soon as possible so that the supervisor may made the appropriate arrangements to accommodate their absence. Employees are generally expected to report for work whenever the court schedule permits. For those employees who are not residents of the County of San Mateo, this may not be feasible.

Either PCE or the employee may request an excuse or deferment from jury duty if, in PCE's judgement, the employee's absence during the originally summoned time frame would create serious operational difficulties. It is noted that most court systems have very stringent requirements for a complete dismissal from service. As a result, PCE is

committed to ensure that if called, you will be able to serve at a time that can be accommodated.

If you are obliged to serve on a long-term trial (i.e., greater than five (5) days), PCE will provide you will all the regular health, dental, vision, etc. benefits for the full term of the jury duty absence. Benefit accruals such as vacation, sick leave, or holiday benefits will be suspended during the unpaid jury duty leave and will resume upon return to active employment.

7.108 Military Leave and Civil Air Patrol

Employees who are required to fulfill military obligations in any branch of the Armed Forces of the United States or in state military service will be given the necessary time off and reinstated in accordance with federal and state law.

The time off will be unpaid, except where state law dictates otherwise. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

Accrued vacation (if any) may be used for this leave if the employee chooses, but PCE will not require the employee to use vacation. Military orders should be presented to your immediate supervisor upon receipt so that arrangements for leave can be made as early as possible before departure. Employees are required to give notice of their service obligations to PCE unless military necessity makes this impossible. You must notify the CFO and your supervisor of your intent to return to employment based on requirements of the law. Within the limits of such orders, the supervisor may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave. Your benefits may continue to accrue during the period of leave in accordance with state and federal law.

This policy does not apply to employees who serve as first responders or disaster service workers for a local, state, or federal agency to the same or a simultaneous emergency operational mission.

Employees may substitute accrued vacation for unpaid leave but are not required to exhaust accrued leave prior to taking leave under this policy.

Additional information regarding any of the aforementioned military leaves may be obtained from the CFO.

7.109 Personal Leave

Under special circumstances, full-time employees who have completed one year of employment may be granted an unpaid personal leave of absence for up to sixty (60) days. The granting of this type of leave is normally for compelling reasons and is dependent upon the written approval of the CEO. Employees requesting a personal leave of absence must submit the request in writing stating the reason(s) for the requested leave at least twenty-one (21) days in advance of the requested leave. In emergency situations written notice must be provided as soon as possible. PCE has sole discretion in determining whether the leave will be granted. If granted, PCE and the employee will agree on a specific return to work date, although the employee is free to shorten the time at his/her discretion.

While on leave, retirement contributions and matching will be suspended consistent with the unpaid period.

While on leave, an employee will not accrue vacation or sick hours, and will not be eligible for holiday pay.

During the leave, some benefits may be continued through COBRA. Under COBRA, the employee will be required to pay for the full cost of benefits (e.g., medical, dental and vision insurance) if coverage is continued during the leave period.

PCE will make reasonable efforts to return the employee to the former position, or, if not possible for business reasons, to a similar position when the employee returns from a leave of absence. PCE's need to fill a position may override its ability to hold a position open until an employee returns from leave. Notwithstanding the foregoing, in the event of a company-wide reduction-in-force, PCE shall not be required to return the employee to any position after the leave of absence is over.

In the event that the former position is not available upon return from a Personal Leave of Absence, PCE retains the discretion to determine the similarity of any available positions for any reassignment and the employee's qualifications. Failure to return from a personal leave of absence upon the expiration of the leave will be considered a voluntary resignation.

7.110 Bone Marrow and Organ Donation Leave

Employees are eligible to receive up to thirty (30) business days of paid leave to serve as an organ donor and up to five business days of paid leave to serve as a bone marrow donor in a one-year period. The one-year period is measured from the date the employee's leave begins and shall consist of twelve (12) consecutive months. Employees must be employed by PCE for at least 90 days immediately preceding the commencement of leave. Such leave must be requested in writing.

When available, the employee must utilize up to five business days of accrued but unused sick or vacation leave for initial bone marrow donation leave and up to two weeks of accrued but unused sick or vacation leave for initial organ donation leave.

Please provide the CFO with written physician verification of the purpose and length of each leave. For more information regarding this leave, please see the CFO.

7.111 Domestic Violence Leave

PCE will not discriminate or retaliate against employees based on their status as a victim of domestic violence, sexual assault, or stalking or for taking time off from work to obtain or attempt to obtain any relief, including but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of a victim or his or her child. To the extent required by law, PCE will provide reasonable accommodation to victims of domestic violence, sexual assault, or stalking who request the accommodation for the safety of the victim while at work.

7.112 Victims of Felony Crimes Leave

PCE will grant reasonable and necessary leave from work without pay, to employees who are victims, or whose spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, stepfather, registered domestic partner, or child of a registered domestic partner is a victim of a violent or serious felony or felonious theft or embezzlement, for the purposes of attending legal proceedings related to the crime.

Affected employees may elect to use accrued paid vacation, personal leave and/or sick leave in lieu of unpaid leave. When feasible, affected employees must provide PCE with notice of the employee's need for leave, including a copy of the notice of the scheduled proceeding. If notice is not feasible, affected employees must provide documentation evidencing the legal proceeding requiring the employee's absence within a reasonable time after leave is taken. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

7.113 Time Off for School-Related Activities

Parents, stepparents, guardians, or grandparents with school children from kindergarten through grade 12, or who attend licensed child daycare facilities, are provided unpaid time off (up to a maximum of four (4) hours in one (1) calendar month and 20 hours in one (1) calendar year) or vacation or personal leave to participate in school or day care activities. PCE may require proof of an employee’s participation in these activities. The employee must provide reasonable advance notice to their supervisor before taking any time off under this section.

If you are the parent or guardian of a child who is suspended and are required to appear at the child's school, you may take time off without pay if you provide reasonable notice to your supervisor of the need for time off.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

Receipt of Employee Handbook and Employment-At-Will Statement

This is to acknowledge that I have received a copy of the Peninsula Clean Energy Employee Handbook and I understand that it contains information about the employment policies and practices of PCE. I agree to read and comply with this Employee Handbook. I understand that the policies outlined in this Employee Handbook are management guidelines only, which in a developing business will require changes from time to time. I understand that PCE retains the right to make decisions involving employment as needed to conduct its work in a manner that is beneficial to the employees and PCE. I understand that this Employee Handbook supersedes and replaces any and all prior Employee Handbooks and any inconsistent verbal or written policy statements.

I understand that except for the policy of at-will employment, PCE reserves the right to revise, delete, and add to the provisions of this Employee Handbook at any time without further notice. All such revisions, deletions or additions to the Employee Handbook will be in writing and will be signed by the CEO of PCE. I understand that no oral statements or representations can change the provisions of this Employee Handbook.

I understand that this Employee Handbook is not intended to create contractual obligations with respect to any matters it covers and that the Employee Handbook does not create a contract guaranteeing that I will be employed for any specific time period.

PCE IS AN AT-WILL EMPLOYER. THIS MEANS THAT REGARDLESS OF ANY PROVISION IN THIS EMPLOYEE HANDBOOK, EITHER PCE OR I MAY TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME, FOR ANY REASON, WITH OR WITHOUT CAUSE OR NOTICE. NOTHING IN THIS EMPLOYEE HANDBOOK OR IN ANY DOCUMENT OR STATEMENT, WRITTEN OR ORAL, SHALL LIMIT THE RIGHT TO TERMINATE EMPLOYMENT AT-WILL. NO OFFICER, EMPLOYEE OR REPRESENTATIVE OF PCE IS AUTHORIZED TO ENTER INTO AN AGREEMENT, EXPRESS OR IMPLIED, WITH ME OR ANY OTHER EMPLOYEE FOR EMPLOYMENT FOR A SPECIFIED PERIOD OF TIME UNLESS SUCH AGREEMENT IS IN A WRITTEN CONTRACT SIGNED BY THE CEO OF PCE.

I understand that this Employee Handbook refers to current benefit plans maintained by PCE and that I must refer to the actual plan documents and summary plan descriptions as these documents are controlling.

I have read and understand the Vacation Policy in this Employee Handbook.

Initials _____ Date _____

I also understand that if a written contract is inconsistent with the Employee Handbook, the written contract is controlling.

If I have questions regarding the content or interpretation of this Employee Handbook, I will ask my supervisor or a member of management.

NAME _____

DATE _____

EMPLOYEE
SIGNATURE _____

EMPLOYEE HANDBOOK

Issue Date (Version 4): July 1, 2022

Peninsula Clean Energy
2075 Woodside Road,
Redwood City, CA 94061

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SECTION 1: INTRODUCTION TO PENINSULA CLEAN ENERGY

1.101 Welcome to Peninsula Clean Energy!

Dear Staff,

On behalf of everyone at Peninsula Clean Energy (PCE), welcome to the team! You are joining PCE at a very exciting time, for PCE, the industry, and our state. Community Choice Aggregators are challenging communities, states, and countries to make clean, renewable, greenhouse gas-free energy the standard. We are proud to be part of this wave of progress.

Starting a new job is exciting, but at times can be overwhelming. This Employee Handbook has been developed to help you become acquainted with PCE and answer many of your initial questions.

As an employee of Peninsula Clean Energy, you are very important. Your contribution cannot be overstated. We are a mission driven organization, and your role is an important part of achieving our mission – to reduce greenhouse gas emissions in California. We do that by providing cleaner and greener electricity at lower rates than PG&E. We also offer energy related programs that use PCE's clean electricity to reduce greenhouse gas emissions by moving to electric transportation methods. And finally, we will offer electrification programs to reduce GHG emissions in buildings by converting from natural gas use to PCE's clean electricity. We hope the success we have had in our parts of California provides a model for other parts of the state, country, and world to also move toward a clean electric economy!

You are an important part of this process, and your work directly influences PCE's reputation.

We are glad you have joined us, and we hope you will find your work to be both challenging and rewarding.

Sincerely,

Jan Pepper
CEO

Employee Handbook Version 4

1.101 About this Handbook

This Employee Handbook contains information about the employment policies and practices of PCE. We expect each employee to read, understand, and comply with all provisions of this Employee Handbook. It describes many of your responsibilities as an employee and outlines the programs developed by PCE to benefit you as an employee. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.

PCE is a Joint Powers Authority (JPA), an independent California public agency that was created separate from any other public agency. The employment laws that apply in the public sector are sometimes different from those in the private sector. If you have previously worked for a for-profit or not-for-profit organization, you may notice some differences.

PCE complies with federal and state law which is in part reflected in this handbook. PCE also complies with any applicable local laws, even though there may not be an express written policy contained in the handbook.

Violations of the policies and procedures outlined in the handbook, as well as violations of any applicable state and/or federal law, may be grounds for discipline up to and including immediate termination.

1.102 New Employee Onboarding

Upon joining PCE, you should have received an e-copy of our Employee Handbook. After reading this Employee Handbook, please sign the receipt page and return it to the Chief Financial Officer (CFO). You will be asked to complete personnel, payroll and if applicable, benefit forms which will need to be provided to the CFO.

PCE is a small Agency that thrives on open communication. The operations of your department are the responsibility of your supervisor. (S)he is a good source of information about PCE and your job. However, feel free to speak to the Chief Executive Officer (CEO) if you have questions about PCE or your position.

SECTION 2: EMPLOYMENT

2.101 Nature of Employment

Except for the policy of at-will employment, PCE reserves the right to revise, delete, and add to the provisions of this Employee Handbook at any time without notice. All such revisions, deletions or additions to the Employee Handbook must be in writing and must be signed by the CEO of PCE. No oral statements or representations can change the provisions of this Employee Handbook.

The provisions of this Employee Handbook are not intended to create contractual obligations with respect to any matters it covers nor is this Employee Handbook intended to create a contract guaranteeing that you will be employed for any specific period of time. Any agreement of employment for a specified time period shall be put into writing and signed by the CEO.

Nothing in this Employee Handbook is intended to unlawfully restrict an employee's right to engage in any of the rights guaranteed them by Section 7 of the National Labor Relations Act, including but not limited to, the right to engage in concerted protected activity for the purposes of their mutual aid and/or protection. Nothing in this Employee Handbook will be interpreted, applied or enforced to interfere with, restrain or coerce employees in the exercise of Section 7 rights.

PCE is an at-will employer. This means that regardless of any provision in this Employee Handbook, either PCE or you may terminate the employment relationship at any time, for any reason, with or without cause or notice. Nothing in this employee handbook or in any document or statement, written or oral, shall limit the right to terminate employment at-will. No officer, employee, or representative of PCE is authorized to enter into an agreement, express or implied, with any employee for employment for a specified period of time unless such an agreement is in a written contract signed by the CEO of PCE.

This Employee Handbook refers to current benefit plans maintained by PCE as of the date of release of this version of the Employee Handbook. Refer to the actual plan documents and summary plan descriptions if you have specific questions regarding the benefit plan. Those documents are controlling.

Likewise, if a written employment contract is inconsistent with the Employee Handbook, the written contract is controlling.

2.102 Job Postings

PCE strives to maintain a current job description for each position in PCE. The job description outlines the essential duties and responsibilities of the position. When the duties and/or responsibilities of a position change, the job description should be revised

to reflect those changes. If you have any questions or wish to obtain a copy of your position's job description, please see your supervisor.

PCE provides employees an opportunity to indicate their interest in open positions and advance within PCE according to their skills and experience. In general, notices of all regular, full-time job openings are posted, although PCE reserve its sole discretionary right not to post a particular opening.

Posted job openings will be added to PCE's website and normally remain open for at least two to three weeks but will stay open until filled. Each job posting notice will include the dates of the posting period (if applicable), job title, job summary, essential duties, and qualifications.

To be eligible to apply for a posted job, employees must have performed competently in their current position. PCE reserves the right not to accept applications for open positions from an employee who is currently on any type of disciplinary action.

Job posting is a way to inform employees of openings and to identify qualified and interested applicants whose interest might not otherwise be known to PCE. Other recruiting sources may also be used to fill open positions in the best interest of PCE.

2.103 Equal Opportunity Employer

PCE is committed to equal employment opportunity. We will not permit discrimination or harassment against employees or applicants for employment on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality, or any other protected class under federal, state, or local law), physical or mental disability (the term disabled or disability shall be construed to apply to those individuals covered by Title 2 California Administrative Code, Sec. 7293.6(c) et seq. and 42 U.S. Code Sec. 12102 and the regulations promulgated pursuant to that section), military or veteran status, or any other basis protected by law,

PCE will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination.

It is the obligation of every employee to comply with this policy in substance, practice, and in spirit.

You may discuss equal employment opportunity related questions with your supervisor or any other designated member of management.

2.104 Nepotism Prohibited

It is the policy of PCE to recruit, hire, and assign all employees based on merit and performance. Nepotism, the employment of relatives within an organization, Is expressly prohibited as it may cause serious conflicts and problems with favoritism and employee morale.

For purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with an employee is like that of persons who are related by blood or marriage, such as those who are living together.

This policy applies to all employees regardless of gender or sexual orientation.

2.105 Immigration Reform and Control Act

In compliance with the federal Immigration Reform and Control Act of 1986 (IRCA), as amended, and any state law requirements, if applicable, PCE is committed to employing only individuals who are authorized to work in the United States.

Each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired may also be required to re-complete the form.

If an employee is authorized to work in this country for a limited period of time, the individual will be required to submit proof of renewed employment eligibility prior to expiration of that period to remain employed by PCE.

2.106 Supplemental Employment

Employees may hold supplemental jobs if they are able to continue to meet the performance standards of their job with PCE and those jobs do not create a conflict of interest. All employees will be judged by the same performance standards and will be subject to PCE's scheduling demands, regardless of any existing supplemental work requirements.

If PCE determines that an employee's supplemental work interferes with performance or the ability to meet the requirements of PCE as they are modified from time to time, the employee may be asked to terminate the supplemental employment if he or she wishes to remain employed by PCE.

An employee who wishes to engage in supplemental employment must complete the Attachment A. Request to Engage in Supplemental Employment Form. The form must be signed by the employee's supervisor and the CEO.

Supplemental employment that constitutes a conflict of interest is strictly prohibited. If you have a concern regarding a potential or actual conflict, please discuss it with the CEO.

2.107 Americans with Disabilities Act

PCE is committed to complying fully with the Americans with Disabilities Act ("ADA") and the California Fair Employment and Housing Act ("FEHA") and ensuring equal employment opportunities to qualified individuals with disabilities. This may include providing reasonable accommodation where appropriate for an otherwise qualified individual to perform the essential functions of the job. All employment practices and activities are conducted on a non-discriminatory basis. Hiring procedures are designed to provide persons with disabilities meaningful employment opportunities. Post-offer pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

It is your responsibility to notify your supervisor of the need for accommodation. Upon doing so, your supervisor may ask you for your input or the type of accommodation you believe may be necessary or the functional limitations caused by your disability. Also, when appropriate, we may need your permission to obtain additional information from your physician or other medical or rehabilitation professionals. PCE will not seek genetic information in connection with requests for accommodation. All medical information received by PCE in connection with a request for accommodation will be treated as confidential.

Reasonable accommodations for qualified individuals with known disabilities will be made unless doing so would be an undue hardship. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

2.108 Access to Personnel Files

PCE maintains a personnel file on each employee. Such files include, but not limited to, employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.

Personnel files are the property of PCE and access to the information they contain is restricted. Generally, only management-level personnel of PCE and your supervisor who have a legitimate reason to review information in a file are permitted to do so.

Upon request, current and former employees may inspect their own personnel files at a mutually agreeable time, on PCE premises in the presence of an authorized PCE management team member. A representative of the employee, with written consent from the employee, may also review an employee's personnel file. You will be permitted to see any records regarding your qualification for employment, promotion, wage increases, earnings and deductions, or discipline. You will also be permitted to respond to anything in writing that is in the personnel file and may request that the response be included in the file. The personnel files are the property of PCE, employees may not remove or add items to their file without approval and the file must remain in the custody of PCE at all times.

Additionally, PCE will provide copies of payroll records within fifteen (15) days after a written request has been received. Exceptions include records regarding criminal investigation and any letters of reference maintained by PCE. You will be allowed to have a copy of any document that relates to your performance or any grievance that concerns you. PCE complies with state law record retention requirements for current and former employees.

For more information, contact the CFO.

2.109 Employment Reference and Background Checks

To ensure that individuals who join PCE are well qualified and have a strong potential to be productive and successful, it is the policy of PCE to check the employment references of all applicants. PCE will also conduct background checks on all potential new employees to verify prior education and employment claims and research other criminal and governmental databases for prior criminal and/or other adverse activity.

Regarding current or former PCE employees, PCE will respond in writing or verbally only to those reference check inquiries that are submitted in writing. Responses to such inquiries will confirm only dates of employment and position(s) held. NO other employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry. Currently, only the CEO is authorized to respond to reference check inquiries. The CEO has the authority to delegate this responsibility as appropriate.

2.110 Changes in Personal Data

To aid you and/or your family in matters of personal emergency, we strive to maintain up to date information. It is the responsibility of each employee to promptly notify PCE of any changes in personal data. Personal mailing addresses, telephone numbers,

number and names of dependents who are enrolled in benefit plan(s) or are beneficiaries of benefit plan(s), individuals to be contacted in the event of an emergency, educational accomplishments or credentials, and other such status reports should be accurate and current. If any personal data has changed, please notify your supervisor and the CFO in writing.

Changes that would impact your paycheck or annual reporting documents should be given to the CFO promptly.

2.111 Separation from Employment

The last day worked is the last day of employment for employees who resign or are terminated from PCE employment. All employees will be paid for all accrued and unused vacation and other applicable benefit accruals.

An employee who voluntarily resigns from PCE service will receive his/her final paycheck on the next regularly scheduled payday after the last day of employment..

An employee whose job has been terminated involuntarily will receive the final paycheck on the last day of employment or as soon thereafter as is reasonably practicable.

Should you decide to leave your employment with us, we ask that you provide your immediate supervisor with at least two weeks' advance written notice. Your thoughtfulness is appreciated and will be noted favorably should you ever wish to reapply for employment with PCE.

All voluntary terminating employees should complete a brief exit interview prior to leaving. All terminating employees, either voluntary or involuntary, will be provided information about employee benefits, conversion privileges, repayment of outstanding debts to PCE, and return of PCE-owned property. All employees are required to return all equipment including, but not limited to, keys, ID cards, and other PCE property prior to leaving PCE on the last day of work.

Continuation of Group Health Benefits- C.O.B.R.A.
In accordance with Federal law, employees and their families, at their expense, may have a temporary extension of health coverage at group rates in certain instances where coverage under the plan would otherwise terminate. Contact the CFO for more information regarding this benefit,

2.112 Social Security Number Privacy

Officers and employees are permitted to access and use certain personal information, such as Social Security Numbers, only as necessary and appropriate for such persons to carry out their assigned tasks for PCE and in accordance with PCE's policy.

The unauthorized access, viewing, use, disclosure, or the intentionally public display of such information and the unauthorized removal of documents from PCE's premises that contain social security number information is prohibited.

If you come into contact with Social Security Numbers or other sensitive personal information without authorization from PCE or under circumstances outside of your job duties/assigned tasks, you may not use or disclose the information further, but must contact your supervisor and turn over to him/her all copies of the information in whatever form.

When necessary, documents containing social security information will be properly destroyed through shredding or other means prior to disposal to ensure confidential social security information is not disclosed.

SECTION 3: EMPLOYEE CONDUCT

3.101 Conflict of Interest/Code of Ethics

A company's reputation for integrity is its most valuable asset and is directly related to the conduct of its officers and other employees. Therefore, employees must never use their positions with PCE, or any of its customers, for private financial gain, to advance personal financial interests, to obtain favors or benefits for themselves, members of their families or any other individuals, corporations or business entities, or engage in activities, investments or associations that compete with PCE, interferes with an employee's business judgment concerning PCE's best interests, or exploits an employee's position with PCE for personal gain.

PCE strives to adhere to the highest legal and ethical standards applicable in our business. All employees of PCE have an obligation to conduct business within the guidelines that prevent actual or potential conflicts of interest and to comply with Attachment B. PCE Conflict of Interest Code.

Employees of PCE will conduct their personal affairs such that their duties and responsibilities to PCE are not jeopardized and/or legal questions do not arise with respect to their association or work with PCE.

POLITICAL ACTIVITY – PCE employees are public employees because PCE is a JPA under California Government Code Section 6500 et seq. The governing body, the Board of Directors, is comprised of publicly elected representatives of its member jurisdictions. While California law prohibits public employers from barring its officers and employees from participation in political activities, the law permits PCE to develop guidelines prohibiting officers and employees from engaging in political activity during work hours, on agency premises, or using agency property to do so, including email. For more information, please see Attachment C. Guidelines on Employee Political Activity.

This policy does not prevent employees from discussing their wages or other terms of employment.

3.101 Standards of Conduct

Each employee has an obligation to observe and follow PCE's policies and to maintain proper standards of conduct at all times. Failure to adhere to PCE's policies will result in corrective disciplinary measures.

Disciplinary action may include a verbal warning, written warning, suspension with or without pay, and/or termination of employment. The appropriate disciplinary action imposed will be determined by PCE. PCE does not guarantee that one form of action will necessarily precede another.

Among other things, the following may result in disciplinary action, up to and including termination of employment:

- Violation of PCE's policies or safety rules;
- Failing to work in a cooperative manner with management, co-workers, customers and others who do business with PCE;
- Unauthorized or illegal possession, use, or sale of alcohol or controlled substances on work premises or during working hours, while engaged in company activities; [Section 3.107]
- Unauthorized possession, use, or sale of weapons, firearms, or explosives on work premises;
- Theft or dishonesty;
- Inappropriate or violent physical contact;
- Harassment; [Section 3.103]
- Discrimination or retaliation in violation of PCE's EEO and No Harassment policies; [Section 3.103]
- Performing outside work or use of company property, equipment, or facilities in connection with outside work while on company time;
- Engaging in unethical or illegal conduct;
- Unauthorized disclosure of business “secrets” or confidential proprietary information; [Section 3.104]
- Poor attendance or poor performance.

These examples are not exhaustive. We emphasize that termination of employment decisions will be based on an assessment of all relevant factors.

Nothing in this policy is designed to limit an employee's rights under Section 7 of the National Labor Relations Act.

Nothing in this policy is designed to modify PCE’s employment-at-will policy.

3.103 No Harassment

We are committed to providing a work environment that is free of unlawful harassment, discrimination and retaliation. In furtherance of this commitment, PCE strictly prohibits all forms of unlawful discrimination and harassment, including: discrimination or harassment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, protected medical condition (including genetic characteristic), genetic information, marital status, sex (including pregnancy, childbirth or related medical condition, or breast feeding), sexual orientation (including homosexuality, bisexuality, or heterosexuality, or any other protected class under federal, state, or local law), gender, gender identity or expression (including transgender), age for individuals over forty years of age, military or veteran status,

sexual orientation, citizenship status, or any other category protected by applicable state or federal law.

PCE's policy against unlawful harassment, discrimination and retaliation applies to all employees, including supervisors and managers, as well as to all unpaid interns and volunteers. PCE prohibits managers, supervisors and employees from harassing co-workers as well as PCE's customers, vendors, suppliers, independent contractors, and others doing business with PCE. Any such harassment will subject an employee to disciplinary action up to and including immediate termination. PCE likewise prohibits its customers, vendors, suppliers, independent contractors and others doing business with PCE from harassing, discriminating, or retaliating against our managers, supervisors and employees.

Examples of Prohibited Sexual Harassment: Sexual harassment includes a broad spectrum of conduct including harassment based on sex, gender, gender identity or expression, and sexual orientation. By way of illustration only, and not limitation, some examples of unlawful and unacceptable behavior include:

- Unwanted sexual advances;
- Offering an employment benefit (such as a raise, promotion or career advancement) in exchange for sexual favors, or threatening an employment detriment (such as termination or demotion) for an employee's failure to engage in sexual activity;
- Visual conduct, such as leering, making sexual gestures, and displaying or posting sexually suggestive and/or derogatory objects or pictures, drawings, cartoons or posters;
- Verbal sexual advances, propositions, requests or comments;
- Sending or posting sexually-related messages, videos or messages via text, instant messaging, or social media;
- Verbal abuse of a sexual nature, graphic verbal comments about an individual’s body, sexually degrading words used to describe an individual, and suggestive or obscene letter, notes or invitations;
- Physical conduct, such as touching, groping, assault, or blocking movement;
- Physical or verbal abuse concerning an individual’s gender, gender identity or gender expression; and
- Verbal abuse concerning a person’s characteristics such as pitch of voice, facial hair or the size or shape of a person’s body, including remarks that a male is too feminine, or a woman is too masculine.

Other Examples of What Constitutes Prohibited Harassment: In addition to the above listed conduct, PCE strictly prohibits harassment concerning any other protected characteristic. By way of illustration only, and not limitation, such prohibited harassment includes:

- Racial or ethnic slurs, epithets, derogatory comments and any other offensive remarks;
- Jokes, whether written, verbal, or electronic;
- Threats, intimidation, and other menacing behavior;
- Assault, impeding or blocking movement, or any physical interference with normal work or movement;
- Inappropriate verbal, graphic, or physical conduct;
- Sending or posting harassing messages, videos or messages via text, instant messaging, or social media; and
- Other harassing conduct based on one or more of the protected categories identified in this policy.

If you have any questions about what constitutes harassing behavior, ask your supervisor or another member of management.

Prohibition Against Retaliation: PCE is committed to prohibiting retaliation against those who themselves or whose family members report, oppose, or participate in an investigation of alleged unlawful harassment, discrimination, or other wrongdoing in the workplace. By way of example only, participating in such an investigation includes, but is not limited to:

- Making or filing an internal complaint with PCE regarding alleged unlawful activity;
- Providing notice to PCE regarding alleged unlawful activity;
- Filing a complaint with a federal or state enforcement or administrative agency;
- Participating in or cooperating with a federal or state enforcement agency conducting an investigation of PCE regarding alleged unlawful activity;
- Testifying as a party, witness, or accused regarding alleged unlawful activity; and
- Assisting another employee who is engaged in any of these activities.

PCE is further committed to prohibiting retaliation against qualified employees who request a reasonable accommodation for any known physical or mental disability and employees who request a reasonable accommodation of their religious beliefs and observances.

Reporting Process – Making a Complaint

Any employee, job applicant, unpaid intern, volunteer, or contractor who believes they been harassed, discriminated against or retaliated against in violation of this policy by another employee, supervisor, manager or third-party doing business with PCE, you should immediately report it orally or in writing to the CEO. In addition, if you observe harassment by another employee, supervisor, manager or non-employee, please report the incident immediately to the CEO. If the CEO is alleged to be involved in the harassment, the Chair of the PCE Board must be notified.

Supervisors who receive any complaint of harassment, discrimination or retaliation must promptly report such complaint immediately to the CEO so that PCE may resolve the complaint internally. As noted above, if the complaint is against the CEO, the Chair of the PCE board should be notified.

Notification of the problem is essential to us. We cannot help to resolve a harassment problem unless we know about it. Therefore, it is your responsibility to bring your concerns and/or problems to our attention, so we can take whatever steps are necessary to address the situation. PCE takes all complaints of unlawful harassment seriously and will not penalize you or retaliate against you in any way for reporting a harassment problem in good faith.

All complaints of unlawful discrimination, harassment, or retaliation which are reported to the CEO or the Chair of the PCE Board, as applicable, will receive a timely response and will be thoroughly investigated in a fair and prompt manner by impartial and qualified personnel. Investigations will be conducted in a manner which provides all parties with appropriate due process, reaches a reasonable conclusion based on evidence collected and ensures timely closure. In addition, PCE will ensure that the investigation is properly documented and tracked for reasonable progress. Upon conclusion of such investigation, appropriate remedial and corrective action will be taken where warranted, including disciplinary action, up to and including immediate termination. PCE prohibits employees, supervisors, and managers from hindering internal investigations and the internal complaint procedure. All complaints of unlawful misconduct reported to the CEO (or the Chair of the PCE Board) will be treated as confidentially as possible, consistent with PCE's need to conduct an adequate and thorough investigation.

Violation of this policy will subject an employee to disciplinary action, up to and including immediate termination. Moreover, any employee, supervisor or manager who condones or ignores potential violations of this policy will be subject to appropriate disciplinary action, up to and including termination. Additionally, under California law, employees may be held personally liable for harassing conduct that violates the California Fair Employment and Housing Act.

This policy is not intended to prohibit employees, job applicants, unpaid interns, volunteers, or contractors from filing complaints with the California Department of Fair Employment and Housing or the federal Equal Employment Opportunity Commission or to prevent them from pursuing other available judicial remedies. These agencies may be contacted as follows:

California Department of Fair Employment and Housing (DFEH)
(800) 884-1684 or www.dfeh.ca.gov
Federal Equal Employment Opportunity Commission (EEOC)
(800) 669-4000 or www.eeoc.gov

PCE requires that every employee complete a one (1) hour workplace harassment prevention training course every twelve (12) months. The CFO will monitor and maintain records of all required trainings. PCE will provide the training through an on-line course.

3.104 Protecting PCE Information

Protecting PCE's information is the responsibility of every employee. You are not to discuss PCE's confidential business or proprietary business matters, or share confidential, personal employee information (such as social security numbers, personal banking or medical information) with anyone who does not work for us such as friends, family members, members of the media, or other business entities.

Upon commencement of employment, each PCE employee must sign the Attachment D. PCE Employee Confidentiality Agreement. The protection of confidential business information and trade secrets is vital to the interest and success of PCE. Such confidential information includes, but is not limited to, the following examples:

- Computer programs and codes
- Customer lists and information
- Customer preferences
- Financial information
- Power supply information
- Marketing strategies
- Pending projects and proposals
- Research and development strategies

Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment, even if they do not actually benefit from the use or disclosure.

As a public agency, PCE is subject to the California Public Records Act and the open meeting requirements of the Brown Act. Disclosures of information in compliance with these or any other open government requirement is not a violation of this policy. However, employees with access to PCE information are required to follow applicable policies, procedures, and supervisory direction when disclosing information to the public so that PCE may assure that the information released in complete, accurate and properly presented. For more information, please see Attachment E. Customer Confidentiality Policy.

Confidential information does not include information pertaining to the terms and conditions of an employee's employment, including wages. Nothing in this policy is designed to limit an employee's rights under Section 7 of the National Labor Relations Act.

3.105 Use of Personal Devices, including PCE Issued Devices

Upon employment with PCE you will be issued a PCE encrypted laptop. Due to the confidential nature of information at PCE, it is PCE's policy that you are not to utilize any other laptop or similar device (including but not limited to tablets, laptops, or computers) to conduct PCE business. Employees must physically secure their PCE issued devices against theft, loss or unauthorized use, including the use of password protection. This is especially critical if your job duties require you to use your PCE device outside the office. All PCE issued devices will be provided with a temporary password which you will be able to change upon your first log in. If any PCE device is lost or stolen, you must immediately contact your immediate supervisor who will notify the appropriate level of management so that your laptop is completely deactivated.

PCE's IT security policy provides that all PCE work product be stored on the cloud storage system, BOX. Work product, even temporary in process files, must all be file saved to BOX. Since BOX is a cloud storage system and your PCE issued laptops are encrypted, you would be able to access files while not in the office in a protected fashion.

Modern communication includes the frequent use of cell/smart phones. PCE does not provide PCE issued cell/smart phones. You will be required to use your personal cell/smart phone for PCE business. A taxable phone allowance will be provided to all employees to compensate them for the use of their personal device for PCE business.

Non-exempt employees may not use their personal devices for work purposes outside of their normal work schedule without authorization in advance from their immediate supervisor. This includes but is not limited to reviewing, sending, and responding to e-mails or text messages, and responding to or making calls. Time spent by non-exempt employees using their own devices to perform work outside of regular working hours must be included on their time sheet.

Employees are expected to exercise the same discretion in using their personal devices while working as is required for using PCE owned devices. This includes, but is not limited to, compliance with PCE policies pertaining to harassment, discrimination, retaliation, trade secrets, proprietary business and confidential information, electronic communications, and ethics. Employees must also comply with all applicable state, federal and local laws governing the use of such electronic devices. Failure to follow policies, procedures and/or applicable laws may result in disciplinary action up to and including termination of employment. Please see Attachment F. Acceptable Use of Electronic Communications Policy and Attachment I. Technology Security Policy for further information.

3.106 Smoking in the Workplace

PCE is committed to providing a safe and healthy environment for employees and visitors. Smoking, including the use of e-cigarettes, is not permitted. In addition, local ordinances and provisions of our office lease regarding smoking must be adhered to. Violations of this policy may result in disciplinary action, up to and including termination of employment.

3.107 Drug and Alcohol Use

It is PCE's desire to provide a drug-free, alcohol-free, healthful, and safe workplace. To comply with the federal Drug-Free Workplace Act of 1988, PCE requires that employees not report to work if their ability to perform their job duties is impaired due to alcohol or drug use. Further, PCE employees may not use alcohol or illegal drugs and/or prescription drugs without a prescription during work hours, breaks, or at any time while on paid status and/or on work premises. Exceptions to the use of alcohol on work premises for special events may be made at the sole discretion of the CEO of PCE.

No employee may directly or through others sell or provide illegal or illegally obtained drugs while in a paid status.

Employees who are convicted of a criminal drug violation occurring in the workplace must notify their supervisors as soon as possible.

PCE will attempt to reasonably accommodate an employee with chemical dependencies (alcohol or drugs) if the employee voluntarily wishes to seek treatment and/or rehabilitation before being found in violation of this policy. Employees desiring that assistance should request an unpaid treatment or rehabilitation leave of absence.

PCE is committed to providing assistance to its employees to overcome substance abuse problems. PCE will reasonably accommodate any employee who wishes to voluntarily enter and participate in an alcohol or drug rehabilitation program. This accommodation may include an adjusted work schedule or time off without pay, provided the accommodation does not impose an undue hardship on PCE. Employees may use any accrued sick or vacation benefits while on leave under this policy. However, additional benefits will not be earned during the unpaid portion of the leave of absence. A leave of absence under this section will be subject to the same provisions and rules as apply to medical leaves of absence. PCE will safeguard the privacy of an employee's participation in a rehabilitation program.

Employees should notify the CEO if they need to request an accommodation under this policy.

PCE support for treatment and rehabilitation does not obligate PCE to employ any person who violates the PCE drug and alcohol abuse policy or whose job performance is impaired because of substance abuse. PCE is also not obligated to continue to

employ any person who has participated in treatment or rehabilitation if that person's job performance remains impaired as a result of alcohol or drug dependency.

Your employment or continued employment with PCE is conditioned upon your full compliance with the foregoing policy. Any violation of this policy may result in disciplinary action, up to and including termination of employment. Further, any employee who violates this policy who is subject to termination of employment, may be permitted in lieu of termination of employment, at PCE's sole discretion, to participate in and successfully complete an appropriate treatment, counseling or rehabilitation program as recommended by a substance abuse professional as a condition of continued employment and in accordance with applicable federal, state, and local laws.

Various federal, state, and local laws protect the rights of individual with disabilities and others with regard to the confidentiality of medial information, medical treatment, and the use of prescription drugs and substances taken under medical supervision. Nothing contained in this policy is intended to violate such regulations or interfere with individual rights thereunder.

3.108 Drug Testing

PCE is committed to providing a safe, efficient, and productive work environment for all employees. In support of this commitment, PCE seeks to provide a workplace that is free from the harmful effects of drug and alcohol abuse. To further its interest in service to the community, avoiding accidents, promoting and maintaining a safe and productive workplace and protecting PCE property, equipment, and operation, PCE may conduct drug and alcohol testing, as provided in this policy. This policy is intended to apply to all employees, regardless of appointment type or time basis, including, without limitation, full-time, part-time, regular, temporary and management employees.

Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. It is also a violation of PCE policy. Please see the policy on Drug and Alcohol Use in Section 3.107 above. To help ensure a safe and healthful working environment, job applicants and employees may be subject to drug and alcohol testing and may be asked to provide body substance samples (such as urine) to determine the use of drugs or alcohol in violation of PCE policies under the following circumstances:

- **Reasonable suspicion testing**: Employees will be subject to testing where there is reasonable suspicion that the employee has violated PCE's drug and alcohol use policies. Reasonable suspicion is the good faith belief based on specific articulable perception and reasonable inferences drawn from such perceptions that an employee may have violated this policy and that testing may reveal facts and evidence related to that perceived violation. Perceptions or reasonable inferences supporting reasonable suspicion may include, but are not

limited to, an employee's manner, disposition, muscular movement, appearance, unusual behavior, speech or breath odor; information provided by an employee, law enforcement official or other person believed to be reliable; or other surrounding circumstances. For purposes of ordering testing, reasonable suspicion will only exist where the CEO and another member of PCE's executive leadership team has reviewed circumstances in a particular case and concurs in the finding of reasonable suspicion.

- **Follow up testing:** An employee who has been found to be in violation of PCE's drug and alcohol use policies may be required to submit to periodic, unannounced testing for one year, starting on a date established by the CEO.

For testing, the employee will be referred to an independent Substance Abuse and Mental Health Services Administration (SAMHSA) certified medical clinic or laboratory, which will administer the test. PCE will pay the cost of the test and reasonable transportation cost to the testing facility. The applicant or employee will have an opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that she or he has taken that may affect the outcome of the test. Positive results from initial screening will be confirmed by a second testing method and will not be reported as positive without confirmation. In the event of a reported positive test, the applicant or employee may have the same sample retested at a laboratory of the employee's choice at the employee's expense.

Testing or drug testing under this policy may include amphetamines and methamphetamines, cocaine, marijuana/cannabinoids (THC), opiates (narcotics), phencyclidine (PCP), barbiturates, benzodiazepines, methaqualone, and alcohol. Cut-off levels for determining a positive test will be those established in the SAMHSA Mandatory Guidelines for Federal Drug Testing Programs. The cut-off level for a positive alcohol test (both initial and confirmation) will be 0.02 percent (0.02 gm/210 liters of breath or 0.02 gm/deciliter of blood or 0.02 mg/ml of urine). Testing will normally be performed by urinalysis or, for alcohol testing, may also include breath testing. The substances for which drug and alcohol tests are performed and cut-off levels may be modified from time-to-time with prior written notice from the CEO or amendment of this policy.

If an employee who is subject to testing refuses to cooperate with the administration of the test, the refusal will be considered a positive test result. A refusal to cooperate includes, but is not limited to, refusing to appear for a test; unreasonably failing to submit a sample for testing; tampering with, substituting, adulterating, masking or water-loading a sample; or obstructing or not fully cooperating with testing procedures.

All records of the circumstances and results of substance testing under this policy will remain confidential applicant or personnel records. Laboratory reports and test results will be maintained in a file separate from an employee's personnel file. Information may only be released to the employee who was tested, or other individuals designated in writing by the employee; to a medical review officer; to the extent necessary to properly

supervise or assign the employee; as necessary to determine what action should be taken in response to the test results and for use in responding to appeals, litigation or administrative proceedings arising from or related to the test or related actions.

Questions concerning this policy, or its administration should be directed to the CEO.

3.109 Attendance and Punctuality

Attendance and punctuality are important factors for your success within PCE. We work as a team which requires that each person be in the right place at the right time. For scheduled days off, employees are required to notify their supervisor as far in advance as possible, and to submit a request through the Personal Time Off (PTO) request system. In addition, it is also required that employees update their company calendar so that their fellow employees are aware of their time off schedule. If you are going to be late for work, notify your supervisor as far in advance as is feasible under the circumstances.

If you are absent for three days without prior approval and/or without notifying PCE, it will be assumed that you have voluntarily terminated your employment with PCE, and you will be removed from the payroll effective as of the first day of that three-day absence.

3.110 Personal Appearance

Employees are expected to maintain high standards of personal cleanliness and present a neat and professional appearance.

Our customers' satisfaction represents the most important and challenging aspect of our business. Whether or not your job responsibilities place you in direct customer contact, you represent PCE with your appearance as well as your actions. The properly attired individual helps to create a favorable image for PCE, to the public and fellow employees. PCE maintains a business casual environment. All employees should use discretion in wearing attire that is appropriate for their job.

3.111 Non-Solicitation

PCE believes employees should have a work environment free from interruptions of a non-work-related nature, as work time is for work. For purposes of this policy, solicitation includes, but is not limited to, collection of any debt or obligation, raffles of any kind or chance taking, the sale of merchandise or business services, or the attempt

to sell any product or service Such interruptions can be both detrimental to the quality of work and efficiency and may not be respectful of others job responsibilities.

Employees may not engage in solicitation for any purpose during work time, which includes the working time of the employee who seeks to solicit and the employee who is being solicited. Although solicitation is not encouraged, it is permitted if it is limited to the employee's break and lunch time and kept out of active working areas. Nothing in this policy is intended to restrict an employee's statutory rights, including discussing terms and conditions of employment.

3.112 Acceptable Use of Electronic Communications/Workplace Monitoring

This policy provides guidelines for electronic communications created, sent, received, used, transmitted, or stored using PCE's communication systems or equipment and employee provided systems or equipment used either in the workplace, during working time or to accomplish work tasks. “Electronic communications” include, among other things, messages, images, text data or any other information used in e-mail, instant messages, text messages, voice mail, fax machines, computers, personal digital assistants (including tablets or similar devices), pagers, telephones, cellular and mobile phones including those with cameras, Intranet, Internet, back-up storage, information on a memory or flash key or card, jump or zip drive or any other type of internal or external removable storage drives. In the remainder of this policy, all these communication devices are collectively referred to as “systems.”

Acceptable Uses of Our Systems: Employees may use our systems to communicate internally with co-workers or externally with customers and other business acquaintances for business purposes.

PCE Control of Systems and Electronic Communications: All electronic communications contained in PCE systems are PCE records and/or property. Although an employee may have an individual password to access our systems, the systems and communications belong to PCE. The systems and electronic communications are accessible to PCE at all times, including periodic unannounced inspections. Our systems and electronic communications are subject to use, access, monitoring, review, recording and disclosure without further notice. Employee communications on our system are not confidential or private.

PCE's maintains the right to access, monitor, record, use, and disclose electronic communications sent on PCE systems without further notice to the employee.

Personal Use of Our Systems: Personal communications in our systems are treated the same as all other electronic communications and will be used, accessed, recorded, monitored, and disclosed by PCE at any time without further notice. Since all electronic

communications and systems can be accessed without advance notice, employees should not assume confidentiality.

Proprietary Business Information: Proprietary business information means confidential and proprietary materials related to PCE's trade secrets, business models, business services, sales agreements, pricing information, customer lists, inventions, vendor agreements, strategic business or marketing plans, expansion plans, contracts, non-public financial performance information and other information that derives economic value by being protected from public consumption or competitors, and may only be used on PCE systems. Proprietary business information **may not** be downloaded, saved, or sent to a personal laptop, personal storage device, or personal email account under any circumstances. Proprietary business information does not restrict employee rights to discuss their wages, hours or other terms of employment.

Prohibited Uses of Our Systems: Employees may not use PCE systems in a manner that is unlawful, wasteful of PCE resources, or unreasonably compromises employee productivity or the overall integrity or stability of PCE's systems. These tools are provided to assist employees with the execution of their job duties and should not be abused. Examples of prohibited uses include, among other things, sexually explicit messages, images, cartoons, or jokes; propositions or love letters; ethnic or racial slurs; or any other message or image that may be in violation of company policies.

In addition, employees may not use PCE systems:

- To download, save, send or access any discriminatory, obscene, or malicious or knowingly false material;
- To download, save, send or access any music, audio or video file unless business related;
- To download anything from the internet (including shareware or free software);
- To download, save, send or access any site or content that PCE might deem “adult entertainment;”
- To attempt or to gain unauthorized or unlawful access to computers, equipment, networks, or systems of PCE or any other person or entity;
- In connection with any infringement of intellectual property rights, including but not limited to copyrights;
- In connection with the violation or attempted violation of any law; and
- To improperly transmit proprietary business information or client material such as pricing information or trade secrets.

Electronic Forgery: An employee may not misrepresent, disguise, or conceal his or her identity or another’s identity in any way while using electronic communications; make changes to electronic communications without clearly indicating such changes; or use another person’s account, mailbox, password, etc. without prior written approval of the account owner and without identifying the actual author.

Intellectual Property Rights: Employees must always respect intellectual property rights, including copyrights and trademarks.

System Integrity, Security, and Encryption: PCE contracts with an IT service provider – All Covered – to provide various IT support, including security. PCE encrypts all computers to maintain system integrity and security. All systems passwords and encryption keys must be available and known to PCE's IT service provider. Employees may not install password or encryption programs. Employees may not use the passwords and encryption keys belonging to others.
Applicable Laws: Numerous state and federal laws apply to electronic communications. PCE complies with applicable laws. Employees also must comply with applicable laws and should recognize that an employee could be personally liable and/or subject to fine and imprisonment for violation of applicable laws.

Consequences of Policy Violations: Violations of this policy may result in disciplinary action up to and including immediate termination of an employee's employment as well as possible civil liabilities or criminal prosecution. Where appropriate, PCE may advise legal officials or appropriate third parties of policy violations and cooperate with official investigations. We will not, of course, retaliate against anyone who reports possible policy violations or assists with investigations.

If you have questions about the acceptable use of our systems or the content of electronic communications, ask the CEO for clarification.

3.113 Company Document Management

PCE uses the cloud-based platform BOX (www.box.com) as a document management system. All employees are required to save all PCE related documents on BOX without exception. This will allow PCE to access the documents in the event of lost laptop/Mac and maintain the security of PCE documents.

3.114 Social Media

"Social media" includes all means of communicating or posting information or content of any sort on the Internet, including an employee's own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or chat room, whether or not the platform is associated or affiliated with PCE.

In general, all official PCE social media postings will be managed by the Communication and Outreach department.

To protect PCE's interests, employees must adhere to the following guidelines:

- Other than for PCE business purposes, employees may not post on a personal blog or personal social networking site during their work hours or at any time using PCE equipment or property. PCE's electronic communication systems are for business use only.

- If an employee identifies himself or herself as an employee of PCE on any social networking site for purposes other than PCE-authorized business purposes, the communication must include a disclaimer that the views expressed do not necessarily reflect the view of the PCE management.

- All rules regarding confidential business information apply to blogs and social networking sites. Any information that cannot be disclosed through a conversation, a written note, or an e-mail also cannot be disclosed on a blog or social networking site. The transmission of confidential or proprietary information without the permission of PCE is prohibited.

- If an employee mentions PCE in a blog or elsewhere on social media, or it is reasonably clear that the employee is referring to PCE or a position taken by PCE, and also expresses a political opinion or an opinion regarding PCE's position, action, or products, the post must specifically disclose the employee's relationship with PCE and note that the opinion expressed is a personal opinion and not PCE's position.

- Any conduct which is impermissible under law if expressed in any other form or forum is impermissible if expressed through a social networking site. For example, posted material that is discriminatory, defamatory, libelous, or malicious is forbidden. PCE's policies, including but not limited to the Equal Employment Opportunity, Sexual Harassment, Harassment and Workplace Violence policies apply equally to employee comments on social networking sites even if done on nonworking time.

Nothing in this policy is designed to limit an employee's right under Section 7 of the National Labor Relations Act, including discussing wages or other terms of employment. If you have questions or need further guidance, please contact the Communications and Outreach Manager.

3.115 Contact with PCE

The location of PCE employees during business hours should be known to a supervisor. All PCE employees will keep an updated electronic calendar reflecting his or her whereabouts during work hours.

3.116 Customer and Public Relations

PCE's reputation is built on excellent service and quality work. To maintain this reputation requires the active participation of every employee.

The opinions and attitudes that customers (and vendors) have toward PCE may be influenced by the actions of one employee for a long period of time. It is sometimes easy to take a customer for granted, but when this occurs, we run the risk of losing not only that customer, but his or her associates, friends, or family who may also be customers or prospective customers. Each employee must be sensitive to the importance of providing courteous treatment in all working relationships.

SECTION 4: WORKING CONDITIONS

4.101 Expectation of Privacy

PCE reserves the right to search, without employee consent, all areas over which PCE maintains control or joint control with the employee. Therefore, employees should have no expectation of privacy at PCE or joint controlled workplace areas which include, but are not limited to, offices, cubicles, work locations, employer provided or designated parking areas, desk, computers (including electronic files), voicemail, e-mail, PCE issued cell phones, or rest or eating areas.

Desks, file cabinets, and other storage devices, including electronic storage, may be provided for the convenience of employees but remain the sole property of PCE. Accordingly, they, as well as any articles found within them, can be inspected by any supervisor or other authorized representative of PCE at any time, with or without prior notice.

4.102 Performance Reviews

Your performance is important to PCE. Once each year, on or about your anniversary date (unless the annual date has been adjusted per the terms of Section 7 relating to leaves longer than 60 days), your supervisor will review your job progress within PCE and help you set new job performance plans. If approved, the annual performance review may be accompanied by a base salary increase.

New employees will generally be reviewed at the end of their introductory period. (Refer to 6.101 for definition)

Our performance review program provides the basis for better understanding between you and your supervisor, with respect to your job performance, potential and development within PCE.

The CFO will monitor the timely completion of the annual performance reviews.

4.103 Coaching, Counseling, and Progressive Discipline

Notwithstanding 4.102, your employment at PCE is at-will and as such may be terminated without advance notice, with or without reason or cause, and without right of appeal. PCE in its sole discretion as an at-will employer maintains the right to provide coaching, counseling, and progressive discipline to employees. Such coaching, counseling, and/or progressive discipline will be provided if, in the opinion of management, it would be of mutual benefit to PCE and the employee.

While performance reviews are generally thought of as being a positive, skill-building process, coaching, counseling, and progressive discipline will be employed, when considered necessary so that employee issues can be corrected at early stage, assist

the employee to correct the problem, prevent reoccurrence, and prepare the employee for satisfactory performance in the future.

If disciplinary action is deemed warranted, it may call for any of five steps which include, but are not limited to: verbal warning, written warning, suspension with or without pay, demotion, or termination of employment. Although PCE may take a progressive discipline approach, the CEO has the right to determine what disciplinary action is appropriate in each situation. The CEO is not required to treat each incident as a step in a series of progressive discipline any may terminate an employee based on his/her discretion.

If a supervisory employee believes an employee needs to be coached, counseled, or disciplined, such conversations will take place with two management/supervisory employees present. Prior to any discussions, the matter should be discussed with the CEO to ensure that the actions being contemplated are appropriate.

4.104 Talk to Us

We encourage you to bring your questions, suggestions and complaints to our attention. We will carefully consider each of these in our continuing effort to improve operations.

If you believe you have a problem, present the situation to your supervisor so that the problem can be settled by examination and discussion of the facts. We hope that your supervisor will be able to satisfactorily resolve most matters.

If you still have questions after meeting with your supervisor or if you would like further clarification on the matter, request a meeting with the CEO who will review the issues and meet with you to discuss possible solutions.

Your suggestions and comments on any subject are important, and we encourage you to take every opportunity to discuss them with us. If at any time you do not feel comfortable speaking with your supervisor or the next level of management, you may discuss your concern with any other member of management with whom you feel comfortable.

4.105 Safety

Safety can only be achieved through teamwork at PCE. Each employee, supervisor and manager must practice safety awareness by thinking defensively, anticipating unsafe situations, and reporting unsafe conditions immediately.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must comply with all occupational safety and health standards and

regulations established by the Occupational Safety and Health Act and state and local regulations. Employees are expected to report all work-related injuries or illnesses immediately to the supervisor. In compliance with California law, and to promote the concept of a safe workplace, PCE maintains an Injury and Illness Prevention Program (IIPP). The PCE - Injury and Illness Prevention Program is available to all employees and/or employee representatives for review by request from the CFO.

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, or with another supervisor or manager. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of retaliation.

A violation of a safety precaution is an unsafe act. A violation may lead to disciplinary action, up to and including termination of employment.

4.106 Visitors

If you are expecting a visitor, please notify your supervisor. All visitors must first check in at the reception area. Visitors are not allowed in any locked and/or secured area of the building without being accompanied by an authorized employee. Under no circumstances will visitors be allowed in confidential and/or unauthorized areas.

4.107 Workplace Violence

Violence by an employee or anyone else against an employee, supervisor or member of management will not be tolerated. The purpose of this policy is to minimize the potential risk of personal injuries to employees at work and to reduce the possibility of damage to PCE property in the event someone, for whatever reason, may be unhappy with a PCE decision or action by an employee or member of management.

If you receive or overhear any threatening communications from an employee or outside third party, report it to the CEO at once. Do not engage in either physical or verbal confrontation with a potentially violent individual. If you encounter an individual who is threatening immediate harm to an employee or visitor to our premises, contact an emergency agency (such as 911) immediately.

All reports of work-related threats will be kept confidential to the extent possible, investigated and documented. Employees are expected to report and participate in an investigation of any suspected or actual cases of workplace violence and will not be subjected to disciplinary consequences for such reports or cooperation. Violations of this policy, including your failure to report or fully cooperate in PCE's investigation, may result in disciplinary action, up to and including termination of employment.

Possession, use, or sale of weapons, firearms or explosives on work premises, while operating PCE equipment or vehicles for work-related purposes or while engaged in PCE business off premises is forbidden except where expressly authorized by PCE and permitted by state and local laws. This policy applies to all employees, including but not limited to, those who have a valid permit to carry a firearm.

If you are aware of violations or threats of violations of this policy, you are required to report such violations or threats of violations to the CEO immediately.

Violations of this policy will result in disciplinary action, up to and including termination of employment.

4.108 Travel/Expense Accounts

PCE will reimburse employees for reasonable expenses incurred through pre-approved business travel or business entertainment. All cash advances must be accounted for, and expense receipts are required.

The following business expenses will be reimbursed, subject to pre-approval:

- Travel Expense, including cab or peer-to-peer ride sharing services
- Automobile/Mileage (rate per mile will be reimbursed at the prevailing IRS rate.
- Airfare or train travel in coach or economy class, or equivalent if personal car is used
- Car rental fees, only for compact or mid-sized cars
- Lodging
- Tips and incidental expenditures
- Cost of meals, provided that the cost is reasonable. Any and all alcohol expenses will be excluded and not reimbursed.

This list is not all-inclusive. See the CFO regarding additional reimbursable business expenses.

SECTION 5: BENEFITS

5.101 Employee Benefits

PCE offers a comprehensive set of employee benefit programs to supplement our employees' regular wages. Several of the programs (e.g., Social Security, workers' compensation, state disability, and unemployment insurance) cover all employees in the manner prescribed by prevailing law.

This Employee Handbook describes the benefit plans maintained by PCE as of the date of publication of the handbook. Refer to the actual plan documents and summary plan descriptions if you have specific questions regarding the most up to date benefit plan.

PCE reserves the right to modify and/or terminate its benefits at any time. We will keep you informed of any changes. Employee access to actual plan documents and Summary Plan Descriptions can be found at this link here.

5.101(a) Health Insurance (Medical, Dental, and Vision)

Eligible full-time employees may enroll in health insurance plans covering medical, dental and vision. Employees are also permitted to enroll their eligible dependents based on the definitions in the plans. Eligibility may be defined by state law and/or by the insurance contract. Participating employees or dependents are also covered under our medical insurance plan's prescription drug program

Following submittal and approval of the plan applications, employees will be covered on the first calendar day of the month following the start of employment. If employment starts on the first calendar day of the month, coverage will be effective on employment start date.

To assist with the cost of this insurance, PCE pays a substantial portion of the cost of insurance coverage. Depending on the insurance coverage, dependent coverage may require sharing of some of the cost of the employee contribution through payroll deductions. Refer to the current HR Benefits Summary located here for a summary description of dependent coverage.

Information regarding eligibility of continuation of coverage following employment termination can be found at Section 5.105.

Refer to the actual plan document and summary plan description if you have specific questions regarding eligibility for coverage or other aspects of each benefit plan. Those documents are controlling.

Enrollment forms and a booklet containing the details of the plan and eligibility requirements are contained in your on-boarding materials. Completed forms should be returned to the CFO.

5.101(b) Long Term Disability Insurance

PCE pays the full cost of long-term disability insurance in the event an employee is unable to work for longer than 90 days due to illness or injury. Coverage is at 60% of the base compensation at the time of disability up to a maximum of $5,000 per month. Coverage begins on the first day of the month following start of employment. In the case that employment starts on the first day of the month, coverage begins on that day.

Refer to the actual plan document and summary plan description if you have for specific questions regarding your eligibility for coverage or other aspects of this benefit plan. Those documents are controlling

5.101(c) Social Security and Unemployment Insurance

During your employment, you and PCE both contribute funds to the federal government to support the Social Security program. This program is intended to provide you with retirement benefit payments and medical coverage once you reach retirement age.

Unemployment Insurance - Upon separation from employment from PCE, you may be entitled to state and federal unemployment insurance benefits. In the event of employment termination, required documents regarding eligibility will be shared with you. Please direct questions to the CFO and/or the CEO.

5.101(d) Life Insurance

Eligible full-time employees may enroll in a plan to provide basic life insurance coverage of $50,000 effective as of the first day of the month following employment start date. If employment starts on the first day of the month, coverage will be effective on employment start date. Eligibility may be defined by state law and/or by the insurance contract. You must complete an insurance form and designate your beneficiary.

PCE pays the full cost of the monthly insurance premium for basic life insurance.

Refer to the actual plan document and summary plan description if you have specific questions regarding your eligibility for coverage or other aspects of this benefit plan. Those documents are controlling.

Employees are also eligible to apply for Supplemental Life Insurance in excess of the basic $50,000 level for themselves or their eligible spouse and/or dependents. The cost of Supplemental life Insurance is fully paid by employees through payroll deduction.

Employees are required to pay for the full cost of supplemental life insurance for their spouse and dependents.

Enrollment forms and a booklet containing the details of the plan and eligibility requirements are contained in your on-boarding materials. Completed forms should be returned to the CFO.

5.101(e) Section 125 Plan

PCE offers a pretax contribution option for employees to participate in a Section 125 plan that enables contributions toward health insurance premiums and out-of-pocket medical expenses and/or dependent care expenses on a “pre- tax”, rather than an “after tax” basis. Eligible full-time employees may enroll in the plan effective on the first day of the month following thirty days of employment, although pre-tax payroll deductions for health insurance premiums will start upon the enrollment date of those plans.

Premium contributions and contributions toward other qualified expenses are deducted from gross pay before income taxes and Social Security is calculated. If you wish to participate in this plan, enrollment forms are contained in your on-boarding materials. Completed forms should be returned to the CFO.

Changes cannot be made to pretax contributions until the next open enrollment period unless your family status changes, or you become eligible for a special enrollment period due to a loss of coverage. We will notify you in advance of any open enrollment period. Family status changes include marriage, divorce, death of a spouse or child, birth or adoption of a child or termination of employment of your spouse. A change in election due to a change in family status shall be effective the next pay period.

5.101(f) Retirement Plans

PCE provides eligible employees with a defined contribution program administered by the County of San Mateo. This plan is made up composed of two parts:

1. 457(b) Deferred Compensation Plan (Employee contributions). Employees can voluntarily contribute to a 457(b) deferred compensation plan according to IRS limits. Employees can choose to allocate portions of their contributions on a pre-tax basis to a traditional 457(a) and/or on a post-tax basis to a Roth version. PCE will match all employee contributions up to 4% of salary (although the PCE contributions will be contributed to the 401(a) plan described below).

2. 401(a) Retirement Plan (PCE contributions). PCE provides a contribution of 6% of salary to a 401(a) retirement plan for all employees. PCE also matches up to 4% of employee contributions to the 457(b) deferred compensation plan (described above) although the match is contributed to the 401(a) plan. All PCE

contributions vest in equal annual amounts over four (4) years based on the first day of employment.

The link to the Summary Plan Description link is shown in an earlier section. In the event of any conflict in the description of any plan, the official plan documents, which are available for your review, shall govern. If you have any questions regarding this plan, please contact the plan administrator.

5.101(g) State Disability Insurance

All employees are eligible for disability insurance benefits when an illness, injury, or pregnancy-related disability prevents them from working and they meet all the eligibility requirements. The benefits are calculated as a percentage of your salary up to a weekly maximum, as specified by law, for up to fifty-two (52) weeks.

Employees who apply for this benefit must provide written notice of disability, including a doctor's certificate stating the nature of the disability and the expected date of return to work. The employee is responsible for filing a claim and other forms promptly and accurately with the Employment Development Department. A claim form may be obtained from the Employment Development Department by telephone, letter, or in person. The cost of this insurance is fully paid by the employee.

5.101(h) California Paid Family Leave Insurance

The State of California may provide partial wage benefits to eligible employees for up to a maximum of six weeks for the following reasons:

- To bond with a new child after birth or placement for adoption or foster care;
- To care for a serious health condition of an employee's child, parent, spouse, registered domestic partner, grandparent, grandchild, sibling or parent-in-law.

The Paid Family Leave Act provides benefits based on past quarter earnings for up to six weeks in a 12-month period. The cost of the insurance is fully paid by PCE. The 12-month period begins on the first day an employee submits a claim.

To be eligible for benefits, employees may be required to provide medical and/or other information that supports a claim for time off to bond with a new child or to care for a child, parent, spouse or registered domestic partner with a serious health condition. In addition, there is a seven-calendar-day waiting period before benefits begin.

You are responsible for filing your claim for family leave insurance benefits and other forms promptly and accurately with the Employment Development Department. A claim

form may be obtained from the Employment Development Department by telephone, letter, the Internet or in person. All eligibility and benefit determinations are made by the Employment Development Department.

You may not be eligible for Paid Family Leave benefits if you are receiving State Disability Insurance, Unemployment Compensation Insurance or Workers' Compensation benefits.

The Paid Family Leave Act does not provide a right to leave, job protection or return to work rights. Further, this policy does not provide additional time off. However, family leave insurance may provide compensation during an approved leave pursuant to any company provided leave.

As noted, PCE will assist you with maneuvering through the various aspects of federal and state allowed leaves, in the event the need arises during your employment.

5.102 Workers' Compensation

Occupational injuries or illnesses are covered by our Workers' Compensation insurance policy. This insurance is provided at no cost to you. If you are injured on the job, no matter how slightly, report the incident to your immediate supervisor as soon as reasonably possible. Consistent with applicable state law, failure to report an injury within a reasonable time period could jeopardize your claim. We ask for your assistance in alerting management to any condition that could lead to or contribute to an employee accident.

PCE will integrate sick leave, vacation, and then compensatory time, with temporary disability payments for an employee who is eligible for workers' compensation. The employee will continue in pay status and receive pay until accumulated paid leave and authorized compensatory time hours have been depleted to the nearest hour. Any employee who is eligible for temporary disability payments under the workers' compensation law will, for the duration of such payments, receive only that portion of the employee's regular salary that, together with said payments, will equal the employee's regular salary. Workers' compensation leave will run concurrently with Family Care Leave.

5.103 Lactation Breaks

PCE will provide a reasonable amount of break time to accommodate an employee's need to express breast milk for the employee's child. The break time should, if possible, be taken concurrently with other break periods already provided. Non-exempt employees should clock out for any time taken that does not run concurrently with

normally scheduled rest periods, and such time generally will be unpaid, in accordance with state law.

No provision of this policy applies or is enforced if it conflicts with or is superseded by any requirement or prohibition contained in a federal, state, or local law or regulation. If you have knowledge of such a conflict or a potential conflict you should contact your immediate supervisor.

For further information, refer to the PCE - Lactation Policy.

5.104 No Pets in the Workplace

PCE is responsible for assuring the health and safety of all employees. In keeping with this objective, PCE does not permit employees to bring pets to work. Animals may pose a threat of infection and may cause allergic reactions in other employees. The only exception to this is if an employee or visitor requires a qualified service dog, as defined by the Americans with Disabilities Act (ADA), California state law, or other relevant statute.

5.105 COBRA

You and/or your covered dependents will have the opportunity to continue medical and/or dental and vision benefits for a period of up to 36 months under the provisions of the Consolidated Omnibus Budget Reconciliation Act (“COBRA”) when group medical and/or dental and vision coverage for you and/or your covered dependents would otherwise end due to your death or because:

- your employment terminates, for a reason other than gross misconduct; or
- your employment status changes due to a reduction in hours; or
- your child ceases to be a "dependent child" under the terms of the medical and/or dental and vision plan; or
- you become divorced or legally separated; or
- you become entitled to Medicare.

In the event of divorce, legal separation, or a child’s loss of dependent status, you or a family member must notify the plan administrator within sixty (60) days of the occurrence of the event. The plan administrator will notify the individuals eligible for continuation coverage of their right to elect COBRA continuation coverage. For more information regarding COBRA, you may contact the CFO.

SECTION 6: PAYROLL

6.101 Categories of Employment

In most cases, PCE employees will be regularly scheduled to work at least a 40-hour workweek. However, for purposes of this handbook, FULL TIME EMPLOYEES are defined as those who are scheduled to regularly work at least a 32-hour workweek. Any schedule that is less than the standard 40-hour workweek would require approval of PCE's CEO. Working time does not include lunch periods or any other periods in which employees are not in paid status.

PART TIME EMPLOYEES are scheduled to regularly work less than 32 hours each week.

In addition to the preceding categories, employees are also categorized as "exempt" or "non-exempt."

NON-EXEMPT EMPLOYEES are entitled to overtime pay as required by applicable law.

EXEMPT EMPLOYEES are not entitled to overtime pay and may also be exempt from minimum wage requirements pursuant to applicable federal and state laws. Managers and directors, who are, by definition, exempt, have defined job responsibilities that may require additional time over and above the standard work week, including attendance at evening meetings or on weekends. See section under Management Leave.

Upon hire, PCE will notify you of your employment classification.

6.101(a) Anniversary Date

The first day you report to work will be entered in PCE's records as your anniversary date. This date is used to calculate some of the benefits PCE offers. If you have any questions regarding your anniversary date, please see your supervisor.

6.102 Licensing Requirements

Driver's License/Driving Record – Employees holding positions where the operation of a motor vehicle is an essential duty of the position must present and maintain a valid driver's license and acceptable driving record. PCE will be responsible for providing such information to our insurer. Changes to your driving record must be reported to your supervisor immediately. Violations of this policy may result in immediate termination of your employment. Please provide a copy of your driver's license to the CFO annually.

6.103 Payday

You will be paid semimonthly on the fifth and the twentieth of the month for the periods that end on the last day of the previous month and the fifteenth of the month, respectively.

PCE provides for direct deposit of your paycheck. If you desire to have your paycheck deposited directly into an account of your choosing, please complete the necessary paperwork (contained in your on-boarding packet) and return it to the CFO. Depending on your date of hire and when you return the necessary paperwork, direct deposit may not take effect for your first paycheck.

When a payday falls on a holiday, PCE will attempt to provide pay on the working day immediately prior to the holiday, but you will be paid no later than (or your bank account will be credited) the first working day after the holiday. If the payday is a Saturday or Sunday, you will be paid (or your bank account will be credited) on the preceding Friday.

Please review your paycheck/paystub for errors at each pay period. If you find a mistake, please report it to the CFO immediately. Corrections, as necessary, will be processed through the next pay period's paycheck.

6.104 Pay Advances

PCE does not provide for pay advances on unearned wages to employees.

6.105 Timekeeping

As noted under 6.101, each employee at PCE will be designated either non-exempt or exempt according to certain aspects of federal and state wage and hour laws. As a public agency, some California wage and hour provisions may not apply to PCE.

Non-exempt employees must record hours worked in addition to time off on their electronic timecard (i.e., Paychex or other as specified by management). The timecard must be submitted to the supervisor on the last day of each reporting period as noted under 6.103. Accurately recording all your time is required in order to ensure that you are paid for all hours worked. You are expected to follow the established procedures in keeping an accurate record of your hours worked. PCE follows the overtime requirements in the by Fair Labor Standards Act ("FLSA") which are further described in 6.106. Additionally, non-exempt employees who are required to drive from home at the beginning of a workday to a location other than PCE offices may count as work any such time that is more than the regular commute to PCE. Overtime work must always

be approved before it is performed, except in the case of an emergency. Non-exempt employees must record all overtime worked on their electronic timecard.

Exempt employees should also accurately record time worked as well as leave time taken through the electronic timecard (i.e., Paychex or other as specified by management).

Altering, falsifying, tampering with time records, or recording time on another employee's time recorded is prohibited. This policy prohibits both over reporting and under reporting of hours worked for non-exempt employees. No supervisor may authorize any non-exempt employee to work "off the books" or "off the clock".

Non-exempt employees should not report to work prior to their scheduled starting time or stay after the scheduled stopping time without express, prior authorization from their supervisor. Federal law does not permit an employer to allow non-exempt employees to volunteer time to their employer in the same capacity as their regular work.

Exempt employees, while receiving a set salary which is intended to compensate the individual for any hours worked, are still required to accurately record time worked in accordance with applicable wage and hour laws. All employees subject to this policy are required to accurately record all time worked and leave taken.

For purposes of this section, a workweek shall be from Monday at 12:01 am through Sunday at 11:59 pm each week.

6.106 Overtime (Non-Exempt Only)

There will be times when non-exempt employees will need to work overtime so that we may meet the needs of our customers. Every attempt will be made to provide you ample notice in the event that extra work time may be required, and managers and employees should make reasonable efforts to adjust schedules to minimize overtime, However, this may not be always possible. If you are a non-exempt employee, you must have all overtime approved in advance by your supervisor.

Generally, unless an alternate workweek is in effect or state law dictates otherwise, non-exempt workers will be paid at a rate of time and one-half their regular rate of pay ("Standard Overtime") for either: (a) each hour worked in excess of forty (40) hours in a week; or (b) for the first eight (8) hours of work on a seventh day of work in a single workweek (as defined in section 6.105). Generally, unless an alternate workweek is in effect or state law dictates otherwise, non-exempt workers will be paid at a rate of double ("Double Time") their regular rate of pay for: (a) hours worked in excess of twelve (12) hours in a day; and (b) hours worked in excess of eight (8) hours on a seventh day of work in a single workweek. In accordance with applicable laws, rest and recovery periods may count as hours worked.

For non-exempt employees, Standard Overtime will be paid as described above. However, in some circumstances as described in Section 7.101, employees may elect to forego the payment of overtime in exchange for Comp Time. If you have any questions concerning overtime pay, please check with the CFO.

6.107 Meal, Rest, and Recovery Time (Non-Exempt Only)

Except for certain exempt employees, all employees who work five or more hours in a day are required to take an uninterrupted 30-minute unpaid duty-free meal period to commence no later than the end of the fifth hour of work and a second uninterrupted 30-minute meal period free from all duty to commence no later than the end of the tenth hour, should an employee work that many hours in any given day. Only in limited circumstances, discussed below, can meal periods be waived. For this reason, unless there is a written agreement for an on-duty meal period approved by PCE, employees must record the beginning and ending time of their meal period in the timekeeping system every day. It is also our policy to relieve such employees of all duties during their meal periods, with the employee being at liberty to use the meal period time as the employee wishes.

An employee cannot be required to work during a meal period, in accordance with applicable law. If PCE fails to provide an employee with a required meal period, the employee will be paid one additional hour of pay at the employee's regular rate of compensation.

PCE schedules all work assignments with the expectation that all employees will take their duty-free meal periods and we encourage you to do so. Employees may be asked to confirm in writing that they have been relieved of all duty and otherwise provided all their daily meal periods during the pertinent pay period, or in the alternative, identify any meal periods they missed. At no time may any employee perform off-the-clock work or otherwise alter, falsify, or manipulate any aspect of their timekeeping records to inaccurately reflect or hide meal periods or time spent working during meal periods.

No PCE manager or supervisor is authorized to instruct an employee how to spend his or her personal time during a meal period. You should immediately report a manager’s or supervisor’s instruction to skip or work during a meal period to the CFO or CEO.

Waiver of Meal Period: You may waive your meal periods only under the following circumstances:

- If you complete your workday in six hours, you may waive your meal period.
- If you work more than ten (10) hours in a day you may waive your second meal period, but only if you have taken your first meal period and you do not work more than twelve (12) hours that day.

Please speak to your immediate supervisor for clarification on whether you are entitled to waive your second meal period. Any time you elect to waive a meal period you must submit a written request and receive prior written authorization from your immediate supervisor.

You may not waive meal periods to shorten your workday or to accumulate meal periods for any other purpose.

On Duty Meal Period: In limited situations, certain designated employees may be required to work an on-duty meal period due to the nature of the employee's duties. Only if the nature of your job duties requires it, and you and PCE have agreed to an on-duty meal period in writing, will you be permitted to take an on-duty meal period. In this situation, your on-duty meal period will be paid and treated as hours worked.

Non-exempt employees will also receive one uninterrupted, duty free 10-minute paid break for every four hours worked (or major fraction thereof). Rest periods will occur as close to the middle of a four-hour work period as is practical. This time must be approved by your supervisor each day.

Rest periods are counted as hours worked, and thus, you are not required to record your rest periods on your timesheets or timecards. However, no supervisor is authorized or allowed to instruct or allow an employee to waive a rest or recovery period, and they cannot be used to shorten the workday or be accumulated for any other purpose. Employees may be required to confirm that they have been provided an opportunity to take all their rest or recovery periods during the pertinent pay period. Meal and rest periods may not be combined.

6.108 Paycheck Deductions and Set-Offs

PCE is required by law to make certain mandatory deductions from your paycheck each pay period. Mandatory deductions typically include federal and state income taxes, Social Security (FICA) and Medicare taxes, and State of California Disability taxes. In addition, depending on your benefits election, there may be additional deductions. All deductions and the amount of the deductions are listed on your pay stub. These deductions are totaled each calendar year for you on your Form W-2, Wage and Tax Statement.

PCE will not make deductions to an employee's pay which are prohibited by state or federal law or regulation, including those established by the United States Department of Labor. You will be reimbursed in full for any isolated, inadvertent, or improper deductions, as defined by law.

If questions or concerns about any pay deductions arise, discuss and resolve them with the CFO.

6.109 Work Location and Schedules

PCE's policies are intended to treat its employees as professionals. As employees of a public agency, PCE expects its employees to understand that the local ratepayers are responsible for employee salaries, and, therefore, employee actions and work should always be fair to those ratepayers. While there are not specific working hours in which every employee must be at work, every employee is scheduled and expected to work at least eight (8) hours per workday, not including mandatory time off for a lunch period.

The management of PCE feels that the company culture is best developed and maintained based on employees building positive and effective working relationships with one another; this relationship building includes face to face, in person interaction. . However, PCE management also strives to provide an environment that encourages work-life balance by providing opportunities for remote work and flexible work schedules..

Remote Work
PCE recognizes that employees are working remotely or telecommuting with increased frequency.. Please see Attachment J for detailed policies and guidelines related to remote working.

If employees are working remotely, the following guidelines must be adhered to:

- Employees should be available via instant chat for quick resolution of issues for the same hours that would apply if they were working in the office
- Employees should be available to participate in conference calls via phone and/or video, as appropriate, for the same hours that would apply if they were working in the office
- Employees must update their calendars, as far in advance as possible, as to their working status and availability (e.g., "working remotely" or "WFH" or "working offsite")

Employees are asked to exercise reasonable judgment regarding when to work from home and when to be in the office. Such judgment should be based on the value of meetings with external visitors or other employees based on the content and purpose of specific meetings. In addition, employees are asked to follow the lead of their supervisor as to when meetings should be attended in person.

The right to telecommute can be rescinded at any time if the employee's supervisor feels that an employee's performance is not satisfactory for any reason. In addition,

some positions may not be eligible for the same amount, or any telecommuting based on the nature of the work and/or the need to be in PCE's office.

Flexible Work Schedule
PCE recognizes that employees have different commutes and personal clocks. Employees are generally expected to arrive prior to 9:00 am and are expected to work at least eight (8) hours per day, not including mandatory time off for a lunch period (a "normal workday"). With approval of his/her supervisor, an employee is permitted to establish a flexible schedule that enables an employee to regularly arrive between 7:00 am and 10:00 am as long as the workday meets the overall criteria of a normal workday. In the event that an employee is approved for a flexible schedule, each such employee is responsible for reflecting his/her schedule on the company calendar so that all employees are informed about the employee's work schedule. Notwithstanding the above, all employees are required to exhibit flexibility in their schedules to meet with fellow employees outside their normal work schedules to help meet PCE's business needs as required.

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week. PCE reserves the right to assign and change individual work schedules, as needed

6.112 Garnishment/Child Support

When an employee's wages are garnished by a court order, PCE is legally bound to withhold the amount indicated in the garnishment order from the employee's paycheck. PCE will, however, honor applicable federal and state guidelines that protect a certain amount of an employee's income from being subject to garnishment.

SECTION 7: LEAVES OF ABSENCE

7.101 Vacation/Management Leave/Comp Time

All employees are eligible to accrue vacation. At PCE we believe that taking time away from work is essential to maintain both good physical and mental health. To this end, PCE encourages all employees to take full advantage of their earned vacation. Payment in lieu of time-off is not permitted by PCE.

The following provides PCE's vacation policy for both full-time and part-time employees.

All full-time employees are eligible for vacation. Vacation will accrue for full-time employees as follows:

Employment Seniority	Days Accrued/Year	Hours Accrued/Year	Hours Accrued/ Pay Period
Hire date to end of 3rd year of employment	10	80	3.34
Beginning of 4th year to end of 8th year	15	120	5.00
Beginning of 9th year and after	20	160	6.67

Part-time regular employees will accrue vacation according to their FTE percentage.

Vacation benefits do not accrue when an employee is on unpaid leave or during other periods of unpaid absence, except as defined by law.

Vacation accrual may not exceed 240 hours. Once this maximum is reached, all further accruals will cease until leave is taken. For ease of reference, the maximum accruals are:

- Hire date to completion of third year of employment: 15 days (120 hours)
- Beginning of fourth year to completion of eighth year: 22.5 days (180 hours)
- Beginning of ninth year and after: 30 days (240 hours)

Given the small number of staff at PCE, it is generally appreciated if employees can provide their time off plans with as much notice as possible. Employees should request time off by email to their supervisor and either copy the CFO on the request (to ensure that the CFO knows that the supervisor has been made aware of the request) or forward a copy of the supervisor's approval to the CFO. Once the CFO is informed, the request can be approved in PCE's time off tracking system., Length of employment may determine priority in scheduled vacation times.

At the end of employment, eligible employees will be paid for accrued but unused vacation, up to the maximum accrual amount. Any accrued vacation at the end of employment will be paid at the employee's then current base pay rate. It does not

include overtime or any special forms of compensation such as incentive, commission, bonuses, or shift differentials.

Management Leave - As noted in 6.101, directors and managers may at times be required to attend business related meetings and work obligations on weekends or weeknights beyond regularly scheduled PCE Citizens Advisory Committee and PCE Board Meetings. To provide compensation for the additional time necessary to attend such meetings, PCE provides Director and Manager-level employees (and higher, if applicable) 80 hours of management leave granted on the 1st day of each calendar year. However, for an employee that starts employment with PCE at any time after December 31, 2018, management leave will be granted as of the first day of employment per the following schedule applicable for the remainder of the then current calendar year:

- Hire date between January 1 through March 31: 80 hours
- Hire date between April 1 through June 30: 60 hours
- Hire date between July 1 through September 30: 40 hours
- Hire date between October 1 through December 31: 20 hours

The regularly scheduled PCE Citizens Advisory Committee and PCE Board Meetings are part of the regular expected work for managers and directors and are not covered by Management Leave. Management Leave is not carried over, i.e. any management leave not taken in the calendar year in which it was granted will not be carried over to subsequent years. Any unused Management Leave will not be paid out at the end of your employment.

Compensatory Time (Comp Time): Other Exempt Employees - Other exempt employees (i.e., non-managers or directors who are otherwise not eligible for Management Leave) are entitled to one (1) hour of Comp Time for each hour worked on special projects and off-site weekend events (excluding regularly scheduled PCE Citizens Advisory Committee and PCE Board Meetings) during times other than their regular scheduled workweek. The accrual of Comp Time is limited to sixteen (16) hours in any one pay period, and the maximum amount of Comp Time that an employee may have “accrued” at any time is forty (40) hours. Any questions or concerns about the appropriate use or tracking of accrued Comp Time should be discussed with the CFO. Any unused Comp Time will not be paid out at the end of your employment.

Compensatory Time (Comp Time): Non-Exempt Employees – Non-exempt employees may elect to accrue Comp Time in lieu of cash payment for Standard Overtime. At each pay period, eligible employees will either submit Standard Overtime hours through PCE’s payroll system for payment at the rate of one and one-half their regular rate of pay or submit a request that PCE accrue the same hours for future Comp Time use. For each hour of eligible Standard Overtime, employees will accrue one and one-half hours of accrued Comp Time. The accrual of such Comp Time is limited to a maximum of forty (40) hours. Once the accrual maximum is reached, each additional

hour of Standard Overtime will be paid out in cash regardless of the employee's election. Any questions or concerns about the appropriate use or tracking of accrued Comp Time should be discussed with the CFO. Any unused Comp Time accrued by non-exempt employees will be paid out at the end of employment.

7.102 Paid Sick Leave

In accordance with the Healthy Workplaces, Healthy Families Act of 2014, sick leave will accrue and be used according to the terms outlined in this policy for all employees.

All full-time employees are entitled to paid sick leave of up to ten (10) days per year (i.e., 80 hours), accruing at the rate of 3.33 hours per pay period. The maximum accrual is eighty hours of sick leave. Upon reaching the accrued level of eighty hours, further sick leave will not accrue until the sick leave is used and the accrual falls below the maximum threshold. Part-time employees will accrue sick leave based on their FTE percentage subject to a minimum of twenty-four (24) hours per year.

Out of respect for your health and the health of your fellow workers, do not come to work if you are sick. If you come to the office and are sick, you will be sent home.

Accrued paid sick leave may be used for:

1. Diagnosis, care, or treatment or preventive care of an existing health condition, for an employee;
2. Diagnosis, care or treatment or preventative care of an existing health condition for an employee's family member. For the purposes of sick leave under this policy, PCE defines "family member" as the employee's spouse or registered domestic partner and/or either of their parents, sibling, child, child's spouse, grandparents, or grandchildren. Special consideration will also be given to any other person whose association with the employee was similar to any of the above relationships.
3. In addition, with appropriate certification, an employee who is a victim of domestic violence, sexual assault, or stalking may use accrued paid sick leave under this policy for the following reasons:
    - To obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety or welfare of the victim or the victim's child;
    - To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
    - To obtain services from a domestic violence shelter, program or rape crisis center;
    - To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or

- To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

4. Up to five (5) days of sick leave may be used as bereavement leave to take time off due to the death of an immediate family member. This is in addition to the time off described in the Bereavement Leave section. On a case-by-case basis, additional time without pay may be granted for bereavement leave at the discretion of the CEO.

If the need to use paid sick leave is foreseeable, you must provide PCE with reasonable advance notification. If the need to use paid sick leave is not foreseeable, please provide notice to your immediate supervisor of your intent to use paid sick leave as soon as practicable, preferably no later than one hour after your scheduled starting time. Employees who must leave work due to illness or sick leave condition should likewise advise their supervisor. It is the responsibility of every employee to keep his or her supervisor advised as to the anticipated duration and expected date of return.

Accrued, but unused sick leave will not be paid out at the end of your employment. If an employee is separated and rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated, and the employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring.

This leave may run concurrently with any other leave where permitted by state and federal law.

Employees will not be discriminated or retaliated against for taking or requesting leave in accordance with this policy.

Sick leave for Temporary Employees – Sick leave for temporary employees is provided in accordance with the California Healthy Workplace, Healthy Families Act of 2014 (Paid Sick Leave Law – AB 1522). According to the Act and per PCE guidelines for temporary employees, temporary employees hired on or after July 31, 2015, are eligible to accrue twenty-four (24) hours of paid sick leave per year. Pro rata accruals will be provided for contracts that are less than one year in duration. Leave accruals may carry over from year to year. There is no cash out for sick leave upon termination. PCE defines a temporary employee as an employee that has been hired for a contracted specified period (typically for a specified project or assignment).

7.103 Bereavement Leave

Full-time employees are eligible immediately upon hire for three paid days for the death of an immediate family member. Members of the immediate family include spouse, registered domestic partner, parents, brothers, sisters, children, children of registered

domestic partner, grandchildren, grandparents, parents-in-law, and parents of registered domestic partner.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws. Requests for bereavement leave should be made to your immediate supervisor as soon as possible who will communicate this information to the CFO to ensure payroll is processed correctly. PCE reserves the right to request written verification of an employee's familial relationship to the deceased and his or her attendance at the funeral service as a condition of the bereavement pay.

7.104 Family Medical Leave

Family and Medical Leave (FMLA) and California Family Rights Act (CFRA)
Although PCE is subject to FMLA or CFRA, PCE has fewer than 50 employees and therefore, has no eligible employees under the law. However, PCE is committed to providing similar benefits to those provided by federal and state laws for employers of 50 or more employees, by providing family and medical care leave for qualified employees.

For information on Family Care Leave, please refer to the PCE - Family Care Leave Policy.

7.105 New Parent Leave

New Parent Leave is a California law that provides full-time employees time off for the purpose of bonding with the employee's new child. This leave applies to a newborn child, either by birth or adoption, or foster care placement of a child with the employee. The law provides protection of an employee's job during a baby bonding leave period. An employee is eligible for up to 12 weeks of unpaid baby bonding time within one year of the birth of the child, or for an adoption or foster care placement, as long as the employee has met the qualifications of more than 12 months of service and at least 1,250 hours of service with PCE during the 12-month period prior to commencing leave.

In addition to California law, PCE provides supplemental bonding leave. PCE offers 240 hours of leave to full-time employees for the purpose of bonding with the employee's newborn child or the new adoption or foster care placement of a child with the employee (Supplemental Bonding Leave). The first 120 hours of the leave will be fully paid by PCE at the employee's then existing base compensation rate. The remaining 120 hours of the leave will be unpaid. To be eligible, employees must have been employed with PCE full time for at least six months prior to the birth or new placement of the child Employees should request all paid leave under this policy by submitting a request to PCE's PTO tracking system. Both such paid and unpaid leave periods must be taken within a period that ends at the 12-month anniversary of the baby's birth. All leave time

under PCE's supplemental bonding leave will be part of any authorized leave under California's new parent leave provisions described above.

As referenced in an earlier section, California Paid Family Leave (PFL) is available to employees during the baby bonding period to provide pay during those days not covered by PCE's supplemental bonding leave pay if the employee files a claim with EDD. No more than six (6) weeks of PFL benefits may be paid within any 12-month period.

https://www.edd.ca.gov/disability/How_to_File_a_DI_Claim_in_SDI_Online.htm

During a New Parent Leave, employees will be required to pay the normal payroll deduction amount(s) for the employee-paid portion of dependent health coverage and supplemental life insurance under the group health plans that would have applied had the employee not been on leave. Since normal payroll will not be processed, and therefore employee deductions will not be possible, employees will be required to repay PCE for the applicable amount either during the leave or in full upon the employee's return.

For any leave that extends longer than 60 days, the annual performance review date will be adjusted to match the actual number of days of the leave. For example, following a leave of 90 days, a prior annual performance date of August 3 would be adjusted to November 1 of the same year - 90 days later.

7.106 Pregnancy Disability Leave

Pregnant employees are eligible for an unpaid leave of absence up to four (4) months (i.e., the working days you would normally work in one-third of a year or 17 1/3 weeks, unless your hours vary from month to month in which case PCE will use a monthly four-month average of the hours worked prior to commencing leave) for disabilities relating to pregnancy, childbirth, or related medical conditions per pregnancy.

A pregnant employee will be allowed to be absent for the period during which, in the opinion of her attending physician she is temporarily disabled because of pregnancy, childbirth or a related medical condition.

Pregnancy Leave is without pay. However, employees can use any accrued vacation time or other accrued paid time off as part of pregnancy disability leave before taking the remainder of leave on an unpaid basis. The substitution of any paid leave will not extend the duration of pregnancy disability leave. PCE will assist with designing your leave to your best possible financial advantage.

Whenever an employee is also receiving Family Care leave under PCE policy, Pregnancy Disability Leave and Family Care leave will run concurrently. When an employee is eligible for Family Care Leave under PCE's policy, terms and conditions of the Family Care Leave policy also apply to the taking of Pregnancy Disability Leave

Employees who are granted leaves for pregnancy will be returned to their same position to the extent required by state law. Upon the advice of your health care provider, you may also be entitled to reasonable accommodation, to the extent required by law, for conditions related to pregnancy, childbirth or related medical conditions. You should promptly notify PCE of the need for a reasonable accommodation (refer to 7.109). In addition, a transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties may be available pursuant to your request, if such a transfer is medically advisable.

When an employee's leave is foreseeable and at least 30 days' notice has been provided, and if a medical certification is requested, the employee must provide it before the leave begins. Otherwise please give PCE notice as soon as is practicable if the need is an emergency or unforeseeable.

Prior to the start of the leave, PCE will require a written medical certification from the employee's health care provider. The certification must include a statement that the employee is disabled due to pregnancy, the date on which the employee became disabled due to pregnancy, the probable duration of the period or periods of disability, and an explanatory statement that, due to disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

An employee may request a transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties. Such a request must be based on the certification of the health care provider that the transfer is medically advisable and will be granted if the transfer can be reasonably accommodated.

In addition, an employee may request a reasonable accommodation, with the advice of her health care provider when the accommodation is needed due to pregnancy, childbirth or related medical conditions

Sick and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

Leave may be taken intermittently or on a reduced work schedule if the employee's health care provider determines that it is medically advisable for the employee to take intermittent leave. Employees may also take intermittent leave for prenatal care appointments and for pregnancy-related illness. If an employee requests intermittent leave or a reduced schedule leave that is foreseeable based on planned medical treatment, the employee may be transferred to an alternative position for the duration of the leave (unless the employee's health care provider disapproves for medical reasons).

In the event your leave exceeds the anticipated date of return, it is your responsibility to provide further certification from your health care provider that you are unable to perform your job or job duties and the revised anticipated date of return. Depending on your eligibility, medical insurance may be continued during your leave in accordance with the applicable plan document, COBRA, or provisions of federal/state law relating to unpaid medical leave. Employees who choose not to return from leave may be required to refund premium payments made by PCE on their behalf, when permitted by state law.

For any leave that extends longer than 60 days, the annual performance review date will be adjusted to match the actual number of days of the leave. For example, following a leave of 90 days, a prior annual performance date of August 3 would be adjusted to November 1 of the same year - 90 days later.

7.106 Holidays

Full-time employees are eligible to receive holiday pay immediately upon date of hire if they were scheduled to work on the day on which the holiday is observed and worked on both the regularly scheduled working days immediately preceding and immediately following the holiday (unless an absence on either day is approved in advance by the employee's supervisor).

Standard Holidays - PCE normally observes the following standard holidays during the year:

- New Year's Day
- Martin Luther King Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Indigenous People's Day
- Veterans' Day
- Thanksgiving Day
- Day After Thanksgiving Day
- Christmas Day

If a holiday falls on Saturday, it will normally be observed on the preceding Friday. If a holiday falls on Sunday, it will normally be observed on the following Monday. Any unused floating holidays will not be paid out at the end of your employment.

Floating Holidays – Full-time employees are also eligible for up to four (4) floating holidays granted on the 1st day of each calendar year to be used at the employee's

discretion throughout the year. However, for an employee that starts employment with PCE, the number of floating holidays available for the remainder of the then current calendar will be per the following schedule:

- Hire date between January 1 through March 31: 4 days
- Hire date between April 1 through June 30: 3 days
- Hire date between July 1 through September 30: 2 days
- Hire date between October 1 through December 31: 1 day

7.106 Voting Leave

PCE believes that every employee should have the opportunity to vote in state or federal elections, general primary, or special primary. Any employee who does not have sufficient time outside of working hours to vote in a statewide election may request up to two paid hours off to vote. We reserve the right to select the hours you are excused to vote.

Notify your immediate supervisor of the need for voting leave as soon as possible. When you return from voting leave, you must present a voter's receipt to your supervisor. This will provide documentation for your timesheet entry.

7.107 Jury Duty

PCE encourages employees to fulfill their civic responsibilities by serving jury duty when required. Employees may request paid jury duty leave, up to five (5) days. Exempt employees will receive their full weekly salary for any workweek interrupted by jury service if they work at least a portion of the workweek. If an exempt employee does not work at all during the workweek due to jury service, he or she will not be paid for that workweek. Alternatively, in this latter case, the employee could charge the week to vacation.

Employees must show the jury duty summons to their immediate supervisor as soon as possible so that the supervisor may made the appropriate arrangements to accommodate their absence. Employees are generally expected to report for work whenever the court schedule permits. For those employees who are not residents of the County of San Mateo, this may not be feasible.

Either PCE or the employee may request an excuse or deferment from jury duty if, in PCE's judgement, the employee's absence during the originally summoned time frame would create serious operational difficulties. It is noted that most court systems have very stringent requirements for a complete dismissal from service. As a result, PCE is

committed to ensure that if called, you will be able to serve at a time that can be accommodated.

If you are obliged to serve on a long-term trial (i.e., greater than five (5) days), PCE will provide you will all the regular health, dental, vision, etc. benefits for the full term of the jury duty absence. Benefit accruals such as vacation, sick leave, or holiday benefits will be suspended during the unpaid jury duty leave and will resume upon return to active employment.

7.108 Military Leave and Civil Air Patrol

Employees who are required to fulfill military obligations in any branch of the Armed Forces of the United States or in state military service will be given the necessary time off and reinstated in accordance with federal and state law.

The time off will be unpaid, except where state law dictates otherwise. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

Accrued vacation (if any) may be used for this leave if the employee chooses, but PCE will not require the employee to use vacation. Military orders should be presented to your immediate supervisor upon receipt so that arrangements for leave can be made as early as possible before departure. Employees are required to give notice of their service obligations to PCE unless military necessity makes this impossible. You must notify the CFO and your supervisor of your intent to return to employment based on requirements of the law. Within the limits of such orders, the supervisor may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave. Your benefits may continue to accrue during the period of leave in accordance with state and federal law.

This policy does not apply to employees who serve as first responders or disaster service workers for a local, state, or federal agency to the same or a simultaneous emergency operational mission.

Employees may substitute accrued vacation for unpaid leave but are not required to exhaust accrued leave prior to taking leave under this policy.

Additional information regarding any of the aforementioned military leaves may be obtained from the CFO.

7.109 Personal Leave

Under special circumstances, full-time employees who have completed one year of employment may be granted an unpaid personal leave of absence for up to sixty (60) days. The granting of this type of leave is normally for compelling reasons and is dependent upon the written approval of the CEO. Employees requesting a personal leave of absence must submit the request in writing stating the reason(s) for the requested leave at least twenty-one (21) days in advance of the requested leave. In emergency situations written notice must be provided as soon as possible. PCE has sole discretion in determining whether the leave will be granted. If granted, PCE and the employee will agree on a specific return to work date, although the employee is free to shorten the time at his/her discretion.

While on leave, retirement contributions and matching will be suspended consistent with the unpaid period.

While on leave, an employee will not accrue vacation or sick hours, and will not be eligible for holiday pay.

During the leave, some benefits may be continued through COBRA. Under COBRA, the employee will be required to pay for the full cost of benefits (e.g., medical, dental and vision insurance) if coverage is continued during the leave period.

PCE will make reasonable efforts to return the employee to the former position, or, if not possible for business reasons, to a similar position when the employee returns from a leave of absence. PCE's need to fill a position may override its ability to hold a position open until an employee returns from leave. Notwithstanding the foregoing, in the event of a company-wide reduction-in-force, PCE shall not be required to return the employee to any position after the leave of absence is over.

In the event that the former position is not available upon return from a Personal Leave of Absence, PCE retains the discretion to determine the similarity of any available positions for any reassignment and the employee's qualifications. Failure to return from a personal leave of absence upon the expiration of the leave will be considered a voluntary resignation.

7.110 Bone Marrow and Organ Donation Leave

Employees are eligible to receive up to thirty (30) business days of paid leave to serve as an organ donor and up to five business days of paid leave to serve as a bone marrow donor in a one-year period. The one-year period is measured from the date the employee's leave begins and shall consist of twelve (12) consecutive months. Employees must be employed by PCE for at least 90 days immediately preceding the commencement of leave. Such leave must be requested in writing.

When available, the employee must utilize up to five business days of accrued but unused sick or vacation leave for initial bone marrow donation leave and up to two weeks of accrued but unused sick or vacation leave for initial organ donation leave.

Please provide the CFO with written physician verification of the purpose and length of each leave. For more information regarding this leave, please see the CFO.

7.111 Domestic Violence Leave

PCE will not discriminate or retaliate against employees based on their status as a victim of domestic violence, sexual assault, or stalking or for taking time off from work to obtain or attempt to obtain any relief, including but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of a victim or his or her child. To the extent required by law, PCE will provide reasonable accommodation to victims of domestic violence, sexual assault, or stalking who request the accommodation for the safety of the victim while at work.

7.112 Victims of Felony Crimes Leave

PCE will grant reasonable and necessary leave from work without pay, to employees who are victims, or whose spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, stepfather, registered domestic partner, or child of a registered domestic partner is a victim of a violent or serious felony or felonious theft or embezzlement, for the purposes of attending legal proceedings related to the crime.

Affected employees may elect to use accrued paid vacation, personal leave and/or sick leave in lieu of unpaid leave. When feasible, affected employees must provide PCE with notice of the employee's need for leave, including a copy of the notice of the scheduled proceeding. If notice is not feasible, affected employees must provide documentation evidencing the legal proceeding requiring the employee's absence within a reasonable time after leave is taken. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

7.113 Time Off for School-Related Activities

Parents, stepparents, guardians, or grandparents with school children from kindergarten through grade 12, or who attend licensed child daycare facilities, are provided unpaid time off (up to a maximum of four (4) hours in one (1) calendar month and 20 hours in one (1) calendar year) or vacation or personal leave to participate in school or day care activities. PCE may require proof of an employee’s participation in these activities. The employee must provide reasonable advance notice to their supervisor before taking any time off under this section.

If you are the parent or guardian of a child who is suspended and are required to appear at the child's school, you may take time off without pay if you provide reasonable notice to your supervisor of the need for time off.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

Receipt of Employee Handbook and Employment-At-Will Statement

This is to acknowledge that I have received a copy of the Peninsula Clean Energy Employee Handbook and I understand that it contains information about the employment policies and practices of PCE. I agree to read and comply with this Employee Handbook. I understand that the policies outlined in this Employee Handbook are management guidelines only, which in a developing business will require changes from time to time. I understand that PCE retains the right to make decisions involving employment as needed to conduct its work in a manner that is beneficial to the employees and PCE. I understand that this Employee Handbook supersedes and replaces any and all prior Employee Handbooks and any inconsistent verbal or written policy statements.

I understand that except for the policy of at-will employment, PCE reserves the right to revise, delete, and add to the provisions of this Employee Handbook at any time without further notice. All such revisions, deletions or additions to the Employee Handbook will be in writing and will be signed by the CEO of PCE. I understand that no oral statements or representations can change the provisions of this Employee Handbook.

I understand that this Employee Handbook is not intended to create contractual obligations with respect to any matters it covers and that the Employee Handbook does not create a contract guaranteeing that I will be employed for any specific time period.

PCE IS AN AT-WILL EMPLOYER. THIS MEANS THAT REGARDLESS OF ANY PROVISION IN THIS EMPLOYEE HANDBOOK, EITHER PCE OR I MAY TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME, FOR ANY REASON, WITH OR WITHOUT CAUSE OR NOTICE. NOTHING IN THIS EMPLOYEE HANDBOOK OR IN ANY DOCUMENT OR STATEMENT, WRITTEN OR ORAL, SHALL LIMIT THE RIGHT TO TERMINATE EMPLOYMENT AT-WILL. NO OFFICER, EMPLOYEE OR REPRESENTATIVE OF PCE IS AUTHORIZED TO ENTER INTO AN AGREEMENT, EXPRESS OR IMPLIED, WITH ME OR ANY OTHER EMPLOYEE FOR EMPLOYMENT FOR A SPECIFIED PERIOD OF TIME UNLESS SUCH AGREEMENT IS IN A WRITTEN CONTRACT SIGNED BY THE CEO OF PCE.

I understand that this Employee Handbook refers to current benefit plans maintained by PCE and that I must refer to the actual plan documents and summary plan descriptions as these documents are controlling.

I have read and understand the Vacation Policy in this Employee Handbook.

Initials _____ Date _____

I also understand that if a written contract is inconsistent with the Employee Handbook, the written contract is controlling.

If I have questions regarding the content or interpretation of this Employee Handbook, I will ask my supervisor or a member of management.

NAME _____

DATE _____

EMPLOYEE
SIGNATURE _____

PENINSULA CLEAN ENERGY
JPA Board Correspondence

DATE: July 13, 2022
COMMITTEE MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Andy Stern, Chief Financial Officer

SUBJECT: Approval of Contract Renewal with Maher Accountancy

RECOMMENDATION

Authorize execution of an Agreement between PCE and Maher Accountancy for the period of July 1, 2022 through June 30, 2023 in an amount not to exceed $243,750

BACKGROUND

Maher Accountancy has been engaged to provide external accounting, payroll, and annual audit support services to PCE since October 1, 2016. A summary of services that are provided as part of the regular monthly Operational Assistance fee is as follows:

- Process payroll, including managing and reporting payroll taxes
- Manage and process Accounts Payable including use of a cloud-based document management system supporting management review of expenses, segregation of duties, and access to source invoice and vendor data
- Set-up of wire transfer payments to vendors paid by wire (Only PCE management is authorized to release wire payments according to Board-authorized policy)
- Maintain the general ledger by posting billings, and accruing revenue/expenses by reconciliation of PCE's data manager reports of customer activity and Accounts Receivable
- Bank reconciliations
- Publish monthly financial statements showing monthly and year-to-date summaries compared to approved budget levels
- Monthly updated web portal providing access to professional services contract management

An amendment adding the monthly updated web portal (described above) was added to the contract starting April 1, 2022. The most recent contract for services (approved by

the Board in August 2021), which covered the period from July 1, 2021, through June 30, 2022, was for a total of $195,000. Both contracts include a monthly fee for operational services plus a one-time fee for support of the audit of the prior fiscal year conducted in the Fall of each year.

DISCUSSION

PCE has been satisfied with the services provided by Maher Accountancy and has negotiated a new one-year agreement.

The cost of the accounting services as proposed will be $19,000 per month, plus a fee of $15,750 for support of the annual audit of the FY2021-2022 financial statements.

The increase in the proposed fee over the fee in the prior year includes additional costs for ongoing support based on higher staff costs plus the additional $1,500 per month added mid-year for the monthly web portal.

FISCAL IMPACT

The total fees for the contract for the period from July 1, 2022, through June 30, 2023, would be $243,750.

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

*** * * * * ***

RESOLUTION AUTHORIZING THE CEO TO SIGN AN AGREEMENT BETWEEN MAHER ACCOUNTANCY AND THE PENINSULA CLEAN ENERGY AUTHORITY FOR THE PROVISION OF ACCOUNTING SERVICES IN A FORM APPROVED BY COUNSEL IN AN AMOUNT NOT TO EXCEED $243,750

RESOLVED, by the Peninsula Clean Energy Authority (PCEA) of the County of San Mateo, State of California, that

WHEREAS, PCEA was formed on February 29, 2016; and

WHEREAS, Maher Accountancy was selected to provide accounting, payroll and audit support services to PCEA based on its experience with other CCA programs, expertise in bookkeeping, and the cost-effectiveness of their proposal; and

WHEREAS, PCEA has contracted with Maher Accountancy to provide such services since October 1, 2016; and

WHEREAS, PCEA was most recently engaged in a contract with Maher Accountancy to provide such services for the term of July 1, 2021 through June 30, 2022; and

WHEREAS, PCEA is now seeking to sign a contract with Maher Accountancy for the term of July 1, 2022 through June 30, 2023, in an amount not to exceed $243,750 in substantially the same form as the prior agreement; and

WHEREAS, Maher Accountancy has heretofore provided services to PCEA in a satisfactory manner.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board delegates authority to CEO to execute said contract with Maher Accountancy in an amount not to exceed $243,750.

* * * * * *

AGREEMENT BETWEEN THE PENINSULA CLEAN ENERGY AUTHORITY AND MAHER ACCOUNTANCY

This Agreement is entered into this 1st day of July 2022, by and between the Peninsula Clean Energy Authority, a joint powers authority of the state of California, hereinafter called "PCEA" and Maher Accountancy (a California Corporation), hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 6508 of the Joint Exercise of Powers Act, PCEA may contract with independent contractors for the furnishing of services to or for PCEA; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of accounting management services.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services
Exhibit B—Payments and Rates

Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for PCEA in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

2. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, PCEA shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. PCEA reserves the right to withhold payment if PCEA determines that the quantity or quality of the work performed is unacceptable. In the event that the PCEA makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the PCEA at the time of contract termination or expiration.

3. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2022, through June 30, 2023.

4. Termination; Availability of Funds

This Agreement may be terminated by Contractor or by the Chief Executive Officer of the Peninsula Clean Energy Authority or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

PCEA may terminate this Agreement, or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or PCEA funds by providing written notice to Contractor as soon as is reasonably possible after PCEA learns of said unavailability of outside funding.

5. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of PCEA and shall be promptly delivered to PCEA. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of PCEA and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of PCEA employees.

7. **Hold Harmless**

a. General Hold Harmless

Contractor shall indemnify and save harmless PCEA and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any other loss or cost, however, Contractor's obligation to indemnify and hold harmless pursuant to this section shall be limited to the extent Contractor has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct. The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of PCEA. Any such assignment or subcontract without PCEA's prior written consent shall give PCEA the right to automatically and immediately terminate this Agreement without penalty or advance notice.

9. **Payment of Permits/Licenses**

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by PCEA, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish PCEA with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to PCEA of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

☒ Comprehensive General Liability… $1,000,000

(Applies to all agreements)

☒ Motor Vehicle Liability Insurance… $1,000,000

(To be checked if motor vehicle used in performing services)

☐ Professional Liability……. $1,000,000

(To be checked if Contractor is a licensed professional)

PCEA and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to PCEA and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the PCEA or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, PCEA, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to PCEA upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

☒ Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60–741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

☒ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the Chief Executive Officer of PCEA the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 11, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the Chief Executive Officer, including but not limited to the following:

i. termination of this Agreement;
ii. disqualification of the Contractor from being considered for or being awarded a PCEA contract for a period of up to 3 years;
iii. liquidated damages of $2,500 per violation; and/or
iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the Chief Executive Officer.

To effectuate the provisions of this Section, the Chief Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and PCEA.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed Section 2, above, is less than one-hundred thousand dollars ($100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after PCEA makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by PCEA, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by PCEA.

(c) Contractor agrees upon reasonable notice to provide to PCEA, to any Federal or State department having monitoring or review authority, to PCEA's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this

document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of PCEA, to:

Name/Title:	Jan Pepper, Chief Executive Officer
Address:	2075 Woodside Road, Redwood City, CA 94061
Telephone:	650-260-0100
Email:	jpepper@peninsulacleanenergy.com

In the case of Contractor, to:

Name/Title:	Michael Maher, Vice President
Address:	1101 Fifth Ave, Ste 200, San Rafael, CA 94901
Telephone:	415-459-1249
Email:	mmaher@mahercpa.com

18. Electronic Signature

If both PCEA and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For PCEA: ☒ If this box is checked by PCEA, PCEA consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☒ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

19. No Recourse Against PCEA's Member Agencies

Contractor acknowledges and agrees that PCEA is a Joint Powers Authority, which is a public agency separate and distinct from its member agencies. All debts, liabilities, or obligations undertaken by PCEA in connection with this Agreement are undertaken solely by PCEA and are not debts, liabilities, or obligations of its member agencies. Contractor waives any recourse against PCEA's member agencies.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

PENINSULA CLEAN ENERGY AUTHORITY

By:

CEO, Peninsula Clean Energy Authority

Date:

Maher Accountancy

Contractor's Signature

Date:

Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

The proposed contract term covers July 1, 2022 through June 30, 2023. In no event will the cost to PCE during the contract term exceed the maximum sum of $243,750.

Operational Assistance:

1. Assist in review of operating budget in collaboration with management and technical consultants.
2. Maintain the general ledger by:
    a. Posting billings, accrued revenue, cash receipts, accounts payable, cash disbursements, payroll, accrued expenses, etc.
    b. Prepare or maintain the following monthly analyses regarding general ledger account balances:
        i. Reconciling to statements from PCE's financial institution for cash activity and balances,
        ii. Reconcile customer data manager reports of customer activity and AR,
        iii. Estimated user fees earned but not billed as of the end of the reporting period,
        iv. Schedule of depreciation of capital assets,
        v. Aged schedule of accounts payable and
        vi. Schedules of details regarding all remaining balance sheet accounts.
3. Manage accounts payable: Maher Accountancy utilizes a cloud-based accounts payable document management system to provide for documentation of management review, proper segregation of duties, and access to source data. We ensure that required authorization is documented and that account coding is correct. Your staff then authorizes the release of payment by an independent payment service in order to provide an additional safeguard.
4. Assist with compliance with fiscal provisions of service vendor contracts: Before submitting vendor invoices for management approval, Maher Accountancy verifies that a vendor invoice with contract provisions regarding time periods, rates and financial limits.
5. Monitor expenditure budget compliance: Before submitting vendor invoices for management approval, Maher Accountancy verifies that there is budget available and will make timely suggestions for any necessary budget amendments.
6. Provide periodic and year-to-date accrual basis financial statements with comparison to projections.
7. Provide modified accrual basis financial statements with comparison to budget. (Government agencies are accustomed to budgeting inflows and outflows of capital and debt items not included in accrual basis operating statements.)
8. Process payroll, including managing and reporting payroll taxes.
9. Filing annual informational returns (Forms 1099/1096).
10. Assist in the presentation of financial information to Finance Committee and answer questions from time to time, as needed.
11. Assist the treasury function.
12. Provide services to meet the requirements of applicable laws and regulations relating to the provisions of accounting services for PCE.
13. File various compliance reports for state and local agencies, such as user taxes, energy surcharges, and state controller reports.

14. Monthly Portal
    a. Provide access to unified web portal for professional services contract management and review. (unlimited PCE users) for a cost of $1,500 per month
    b. Provide granular security/access based on department.
    c. Maintain listing of open and recently closed contracts, documents and basic meta data as available from accounting system or Bill.com.
    d. Track Actual spend against commitments and report on available balances.
    e. Maher will maintain the data, but ongoing accuracy will require cooperation from vendor relationship managers
        i. PCE will timely provide Maher with contracts and contract amendments
        ii. PCE will review Maher's input of the contract data into the portal

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, PCEA shall pay Contractor based on the following fee schedule and terms:

Description of Service	Frequency	Fee
A. Operational Assistance	Monthly	$19,000
B. Assist with annual financial statement preparation as needed, including correspondence with independent auditor	Annual	$15,750

Reimbursable Expenses:

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses.

Bill payment fees for the cloud-based accounts payable system will be borne by the PCEA with no additional mark-up. Based on recent history, the fees related to this are not expected to exceed Five Thousand Dollars ($5,000) annually.

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 21, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority (PCEA) Board of Directors

FROM: Jan Pepper, Chief Executive Officer

SUBJECT: CEO Report

REPORT

Staff Updates
We have had successful recruitments for the following positions:

- Chief Financial Officer – Kristina Alagar Cordero will be joining us effective July 25
- Power Resources Manager – Jeffrey Wright will be joining us effective August 31
- Senior Renewable Energy Analyst – Moya Enright will be joining us on September 1

Recruitments
We are currently recruiting for the following open positions. The job descriptions can be found on the website:

Regulatory Compliance Analyst
Electric Vehicles Associate Programs Manager
Human Resources Manager
Director of Power Resources
Strategic Accounts Manager

Inflation Adjustment for PCE Staff
I want to share with the board an email sent to Staff on 7/14:

"We will be providing a 4.5% inflation adjustment to salary for all Peninsula Clean Energy employees who were employed as of January 1, 2022, and this adjustment will be effective starting July 1, 2022. This increase will be reflected starting with the

paycheck covering the period July 1 to July 15. [Note: This has changed and will be reflected starting in the paycheck covering the period July 16 to July 31, but will be retroactive to July 1.] This is not a bonus nor a cost-of-living adjustment program that will be repeated every year. This is a one-time salary adjustment reflecting the extraordinary inflation that has occurred during this last year.

We have reviewed the inflation data for the last year. The Consumer Price Index (CPI) over the last year for the US for "all items" rose 9.1% over the last twelve months, the largest 12-month increase since November 1981. The CPI for "all items less food and energy" rose 5.9% over the last 12 months. Looking at the San Francisco Bay Area, the CPI for "all items" rose 6.8% over the last year. The index for "all items less food and energy" in the SF Bay Area increased 4.4% over the last year.

We have also surveyed other CCAs regarding whether they are providing inflation adjustments to their staff. Some other CCAs are also instituting cost-of-living-adjustments as well. In northern California these include VCE (5.0%), SJCE (4.5%), CPSF (5.25%), and EBCE (3.5%). The proposal of 4.5% for Peninsula is in the middle of what others are doing in northern California."

I have discussed this increase with Rick DeGolia and Donna Colson, the PCE Board Chair and Vice Chair and they are in support of this inflation adjustment. Their support is based on the understanding that salary adjustments during each staff member's annual performance evaluation during this year will be based solely on merit or promotion, without inclusion of additional inflation adjustments.

All-Staff In-Person Meeting

We held our second quarterly all-staff in-person on July 12 at an outside venue at Allied Arts in Menlo Park. It was wonderful to see everyone in person again! We spent time sharing updates from different teams. We then mixed up our staff into groups of six, with people from different teams in each group, to participate in a scenario planning exercise. This exercise considered: 1) what driving forces could impact our industry in 2027; 2) how these could affect the world / US, California, and San Mateo County / Los Banos; 3) what kinds of market challenges and opportunities these present to Peninsula Clean Energy; and 4) what actions we could take now to prepare for such a scenario. This provided an opportunity for everyone to think broadly about our industry and our organization, as well as a chance to brainstorm with fellow staff members.

Update on the Wright Solar Storage Project

At the May 26, 2022 Peninsula Clean Energy Board meeting, you approved an amendment to the Wright Solar Power Purchase Agreement to add an 80 MW / 320 MWh battery storage system to this project. The 200 MW solar project started operating on January 2, 2020, with the storage project scheduled to start operation on December 31, 2023. After your approval, we sent this amendment to the counterparty, Wright Solar Park LLC, which is operated by Clenera, for them to execute this amendment.

On July 13, I received a call from Jason Ellsworth, the CEO of Clenera, informing us that they would not be executing this amendment. These are the reasons why:

- The ultimate parent of Wright Solar Park LLC is KKR
- KKR has decided not to proceed with the Wright battery storage project
- KKR is open to selling the Wright Solar project
- If sold, the buying party may be interested in adding battery storage to this project
- While Clenera is interested in buying the project, there are foreign investment complexities associated with the Wright project that make that purchase unlikely
- Clenera is exploring possibilities with other parties that might invest in the project, but unless it is sold to another party, the battery storage project cannot proceed.

Clearly we at Peninsula Clean Energy are extremely disappointed with this outcome and are hopeful that another party will purchase this project so that we can proceed with adding energy storage to this facility.

Presentations

We have started providing update presentations on what's happening at Peninsula Clean Energy to various city councils:

- On June 21, I made a presentation to the Half Moon Bay City Council.

- On July 25, I will be making a presentation to the Colma City Council.

On July 20, State Senator Josh Becker presented a framed resolution signed by Senator Becker and Assembly Members Mullin, Ting, and Berman, congratulating Peninsula Clean Energy on providing 5 years of electric generation service to San Mateo County. The presentation was made at County Center, and was attended by State Senator Becker, County Supervisors Dave Pine and Carole Groom, and myself.

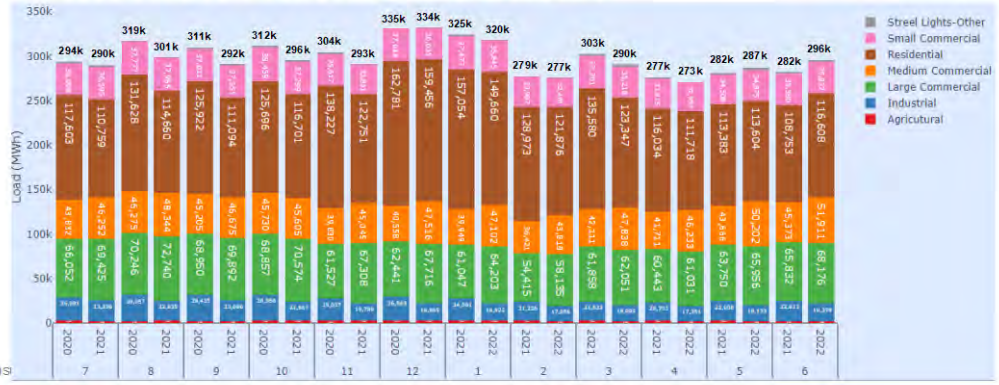
Impact of COVID-19 on PCE Load

Attached to this report are summary graphs of the impact of COVID-19 on Peninsula Clean Energy's load. The first graph, "Monthly Load", shows the change in load on a monthly basis from July 2020 through June 2022. Monthly load is continuing to increase. We saw a 2% decrease in Peninsula Clean Energy's load in January-April 2022 compared to January-April 2021, however there was a 2% increase in PCE's overall load in May 2022 compared to May 2021 followed by a 5% increase in PCE's overall load in June 2022 compared to June 2021. Also continuing the same pattern as reported last month, the second graph, "Monthly Load Changes by Customer Class", shows that industrial and residential load was lower in January-April 2022 compared to the same months in 2021. Industrial load continues to stay lower in May and June 2022 compared to May and June 2021. However residential load has started showing an increase in June 2022 compared to June 2021. Commercial load was higher in January-June 2022 compared to January-June 2021. The third graph, "Load Shapes (PCE)", shows the change overall in our load on an hourly basis. June 2022 load was higher than the

comparable 2020-2021 loads in all hours. Thank you to Mehdi Shahriari on our Power Resources team for compiling these graphs.

Monthly Load

- 4% decrease in PCE's load in August-December 2021 compared to August-December 2020. Load in August-October of 2020 was significantly higher than forecast due to heatwaves, fires, and smokes.
- 2% decrease in PCE's load in January-April 2022 compared to January-April 2021
- 2% increase in PCE's load in May 2022 compared to May 2021
- 5% increase in PCE's load in June 2022 compared to June 2021



Monthly Load Changes by Customer Class

- In August-December 2021, Residential and Industrial load was significantly lower compared to same months in 2020, mainly due to the heatwaves that we experienced in 2020.
- In January-April of 2022, Industrial and Residential load was lower compared to same months in 2021. Commercial load was higher in January-April 2022 compared to January-April 2021.
- In May 2022, Industrial load was lower compared to May 2021. Commercial load was higher in May 2022 compared to May 2021.
- In June 2022, Industrial load was lower compared to June 2021. Commercial and Residential load was higher in June 2022 compared to June 2021.

Agricutural	-9%	5%	4%	0%	6%	0%	-5%	-7%	-7%	-12%	-15%	-5%
Industrial	-11%	-21%	-22%	-25%	-21%	-29%	-23%	-20%	-16%	-16%	-18%	-15%
Small Commercial	2%	0%	1%	-3%	-5%	-4%	-4%	-4%	-6%	-3%	1%	1%
Medium Commercial	6%	4%	3%	0%	13%	17%	18%	20%	14%	11%	15%	14%
Large Commercial	5%	4%	1%	2%	9%	8%	5%	7%	0%	1%	3%	4%
Residential	-6%	-13%	-12%	-7%	-11%	-2%	-5%	-6%	-9%	-4%	0%	7%
Street Lights-Other	-4%	-4%	-3%	-4%	-4%	-5%	-5%	-4%	-5%	-5%	-2%	1%
PCE	-1%	-6%	-6%	-5%	-4%	0%	-1%	-1%	-4%	-1%	2%	5%
Month	7	8	9	10	11	12	1	2	3	4	5	6

* For months 7-12, the heatmap shows how much load in 2021 was lower/higher compared to same month in 2020. For months 1-6, the heatmap shows how much load in 2022 was lower/higher compared to same month in 2021

Load Shapes (PCE)

- March: 2022 load was lower than 2020-2021 load in the afternoon and late evening hours.
- April: 2022 load was lower than 2021 load in the afternoon and evening hours. 2022 Load was higher than 2020 load in early morning hours.
- May: 2022 Load was higher than 2020-2021 load in the overnight and morning hours.
- June: 2022 Load was higher than 2020-2021 load in all hours.



Peninsula Clean Energy

4

Reach Codes

Below is the table showing the status of Reach Code adoption by Peninsula Clean Energy jurisdictions. There have been no changes since last month.

Member Agency	Reach Code Status	Building (proposed)	EV
Belmont	Adopted	All-electric w/ exceptions	PCE model code
Brisbane	Adopted	All-electric w/ exceptions	PCE model code (variant)
Burlingame	Adopted	All-electric w/ exceptions	PCE model code (variant)
Daly City	Adopted	All-electric w/ exceptions	PCE model code
East Palo Alto	Adopted	All-electric w/ exceptions	PCE model code (variant)
Millbrae	Adopted	All-electric w/ exceptions	PCE model code (variant)
Menlo Park	Adopted	All-electric w/ exceptions	(existing EV code)
Pacifica	Adopted	All-electric w/ exceptions	(existing EV code)
County of San Mateo	Adopted	All-electric w/ exceptions	PCE model code
Redwood City	Adopted	All-electric w/ exceptions	PCE model code
San Mateo	Adopted	All-electric w/ exceptions (updated)	Increase EV capable
San Carlos	Adopted	All-electric w/ exceptions (updated)	PCE model code
South San Francisco	Adopted	All-electric w/ exceptions (residential)	PCE model code
Half Moon Bay	Adopted	All-electric new construction + end of flow	Under consideration
Hillsborough	Adopted	Electric-preferred code	
Colma	Adopted	Prewiring required	Increase EV capable
Atherton	Study session Feb 16. Intent to proceed in 2022.		
San Bruno	Study session Mar. 8. Intent to proceed.		
Portola Valley	Council intent to proceed in 2020.		
Foster City	Council briefing 2020		
Woodside	Declined		

Other Meetings and Events Attended by CEO

Attended weekly and monthly CalCCA Board and Executive Committee meetings.

Participated in SV5 (formerly called MAG5) meetings.

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jan Pepper, CEO
Shayna Barnes, Operations Specialist
Kirsten Andrews-Schwind, Senior Manager of Community Relations

SUBJECT: Diversity, Equity, Accessibility, and Inclusion (DEAI) Project Status Update

BACKGROUND:
In July 2020, the Citizens Advisory Committee (CAC) formed an Equity Working Group with the primary task of "ensur[ing] equity is a priority across all working groups and built into PCE strategic priorities." The CAC's equity working group created a draft equity statement and brought the draft statement to Peninsula Clean Energy's Board of Directors at their January 28, 2021 meeting. The draft equity statement is provided below:

In light of the community's focus on anti-racism and the Black Lives Matter Movement following the death of George Floyd in May of 2020 and other continuing instances of systemic racism and institutional violence against black people, the Peninsula Clean Energy CAC Equity Working Group has worked over the past few months on a statement that would embody the commitment of the organization to ensure equity and inclusion in their work. The working group recognizes that there are many forms of discrimination that impact people from different backgrounds but the growing awareness of significant violence and discrimination against people of color (BIPOC) is our current focus, and we are committed to developing a framework that will eventually address discrimination in all its forms.

Peninsula Clean Energy Citizens Advisory Committee Draft Statement on Equity and Inclusion

- Peninsula Clean Energy commits to making anti-racism top of mind during decision making.
- Will follow best practices in hiring, vendor selection and project selection
- Will use a racial equity lens when developing the community impact report
- Develop a means of tracking revenue and formulating a mechanism (qualitative and quantitative) that ensures accountability.
- Current board goals - 20% of programs funding going to low-income communities (working on definition)
- Pursue equity in energy generation and programs

- Low-income households, as well as Black, Hispanic, and Native American households, pay a much larger share of their income on energy bills, straining budgets and putting them at heightened risk of utility shutoffs during the COVID-19 pandemic and recession (https://www.aceee.org/press-release/2020/09/report-low-income-households-communities-color-face-high-energy-burden)

At the Board of Directors Meeting on January 28, 2021, the Board accepted the above draft equity statement and formed a Diversity, Equity, Accessibility, and Inclusion Subcommittee to build on the statement and create a DEAI organizational statement/policy and action plan for Peninsula Clean Energy. Board members on this subcommittee include Directors Donna Colson, Michael Smith, Sam Hindi, Carlos Romero, and Roderick Daus-Magbual.

Senate Bill 255 and Utility Supplier Diversity
In addition to the CAC Draft Statement on Equity and Inclusion serving as a catalyst for undertaking the DEAI work, Peninsula Clean Energy has new regulatory compliance reporting obligations regarding DEAI under Senate Bill (SB) 255 (Bradford). SB 255 is a bill signed by Governor Newsom in October 2019 that amended the Public Utilities Code Sections 366.2 and 8283 and brought Community Choice Aggregators into the California Public Utilities Commission's (CPUC's) Utility Supplier Diversity Program. The Utility Supplier Diversity Program's framework and guidelines are laid out in the CPUC's General Order (GO) 156. To comply with SB 255 and GO 156, CCAs like Peninsula Clean Energy must annually submit a detailed and verifiable plan for increasing procurement from small, local, and diverse business enterprises, and a report that details our activities supporting diverse business enterprises and the amount of our procurement spend going towards these businesses in the prior year. This program focuses on the positive downstream economic effects of including diverse suppliers in utilities' supply chains. Compliance with SB 255 and GO 156 is another consideration that staff and the Board subcommittee contemplated when drafting the Request for Proposals and selecting the consultant team to carry out the DEAI work.

Selection of DEAI Consultant
To create the DEAI organizational statement/policy and action plan, Peninsula Clean Energy staff drafted a Request for Proposals (RFP) for DEAI consulting services under direction from the DEAI subcommittee to be released as a competitive solicitation. The Request for Proposals was released in early May 2021 with responses due in mid-June 2021. Staff received eight responses to this RFP and interviewed three top consultants with the Board subcommittee in early July. The Board subcommittee recommended that the consultant team from GCAP Services, Inc. be selected to carry out the DEAI work as they were the best fit for Peninsula Clean Energy's range of needs, including regulatory compliance with SB 255 and GO 156. The full Peninsula Clean Energy Board approved the contract with GCAP Services, Inc. at the Board meeting on October 28, 2021.

DISCUSSION:

The DEAI work began in mid November 2021, with a kickoff meeting with the selected consultant, GCAP, on November 15, 2021. GCAP and Peninsula Clean Energy staff covered the following items in the kickoff meeting:

- Introductions
- Data Collection and Discovery Process
- Project Management Meetings/Calls Schedule

- Project Schedule

Task 1 of the Scope of Work called for GCAP to conduct a regulatory review of General Order 156, Senate Bill 255, and Proposition 209 and to identify best practices to improve performance on required metrics. At the kickoff meeting, staff and the consultant team agreed that it made sense to conduct this regulatory review in conjunction with subsequent tasks on the project schedule (allowing us to proceed to other tasks before the regulatory review was complete). Staff also agreed to move the deliverable for Task 1 (brief report identifying organization-specific areas for improvement and recommendations, and best practices), to later in the project schedule so that the recommendations could be informed by the DEAI needs assessment phase of the project (the survey phase). With these considerations in mind, staff and the consultant team met on November 17, 2021 to start brainstorming a list of stakeholders to whom we would send the DEAI survey. The initial list of stakeholders was further built out by staff over the following month and a half and ultimately included the following groups:

- Staff, including consultants and prior staff
- Peninsula Clean Energy Board Members and Alternates
- Peninsula Clean Energy Citizens Advisory Committee Members
- City Managers and City Sustainability Staff
- Outreach Grantees, Applicants, and Contractors
- Business Organizations, including Ethnic Chambers of Commerce
- Trade Organizations
- Other key community stakeholders (including core social service agencies, other nonprofit organizations, county contacts)

In the first month of the project (mid-November to mid-December, 2021), GCAP started their review of Proposition 209, Senate Bill 255, and General Order 156. They also started their initial review of other Peninsula Clean Energy policies and documents that would be updated as part of Task 4 of the project. These documents include Peninsula Clean Energy's Strategic Plan, Employee Handbook, and Policy #9 Ethical Vendor Standards, and Policy #10 Inclusive and Sustainable Workforce Policy. They also started drafting questions for the survey in Task 2, the organizational needs assessment phase of the project.

The majority of the second month of the project (mid-December to mid-January) was spent on development of the DEAI needs assessment survey. GCAP provided the initial draft of survey questions for internal and external stakeholders to Peninsula Clean Energy staff on January 4, 2022. Staff and the consultant team decided to have two survey types: internal (for staff, former staff, and contractors), and external (all other stakeholders). Peninsula Clean Energy staff conducted an internal review of the questions and provided comments to GCAP. GCAP and Peninsula Clean Energy then reviewed the survey questions and feedback together on January 7, 2022. Peninsula Clean Energy staff asked GCAP to add in more questions about environmental justice to the external-facing survey. Staff provided GCAP with the report *Building a Just Energy Future: A Framework for Community Choice Aggregators to Power Equity and Democracy in California* from the California Environmental Justice Alliance (CEJA) to use as a resource when coming up with questions that centered environmental justice, energy equity, and democracy.

In the third month of the project (mid-January to mid-February), Peninsula Clean Energy staff and the consultant team continued working on refining the survey questions. GCAP provided another draft of the survey questions that included assessment questions from the CEJA report mentioned above. Peninsula Clean Energy staff then added additional questions from this report. The questions added from the CEJA report focused on the following five subject areas:

1. Coordination with Local Community-Based Organizations (CBOs)
2. Accessible Information and Outreach
3. Community-Driven Local Program Design
4. Transparent Decision-Making
5. Local and State Accountability

Staff and the consultant team also started to prepare to meet with the DEAI subcommittee to review the survey. The team met with the Board DEAI subcommittee on January 27, 2022 to review the definitions of Diversity, Equity, Accessibility, and Inclusion, the survey questions, and survey stakeholder groups to be interviewed. At this meeting, the consultant team also reviewed the survey goals, objectives, design, format, and process. GCAP and Peninsula Clean Energy staff incorporated feedback from the Board subcommittee into the survey definitions and questions. Peninsula Clean Energy staff did two more reviews of the survey: one with GCAP on February 4, 2022, and one with just internal staff on February 8, 2022. GCAP incorporated final comments from staff and the survey went live on February 9, 2022. The survey was open until mid-March 2022.

After the survey closed, GCAP started analyzing the survey responses and drafting a survey report and appendices. There was a total of 34 submissions for the internal survey and 117 submissions for the external survey. The consultant team also started preparing for the second part of the needs assessment phase of the project: interview of key stakeholder groups. Peninsula Clean Energy staff suggested several stakeholders to interview and then asked GCAP to suggest the remainder based off the open text responses to the survey. Ultimately, 13 stakeholders were chosen for interviews: 5 internal (staff and former staff) and 8 external (Board members, CAC members, program participants and outreach grantees). Stakeholders were interviewed in April and May 2022. GCAP provided a draft survey report to Peninsula Clean Energy staff in early May 2022 and presented the preliminary key findings from the survey to the Citizens Advisory Committee at their meeting on May 12, 2022. GCAP incorporated comments from both staff and the CAC into the final survey report and disaggregated the survey responses for each key finding by demographics at Peninsula Clean Energy's staff suggestion. The final survey report and appendices were provided to the Board DEAI subcommittee on June 30, 2022 and the subcommittee met on July 7th, 2022. GCAP provided a project status update to the Board subcommittee at the July 7th meeting and Peninsula Clean Energy staff asked for any questions or comments from the Board subcommittee on the survey report, appendices, and key observations from the survey at that meeting. At that meeting, subcommittee members decided to have staff share the survey report and appendices with the full Board. The survey report and its 6 appendices are included as attachments to this memo. At the Board meeting on July 28th, the consultant team from GCAP will present a status update on the DEAI project and will be available for any questions Board members have on the survey report and its key observations.

With the needs assessment phase of the project complete, GCAP and the Peninsula Clean Energy project team are progressing to other tasks in the project schedule. GCAP has provided Peninsula Clean Energy staff with a first draft of their regulatory and legislative analysis of Proposition 209, Senate Bill 255, and General Order 156 as Task 1 of the project. This report will undergo an iterative review process with key Peninsula Clean Energy staff. GCAP has also started development of both the DEAI policy and action plan. Peninsula Clean Energy staff and GCAP are planning to hold 4 workshops during the month of August to get stakeholder feedback on the draft DEAI policy. The workshops are being planned to be held with the following groups:

1. Peninsula Clean Energy staff
2. Peninsula Clean Energy Board DEAI Subcommittee
3. Peninsula Clean Energy Board

4. Citizens Advisory Committee and Community Based Organizations

After feedback is received from these stakeholder groups, GCAP will edit the draft DEAI policy, and we will have the Peninsula Clean Energy Board approve the final policy at a future Board meeting. GCAP will also suggest updates to the organizational policies and documents mentioned above (strategic plan, employee handbook, policies #9 and #10) in addition to employee handbook attachments, family leave policy, standard contract, and solicitation documents. At the end of their engagement, GCAP will provide a final presentation to the Peninsula Clean Energy Board on the entire DEAI project.

ATTACHMENTS:

1. Peninsula Clean Energy DEAI Survey Report
2. Appendix A: External Survey Results
3. Appendix B: Internal Survey Results
4. Appendix C: Comparison of Internal to External Responses for similar multiple choice questions
5. Appendix D: Key Definitions
6. Appendix E: External Survey Open Format Answers
7. Appendix F: Internal Survey Open Format Answers

STRATEGIC PLAN:

The DEAI Initiative supports the Organizational Excellence pillar of the strategic plan to *ensure organizational excellence by adhering to sustainable business practices and fostering a workplace culture of innovation, diversity, transparency, and integrity*. This initiative seeks to support the following objectives and key tactics under this pillar:

Objective A: Culture and People: Foster a workplace culture that attracts and develops exceptional talent and values all people

- Key Tactic 3: Ensure that our recruitment processes are designed to attract high caliber and diverse applicants

Objective D: External Vendor Partners: Implement Vendor Policies that embrace diversity and inclusion and that optimize engagement results

- Key Tactic 1: Develop methods to ensure adherence to the organization's Inclusive and Sustainable Workforce Policy
- Key Tactic 2: Develop methods to ensure adherence to the organization's Ethical Vendor Standards Policy

This initiative also supports the Community Energy Programs pillar of the strategic plan to *implement robust energy programs that reduce greenhouse gas emissions, align energy supply and demand, and provide benefits to community stakeholder groups.* The DEAI initiative seeks to support the following objectives and key tactics under this pillar:

Objective B: Community Benefits: Deliver tangible benefits throughout our diverse communities

- Key Tactic 1: Invest in programs that benefit underserved communities
- Key Tactic 3: Support workforce development programs in the County

PENINSULA CLEAN ENERGY



Diversity, Equity, Accessibility, and Inclusion (DEAI)

June 2022

Prepared by

GCAP SERVICES

DEAI Survey Report

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Appendices

The appendices are attached as follows:

- *Appendix A: DEAI External Survey*
- *Appendix B: DEAI Internal Survey*
- *Appendix C: Internal vs. External Survey Responses*
- *Appendix D: Definitions*
- *Appendix E: External Survey Open Format Answers*
- *Appendix F: Internal Survey Open Format Answers*

DEAI Survey Report

INTRODUCTION

The Peninsula Clean Energy (PCE) leadership team is committed to creating an organization that values and welcomes diversity, equity, accessibility, and inclusion (DEAI). PCE has engaged GCAP Services, Inc. (GCAP) to help assess current policies, procedures, programs, and culture to identify opportunities for continuous improvement in their DEAI work practices for all employees and external stakeholders. Part of this assessment includes conducting a survey to better understand how PCE can become a more inclusive and accessible organization for employees, stakeholders, partners, and customers.

This report summarizes key observations identified from the survey effort which included input from both internal and external stakeholders. The survey analysis is one component in Task 2, Conduct DEAI Organizational Needs Assessment, to identify issues, opportunities, and gaps within the existing processes and procedures. The observations from the survey effort were used to tailor the 13 one-to-one interviews with representatives from stakeholder groups to delve deeper into the information identified in the surveys.

Upon completion of the organizational needs assessment tasks, an Equity Action Plan and organizational departmental goals, practices, and metrics will be developed, which will incorporate the observations and findings from the combined efforts of this survey, stakeholder interviews, and legislative and policy reviews.

PENINSULA CLEAN ENERGY

DEAI Survey Report

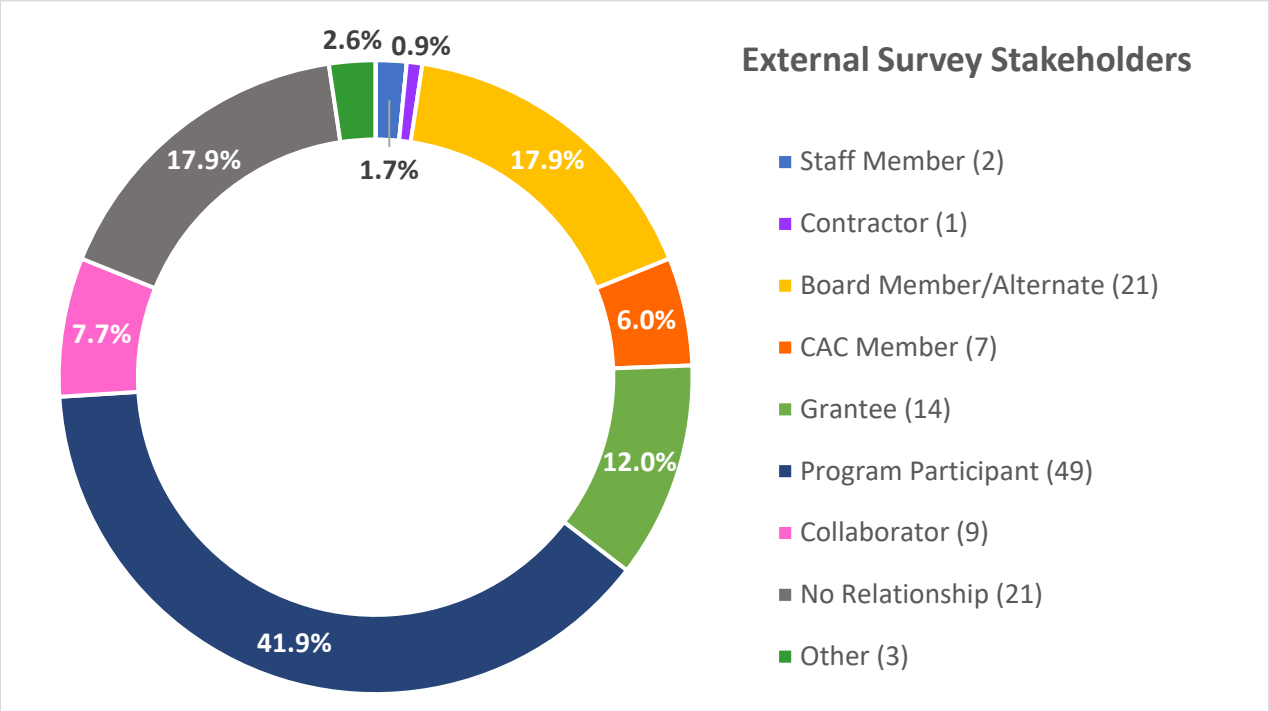
METHODOLOGY

How We Administered the Surveys

There were two (2) types of DEAI surveys administered: the survey of external stakeholders, and the survey of internal stakeholders. Both surveys were developed and administered using an online survey tool. The surveys were emailed to all stakeholders and were available online, in English. Surveys were able to be completed on both desktop and hand-held devices.

External Survey

The external survey was sent to 1,237 stakeholders. Survey invitations were sent to all stakeholders from February 9, 2022 through March 7, 2022 via Constant Contact. Additional outreach to external stakeholders who clicked on the survey link but did not complete the survey was completed on March 14, 2022. In total, 117 responses were collected. The external survey response rate was 9.5%.



DEAI Survey Report

External survey stakeholders included the following:

1. Board Members
2. Citizens Advisory Committee (CAC) Members
3. City Managers and City Staff
4. Grantees
5. Program Participants
6. Contractors
7. Other Community Stakeholders

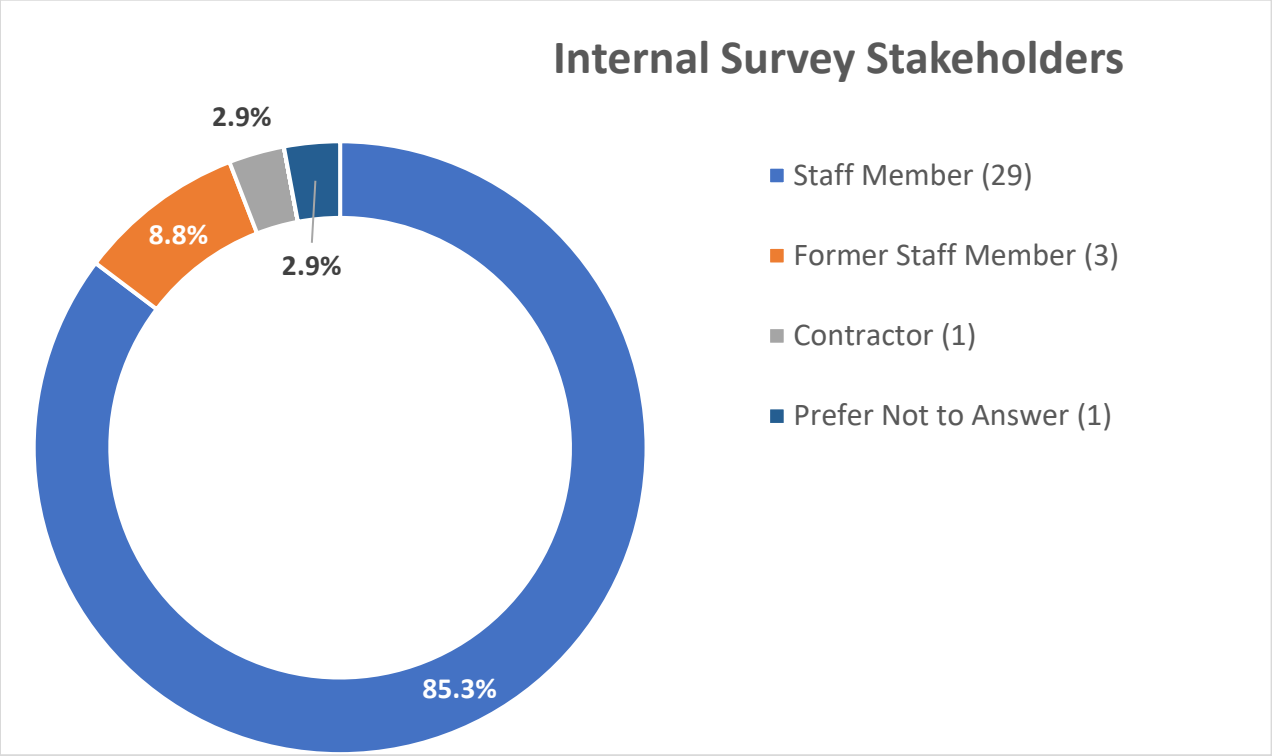
Stakeholder groups were selected based on their familiarity or interactions with PCE operations or programs with regards to diversity, equity, accessibility, and inclusion experiences and not delivery of energy services. The external survey included thirty-four (34) total questions. A response to all questions was required except for those with open format answers. Survey results were compiled by GCAP and are reported herein.

DEAI Survey Report

Internal Survey

The internal survey was sent to 47 PCE employees and former employees. Survey invitations were sent to all stakeholders from February 9, 2022 through March 7, 2022. In total, 34 responses were collected. The internal survey response rate was 72.3%.

The internal survey included thirty-three (33) total questions. A response to all questions was required. Survey results were compiled by GCAP and are reported herein. Contact information is not included in this summary due to confidentiality.



PENINSULA CLEAN ENERGY

DEAI Survey Report

Survey Question Breakdown

Survey questions were grouped into two (2) categories, with the first set of questions focusing on demographic questions and the remaining questions focusing on DEAI-related questions. The goal of the demographic questions was to help us understand PCE's stakeholders in terms of ethnic background, gender identity, relationship to PCE, etc. The goal of the DEAI questions was to gain an understanding about how stakeholders perceive Peninsula Clean Energy's existing practices, readiness, and culture.

Demographic Questions

- Relationship to PCE
- Languages spoken
- Gender identity
- Sexual identity
- Disabilities, if any

DEAI Questions

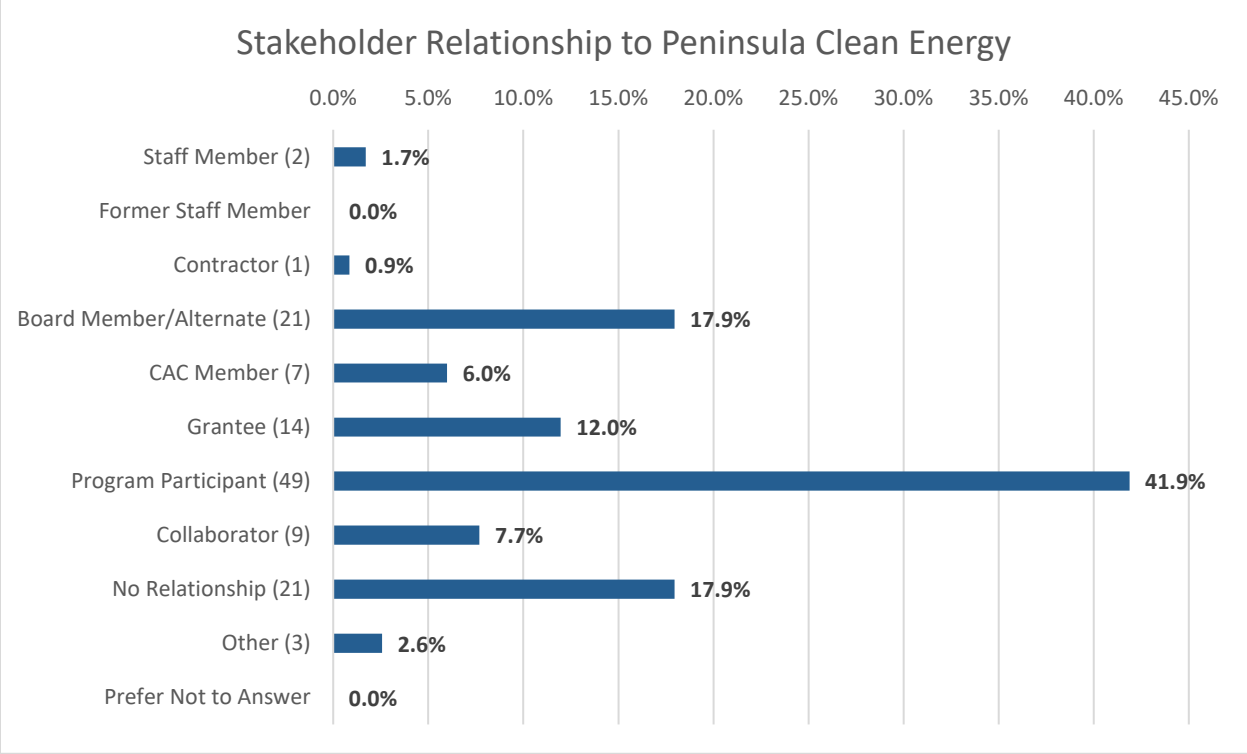
- Leadership
- Employee and representative training
- Hiring practices
- Equitable career advancement opportunities (internal survey only)
- Employee training (internal survey only)
- Workplace environment (internal survey only)
- Procurement policies and practices
- Accessibility of services and programs
- Customer service
- Community outreach
- Facilitation of public input
- Communication
- Experiences with discrimination and inappropriate behavior

DEAI Survey Report

Demographics

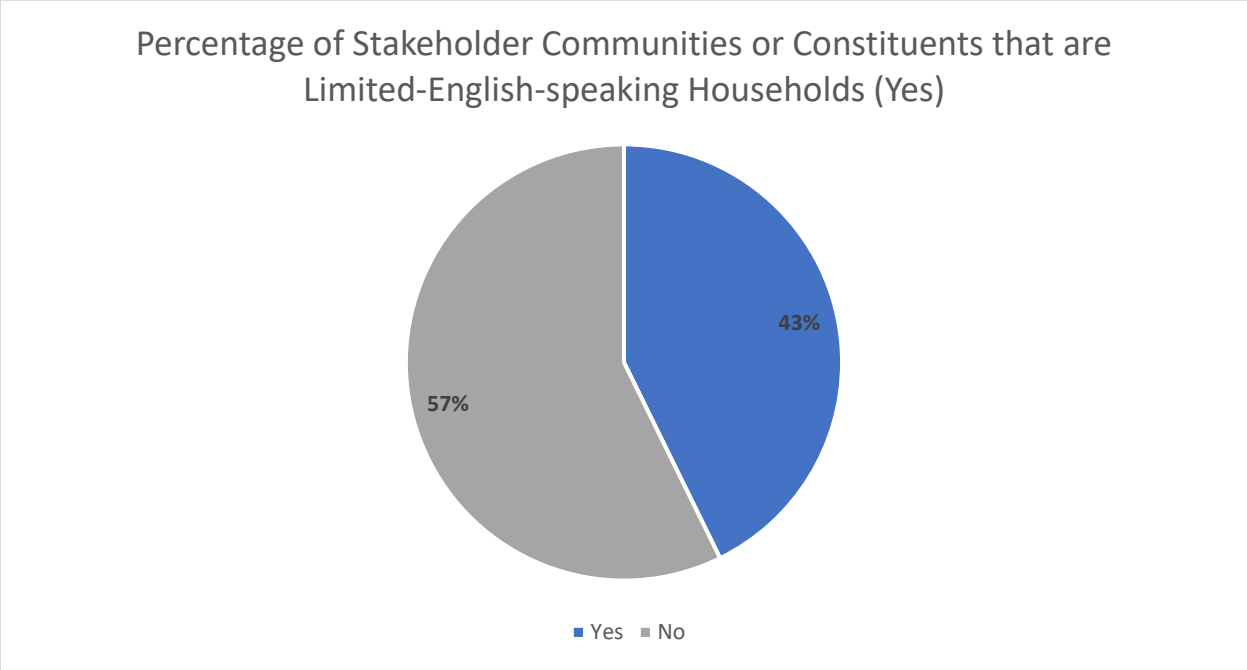
External Stakeholders

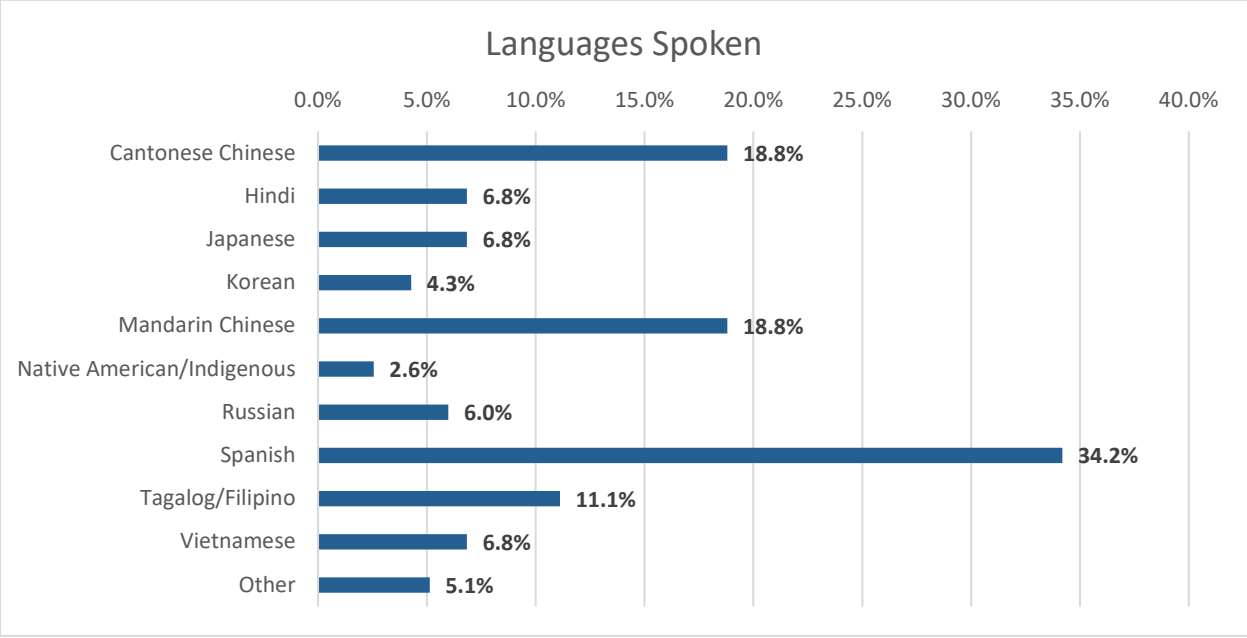
Based on responses to the demographic questions in the survey, the following is a representation of PCE's external stakeholders.



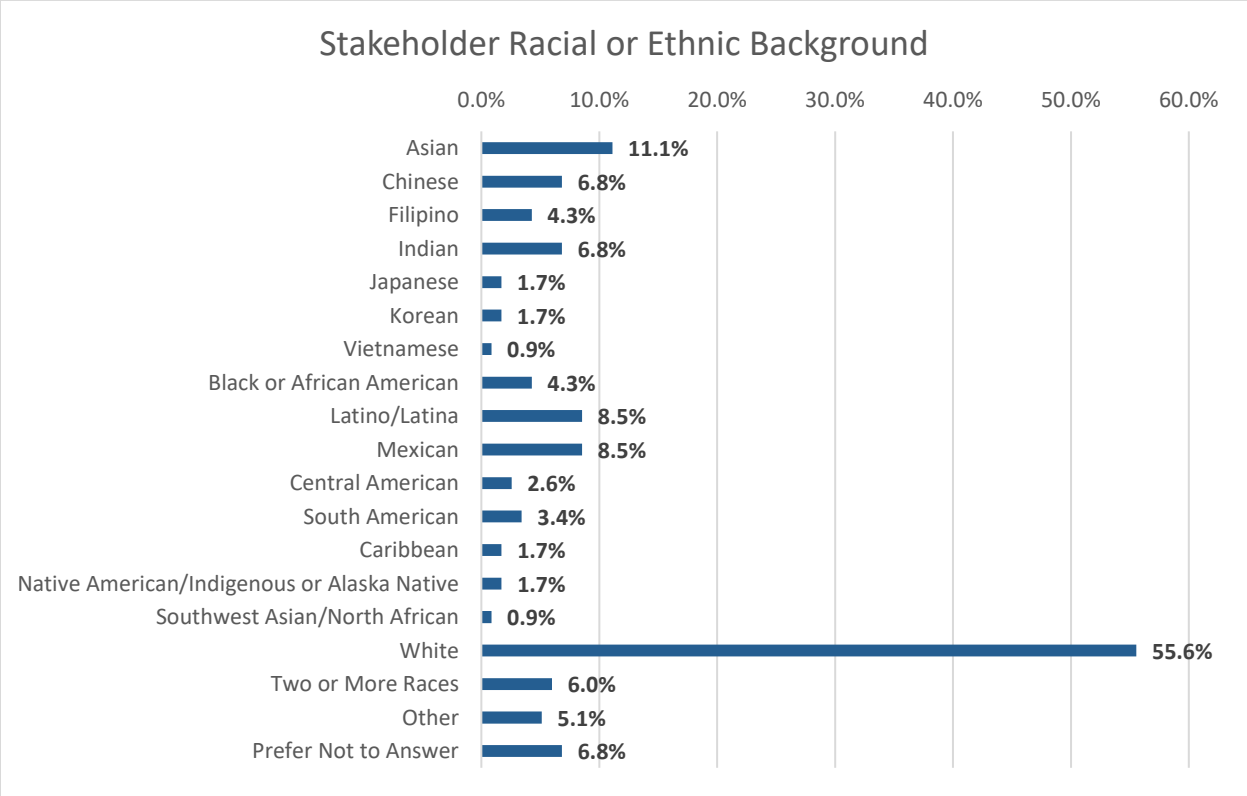
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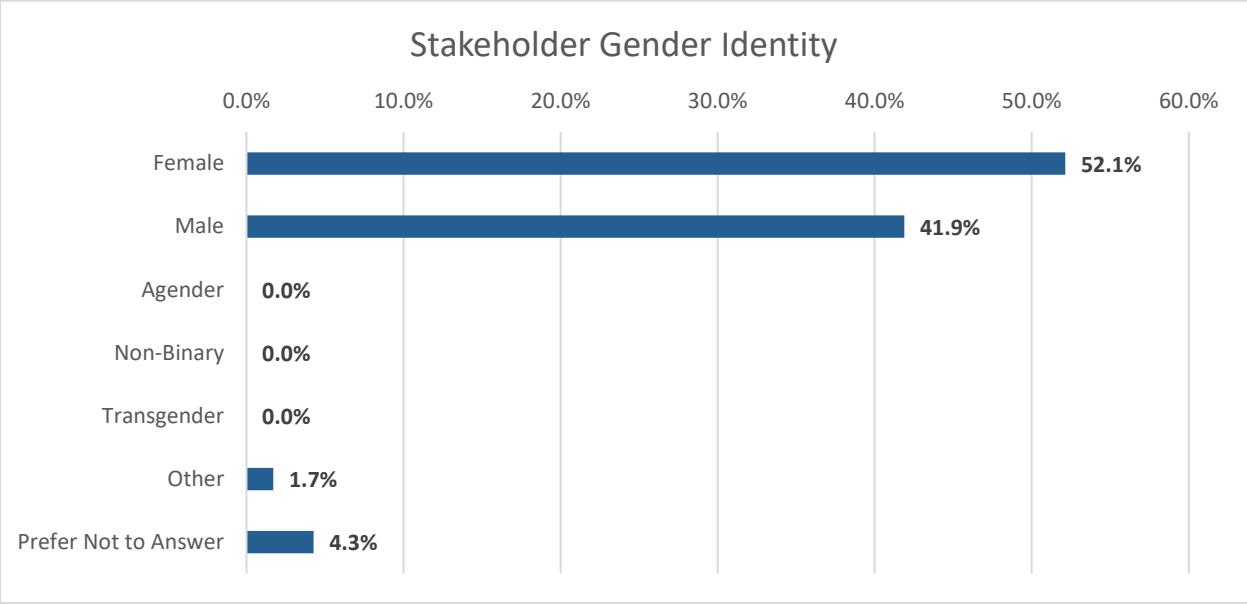
DEAI Survey Report



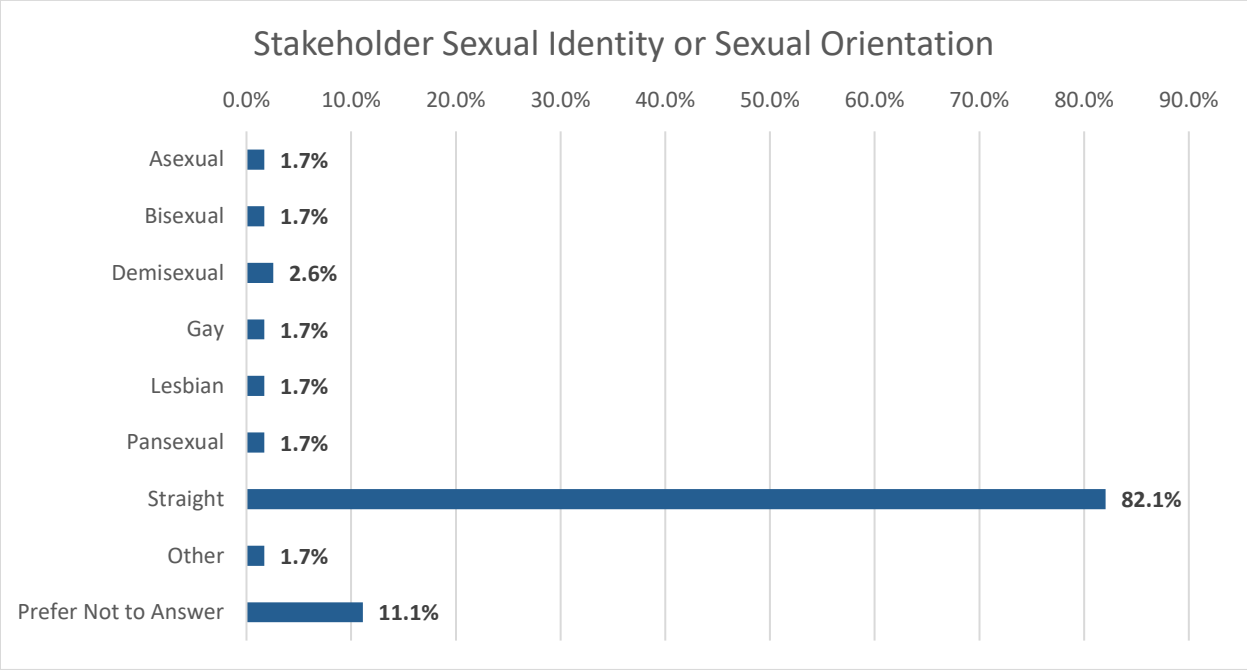


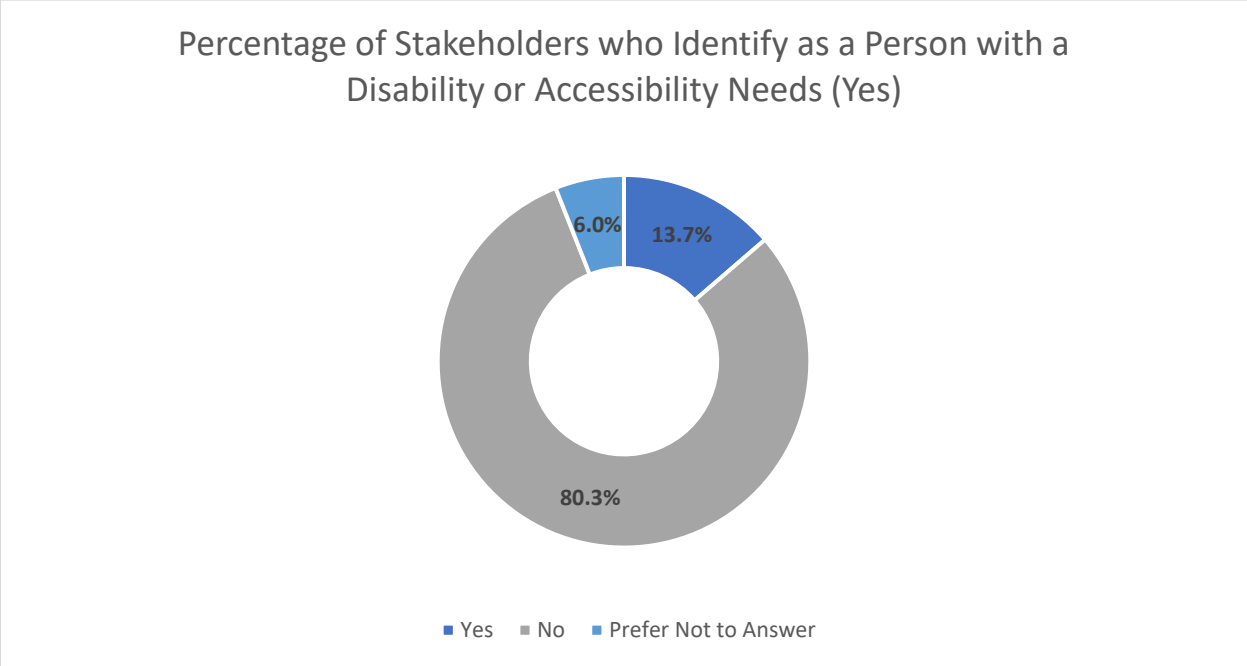
DEAI Survey Report





DEAI Survey Report



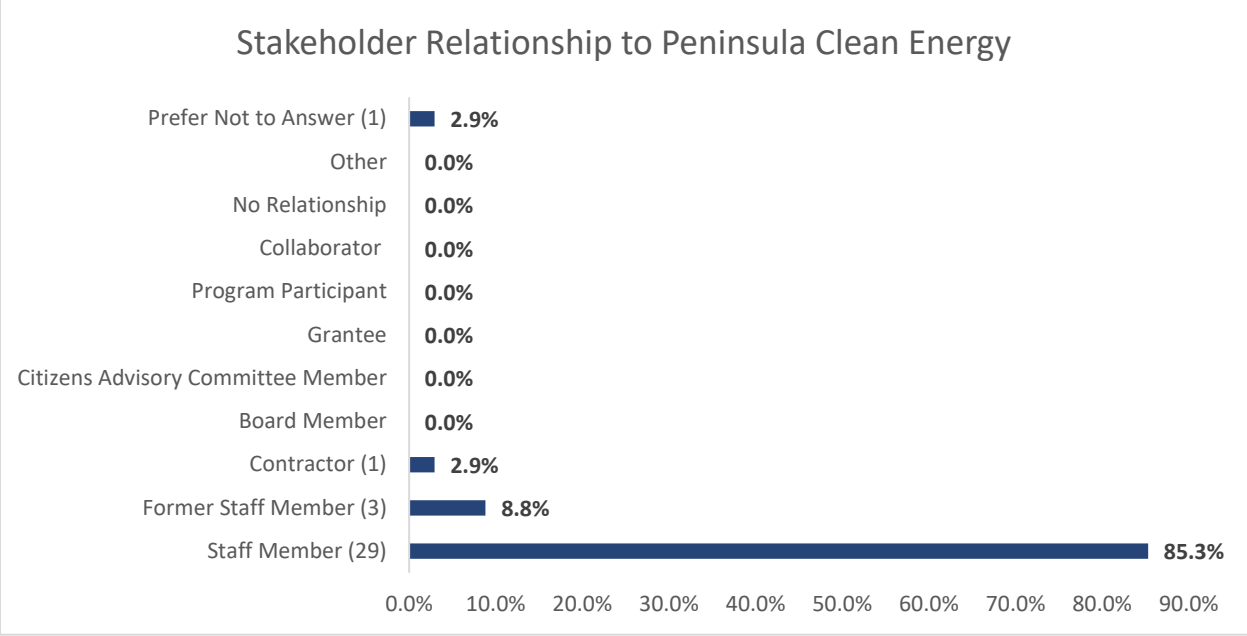


DEAI Survey Report

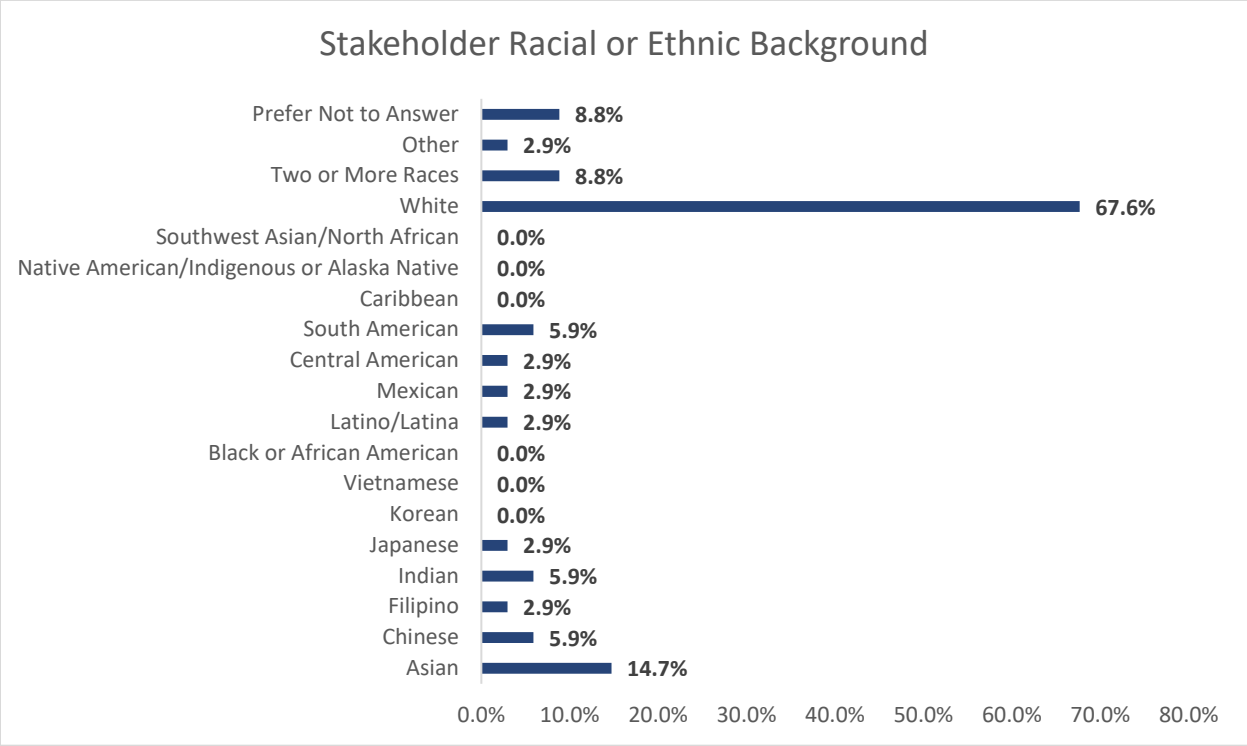
Demographics

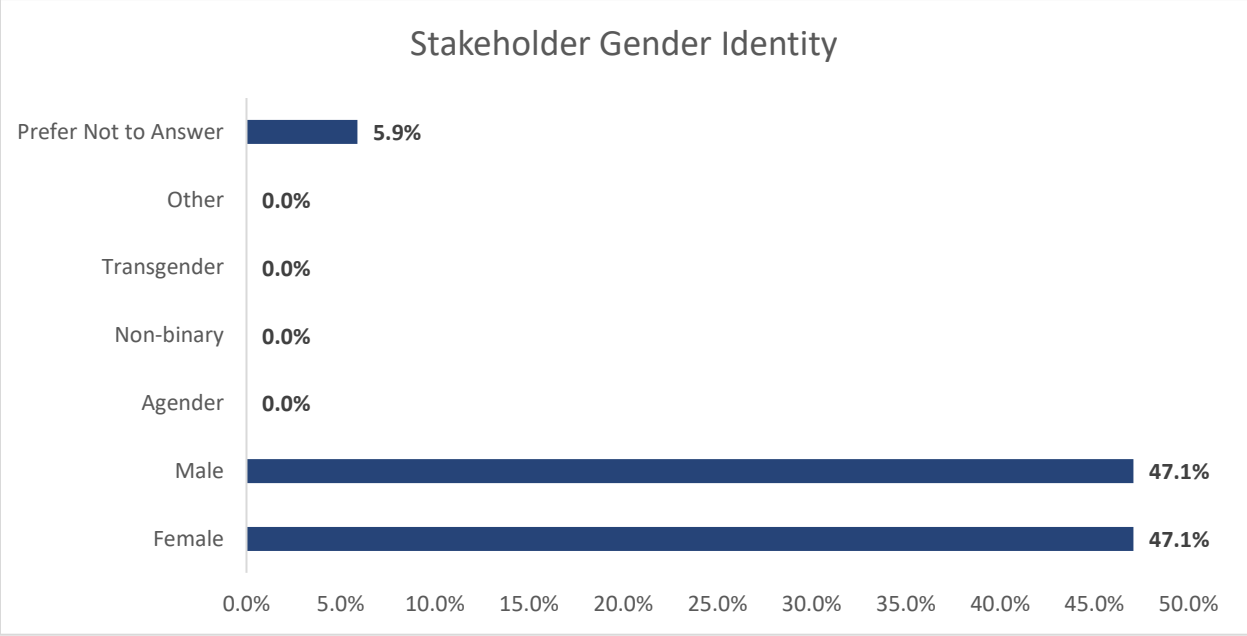
Internal Stakeholders

Based on responses to the demographic questions in the survey, the following is a representation of PCE's internal stakeholders.

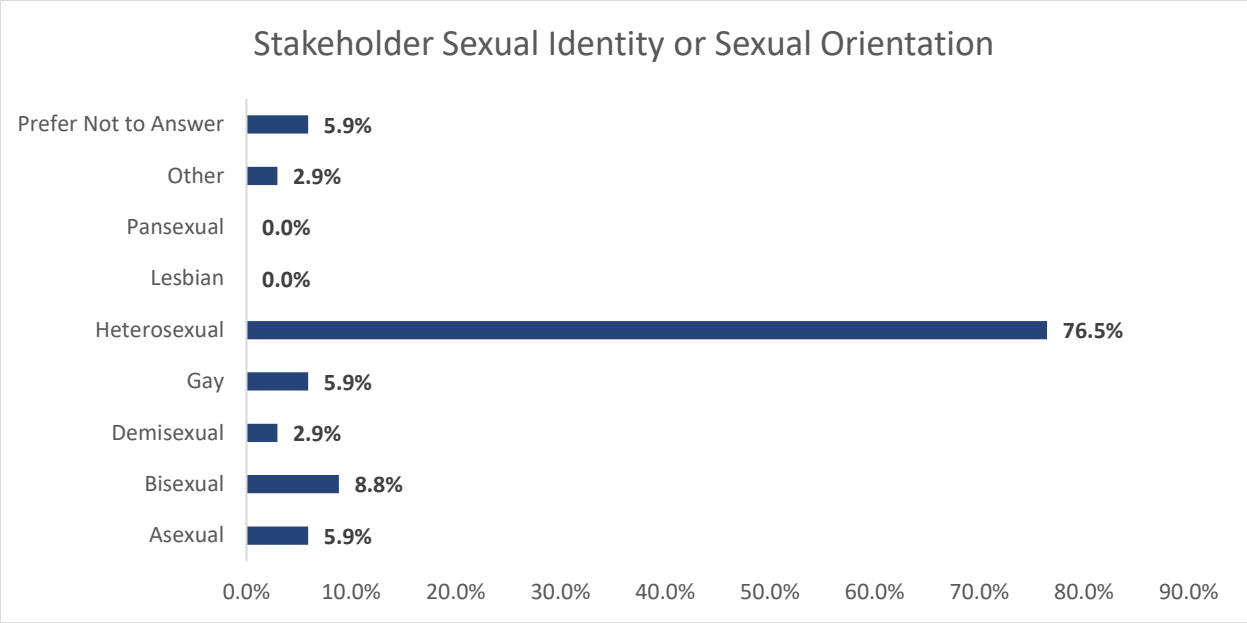


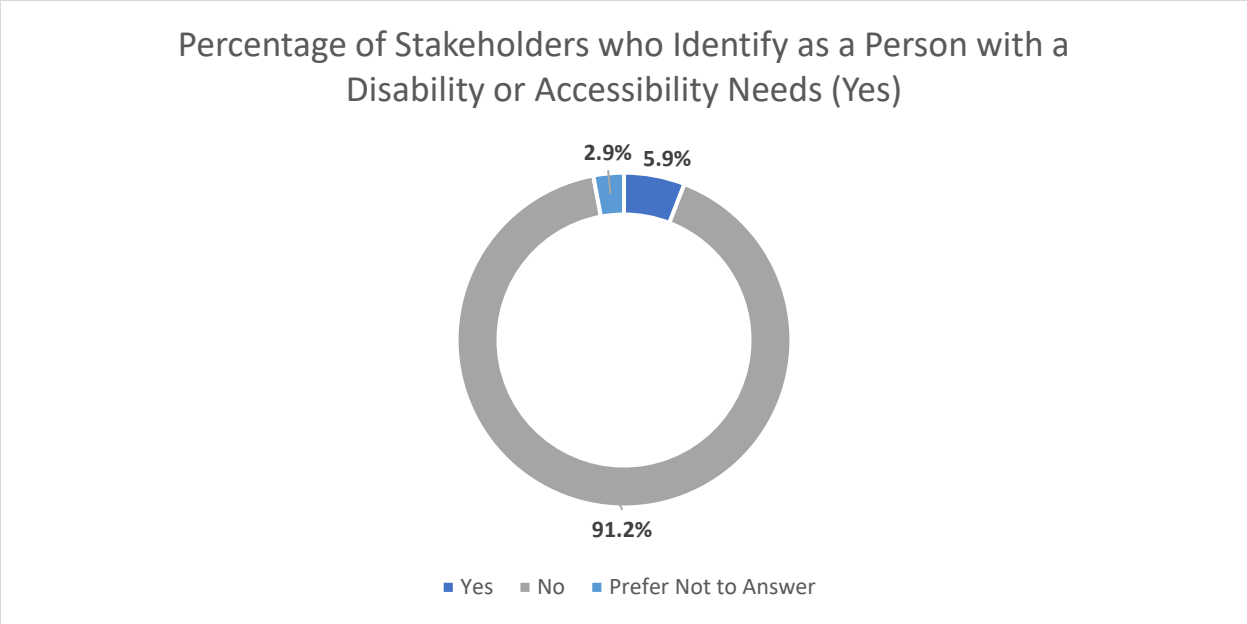
DEAI Survey Report





DEAI Survey Report





DEAI Survey Report

All survey questions and responses can be found in the appendices: Appendix A – External Survey and Appendix B – Internal Survey.

Key Observations

What is a Key Observation?

A key observation has the potential to be a key finding, and may have a significant impact on existing practices and policies. They may impact how PCE conducts outreach or how to communicate with external stakeholders. Based on the key observations gleaned from the surveys, interviews, and assessments, we will develop key findings. Key findings will help with the development of the Equity Action Plan as well as identify areas for training PCE employees and stakeholders. We determined key observations by applying the following methodologies.

Internal & External Key Observation Methodologies:

- Favorable Observation: At least 60% of respondents had an "agree" or "strongly agree" response.
- Area of Opportunity: At least 10% of respondents had a "disagree" or "strongly disagree" response.

In reviewing the survey responses, common themes were identified, and the observations were grouped under these themes for each of the survey groups, as shown in the table below.

External	Internal
Demographics	Management
Accessibility of Services	DEAI
PCE's DEAI	Hiring
	Customer Access
	Procurement

DEAI Survey Report

Key Observations from the External Survey

Please note that the numbering of the key observations presented below is no indication of a hierarchy of importance. For example, Key Observation 1 is not more important than Key Observation 2, and so on.

Key Demographic Observations: External Survey

Key Observation 1

At 41.9%, a large number of responses came from Program Participants. The next largest groups were Board Members and survey takers who had no relationship with PCE –each representing 17.9% of survey takers.

Key Observation 2

43% served communities with limited English-speaking households.

Key Observation 3

Although Spanish was the most commonly spoken language outside of English (making up 34.2% of non-English languages), Cantonese Chinese and Mandarin Chinese each made up 18.8% of non-English languages spoken, resulting in 37.6% combined.

DEAI Survey Report

Key Accessibility of Services Observations: External Survey

Key Observation

4

33% feel PCE can make its electricity generation services more accessible to all persons. (Question 5).

Below is information about this response group:

NUMBER OF RESPONDERS: 38

Relationship with Peninsula Clean Energy	
Staff Member	1
Contractor	1
Board Member/Alternate	7
Citizens Advisory Committee Member	3
Grantee	6
Program Participant	10
Collaborator	4
No Relationship	9
Other	1

Number of responders who serve communities or constituents that are Limited-English-speaking households
25

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	11
Hindi	4
Japanese	5
Korean	3
Mandarin Chinese	12
Native American/Indigenous	2
Russian	4
Spanish	20
Tagalog/Filipino	8
Vietnamese	6
Other	4

Comments:

- I think it is necessary to make clear the type of work you do and how it impacts the community as a whole. (more publicity, more ads, more literature in different languages). There is still confusion between the work you do and PG&E
- Older people are not that computer savvy… So more ways of reaching our older population would be good. As for the programs rolled out by PCE they are targeted by race but not by disability. And for that matter, I think the projects favor certain cities over others. Equity is not just race it is socio economic
- Reach out to more customers who qualify for CARE, medical baseline, or other discounts to enroll them in these programs

PENINSULA CLEAN ENERGY

DEAI Survey Report

Racial or Ethnic Background (Select all that apply)			
Asian	7	Mexican	4
Chinese	3	Central American	2
Filipino	4	South American	2
Indian	3	Caribbean	1
Japanese	1	White	13
Korean	1	Two or More Races	4
Black or African American	3	Other	2
Latino/Latina	5	Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	18
Male	18
Other	1
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	1
Demisexual	1
Pansexual	1
Straight	31
Prefer Not to Answer	3

Persons with Disability or Accessibility Needs
7

Key Observation

5

12.8% disagree or strongly disagree that Peninsula Clean Energy programs such as the HOME UPGRADE PROGRAM, USED EV REBATE PROGRAM, E-BIKES FOR EVERYONE, HEAT PUMP WATER HEATER REBATES, and SOLAR and BATTERY REBATES are accessible to all its customers. (Question 6). Of this 12.8%, 40% were Board Members, and 73% served communities with Limited-English-speaking households.

Below is information about this response group:

NUMBER OF RESPONDERS: 15

Relationship with Peninsula Clean Energy	
Board Member/Alternate	6
Citizens Advisory Committee Member	1
Grantee	1
Program Participant	3
Collaborator	1
No Relationship	2
Other	1

Number of responders who serve communities or constituents that are Limited-English-speaking households
11

Languages Spoken by Constituents (Select all that apply)			
Cantonese Chinese	7	Russian	3
Hindi	4	Spanish	8
Japanese	3	Tagalog/Filipino	3
Korean	2	Vietnamese	3
Mandarin Chinese	5	Other	2
Native American/Indigenous	1		

DEAI Survey Report

Racial or Ethnic Background (Select all that apply)			
Asian	2	Central American	1
Chinese	2	South American	1
Filipino	1	Caribbean	2
Indian	1	Native American/ Indigenous or Alaska Native	1
Japanese	1	Southwest Asian/North African	1
Korean	1	White	9
Vietnamese	1	Two or More Races	1
Black or African American	1	Other	2
Latino/Latina	1	Prefer Not to Answer	2
Mexican	1		

Gender Identity (Select all that apply)	
Female	5
Male	6
Other	1
Prefer Not to Answer	3

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	2
Bisexual	1
Demisexual	1
Gay	1
Lesbian	2
Pansexual	2
Straight	9
Prefer Not to Answer	4

Persons with Disability or Accessibility Needs
4

DEAI Survey Report

Key Observation

6

When asked "How well has Peninsula Clean Energy considered whether potential resources and programs provide benefits to disadvantaged communities?" 10.3% selected Not Very Well and Not Very Well at All. (Question 20).

Below is information about this response group:

NUMBER OF RESPONDERS: 12

Relationship with Peninsula Clean Energy	
Board Member/Alternate	2
Citizens Advisory Committee Member	1
Program Participant	4
No Relationship	5

Number of responders who serve communities or constituents that are Limited-English-speaking households
5

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	2
Hindi	1
Mandarin Chinese	1
Spanish	4
Other	1

Racial or Ethnic Background (Select all that apply)			
Asian	2	Caribbean	1
Chinese	2	Native American/ Indigenous or Alaska Native	1
Latino/Latina	3	White	4
Mexican	1	Two or More Races	1
Central American	1	Prefer Not to Answer	1

Comments:

- Would be nice to have a dashboard with metrics and progress
- We can always do better. I applaud efforts already made in this regard. PCE has grown exponentially and there are growing pains. I think the organization has been moved effectively from an administrative and technical perspective very well, but we have not spent time or money to truly address things from the bottom up. By that I mean we need to gather more input from the communities we serve on what messages resonate with them, what makes them use us as a provider, what we can do better
- I don't think multi-dwelling housing has been fully considered, nor has mobile home living

DEAI Survey Report

Gender Identity (Select all that apply)	
Female	2
Male	8
Agender	0
Non-Binary	0
Other	1
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Demisexual	1
Gay	1
Lesbian	1
Pansexual	1
Straight	6
Prefer Not to Answer	2

Persons with Disability or Accessibility Needs
4

DEAI Survey Report

Key Observation

7

When asked "How well does Peninsula Clean Energy ensure that the design of its programs and services is community driven and meets the needs identified by its communities?" 11.1% selected Not Very Well and Not Very Well at All. (Question 21).

Below is information about this response group:

NUMBER OF RESPONDERS: 13

Relationship with Peninsula Clean Energy	
Board Member/Alternate	2
Citizens Advisory Committee Member	1
Program Participant	5
No Relationship	5

Number of responders who serve communities or constituents that are Limited-English-speaking households
6

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	2
Mandarin Chinese	2
Spanish	4
Tagalog/Filipino	2
Vietnamese	1
Other	1

Comments:

- The CAC has been a driver of some programs and that has been positive because they represent the communities, but not all communities. For example, in discussing reach codes with low-income housing providers they have expressed concern about shut-offs making their tenants vulnerable without hot water, cooking options and heat. That can be addressed with battery storage, but they do not understand the option or how to comprehensively develop a solution.
- I think solar and EVs are associated with high income communities but I think the needs are different for low income communities and I don't know if the leg work has been done to really understand those needs.

PENINSULA CLEAN ENERGY

DEAI Survey Report

Racial or Ethnic Background (Select all that apply)	
Asian	5
Chinese	3
Filipino	1
Korean	1
Latino/Latina	2
Mexican	1
Caribbean	1
Native American/Indigenous or Alaska Native	1
White	3
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	1
Male	10
Other	1
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	0
Demisexual	1
Gay	1
Lesbian	0
Pansexual	1
Straight	8
Other	0
Prefer Not to Answer	2
	14

Persons with Disability or Accessibility Needs
3

Key Observation

8

62.4% of external stakeholders surveyed feel Electricity generation services are accessible to all. (Question 4).

Below is information about this response group:

NUMBER OF RESPONDERS: 73

Relationship with Peninsula Clean Energy	
Staff Member	2
Board Member/Alternate	15
Citizens Advisory Committee Member	4
Grantee	9
Program Participant	34
Collaborator	4
No Relationship	8
Other	2

Number of responders who serve communities or constituents that are Limited-English-speaking households
27

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	11
Hindi	3
Japanese	3
Korean	1
Mandarin Chinese	14
Native American/Indigenous	1
Russian	4
Spanish	22
Tagalog/Filipino	6
Vietnamese	3
Other	2

DEAI Survey Report

Racial or Ethnic Background (Select all that apply)	
Asian	6
Chinese	5
Filipino	3
Indian	7
Korean	1
Black or African American	2
Latino/Latina	3
Mexican	6
Central American	1
South American	1
White	42
Two or More Races	5
Other	3
Prefer Not to Answer	6

Gender Identity (Select all that apply)	
Female	40
Male	31
Prefer Not to Answer	2

Sexual Identity or Sexual Orientation (Select all that apply)	
Demisexual	1
Straight	62
Other	1
Prefer Not to Answer	9

Persons with Disability or Accessibility Needs
8

Key Observation

9

63.3% of external stakeholders surveyed feel PCE takes steps to make services inviting and safe. (Question 10).

Below is information about this response group:

NUMBER OF RESPONDERS: 74

Relationship with Peninsula Clean Energy	
Staff Member	2
Board Member/Alternate	13
Citizens Advisory Committee Member	6
Grantee	9
Program Participant	32
Collaborator	7
No Relationship	11
Other	1

Number of responders who serve communities or constituents that are Limited-English-speaking households
33

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	13
Hindi	5
Japanese	5
Korean	4
Mandarin Chinese	17
Native American/Indigenous	3
Russian	7
Spanish	28
Tagalog/Filipino	8
Vietnamese	6
Other	4

PENINSULA CLEAN ENERGY

DEAI Survey Report

Racial or Ethnic Background (Select all that apply)	
Asian	8
Chinese	7
Filipino	4
Indian	5
Japanese	1
Korean	2
Vietnamese	1
Black or African American	5
Latino/Latina	7
Mexican	7
Central American	3
South American	3
Caribbean	1
Native American/Indigenous or Alaska Native	1
Southwest Asian/North African	1
White	44
Two or More Races	7
Other	3
Prefer Not to Answer	3

Gender Identity (Select all that apply)	
Female	42
Male	30
Prefer Not to Answer	2

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	2
Demisexual	2
Gay	1
Lesbian	1
Pansexual	1
Straight	66
Prefer Not to Answer	5

DEAI Survey Report

Persons with Disability or Accessibility Needs
10

PENINSULA CLEAN ENERGY

DEAI Survey Report

Key Peninsula Clean Energy DEAI Observations: External Survey

Key Observation

10

When asked "To what extent do Peninsula Clean Energy staff and representatives reflect the diversity of the communities it serves?" 12% selected Not Very Well and Not Very Well at All. (Question 24).

Below is information about this response group:

NUMBER OF RESPONDERS: 14

Comments:

- Given that our workforce is a very technical one that requires higher education and specific backgrounds, I think we are fairly well represented with women, and some racial diversity. It is difficult to estimate the LBGTQ diversity. We could do a better job of making sure we push for diversity in candidates and understand our hiring practices to make sure there is no implicit bias!
- The population in Los Banos is very different demographically from that of the peninsula. It will take time for the board and staff to reflect that disparity.
- …frankly we live in an ageist society, are older people represented in the work force?

Relationship with Peninsula Clean Energy	
Staff Member	1
Board Member/Alternate	6
Citizens Advisory Committee Member	3
Program Participant	2
No Relationship	2

Number of responders who serve communities or constituents that are Limited-English-speaking households
7

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	5
Hindi	2
Japanese	2
Korean	1
Mandarin Chinese	5
Native American/Indigenous	1
Russian	2
Spanish	6
Tagalog/Filipino	4
Vietnamese	3
Other	2

DEAI Survey Report

Racial or Ethnic Background (Select all that apply)	
Asian	2
Chinese	1
Filipino	1
Black or African American	1
Latino/Latina	2
Mexican	2
Caribbean	1
Native American/Indigenous or Alaska Native	1
White	4
Two or More Races	1
Other	1

Gender Identity (Select all that apply)	
Female	6
Male	7
Other	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Demisexual	1
Pansexual	1
Straight	11
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
4

DEAI Survey Report

Key Observation

11

When asked "To what extent does Peninsula Clean Energy provide clear and transparent information, assessments, and reporting on the topics of greatest interest to the communities it serves?" 10.2% selected Not Very Well and Not Very Well at All. (Question 25).

Below is information about this response group:

NUMBER OF RESPONDERS: 12

Relationship with Peninsula Clean Energy	
Board Member/Alternate	2
Citizens Advisory Committee Member	1
Grantee	2
Program Participant	5
No Relationship	3

Number of responders who serve communities or constituents that are Limited-English-speaking households
4

Languages Spoken by Constituents (Select all that apply)	
Cantonese Chinese	1
Mandarin Chinese	2
Spanish	2
Other	2

Racial or Ethnic Background (Select all that apply)	
Asian	1
Caribbean	1
White	8
Other	1
Prefer Not to Answer	1

Comments:

- …We could do a better job of coordinating and communicating all the various programs that are even beyond ours but would benefit GHG reduction. Examples include offerings for multi-family electrification and upgrades offered by other agencies. We could also have a better dashboard on our website to allow users to quickly see our impact and the meeting of our strategic goals.
- Before I joined the CAC I had no idea I was a PCE customer
- A lot of energy topics are technical. Talk more about the innovative PCE energy sources. Target a broad base with messaging that resonates with words and topics that are important to customers when thinking about energy.

DEAI Survey Report

Gender Identity (Select all that apply)	
Female	6
Male	5
Other	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Gay	1
Pansexual	1
Straight	7
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
3

DEAI Survey Report

Key Observations from the Internal Survey

Key Management Observations: Internal Survey

Key Observation 1

61.7% agree or strongly agree that Peninsula Clean Energy Leadership (Board, and staff who are at Director-level and above) understands that diversity is critical to our future success. (Question 1).

Below is information about this response group:

NUMBER OF RESPONDERS: 21

Relationship with Peninsula Clean Energy	
Staff Member	19
Former Staff Member	1
Contractor	1

Racial or Ethnic Background	
Persons of Color	12
White	16
Prefer Not to Answer	2

Gender Identity	
Female	11
Male	9
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation	
Asexual	1
Bisexual	2
Demisexual	1
Gay	1
Heterosexual	18
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
1

PENINSULA CLEAN ENERGY

DEAI Survey Report

Key Observation 2

76.4% agree or strongly agree that Peninsula Clean Energy Leadership provides opportunities for them to grow and advance in their career and at Peninsula Clean Energy regardless of their background. (Question 7).

Below is information about this response group:

NUMBER OF RESPONDERS: 26

Relationship with Peninsula Clean Energy	
Staff Member	23
Former Staff Member	2
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	14
White	20
Prefer Not to Answer	2

Gender Identity (Select all that apply)	
Female	12
Male	13
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	2
Demisexual	1
Gay	2
Heterosexual	22
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
2

DEAI Survey Report

Key Observation

3

14.7% disagree or strongly disagree that Peninsula Clean Energy celebrates and encourages diverse perspectives. (Question 6).

Below is information about this response group:

NUMBER OF RESPONDERS: 5

Relationship with Peninsula Clean Energy	
Staff Member	3
Former Staff Member	1
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	2
White	2
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	1
Male	3
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Heterosexual	3
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
0

Comments:

- Not sure what is meant by celebrate, but perspectives and ideas are heard and respected from all employees.
- The organization could be better at cultivating inclusive input for decision making processes on major decisions (ex: territory expansion)
- When communicating to our community, most of our messages resonate with homeowners (solar+storage, electric vehicles). Even though we are doing work with renters, that does not seem to be prioritized.
- PCE is certainly an organization that respects individuals and their differences, but I haven't seen much done in the way to celebrate those differences or to educate us all on the cultural, sexual orientation, or lifestyle differences…

DEAI Survey Report

Key DEAI Observations: Internal Survey

Key Observation 4

73.5% agree or strongly agree that people from all backgrounds and with a range of identities have equitable opportunities to advance their careers at Peninsula Clean Energy. (Question 8).

NUMBER OF RESPONDERS: 25

Relationship with Peninsula Clean Energy	
Staff Member	22
Former Staff Member	2
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	14
White	19
Prefer Not to Answer	2

Gender Identity (Select all that apply)	
Female	12
Male	12
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	2
Demisexual	1
Gay	2
Heterosexual	21
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
2

DEAI Survey Report

Key Observation 5

73.5% agree or strongly agree that they feel Peninsula Clean Energy takes steps to make the workplace inviting, safe, and welcoming. (Question 16).

Below is information about this response group:

NUMBER OF RESPONDERS: 25

Relationship with Peninsula Clean Energy	
Staff Member	22
Former Staff Member	2
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Asian	15
White	18
Prefer Not to Answer	2

Gender Identity (Select all that apply)	
Female	11
Male	13
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Bisexual	1
Gay	2
Heterosexual	21
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
1

PENINSULA CLEAN ENERGY

DEAI Survey Report

Key Observation 6

76.5% agree or strongly agree that they feel comfortable discussing their social and cultural background in the workplace. (Question 20).

Below is information about this response group:

NUMBER OF RESPONDERS: 26

Relationship with Peninsula Clean Energy	
Staff Member	22
Former Staff Member	3
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	16
White	18
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	13
Male	13

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	2
Bisexual	3
Demisexual	1
Gay	2
Heterosexual	21

Persons with Disability or Accessibility Needs
1

DEAI Survey Report

Key Hiring Observations: Internal Survey

Key Observation

7

26.4% disagree or strongly disagree that Peninsula Clean Energy does a good job sourcing and hiring candidates from underrepresented communities. (Question 4).

Below is information about this response group:

NUMBER OF RESPONDERS: 9

Relationship with Peninsula Clean Energy	
Staff Member	6
Former Staff Member	2
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	4
White	4
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	4
Male	4
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	2
Bisexual	1
Demisexual	1
Gay	1
Heterosexual	5
Other	1
Prefer Not to Answer	1

DEAI Survey Report

Persons with Disability or Accessibility Needs
1

DEAI Survey Report

Key Customer Accessibility Observations: Internal Survey

Key Observation

8

70.6% agree or strongly agree that Peninsula Clean Energy customer service is accessible to all its customers. (Question 13).

Below is information about this response group:

NUMBER OF RESPONDERS: 24

Relationship with Peninsula Clean Energy	
Staff Member	20
Former Staff Member	3
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	13
White	18
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	11
Male	12
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	2
Demisexual	1
Gay	2
Heterosexual	20
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
2

Comments:

- Stop hiding staff contact information. Staff contact information should be published on the website. If the board can publish contact information on the website, so should staff.
- Make sure that customer service is available for those that may not have a computer or internet access.
- Maybe hire more bi-lingual folks? I know Calpine has multi-lingual staff members for the call center, so that's great.
- Test how smooth the experience is of interacting with our call center when you need a translator.

PENINSULA CLEAN ENERGY

DEAI Survey Report

Key Observation 9

88.2% agree or strongly agree that Peninsula Clean Energy electricity generation services are accessible to all its customers. (Question 9).

Below is information about this response group:

NUMBER OF RESPONDERS: 30

Relationship with Peninsula Clean Energy	
Staff Member	26
Former Staff Member	3
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	16
White	21
Prefer Not to Answer	2

Gender Identity (Select all that apply)	
Female	15
Male	14
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	3
Demisexual	1
Gay	2
Heterosexual	24
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
2

Key Observation

10

26.5% disagree or strongly disagree that Peninsula Clean Energy employees are trained to serve a diverse customer base. (Question 2).

Below is information about this response group:

NUMBER OF RESPONDERS: 9

Relationship with Peninsula Clean Energy	
Staff Member	7
Former Staff Member	1
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
South American	3
White	6
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	4
Male	4
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	2
Bisexual	2
Demisexual	1
Gay	1
Heterosexual	4
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs:	0

DEAI Survey Report

Key Observation

11

32.4% think Peninsula Clean Energy can make its electricity generation services more accessible to all persons. (Question 10).

Below is information about this response group:

NUMBER OF RESPONDERS: 11

Relationship with Peninsula Clean Energy	
Staff Member	9
Former Staff Member	1
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	10
White	7
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	4
Male	6
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Gay	1
Heterosexual	7
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
0

Comments:

- Increased investment of funds, communication, education, and outreach to disadvantaged communities, specifically communities of color with ethnic minorities, is needed…Minority and disadvantaged communities are either ignored or receive only token attention because they are not as visible, not as vocal, not as politically engaged or powerful, and are therefore not viewed as important
- Since all our customers are opted-in by default, I would think we could make it more accessible only if we continue to be a more affordable option than PG&E
- A more separate rate structure could prevent customers from thinking PCE is causing their bill increases

DEAI Survey Report

Key Observation

12

29.4% disagree or strongly disagree that Peninsula Clean Energy programs such as the HOME UPGRADE PROGRAM, USED EV REBATE PROGRAM, E-BIKES FOR EVERYONE, HEAT PUMP WATER HEATER REBATES, and SOLAR and BATTERY REBATES are accessible to all its customers. (Question 11).

Below is information about this response group:

NUMBER OF RESPONDERS: 10

Relationship with Peninsula Clean Energy	
Staff Member	6
Former Staff Member	3
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	4
White	5
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	5
Male	4
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Bisexual	1
Gay	1
Heterosexual	6
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
0

Comments:

- Most of these programs are only targeted at low-income folks, so they are not accessible to everyone. However, that's not a bad thing because being accessible to low-income folks is great. I think naming the "e-bikes for everyone" program that way was really dumb because it's quite literally not "for everyone" and only for a small portion of the County
- Programs are designed in a technical vacuum that does not consult with customers or community groups. Design our programs by first talking with our community stakeholders, especially about the proposed program's value and accessibility for underserved communities

DEAI Survey Report

Key Procurement Observations: Internal Survey



Less than half (41.1%) agree or strongly agree that Peninsula Clean Energy supports and promotes diversity in its procurement policies and practices. 11.7% disagree or strongly disagree that Peninsula Clean Energy supports and promotes diversity in its procurement policies and practices. (Question 3).

Below is information about this response group:

NUMBER OF RESPONDERS: 14

Relationship with Peninsula Clean Energy	
Staff Member	13
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	8
White	11
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	6
Male	8

Sexual Identity or Sexual Orientation (Select all that apply)	
Bisexual	1
Gay	1
Heterosexual	12

Persons with Disability or Accessibility Needs
1

DEAI Survey Report

Key Psychological Safety Observations: Internal Survey

Key Observation

14

67.6% agree or strongly agree that on their team they are able to have discussions on difficult/uncomfortable topics. (Question 25).

Below is information about this response group:

NUMBER OF RESPONDERS: 23

Relationship with Peninsula Clean Energy	
Staff Member	19
Former Staff Member	3
Contractor	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	12
White	17
Prefer Not to Answer	2

Gender Identity (Select all that apply)	
Female	9
Male	13
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Asexual	1
Bisexual	2
Demisexual	1
Gay	2
Heterosexual	19
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
1

Comments:

- I have been a part of a few uncomfortable topics, and both sides were able to share their opinions and reach a compromise. It seemed like a fair discussion
- My team is rather open about our opinions and able to discuss them in a deliberative manner.
- I think we certainly could, although generally I hesitate to do so. That said I'm more comfortable at PCE than I have ever been at any other employer

DEAI Survey Report

Key Observation

15

20% have experienced unwelcomed comments or conduct at Peninsula Clean Energy that they felt were offensive, embarrassing, or hurtful. (Question 22).

Below is information about this response group:

NUMBER OF RESPONDERS: 7

Relationship with Peninsula Clean Energy	
Staff Member	4
Former Staff Member	2
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	2
White	4
Prefer Not to Answer	1

Gender Identity (Select all that apply)	
Female	1
Male	5
Prefer Not to Answer	1

Sexual Identity or Sexual Orientation (Select all that apply)	
Gay	1
Heterosexual	4
Other	1
Prefer Not to Answer	1

Persons with Disability or Accessibility Needs
0

Comments:

- Very rarely. But when it does happen, it's inappropriate jokes from one of the male staff that make meetings awkward
- I heard someone use the phrase "off the reservation" in a debrief session after RFP interviews
- I did not experience this directly, but I have witnesses it happening to other staff firsthand from Leadership
- Not directed at me or anyone in particular, but there was a recent comment on an all-staff meeting discussing a future in-person all-staff meeting and a joke was made that we'd be able to see who put on weight since the last time we were in the office. Strikes me as inappropriate

Key Observation

16

11.8% disagree or strongly disagree that they feel comfortable talking about issues of racism on their team. (Question 26).

Below is information about this response group:

NUMBER OF RESPONDERS: 4

Relationship with Peninsula Clean Energy	
Staff Member	3
Prefer Not to Answer	1

Racial or Ethnic Background (Select all that apply)	
Persons of Color	1
White	1
Prefer Not to Answer	2

Gender Identity (Select all that apply)	
Female	1
Male	1
Prefer Not to Answer	2

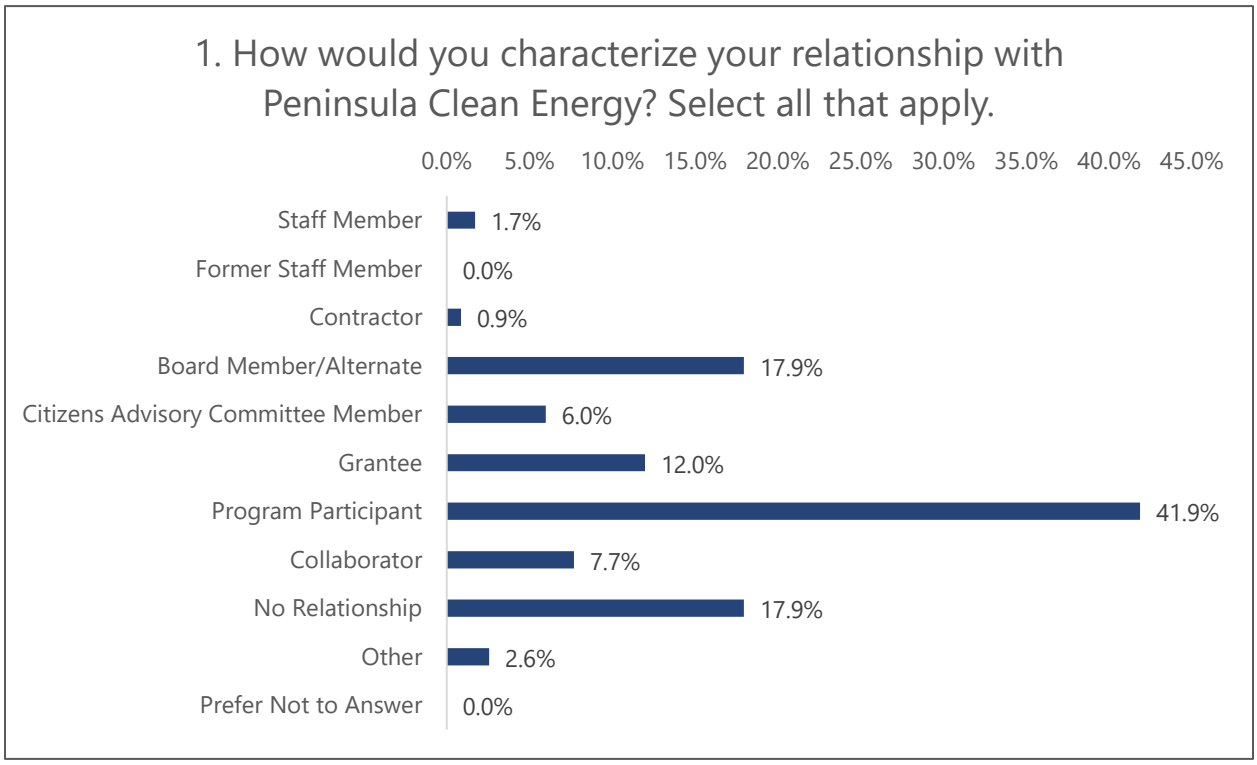
Sexual Identity or Sexual Orientation (Select all that apply)	
Heterosexual	1
Other	1
Prefer Not to Answer	2

Persons with Disability or Accessibility Needs
0

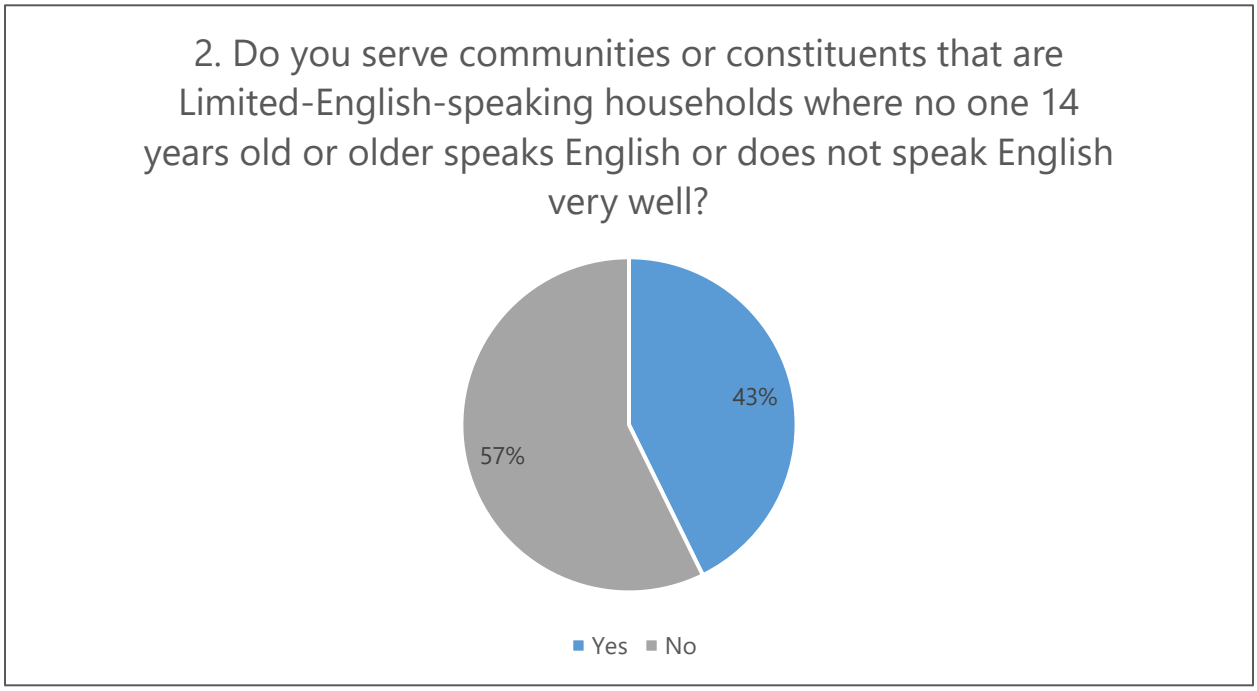
Appendix A – DEAI External Survey

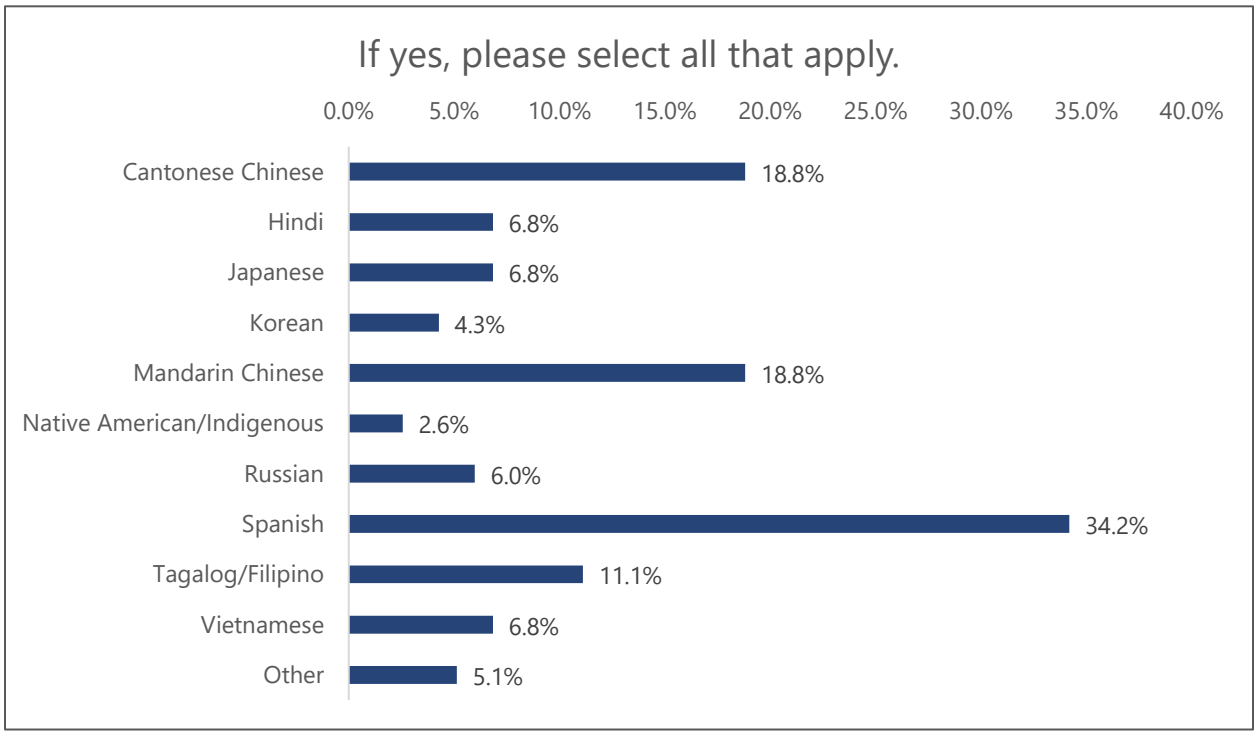
External Survey Results – Information about our Stakeholders

During the first portion of the survey, Stakeholders were asked about themselves, including their relationship with PCE, ethnic background, race, and gender. Responses are below.

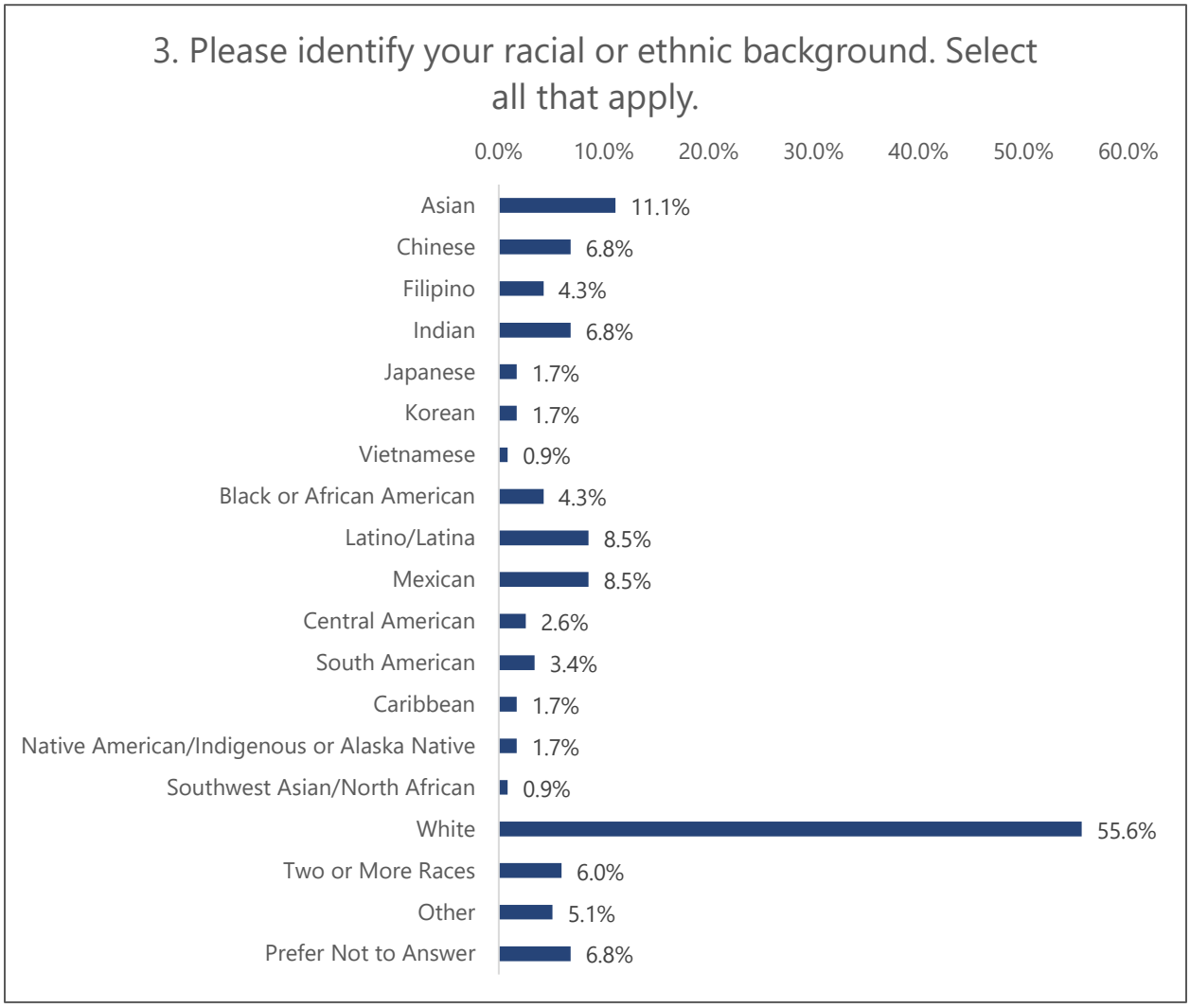


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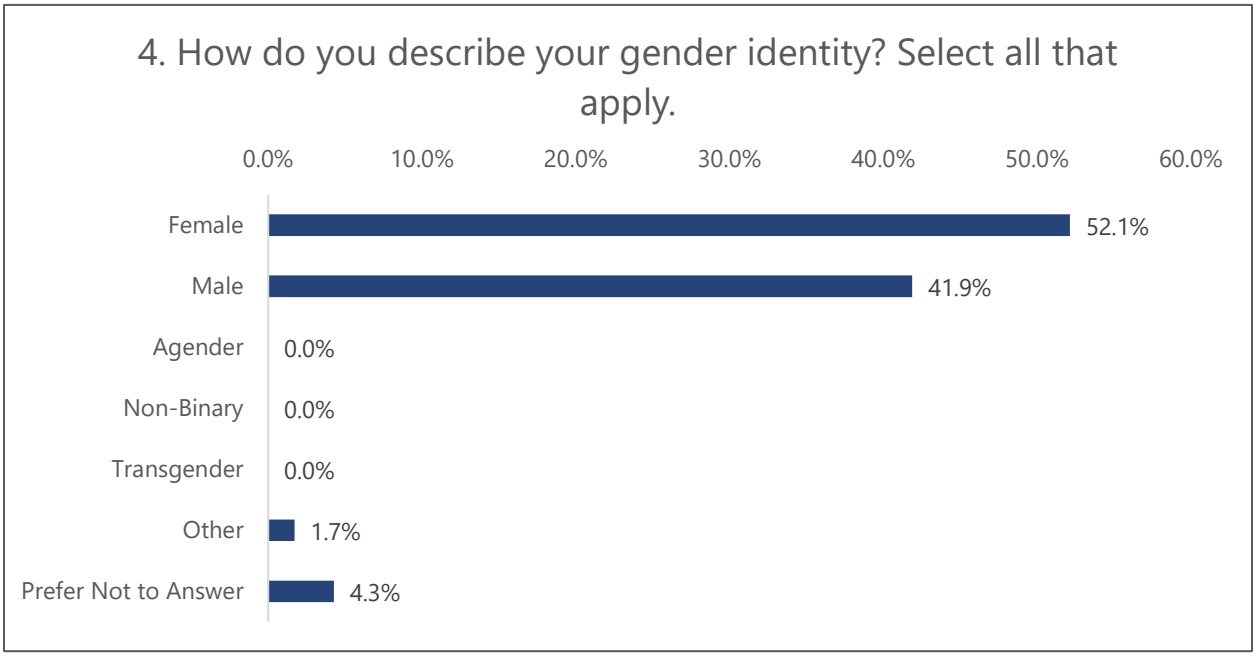


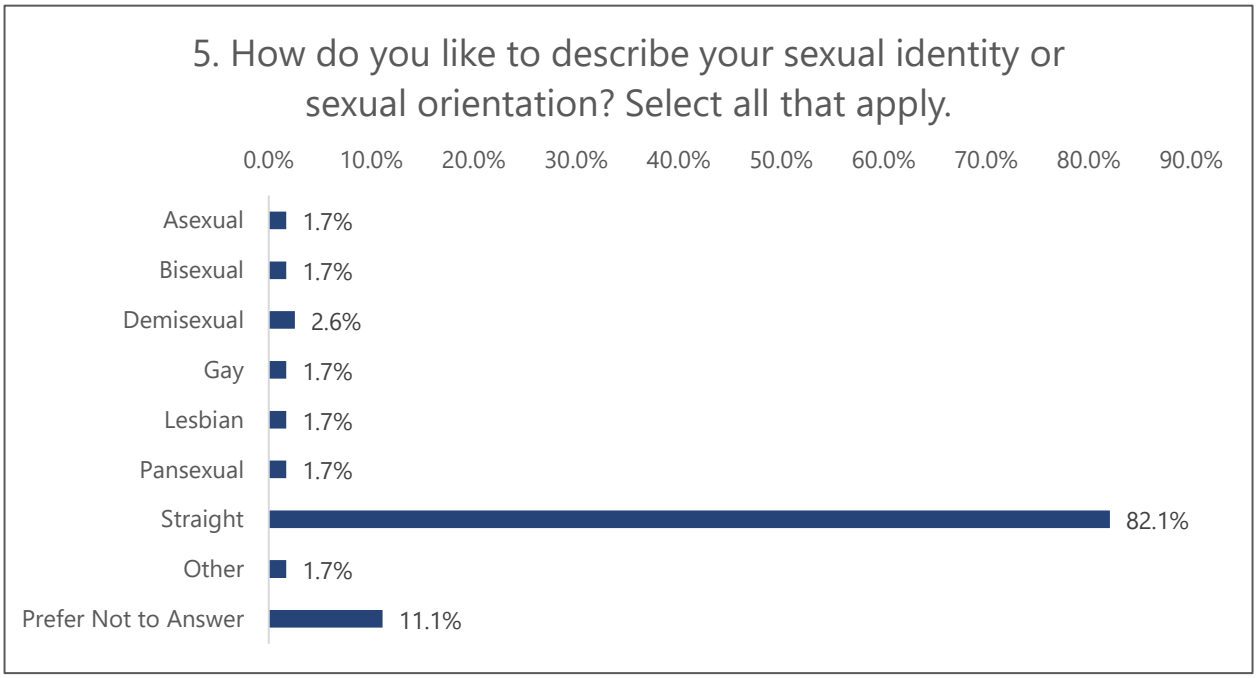


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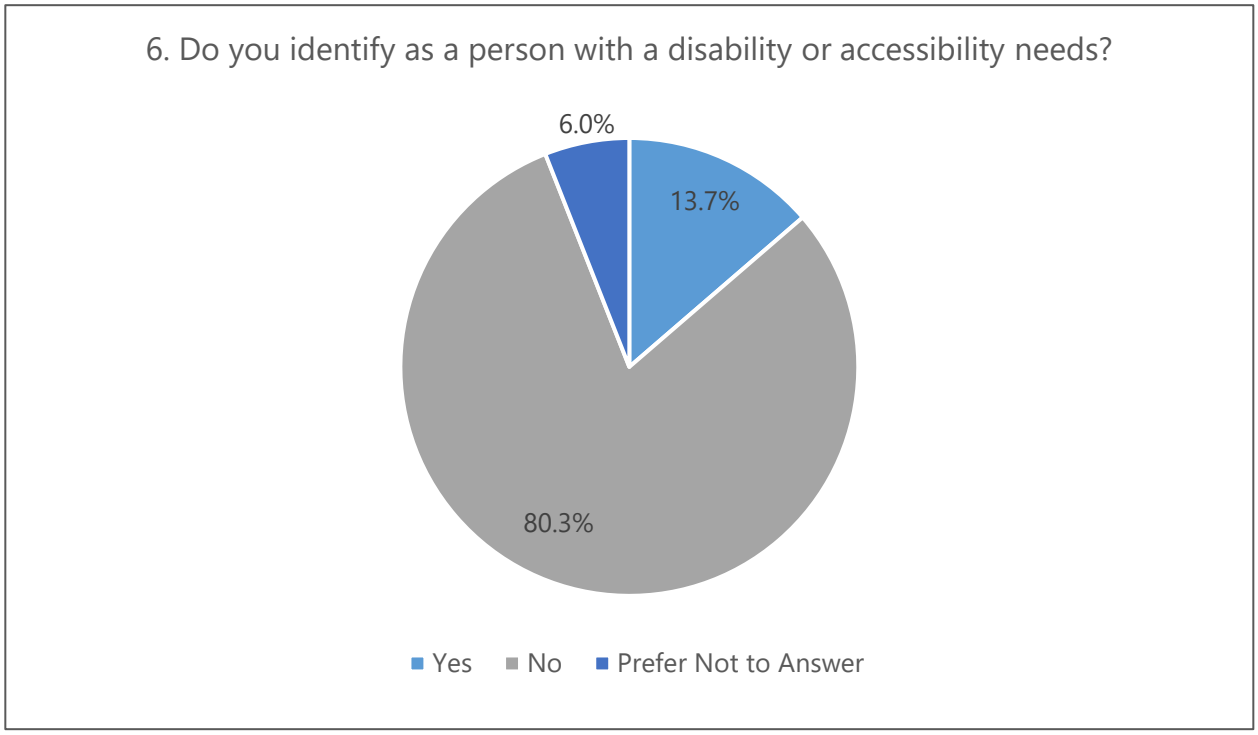


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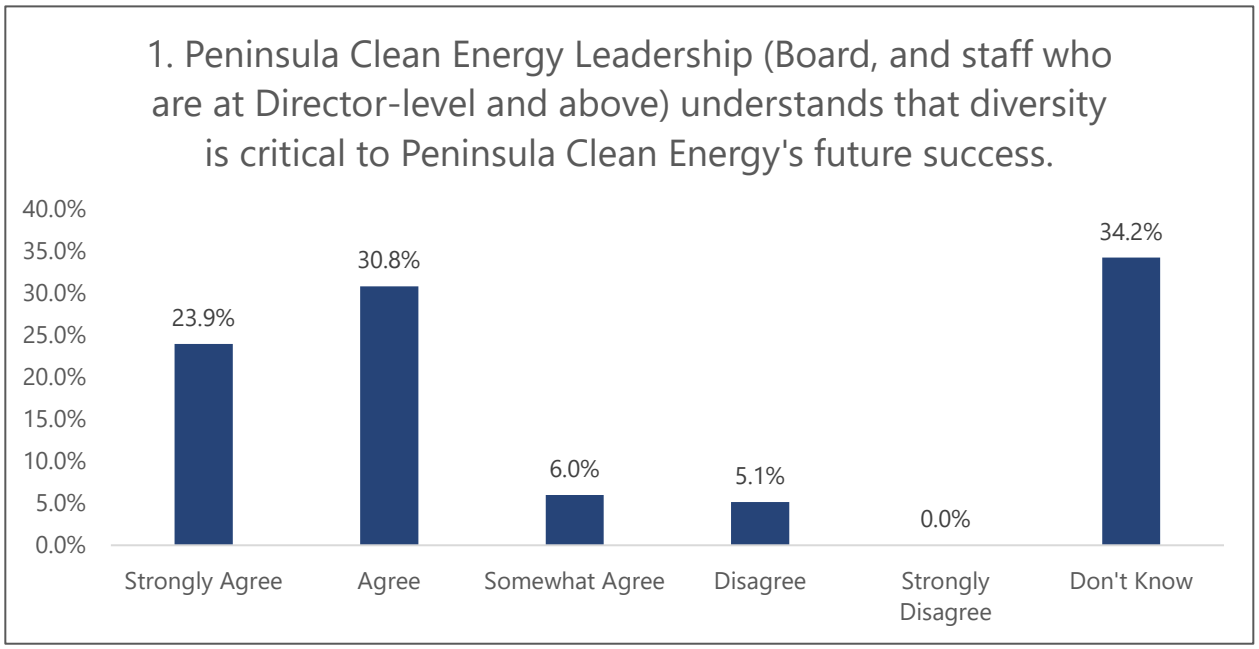


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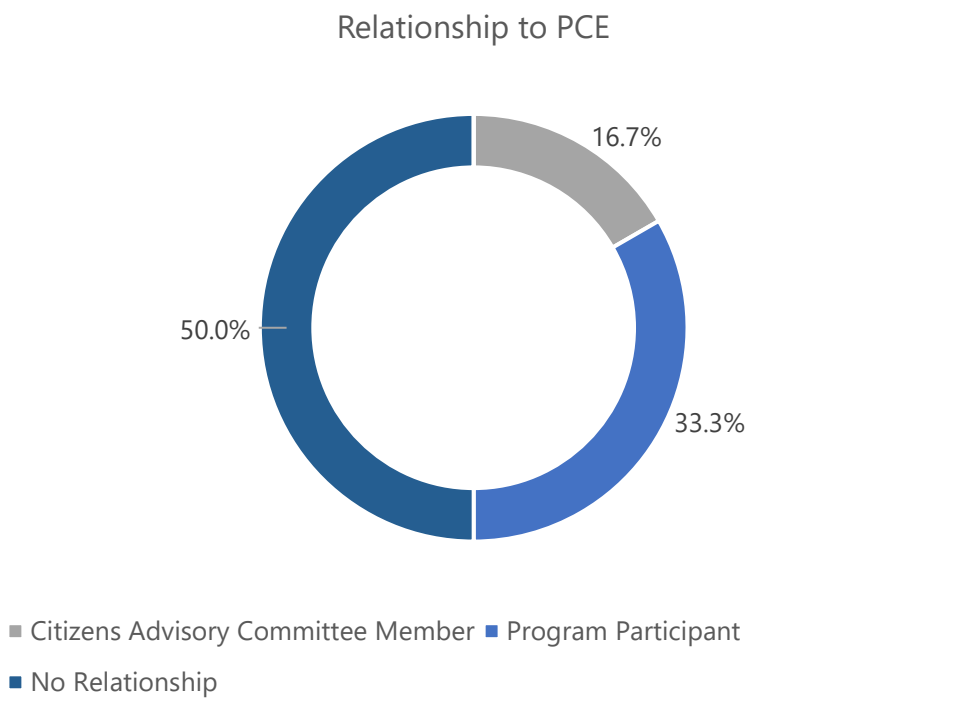
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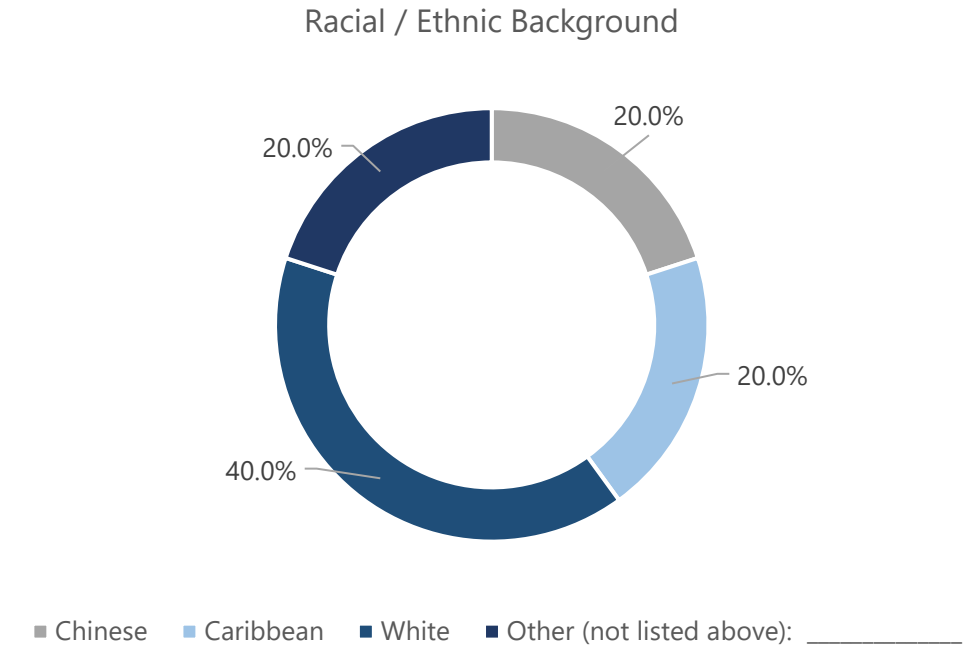
External Survey Results – DEAI Questions



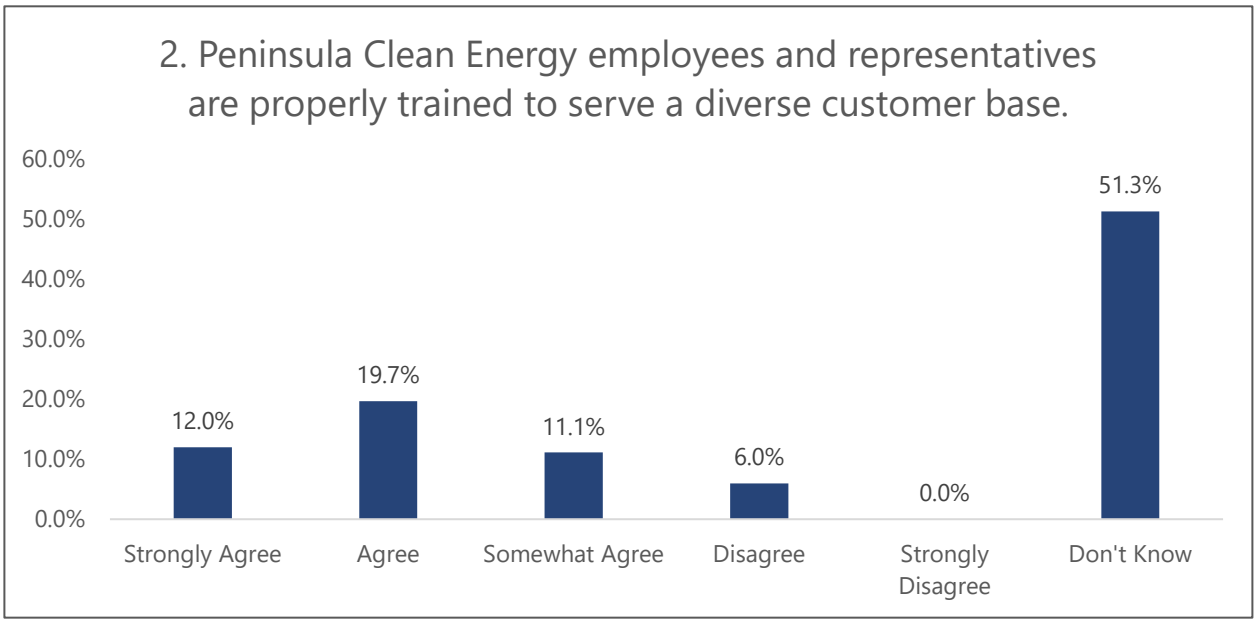
Appendix A – DEAI External Survey

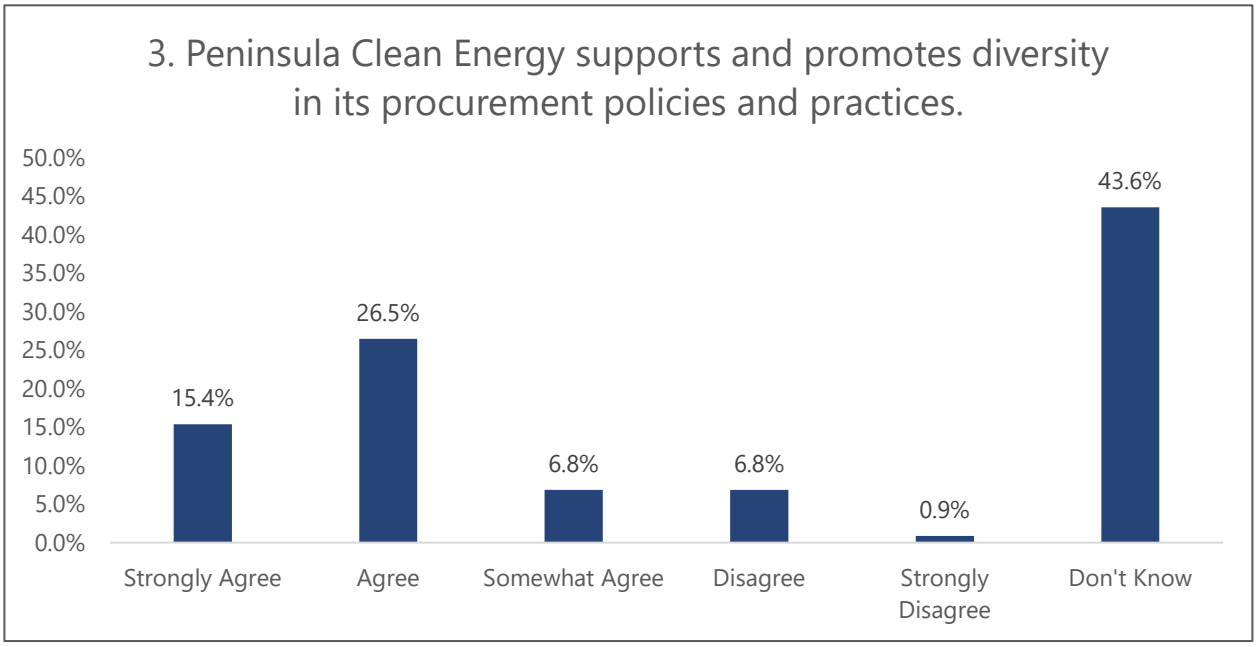
BREAKDOWN OF THOSE WHO DISAGREE



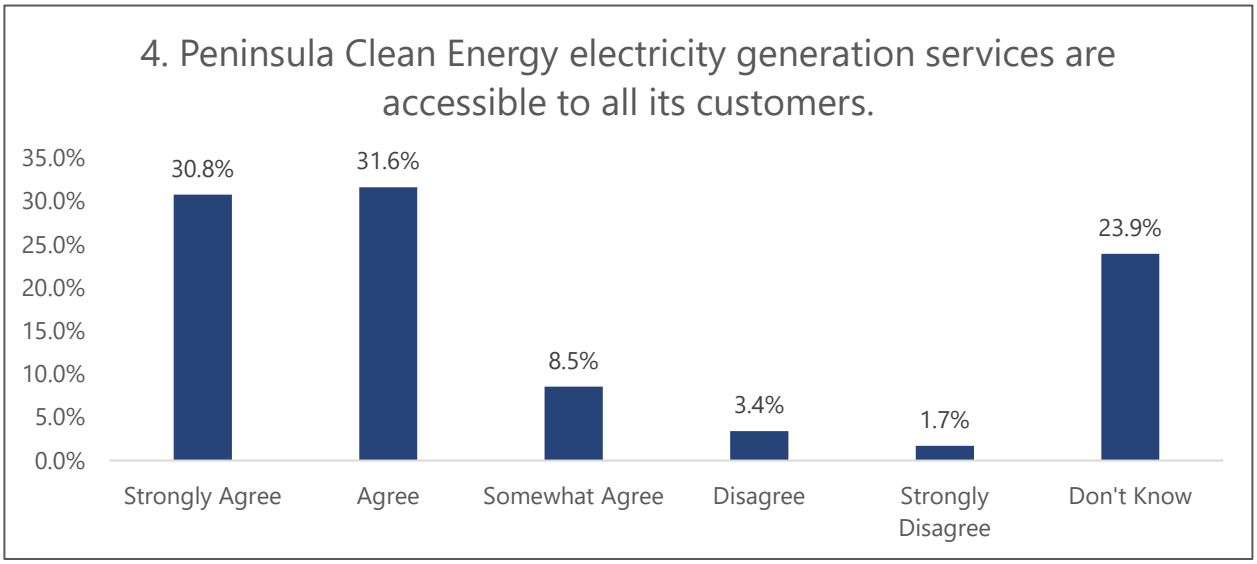


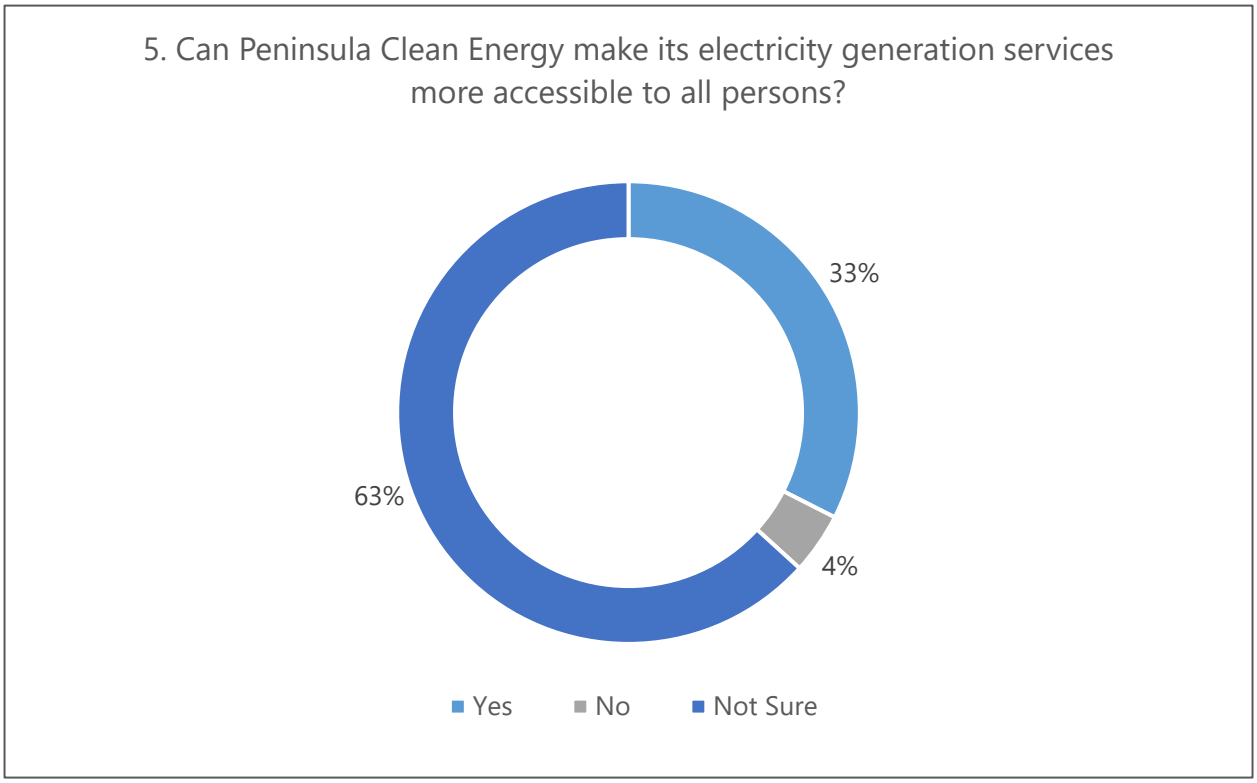
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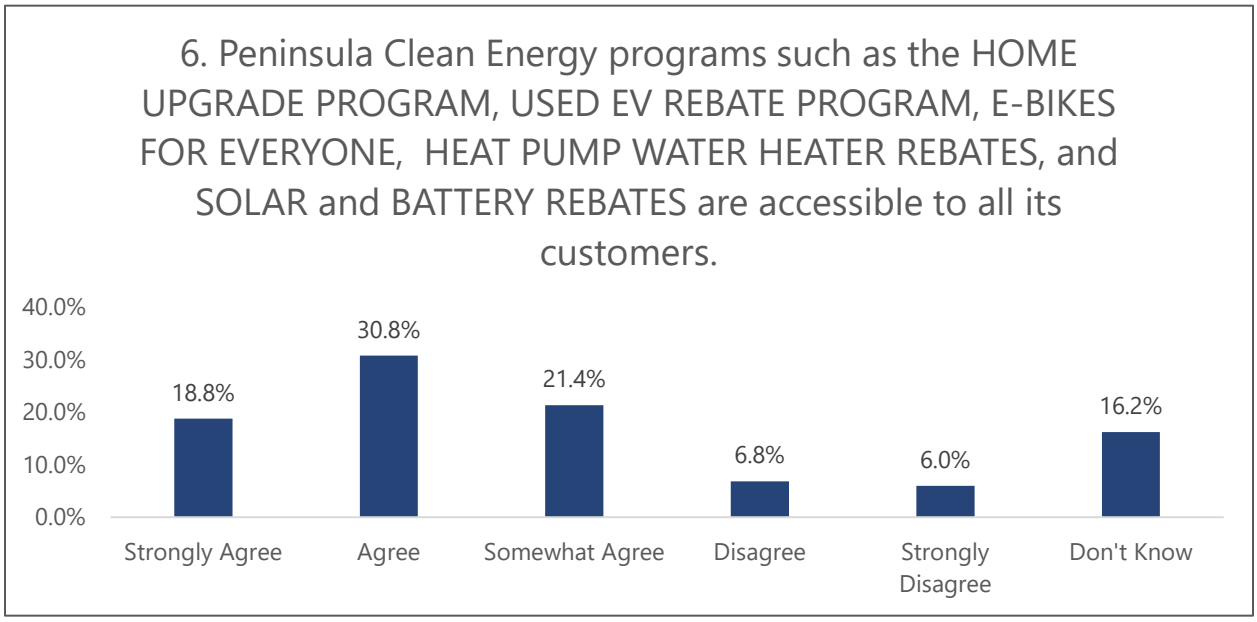


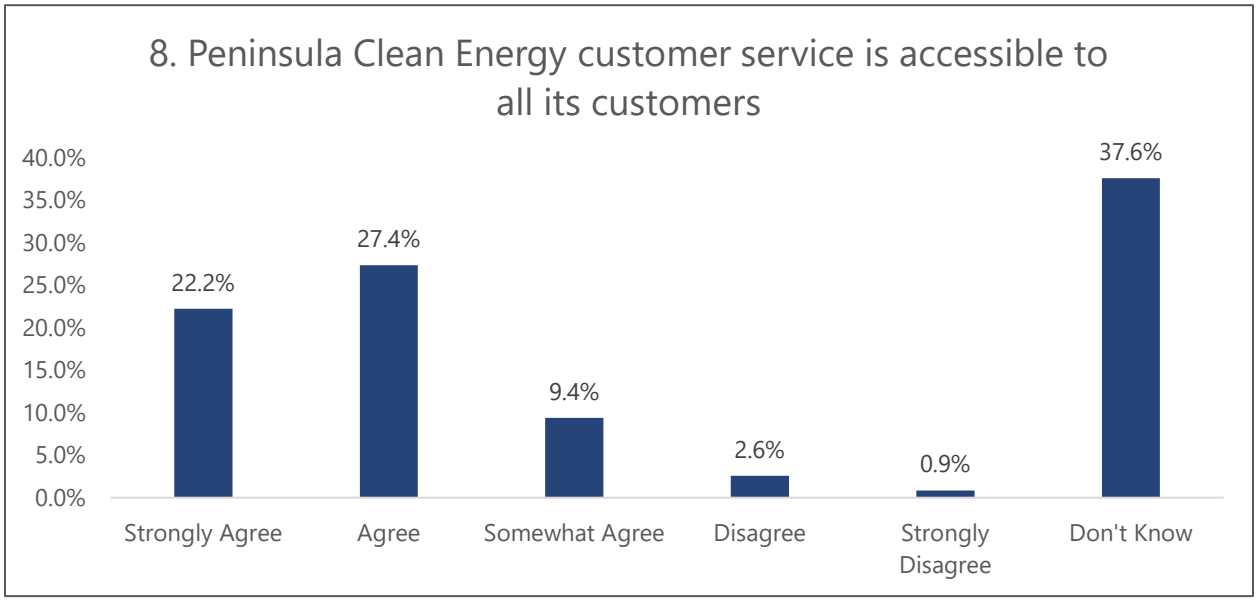
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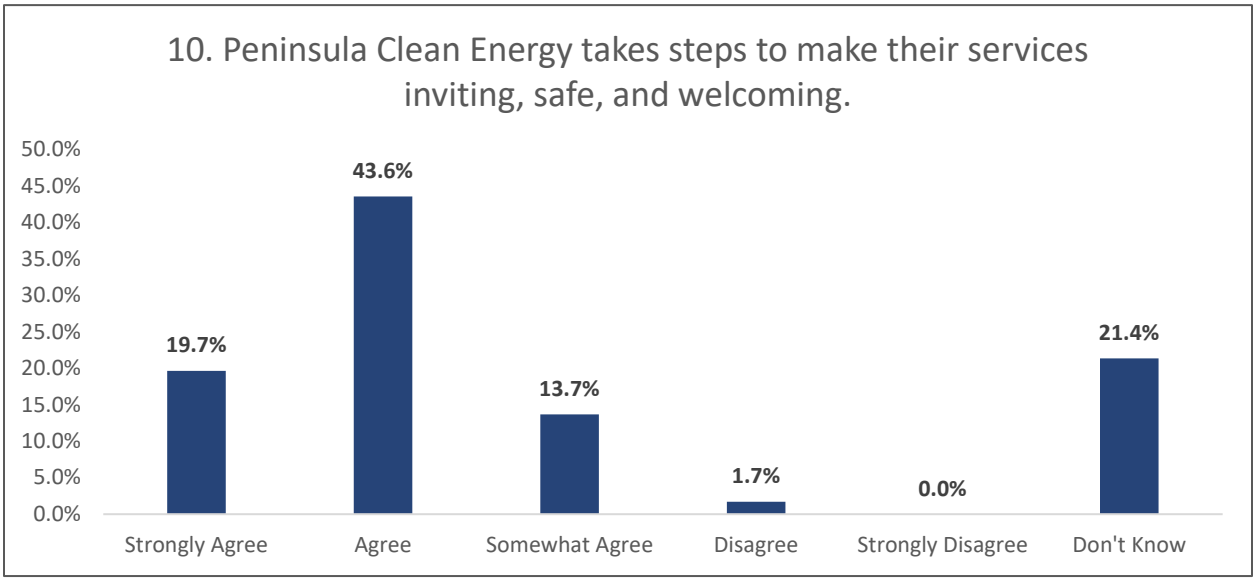


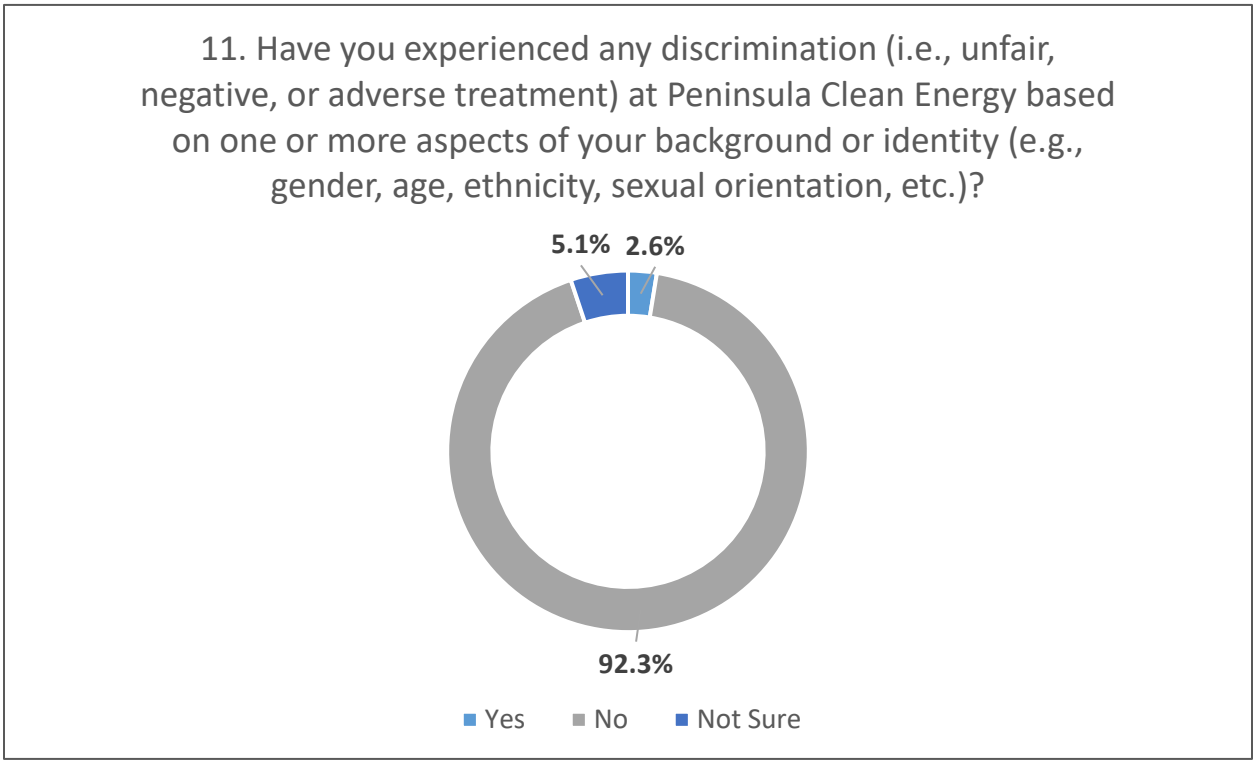
Appendix A – DEAI External Survey





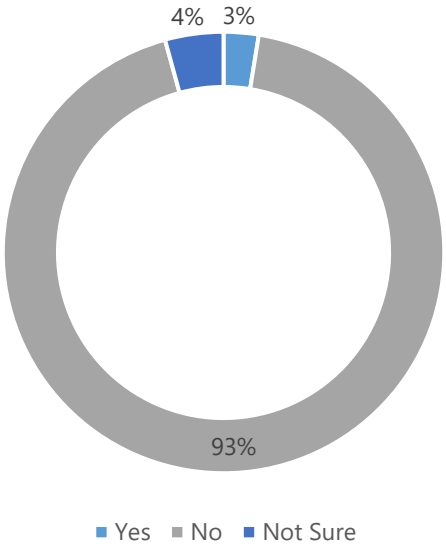
Appendix A – DEAI External Survey



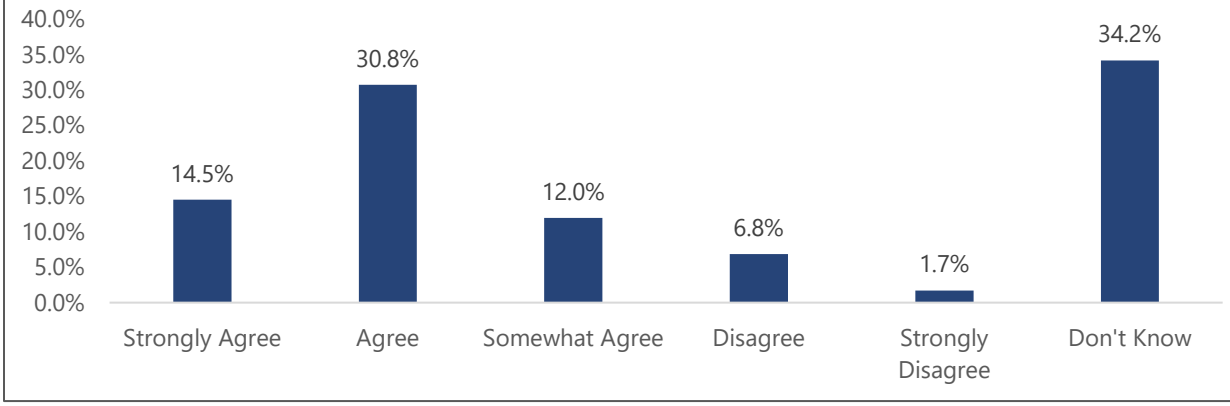


Appendix A – DEAI External Survey

12. Have you experienced any unwelcomed comments or conduct at Peninsula Clean Energy that you felt was offensive, embarrassing, or hurtful (e.g., inappropriate jokes, slurs, rumors, hurtful gossip, isolating behaviors)?

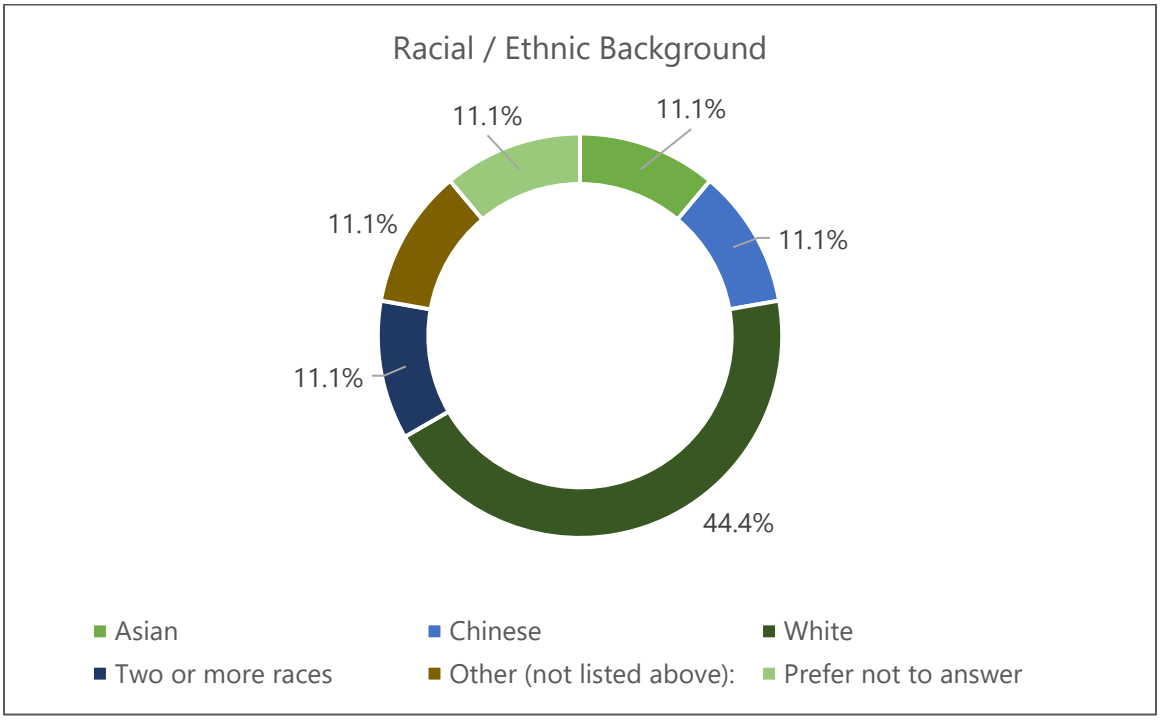


15. I feel comfortable talking about issues of racism with Peninsula Clean Energy staff and representative



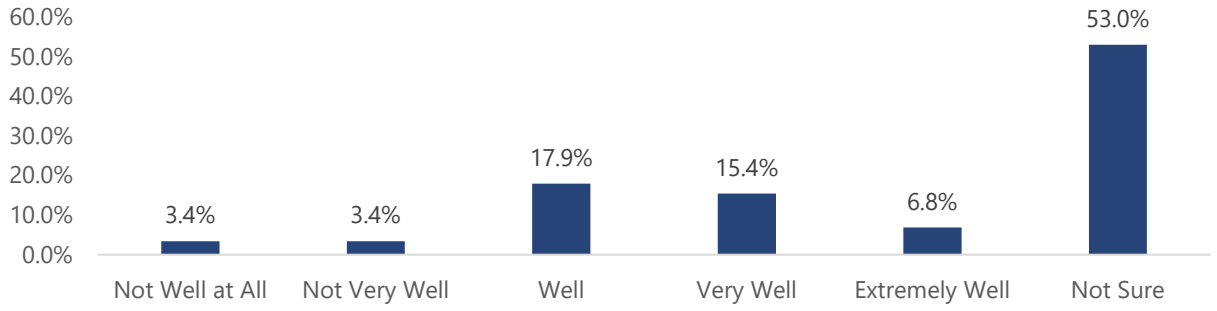
Appendix A – DEAI External Survey

BREAKDOWN OF THOSE WHO DISAGREE WITH QUESTION #15

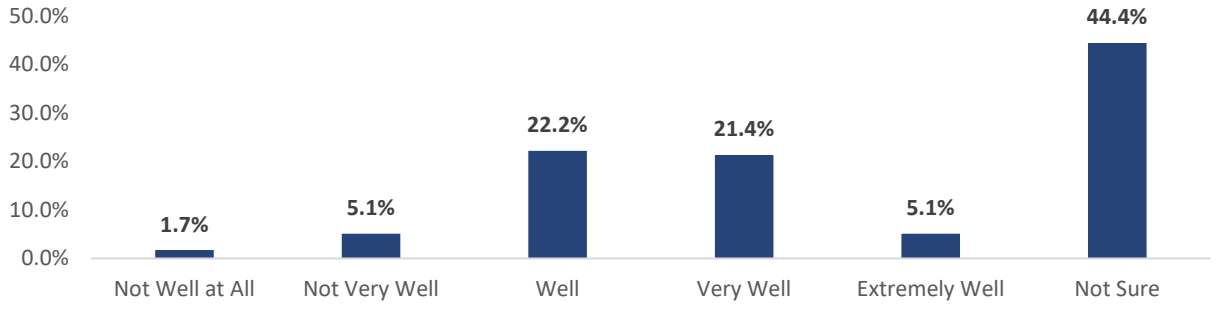


Appendix A – DEAI External Survey

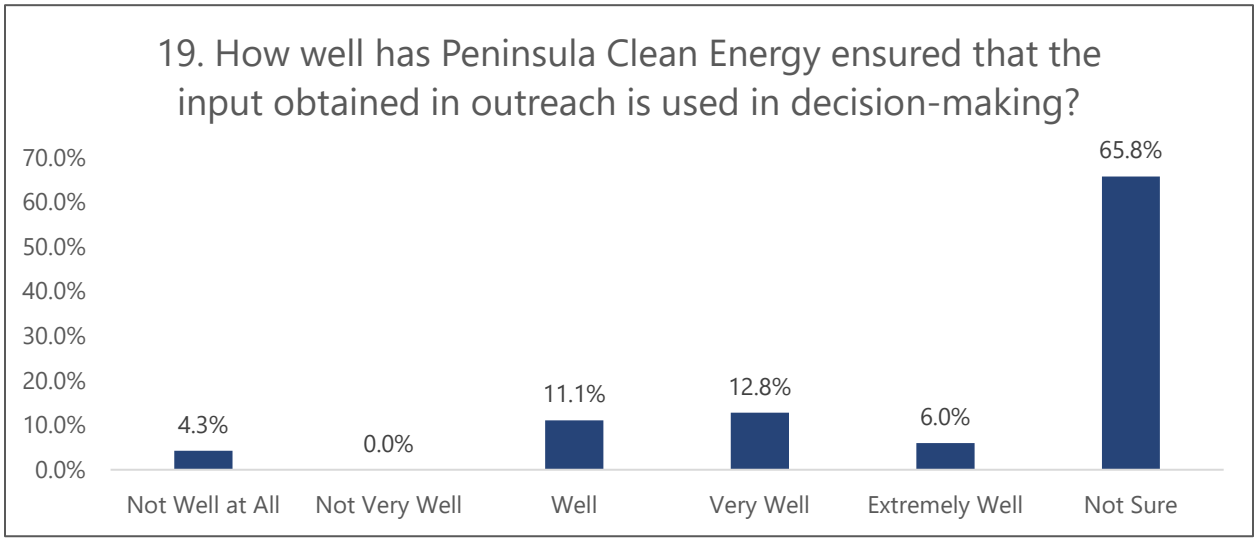
17. How well has Peninsula Clean Energy identified and coordinated with relevant Community Based Organizations (CBOs) to facilitate community input and outreach, including ensuring long term relationships and valuing their time and resources?

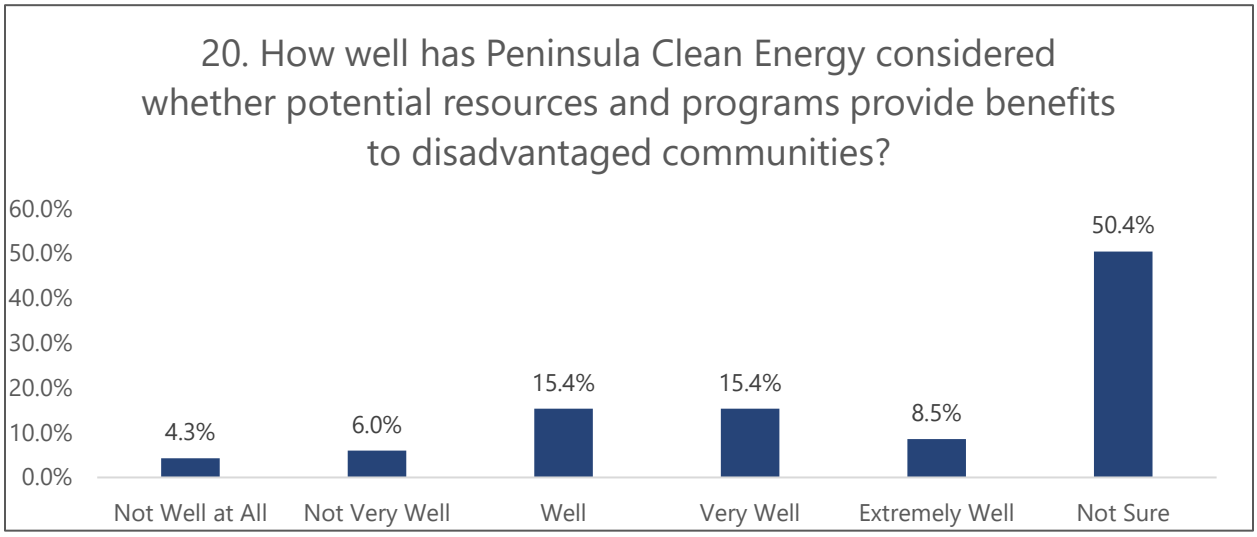


18. How well does Peninsula Clean Energy's outreach use appropriate methods and resources to engage its community, ensuring information is accessible, transparent, and responsive to all residents?

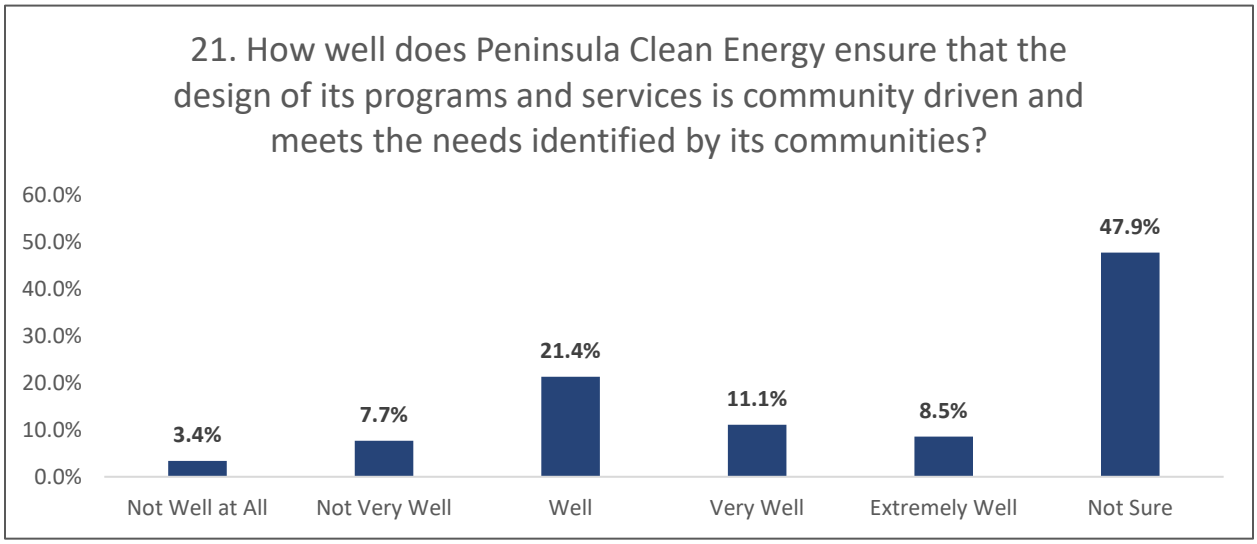


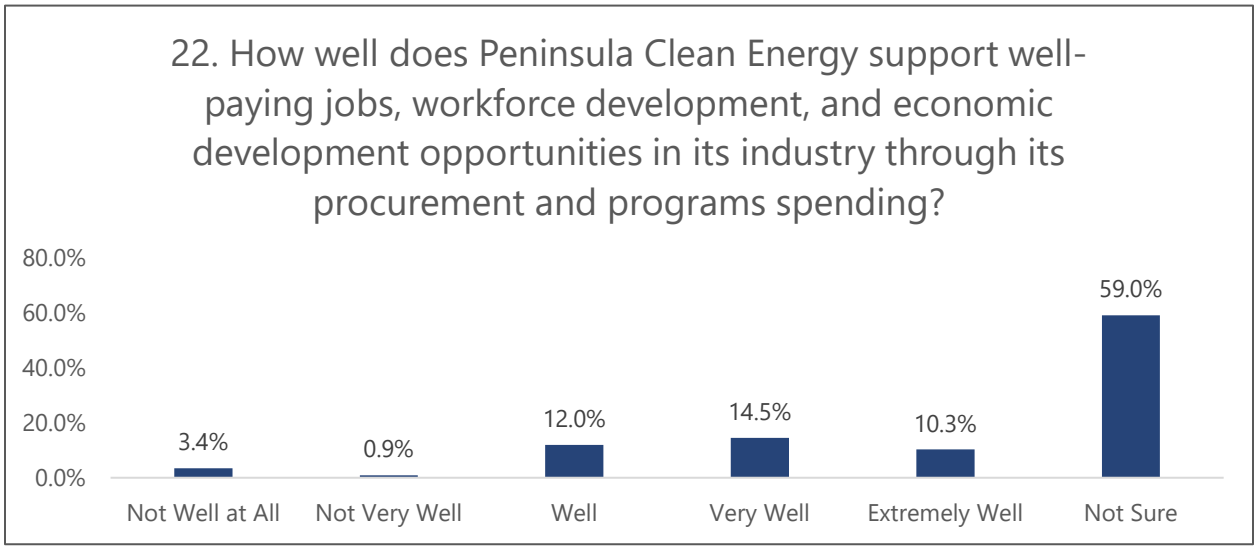
Appendix A – DEAI External Survey



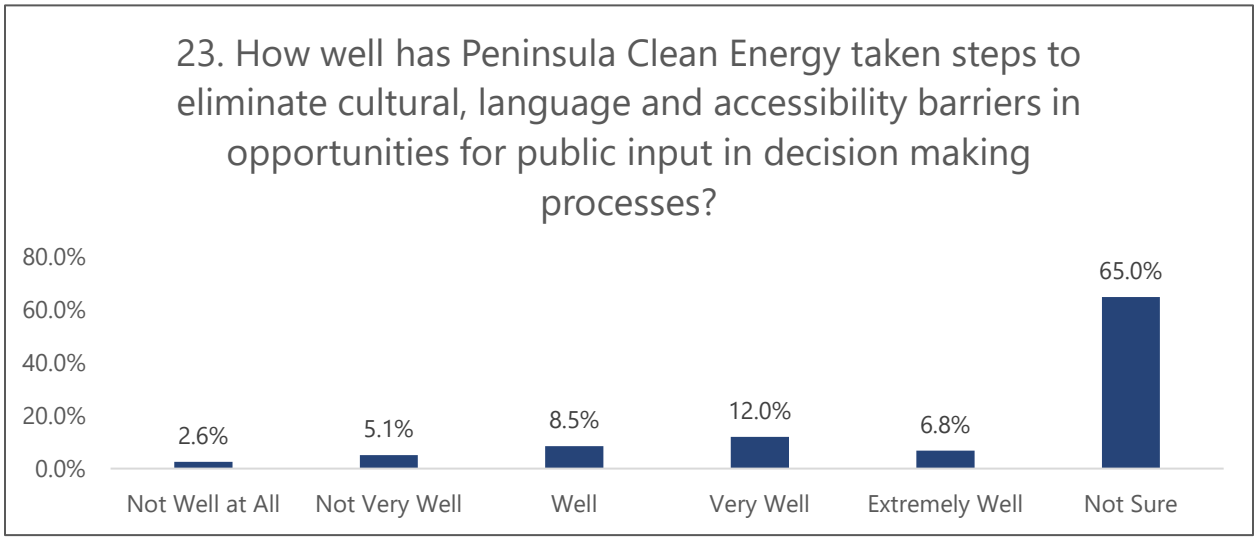


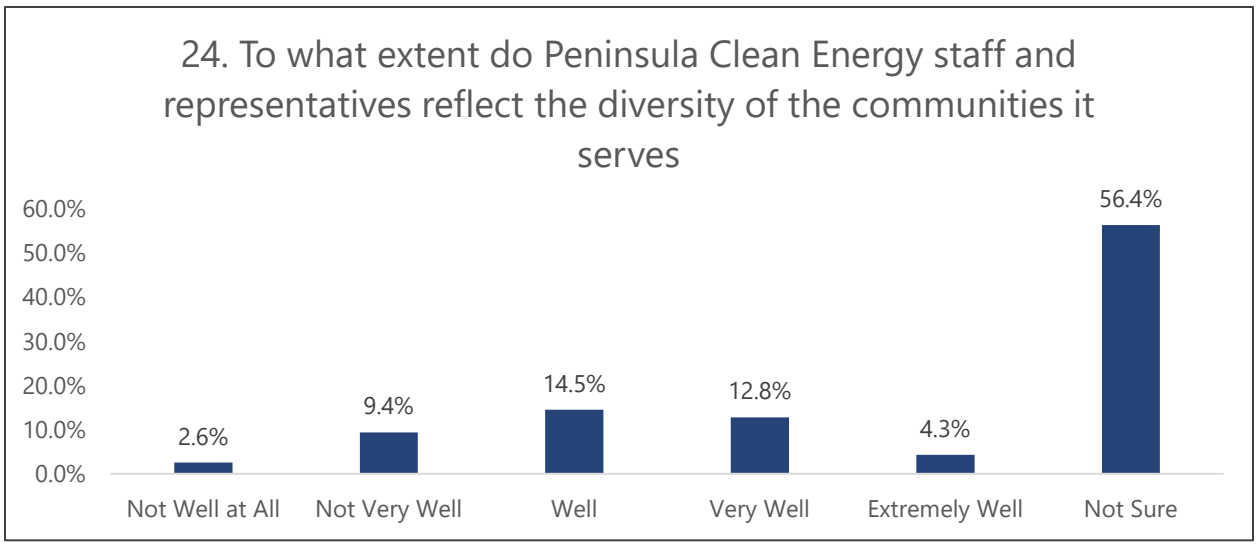
Appendix A – DEAI External Survey



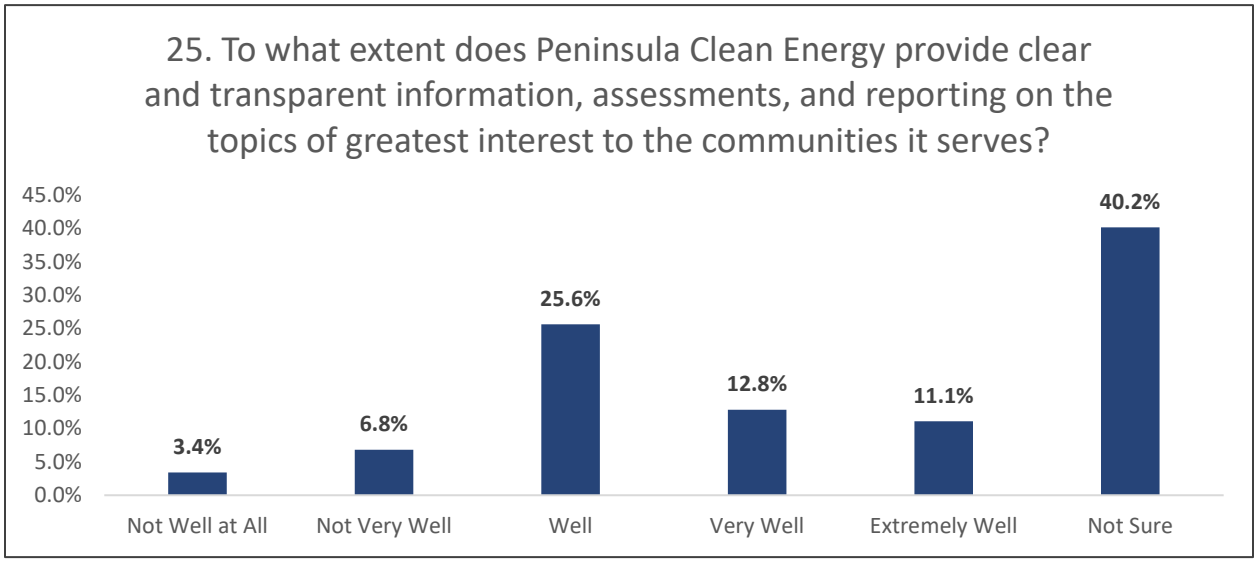


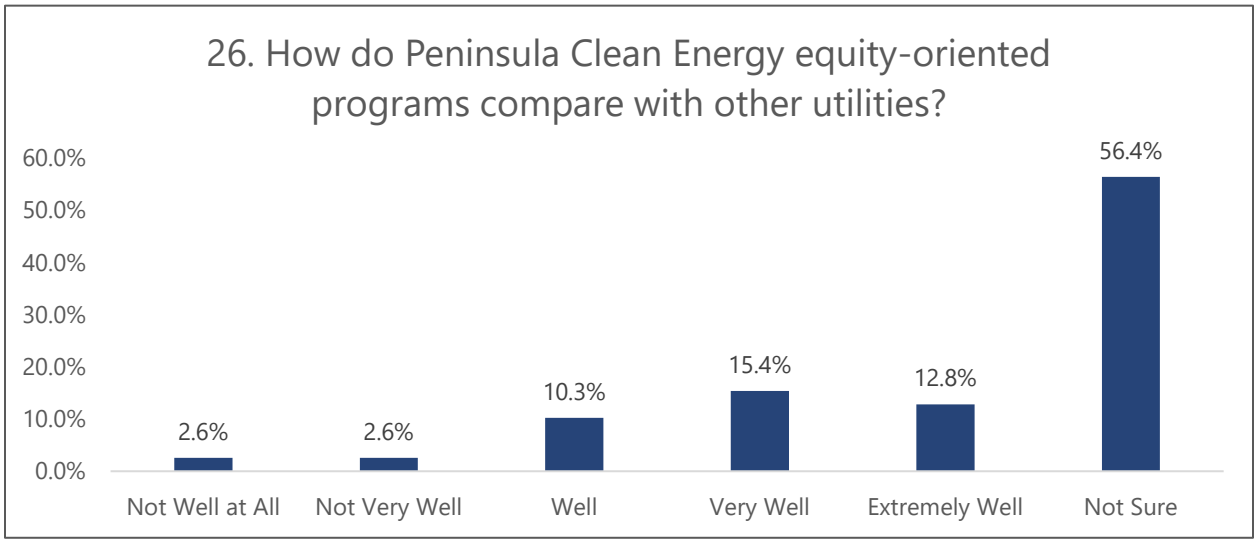
Appendix A – DEAI External Survey





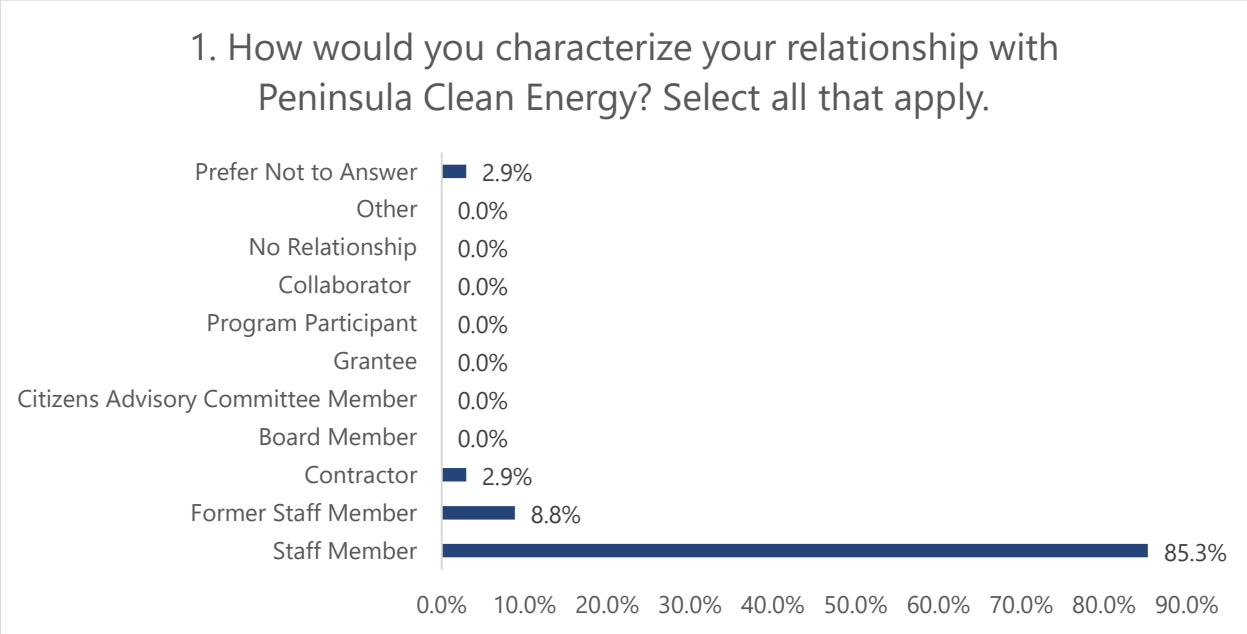
Appendix A – DEAI External Survey



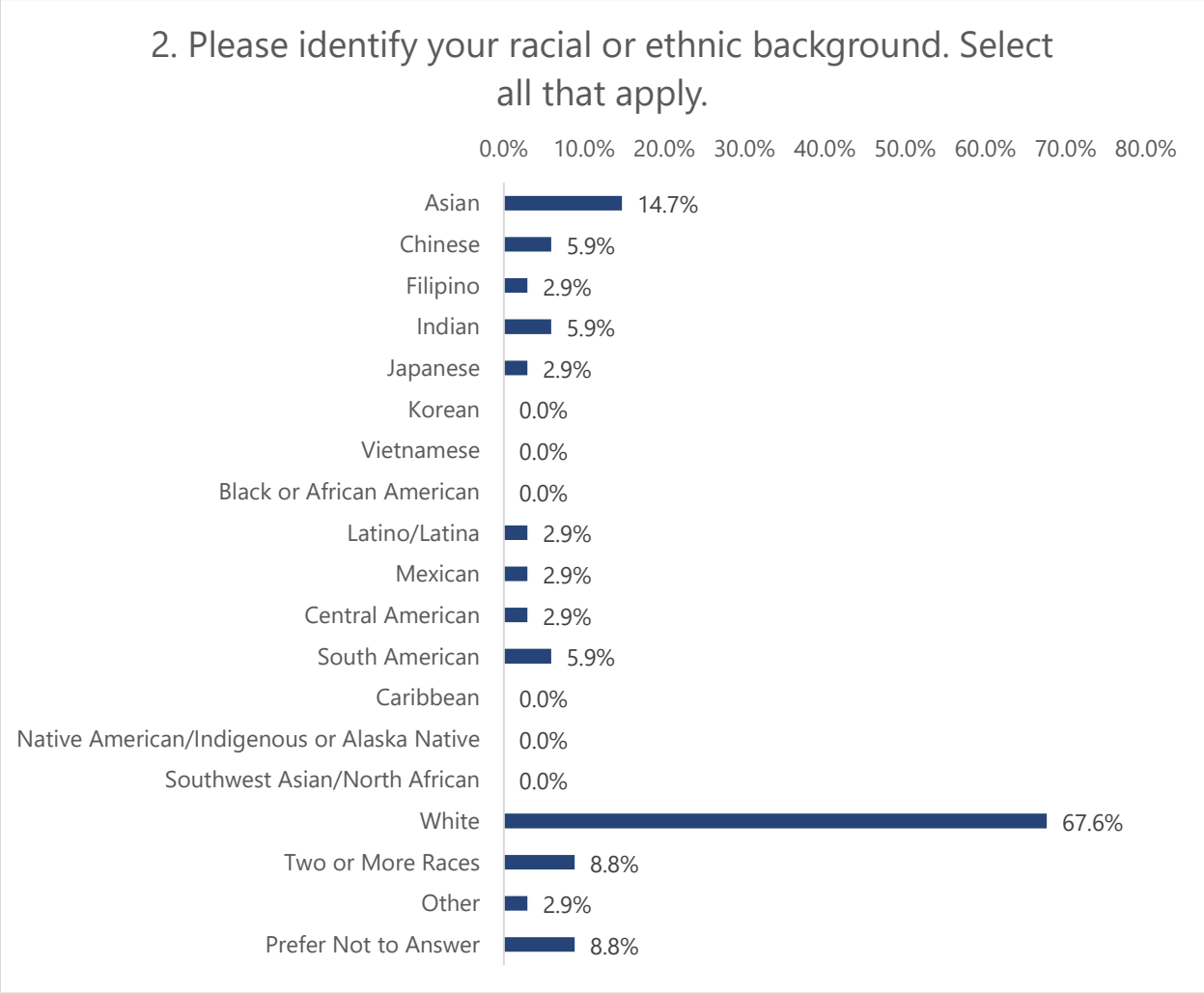


Appendix B – DEAI Internal Survey

Internal Survey Results – Information about our Staff

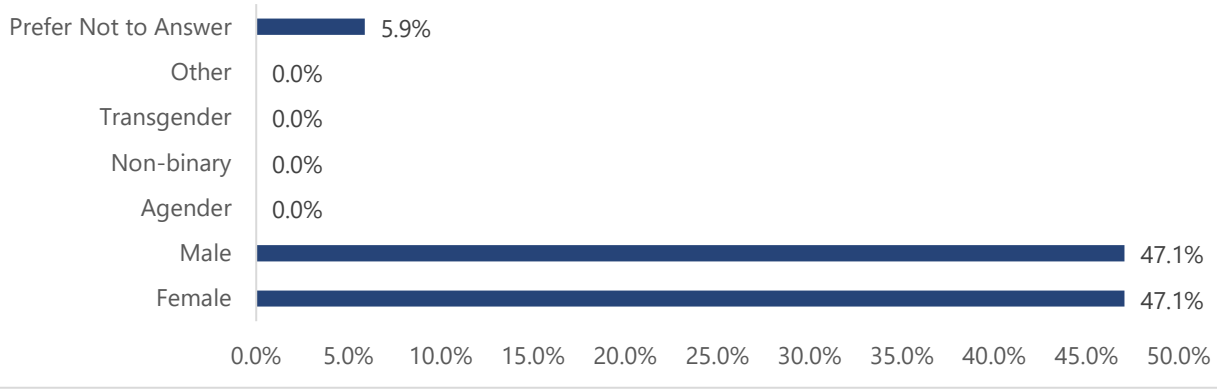


Appendix B – DEAI Internal Survey

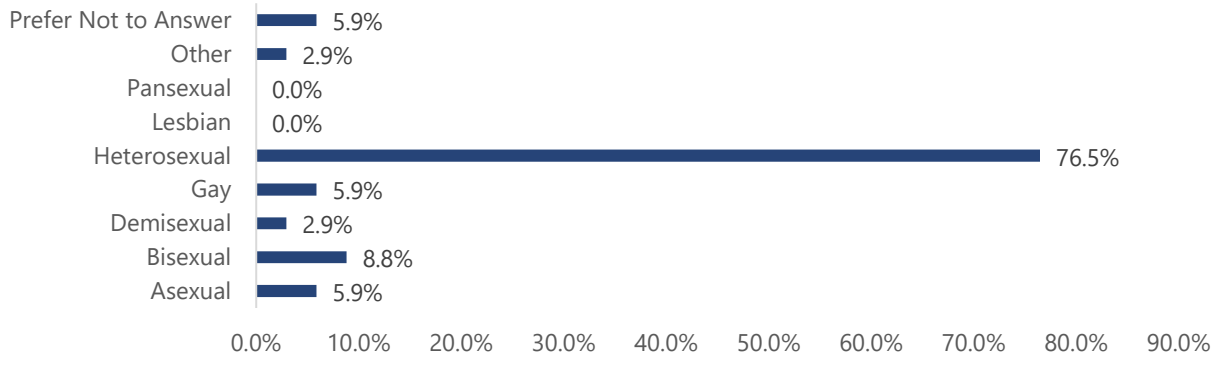


Appendix B – DEAI Internal Survey

3. How do you describe your gender identity? Select all that apply. (Gender identity describes a person's internal sense of gender, whether as a man, a woman, or something beyond the gender binary.)



4. How do you like to describe your sexual identity or sexual orientation? Select all that apply. (This describes a person's physical, romantic, or emotional attraction to other people in the world.)

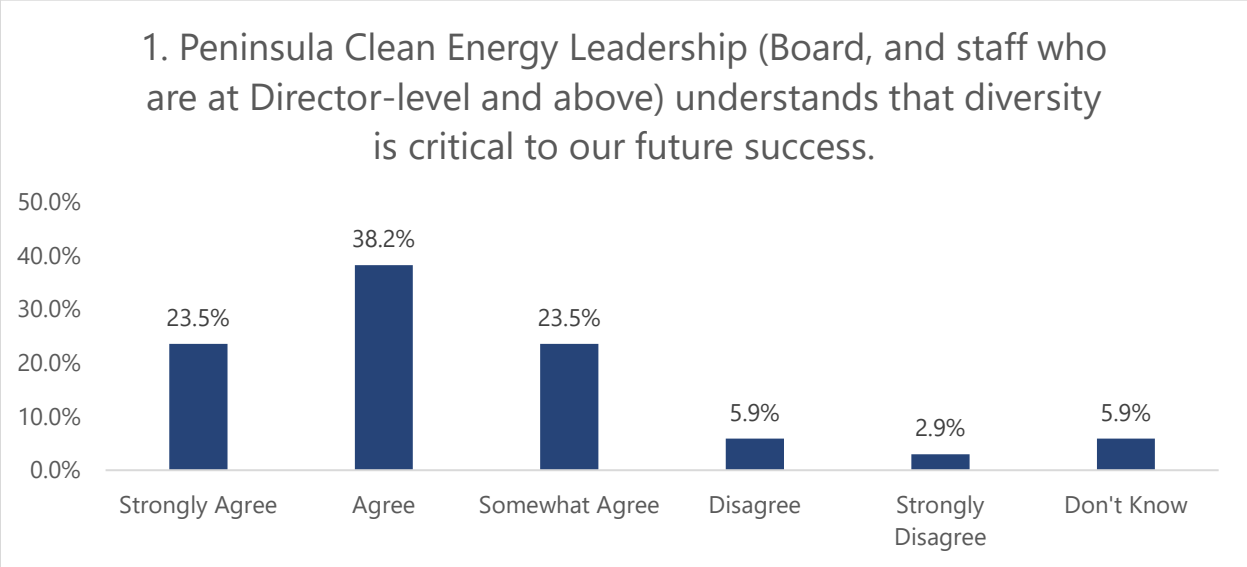


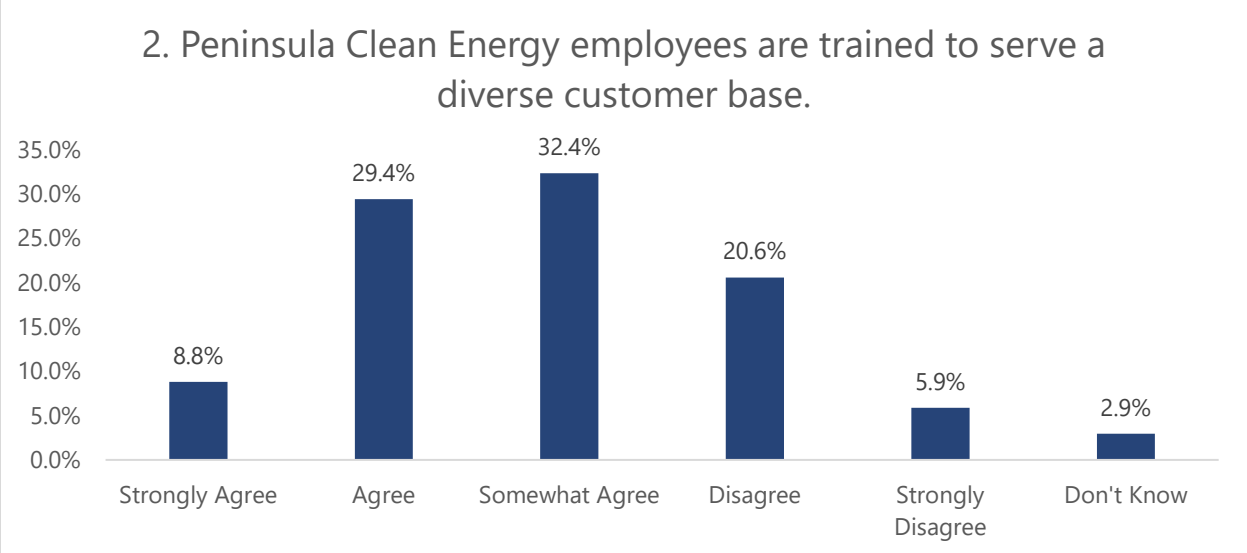
Appendix B – DEAI Internal Survey



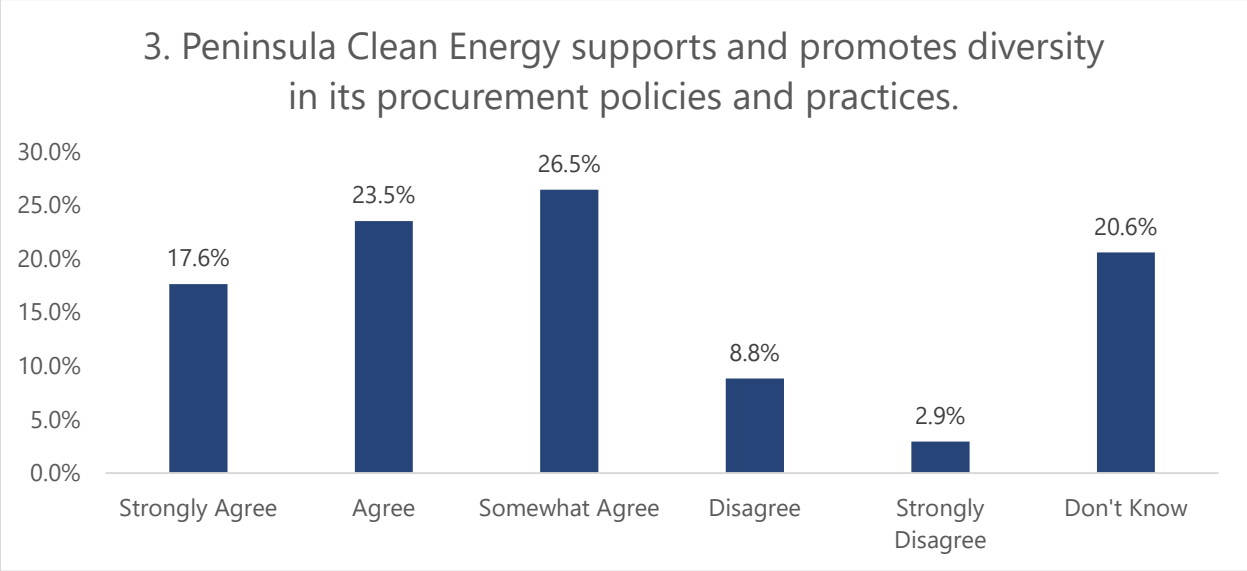
Appendix B – DEAI Internal Survey

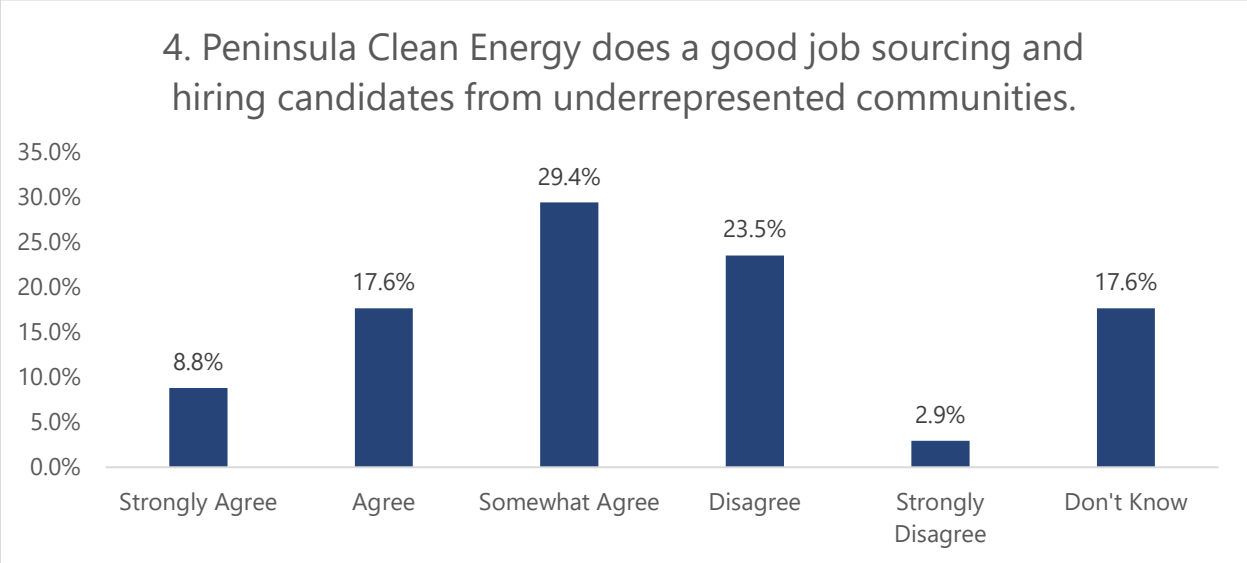
Internal Survey Results – DEAI Questions



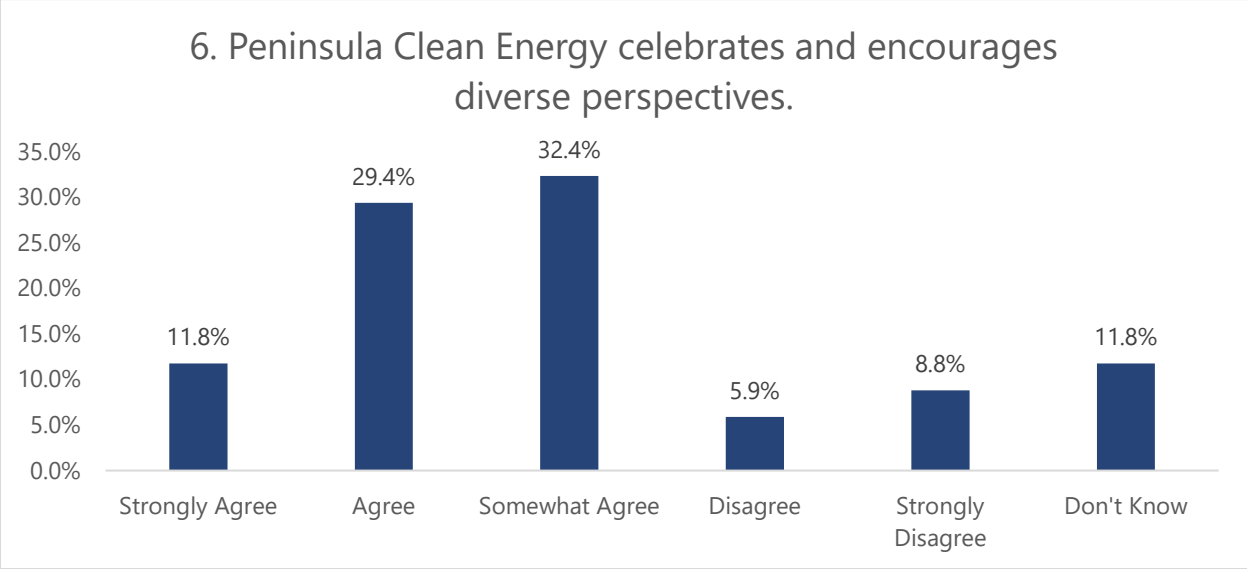


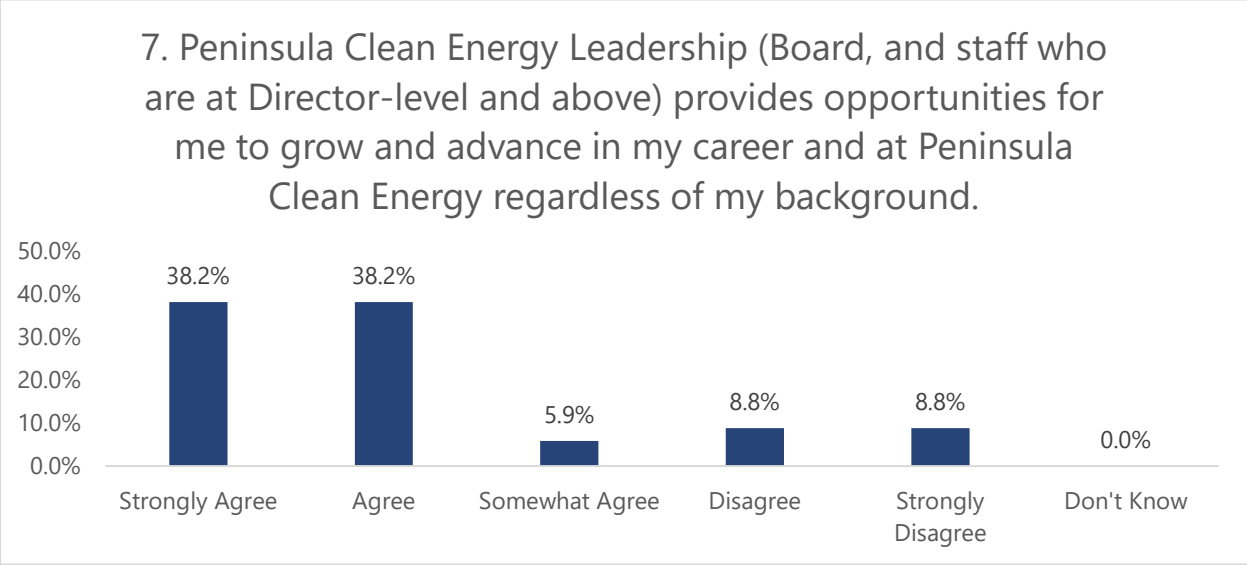
Appendix B – DEAI Internal Survey



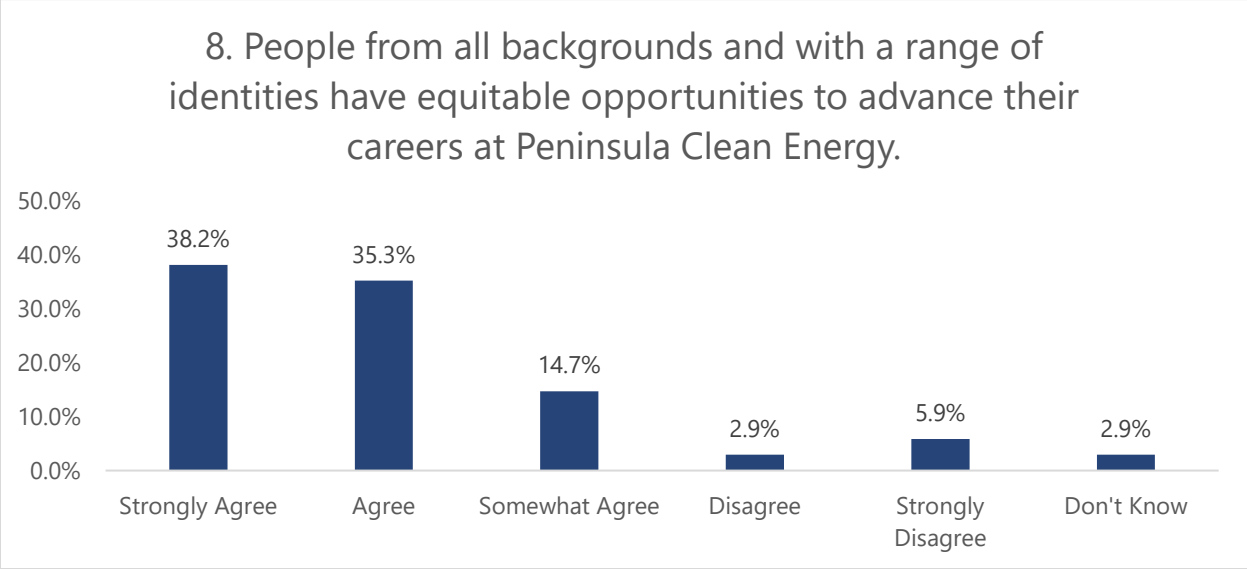


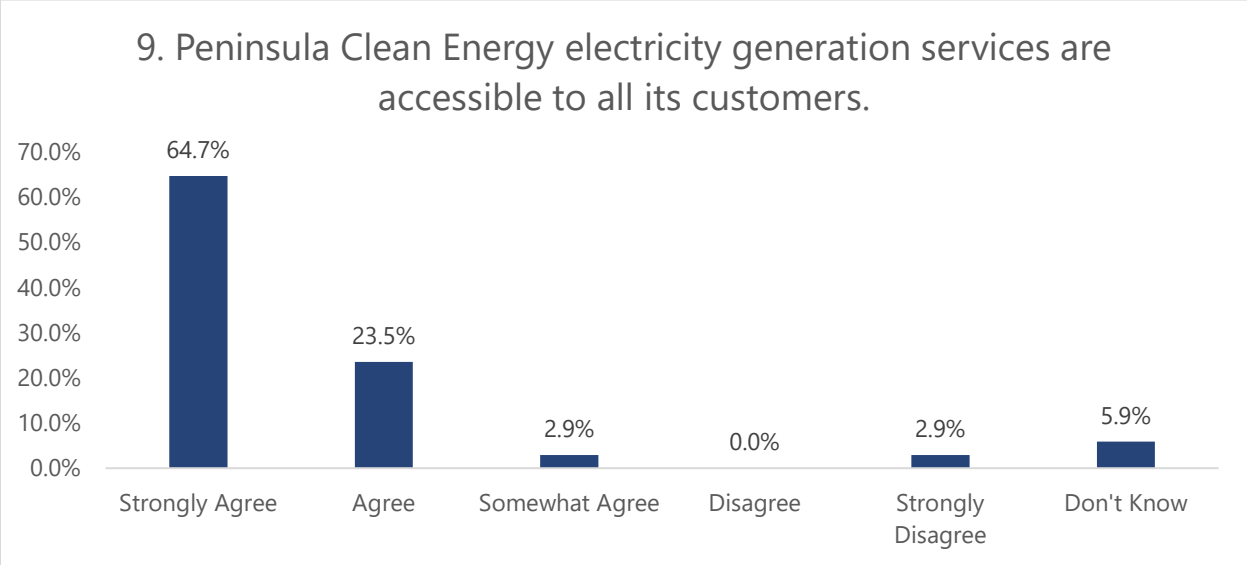
Appendix B – DEAI Internal Survey





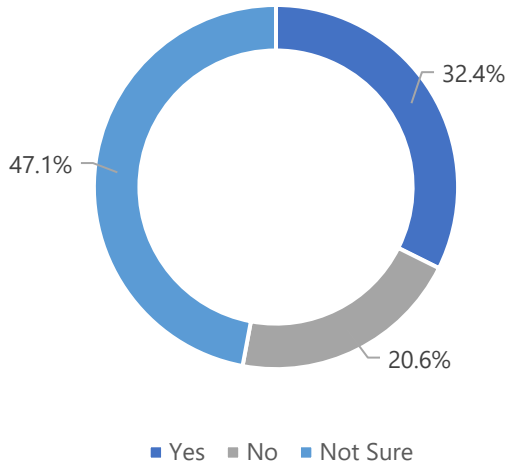
Appendix B – DEAI Internal Survey



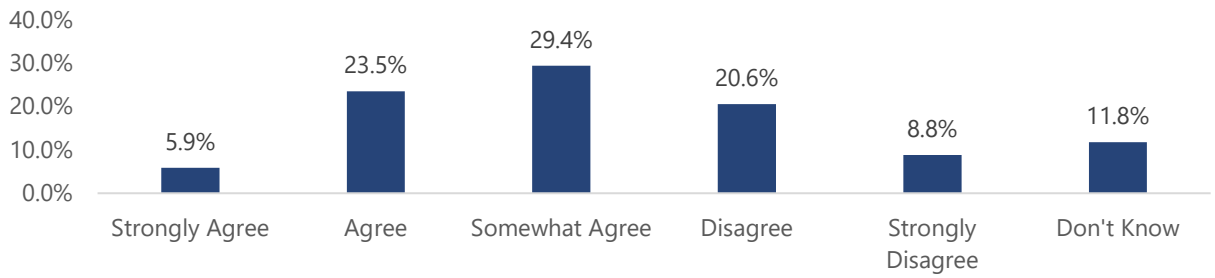


Appendix B – DEAI Internal Survey

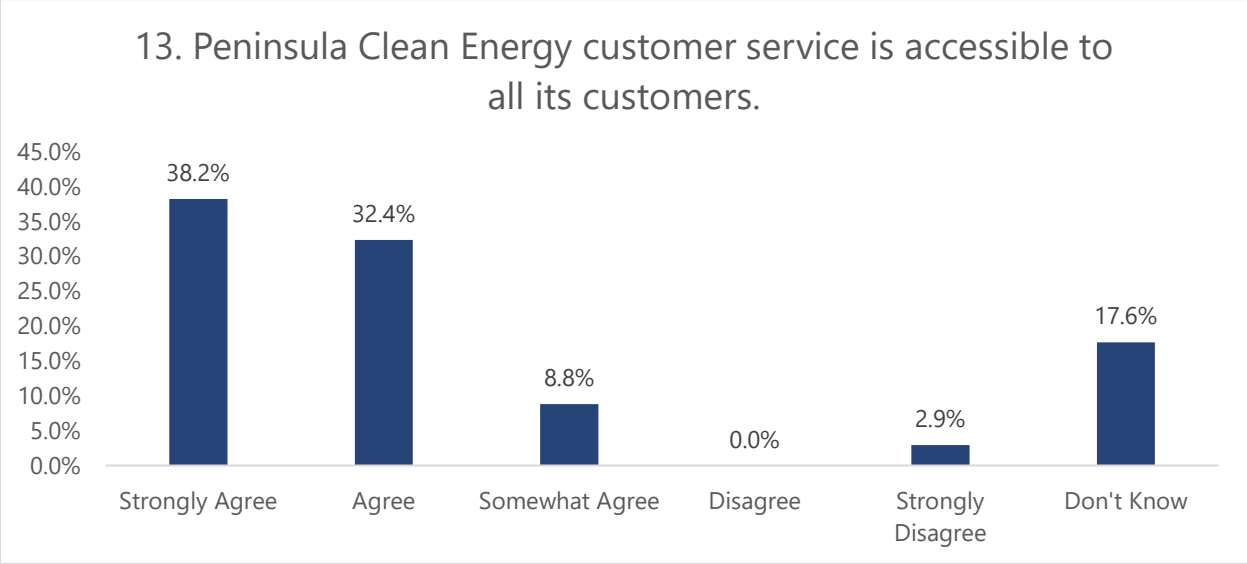
10. Can Peninsula Clean Energy make its electricity generation services more accessible to all persons?

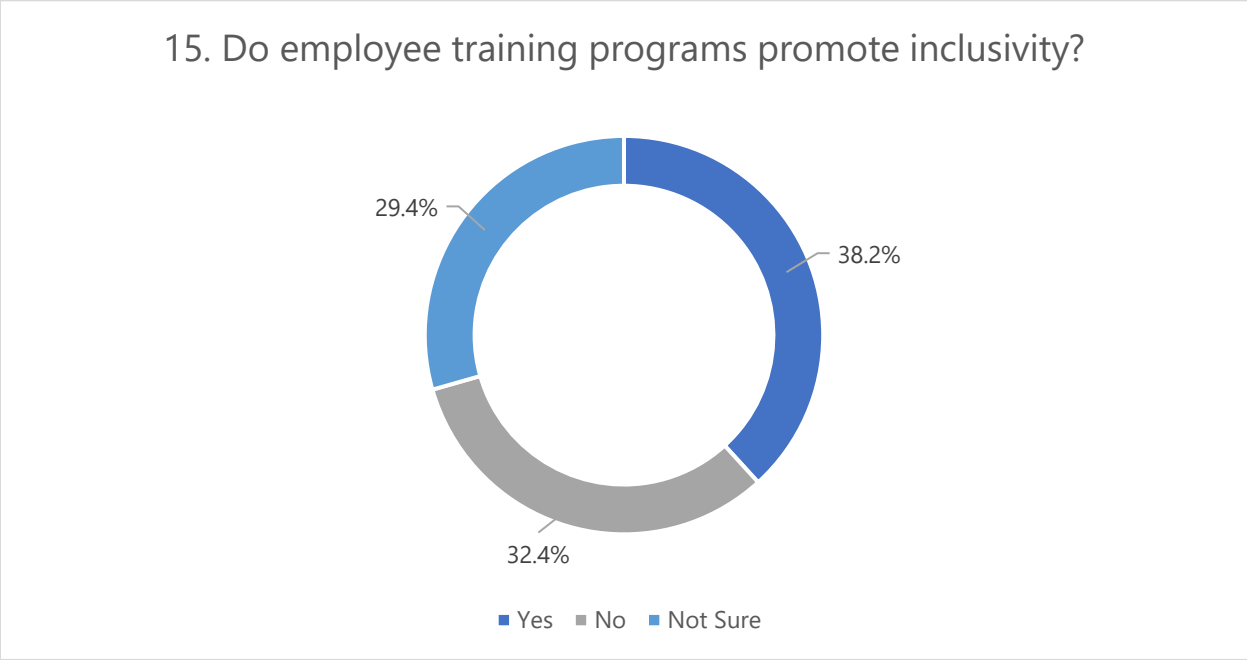


11. Peninsula Clean Energy programs such as the HOME UPGRADE PROGRAM, USED EV REBATE PROGRAM, E-BIKES FOR EVERYONE, HEAT PUMP WATER HEATER REBATES, and SOLAR and BATTERY REBATES are accessible to all its customers.

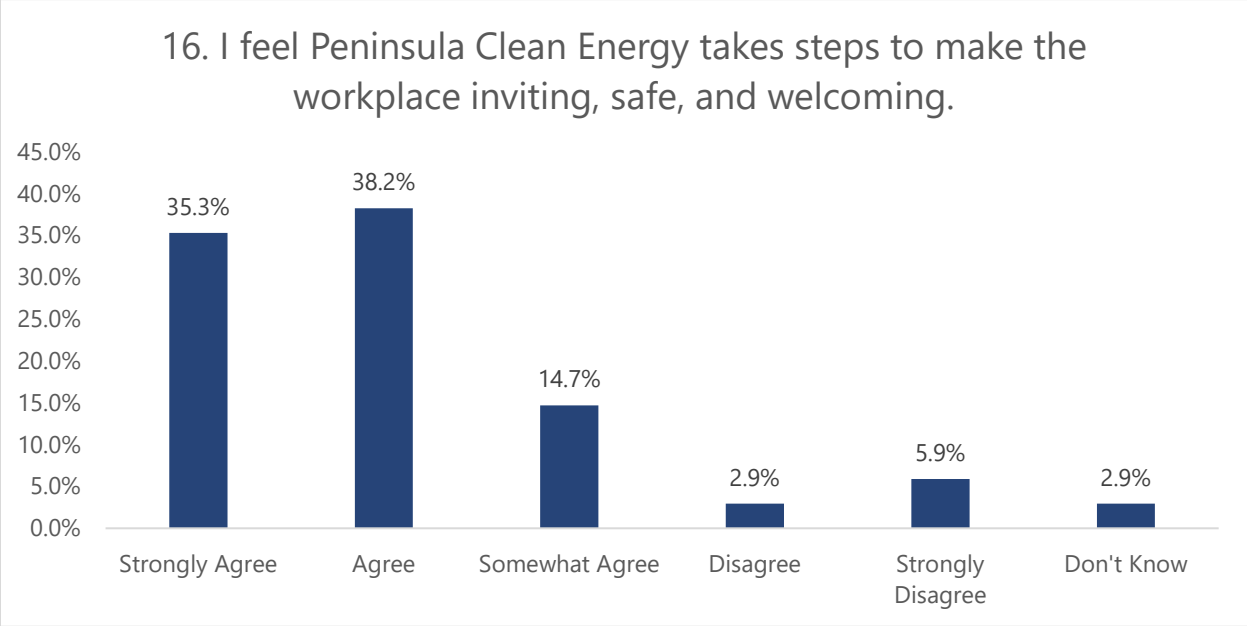


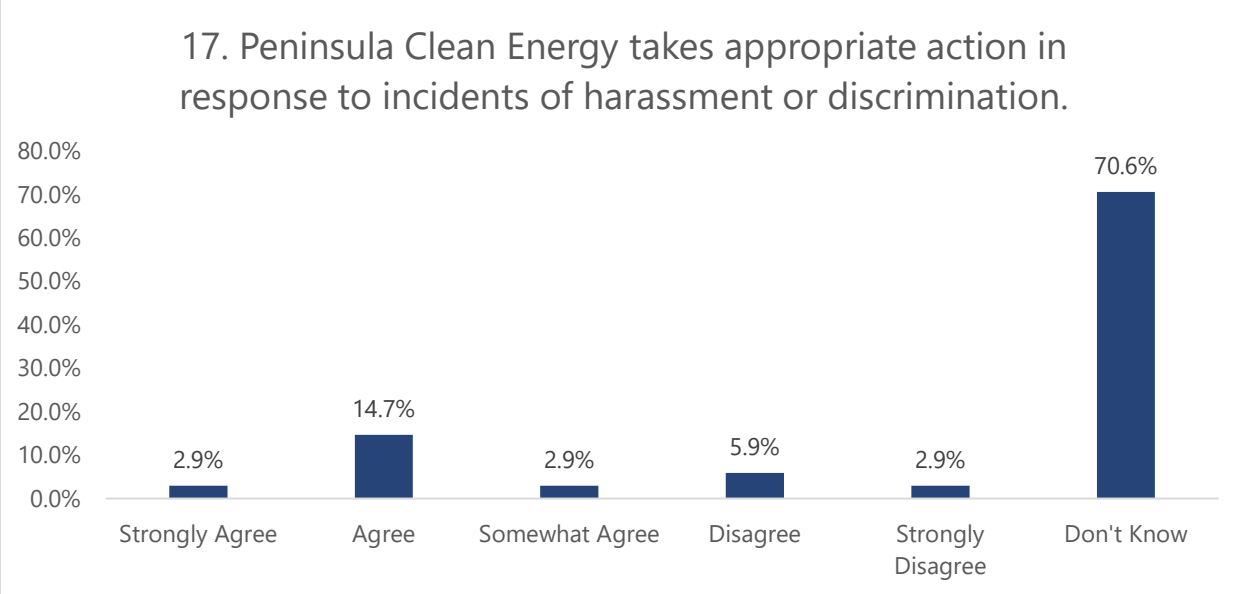
Appendix B – DEAI Internal Survey



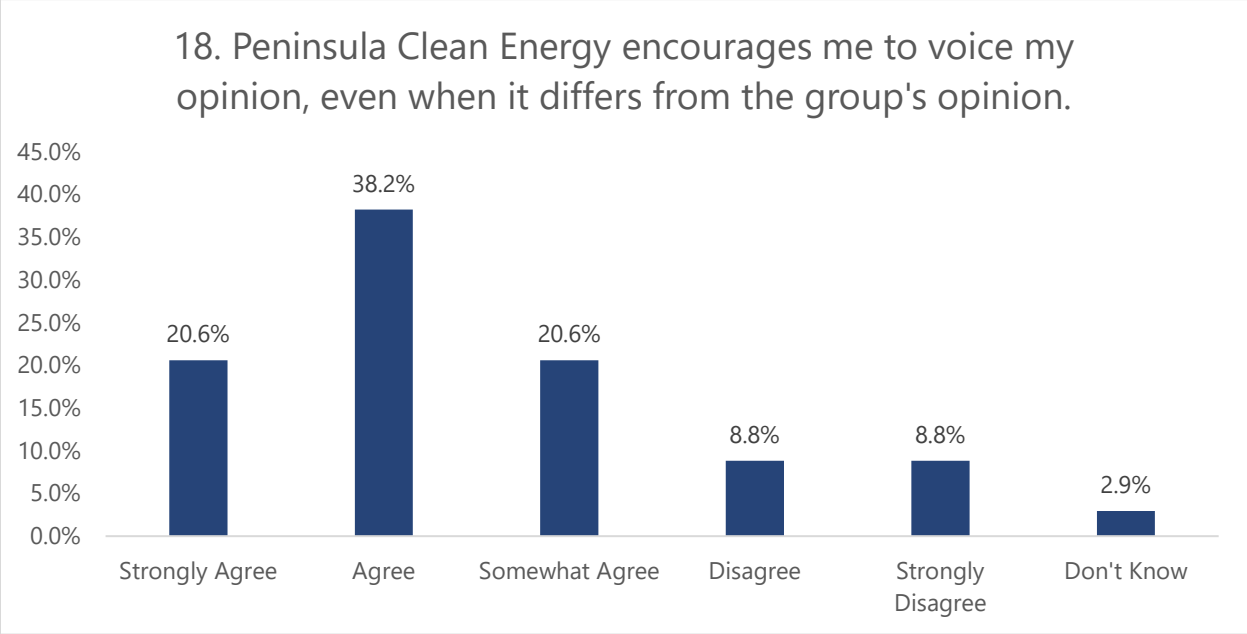


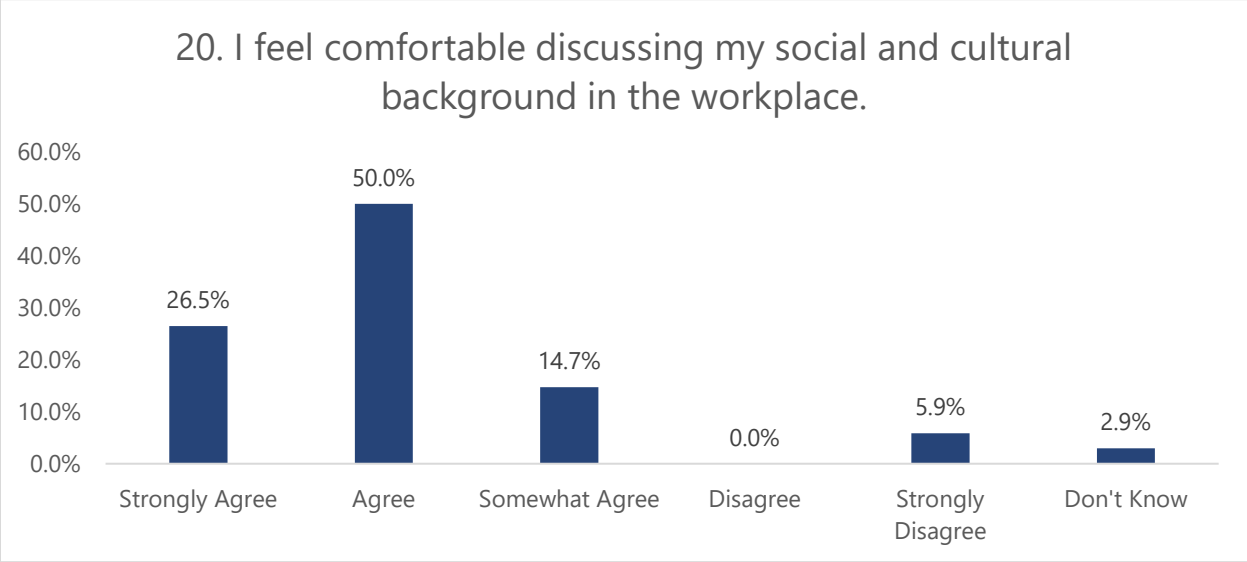
Appendix B – DEAI Internal Survey





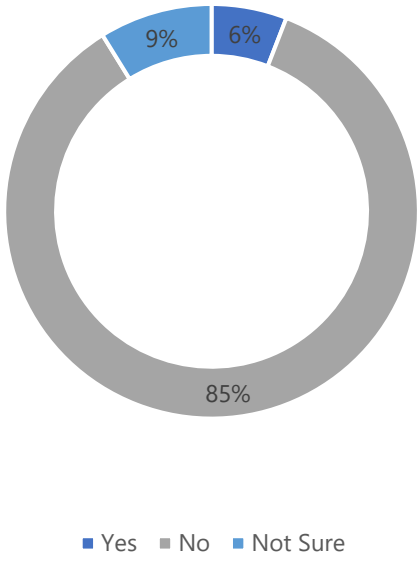
Appendix B – DEAI Internal Survey





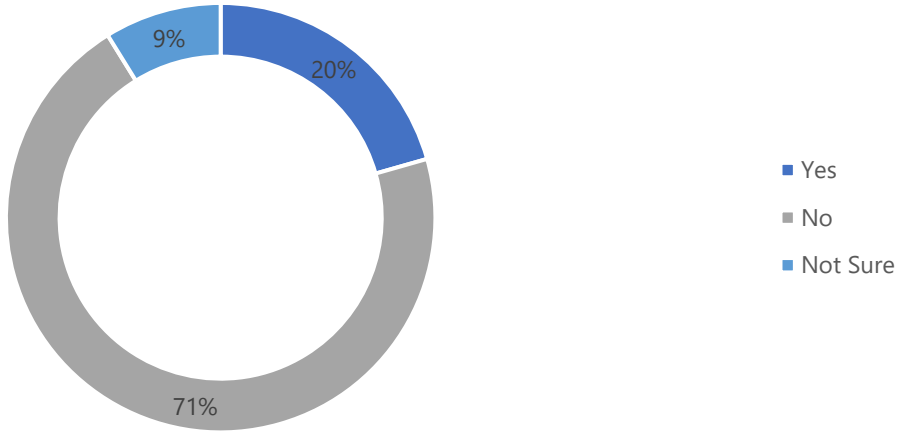
Appendix B – DEAI Internal Survey

21. Have you experienced any discrimination (i.e., unfair, negative, or adverse treatment) at Peninsula Clean Energy based on one or more aspects of your background or identity (e.g., gender, age, ethnicity, sexual orientation, etc.)?

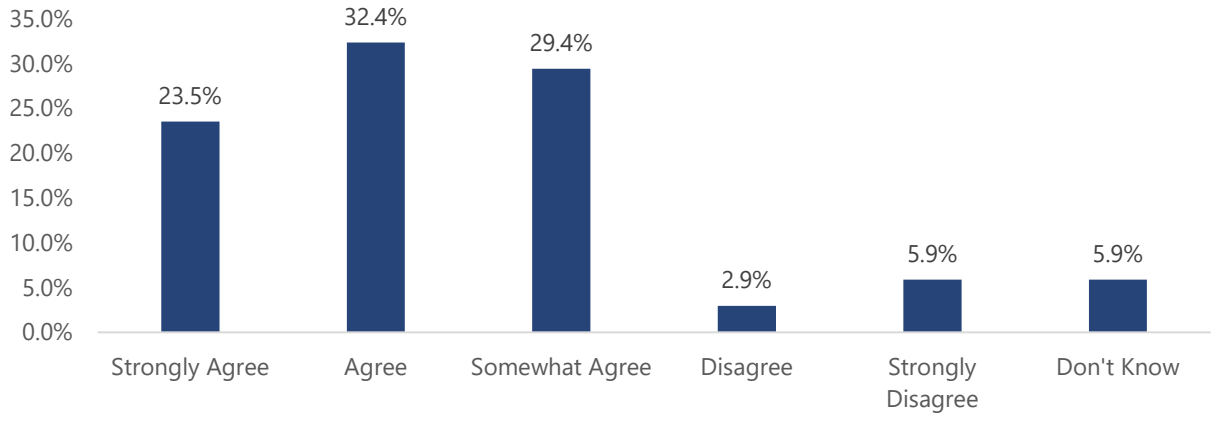


Appendix B – DEAI Internal Survey

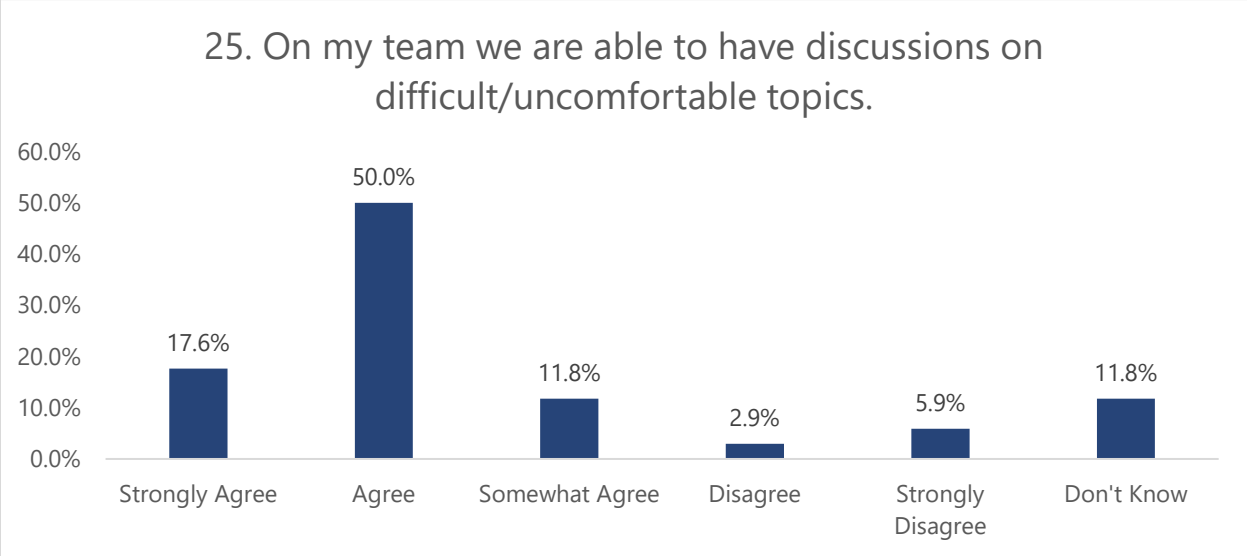
22. Have you experienced any unwelcomed comments or conduct at Peninsula Clean Energy that you felt was offensive, embarrassing, or hurtful (e.g., inappropriate jokes, slurs, rumors, hurtful gossip, isolating behaviors)?

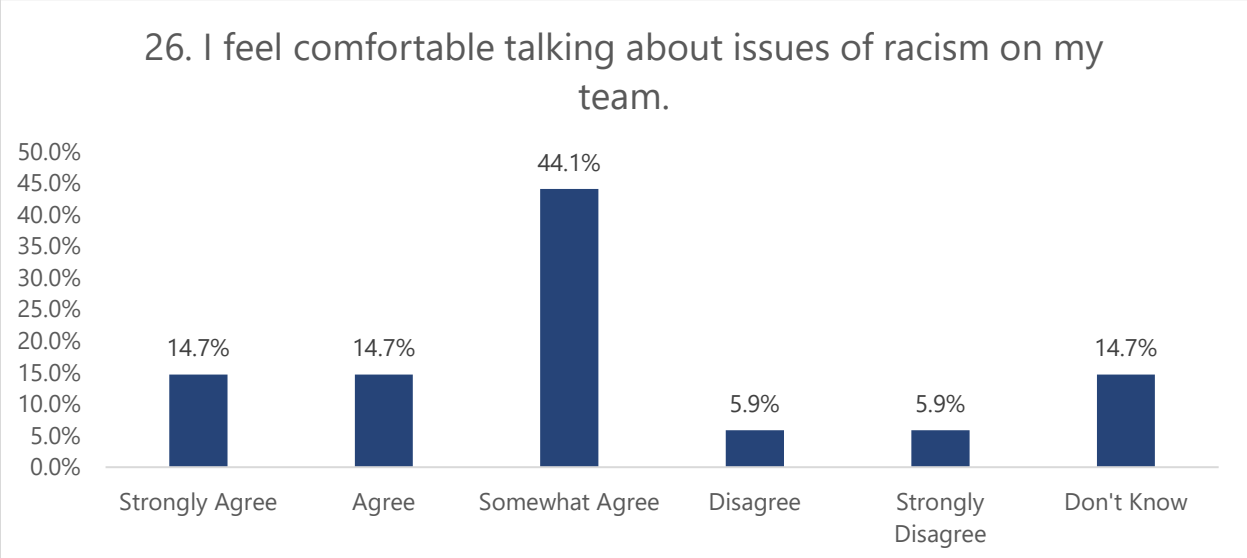


24. I feel comfortable communicating concerns safely within Peninsula Clean Energy.



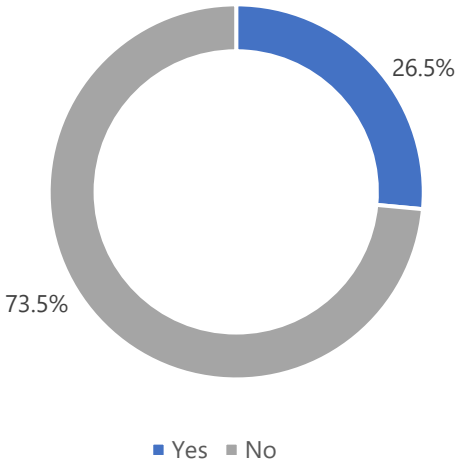
Appendix B – DEAI Internal Survey





Appendix B – DEAI Internal Survey

28. Would you like to be contacted to provide any additional information not included in this survey?



Appendix C – Internal vs. External Survey Responses

PCE Leadership (Board, and staff who are at Director-level understands that diversity is critical to our future success. (Q1 Internal, Q1 External)

Response	Internal	External
Agree-Strongly Agree	61.7%	54.7%
Somewhat Agree	23.5%	6.0%
Disagree-Strongly Disagree	8.8%	5.1%
Don't know	5.9%	34.1%

PCE Staff trained to serve diverse customer base. (Q2 Internal, Q2 External)

Response	Internal	External
Agree-Strongly Agree	38.2%	31.7%
Somewhat Agree	32.4%	11.1%
Disagree-Strongly Disagree	26.5%	6.0%
Don't know	2.9%	51.3%

PCE supports & promotes diversity in its procurement policies and practices. (Q3 Internal, Q3 External)

Response	Internal	External
Agree-Strongly Agree	41.1%	41.9%
Somewhat Agree	26.5%	6.8%
Disagree-Strongly Disagree	11.7%	7.7%
Don't know	20.6%	43.6%

Appendix C – Internal vs. External Survey Responses

PCE's electrical generation services are accessible to all customers. (Q9 Internal, Q4 External)

Response	Internal	External
Agree-Strongly Agree	88.2%	62.4%
Somewhat Agree	2.9%	8.5%
Disagree-Strongly Disagree	2.9%	5.1%
Don't know	5.9%	23.9%

Can PCE make its electrical generation services more accessible to all persons? (Q10 Internal, Q5 External) Note: this question not asked for programs or customer service areas.

Response	Internal	External
Yes	32%	33%
No	20.6%	4%
Not sure	47.1%	63%

PCE Energy programs such as the Home Upgrade program, Used EV Rebate Program, E-bikes for everyone, Heat Pump Water Heater Rebates, and Solar and Battery Rebates are accessible to all its customers. (Q11 Internal, Q6 External)

Response	Internal	External
Agree-Strongly Agree	29.4%	49.6%
Somewhat Agree	29.4%	21.4%
Disagree-Strongly Disagree	29.4%	12.8%
Don't know	11.8%	16.2%

Appendix C – Internal vs. External Survey Responses

PCE customer service is accessible to all its customers. (Q13 Internal, Q8 External)

Response	Internal	External
Agree-Strongly Agree	70.6%	49.6%
Somewhat Agree	8.8%	9.4%
Disagree-Strongly Disagree	2.9%	3.5%
Don't know	17.6%	37.6%

Have you experienced any discrimination (i.e., unfair, negative, or adverse treatment) at Peninsula Clean Energy based on one or more aspects of your background or identify (e.g., gender, age, ethnicity, sexual orientation, etc.)? (Q21 Internal, Q11 External)

Response	Internal	External
Yes	6%	2.6%
No	85%	92.3%
Not sure	9%	5.1%

Have you experienced any unwelcomed comments or conduct at Peninsula Clean Energy that you felt was offensive, embarrassing, or hurtful (e.g., inappropriate jokes, slurs, rumors, hurtful gossip, isolating behaviors)? (Q22 Internal, Q12 External)

Response	Internal	External
Yes	20%	3%
No	71%	93%
Not sure	9%	4%

Appendix D – Definitions

The GCAP team collaborated with the Peninsula Clean Energy project team and the Subcommittee to develop tailored definitions for diversity, equity, accessibility, and inclusion as well as other key terms used in the survey. The following definitions were provided to those taking the survey.

Social Equity Terms

Accessibility

Accessibility means including people with physical and mental disabilities in both its customer base and workforce. Accessibility also means having systems and programs accessible to all individuals regardless of their socioeconomic status, digital access or language.

Disadvantaged Communities

Disadvantaged communities refer to the areas throughout California which most suffer from a combination of economic, health, and environmental burdens. These burdens include poverty, high unemployment, air and water pollution, presence of hazardous wastes as well as high incidence of asthma and heart disease. Disadvantaged communities do not have to pertain to a particular census tract, but could include smaller subcommunities like renters and students and families of Title 1 Schools, etc.

Diversity

Diversity is the presence of differences in people within a community, school or other organization that may include race, gender, religion, sexual orientation, ethnicity, nationality, socioeconomic status, language, (dis)ability, age, or religious commitment. An intersectional approach to diversity goes beyond merely counting different kinds of representation in a group, but also recognizes differences in power dynamics between different identities, and how to equitably include and empower individuals from different backgrounds to participate within groups, decision making processes, and social justice movements.

Appendix D – Definitions

Equity

Equity acknowledges historical factors that created oppressive societal structures and recognizes that we do not all start from the same place and must make adjustments to imbalances by providing power or resources to historically oppressed groups and persons. Equity promotes justice, impartiality, and fairness within the procedures, processes, and distribution of resources by institutions or systems.

Inclusion

Inclusion outcomes are met when you, your institution, and your program are genuinely inviting to all. It is based on the degree to which diverse individuals can participate fully in the decision-making processes and development opportunities within an organization or group thus empowering them.

Gender & Sexuality Terms

Agender

Literally translated as "without gender". Means genderless or lacking gender; gender neutral meant in the sense of being neither man or woman yet still having a gender.

Asexual

Asexual is an umbrella term that encompasses a broad spectrum of sexual orientations. It may range from people who experience no sexual or romantic attraction to anyone while others may experience varying degrees of sexual or romantic attraction to people.

Bisexual

A person who feels attraction toward their own gender and other genders or toward anyone regardless of their gender.

Gay

Men who feel romantic and sexual attraction to other men.

Heterosexual/Straight

A person who typically only feels sexual attraction toward a person from the opposite gender.

Appendix D – Definitions

Lesbian
Women who feel romantic and sexual attraction to other women.

Non-binary
Any gender identity which does not fit the male and female binary spectrum.

Pansexual
Similar to bisexual. Pansexual refers to people who feel attraction toward people of all genders and sexes.

Transgender
Umbrella term for anyone whose internal experience of gender does not match the sex they were assigned at birth.

Appendix E – DEAI External Survey Open Format Answers

Key Observation 1

Key Observation 1. At 41.9%, a large number of responses came from Program Participants. The next largest groups were Board Members and survey takers who had no relationship with PCE – each representing 17.9% of survey takers.

- *No open format comment option on survey*

Key Observation 2

Key Observation 2. 43% served communities with limited English-speaking households.

- *No open format comment option on survey*

Key Observation 3

Key Observation 3. Although Spanish was the most commonly spoken language outside of English (making up 34.2% of non-English languages), Cantonese Chinese and Mandarin Chinese each made up 18.8% of non-English languages spoken, resulting in 37.6% combined.

- *No open format comment option on survey*

Disclaimer: Comments deemed inappropriate, not constructive, or breached confidentiality have been removed.

Appendix E – DEAI External Survey Open Format Answers



Key Observation 4. 33% feel PCE can make its electricity generation services more accessible to all persons. (Question 5)

Expand Outreach:

- Expand outreach to all underrepresented communities.
- We can always do better in making our services more accessible in this changing and complex energy environment. Sometimes we may not even understand the best ways to increase accessibility and need to do better community outreach to understand how we can improve.
- I mean probably. There are always unused avenues available to promote anything.
- Target communities that are not necessary plugged in to what PCE has to offer, whether due to lack of digital access (internet), language barrier as just two examples.
- PCE's service shall benefit everyone in its jurisdiction, so it is very important to take the diversity into account.
- I think it is necessary to make clear the type of work you do and how it impacts the community as a whole. (More publicity, more ads, more literature in different languages). There is still confusion between the work you do and PG&E.
- Older people are not well that computer savvy. EG my Mom at age 94 is still full mental capacity except trying to do things on a computer and forget about a smart phone. And with COVID we can't even have in person explanations. So, more ways of reaching our older population would be good. As for the programs rolled out by PCE they are targeted by race but not by disability. And for that matter, I think the projects favor certain cities over others. Equity is not just race it is socio economic.
- Better communication and outreach are needed.

Disclaimer: Comments deemed inappropriate, not constructive, or breached confidentiality have been removed.

Appendix E – DEAI External Survey Open Format Answers

Rebates, Incentives, Discounts:

- Provide additional rebates and incentive information in different languages. I am not sure if this is done which is why I clicked "not sure."
- PCE is the default provider so what more can they do? At the same time, it is always possible to make electricity less expensive to selected customers who have financial difficulty and thereby increase "accessibility" or equality of access.
- Free electric vehicles to all persons.
- If there is an added cost, then it would be helpful to adjust for those households that are low or extremely low income.
- Develop microgrids in all new developments starting with low income.
- Reach out to more customers who qualify for CARE, medical baseline, or other discounts to enroll them in these programs.
- Not affordable by everyone.
- We have universal electrical service in San Mateo County. So, it's accessible. Is it affordable? I'm not sure what levels of subsidy are available from PCE to low-income homeowners.

Vendors:

- Need to have a better control over the selected vendors, especially for the promotional or discount areas.

Homeless Population:

- Involvement with second units and homeless population.

Environmental:

- Not sure if it is a question of making electricity generation services more accessible since all San Mateo County customers were defaulted to PCE, so I think it is already accessed by all SMC residents, but I think most SMC residents are unaware that this took place, and unaware of PCE. I think the opportunity is to develop strategic programs to look at environmental justice and equity, and to incorporate this lens into every aspect of PCE, every program, hiring, vendors, workforce, CAC etc.

Disclaimer: Comments deemed inappropriate, not constructive, or breached confidentiality have been removed.

- Aiding more locally generated clean energy and micro grids that provide whole neighborhoods made up of all economic and diverse populations.

Other:

- I found Peninsula Clean Energy to be an awesome resource. I am beyond grateful for all of the staff and the mission and vision of this organization.
- By donating to charitable donations or through work force development and education scholarships for those who do not have the means to these.
- I have full confidence on the staff's dedication to make it happen.
- Anyone in PCE territory has access but the locations could change
- In my experience with the services provided by Peninsula Clean Energy, it seems that it is balanced, fair, and recognizes the diversity in the community.
- Defaulting to PCE was the right answer. Most people were fine with that, and I suspect that many people aren't particularly aware, unless they look closely at their bills.
- I assume that PCE is the default provider unless a customer opts out.
- I think that they are available to anyone who lives or works in San Mateo County and Los Banos. I don't think that there is any discrimination. PCE will serve anyone who pays for the service.
- Getting the word out.
- I believe it because it has been established as the clean energy producer and is working with PG&E as well as many community partners.
- Expect that a geographic and distribution arrangement issue, combined with energy sourcing/generation capacity.
- Everyone is automatically enrolled, but more work needs to be done to educate all community members about its purpose and spillover benefits.
- Not sure about question. Are you asking if PCE should give incentives for more people to get solar or whether Peninsula clean energy helps people sign up for their program to use clean energy?
- We could certainly consider future expansion of the area served by PCE.

Disclaimer: Comments deemed inappropriate, not constructive, or breached confidentiality have been removed.

Appendix E – DEAI External Survey Open Format Answers



Key Observation 5. 12.8% disagree or strongly disagree that Peninsula Clean Energy programs such as the HOME UPGRADE PROGRAM, USED EV REBATE PROGRAM, E-BIKES FOR EVERYONE, HEAT PUMP WATER HEATER REBATES, and SOLAR and BATTERY REBATES are accessible to all its customers. (Question 6). Of this 12.8%, 40% were Board Members, and 73% served communities with Limited-English-speaking households.

- *No open format comment option on survey*



Key Observation 6. When asked "How well has Peninsula Clean Energy considered whether potential resources and programs provide benefits to disadvantaged communities?" 10.3% selected Not Very Well and Not Very Well at All. (Question 20)

Needs Improvement:

- Would be nice to have a dashboard with metrics and progress.
- Its efforts focus on certain group, to the detriment of other groups. It feels like there is a hierarchy of groups deemed "in need" based on false narratives and superficial broad stereotyping that fails to target those truly in-need or underserved.
- We can always do better. I applaud efforts already made in this regard. PCE has grown exponentially and there are growing pains. I think the organization has been moved effectively from an administrative and technical perspective very well, but we have not spent time or money to truly address things from the bottom up. By that I mean we need to gather more input from the communities we serve on what messages resonate with them, what makes them use us as a provider, what we can do better.

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Appendix E – DEAI External Survey Open Format Answers

- Some things we do like provide rebates to DAC ratepayers have pretty clear benefits, but many programs are hard to assess in terms of direct reduction of greenhouse gas emissions. Every program should be analyzed in terms of GHG reduction, scale, and economic impacts (supplementing energy bills for example may assist people during Covid but is unlikely to reduce GHG). It is hard to understand the impacts until we pilot these programs and quantify the impacts.
- I don't know what happens behind the scenes, I just know that it is not affecting the lives of many folks on the ground (i.e., rebates).
- I don't think multi-dwelling housing has been fully considered, nor has mobile home living.
- Not given any free EVs in my neighborhood.
- I am unclear if this is part of the program evaluation process.
- But the problem is in how one defines disadvantaged communities. People who are house rich and may be going hungry because they are fixed income and cash poor and not considered in Calenviroscreen or other ways of measuring disadvantaged communities. So, the basic tools to me are not fair.
- It looks like they target poorer zip codes, but unfortunately, I live in 94025.
- Again, proper initial communication with proper flow up.
- Why can't we just ask about all communities...I think some programs are not based on better pricing to all customers. Some aren't related to more efficient use of energy. Lower costs benefit all, especially the economic disadvantaged ... could save and pass the benefit onto customers. e.g., Why is it pushing for "reach" which is an "over-reach" by the state. Many of these proposal are higher costs to residents and limit personal choice. This doesn't help economically disadvantaged or others.

Favorable Comments:

- I heard they help with installing ramps and other needed equipment in homes which is great!
- It hasn't been a primary focus and I am grateful we are embarking on this effort.
- We think the reroof program led to other energy efficiency programs.
- EV charging and access to EV vehicles programs were provided by PCE.
- Extremely well from everything I see on the board and on the website.

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- The board assesses every program in light of how it benefits and reaches out to PCE's DACs.
- Board and staff discuss this at length.
- The fact that PCE has reached out to a diverse group of partners is important to us. I would assume this is the intention. Outcomes are what would tell us whether the disadvantaged communities feel they can benefit and/or are observation they can enter into a contemplative state.
- Again, good programs that the end-users may not know a lot about because they're not early adopters. However, if they knew about the cost savings, etc., they would pursue things more directly.



Key Observation 7. When asked "How well does Peninsula Clean Energy ensure that the design of its programs and services is community driven and meets the needs identified by its communities?" 11.1% selected Not Very Well and Not Very Well at All. (Question 21)

Favorable Comments:

- PCE designs projects that are all about people's daily needs such as HOME UPGRADE PROGRAM, USED EV REBATE PROGRAM, E-BIKES FOR EVERYONE, HEAT PUMP WATER HEATER REBATES, and SOLAR and BATTERY REBATES. As media partner, we found the positive feedback from our audience.
- The CAC and Board are involved in reviewing and helping to assess all of PCE's programs and services.
- Much of the design of the program was made before we actually became contractors. Community partners being selected opens it up to incorporate cultural approaches within natural community networks.

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Needs Improvement/Suggestions Provided:

- The CAC has been a driver of some programs and that has been positive because they represent the communities, but not all communities. For example, in discussing reach codes (that move to complete electrification) with low-income housing providers they have expressed concern about shut offs making their tenants vulnerable without hot water, cooking options and heat. That can be addressed with battery storage, but they do not understand the option or how to comprehensively develop a solution.
- No one has put forth programs that include my demographic.
- I think solar and EVs are associated with high income communities, but I think the needs are different for low income communities and I Don't Know if the leg work has been done to really understand those needs.
- Most programs are focused on the channel.
- Need to provide much more resilience for low-income communities and people of color to public safety power shutdowns and extreme heat blackouts.
- I watched PCE spent some big dollars as my city put spending and hiring on hold due to covid impacts on city budget. Money spent on advertising when it has what 94% of the market. So, I felt this was disrespectful of cities. PCE like PGE have a revenue stream that is driven by need, people must use some electricity, some gas, but people don't have to go to hotels which provides TOT to many cities. So, when PCE kept spending money while cities hurt is really at best inconsiderate.
- Efforts are made towards this goal regularly. Can be improved.
- "I caveat this in that some programs seem to be driven by what optically looks good from a PC perspective but gets away from focus on rate payers. (NOTE: I've focused on rate payers because their interests seem to get lost ... or not even mentioned ... in the discussions)"
- Program planning is an iterative process and community identified priorities can shift, regular engagement and cocreation of programs should be integrated into PCE's mission and regular operating procedures.
- Much more to explore. Again, we need to explore what our customer's needs are from the bottom up. Survey!!!

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- Again, average performance. Residents are still reluctant generally to access "government" support for these things. Working with many diverse spokespersons who are well-loved and respected is always going to go further.
- "Need to promote: 1) continue to promote solar but more aggressively, 2) follow up with vendors and customers for additional programs such as water heater conversion from gas to electric, with solar installation, 3) elective car and stove, and 4) customers home energy efficiency- check the before if they pursued to help low-income community"



Key Observation 8. 62.4% of external stakeholders surveyed feel Electricity generation services are accessible to all. (Question 4)

- *No open format comment option on survey*



Key Observation 9. 63.3% of external stakeholders surveyed feel PCE takes steps to make services inviting and safe. (Question 10)

- *No open format comment option on survey*



Key Observation 10. When asked "To what extent do Peninsula Clean Energy staff and representatives reflect the diversity of the communities it serves?" 12% selected Not Very Well and Not Very Well at All. (Question 24)

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Favorable:

- I have seen diversified booths pre-pandemic.
- PCE's staff and representatives are very nice and efficient, they did the positive communication with stakeholders in diverse community and gave them the promotional materials with their own languages and timely response for their needs.
- I think that all significant populations in the county are represented in PCE staff.

Needs Improvement:

- Given that our workforce is a very technical one that requires higher education and specific backgrounds, I think we are fairly well represented with women, and some racial diversity. It is difficult to estimate the LBGTQ diversity. We could do a better job of making sure we push for diversity in candidates and understand our hiring practices to make sure there is no implicit bias!
- I do not have access to staff demographics however most of my interactions are with white people. There are many women (yeah!) but not too many people of color. Caveat: I do not know all of the staff and representatives.
- PCE board, staff and CAC seems to skew to over represent white, wealthy people.
- Could use more people of color in their representation.
- But let's be honest, how would I know, we've been on Zoom for years, not going to the office way down in Woodside/RC, so how would I know. And frankly we live in an ageist society, are older people represented in the workforce? Who knows?
- I do not see African American nor disabled. Generally, in most places personnel is pretty young and smart but don't have the experiences.
- As we grow, I anticipate this will improve. Again, we are still a young organization and need to reach out to be more inclusive.
- Could have more diversity in the staff and representation from areas like East Menlo.
- More can be done. The reflection of the "average" SMC resident is clear, but not the diverse community groups.
- The population in Los Banos is very different demographically from that of the peninsula. It will take time for the board and staff to reflect that disparity.

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Appendix E – DEAI External Survey Open Format Answers

Key Observation 11

Key Observation 11. When asked "To what extent does Peninsula Clean Energy provide clear and transparent information, assessments, and reporting on the topics of greatest interest to the communities it serves?" 10.2% selected Not Very Well and Not Very Well at All. (Question 25)

Please explain your answer to Question 25:

- Again, our work is technical, so some of our output would have a narrow audience by its nature. We could do a better job of coordinating and communicating all the various programs that are even beyond ours but would benefit GHG reduction. Examples include offerings for multi-family electrification and upgrades offered by other agencies. We could also have a better dashboard on our website to allow users to quickly see our impact and the meeting of our strategic goals.
- It would be useful to have a forum for conversations.
- Like I said before they answer all questions.
- Still haven't received my electric bicycle & EV.
- Before I joined the CAC, I had no idea I was a PCE customer.
- As a city representative, I would like to get access to more reports (high-level) about energy trends for residential and commercial customers.
- To the extent required PCE provides information in a clear and transparent process.
- PCE will let every grantee share the promotion result at bi-monthly meeting. They will give a comment. They monitored the result of digital promotion of the grantees via the checking links.
- I think that clear assessments and reporting would be good to work on.
- Has been hard to find correct facts. I am afraid now that most of my answers really were for BayRen.

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- My city hasn't had the time or bandwidth to advertise to our residents what PCE does or is doing. And I don't feel the need to push out PCE programs if none or very few of our residents qualify. PCE has relatively speaking a huge staff compared to my small city's staff and we are responsible for so many more services. So, if I knew my residents would benefit then maybe I would push the news out more. PCE has a budget for this, we do not.
- Clear programs that are relevant.
- We have not had much of this from my vantage point. We're too busy getting the work done.
- A lot of energy topics are technical. Talk more about the innovative PCE energy sources. Target a broad base with messaging that resonates with words and topics that are important to customers when thinking about energy. People don't trust PG&E. Why can't we push "ENERGY YOU CAN TRUST" or "INVESTING IN YOUR FUTURE WITH PCE", or "CLEAN UP YOUR ACT WITH PCE", or "I INVEST IN MY KIDS FUTURE WITH PCE" or "I CARE ABOUT RESPONSIBLE ENERGY SO I SIGNED UP WITH PCE" or "FLIP THE SWITCH TO PCE".
- Disadvantaged communities need PCE to reach them better. Early adopters are accessing programs at higher numbers than diverse community members.
- Through newsletters and media.
- Again, a communication barrier exists between PCE and the community.

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Appendix F – DEAI Internal Survey Open Format Answers

Key Observation 1

Key Observation 1. 61.7% agree or strongly agree that Peninsula Clean Energy Leadership (Board, and staff who are at Director-level and above) understands that diversity is critical to our future success. (Question 1)

- *No open format comment option on survey*

Key Observation 2

Key Observation 2. 76.4% agree or strongly agree that Peninsula Clean Energy Leadership provides opportunities for them to grow and advance in their career and at Peninsula Clean Energy regardless of their background. (Question 7)

- *No open format comment option on survey*

Key Observation 3

Key Observation 3. 14.7% disagree or strongly disagree that Peninsula Clean Energy celebrates and encourages diverse perspectives. (Question 6)

Agree:

- We try to do this through our recruitment for our Citizens Advisory Committee and we specifically reach out to community-based organizations that represent diverse communities.
- My impression is that management is very solicitous of staff input and opinions.
- I think so mostly they do. Could get better alignment on diversity and overall organization goals.

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- I feel like my perspectives are heard.
- For example, I've witnessed someone communicating unpopular viewpoints to staff and staff willing to look at the issues from the angle of that presenter and acknowledging that person as having a valid perspective and giving that person unwavering patience and time.
- Peninsula Clean Energy celebrates and encourages diverse perspectives. Our grant program through marketing is just one example.
- Not sure what is meant by celebrate, but perspectives and ideas are heard and respected from all employees.
- I don't know what it would look like to celebrate diverse perspectives in practice. I feel that to the extent that PCE staff is diverse, I feel that all of our opinions and perspectives are valued.
- I see folks from various background when on a Zoom call.
- Company is open to input and perspectives from all people, including staff, citizens advisory committee, board, members of the public. At board meetings for example public input is always asked for and graciously received.
- I feel very accepted and am able to offer a variety of opinions and perspectives and feel comfortable being a woman in this company.

Disagree:

- PCE actively discourages diverse perspectives. The board and execs make decisions without staff input, while minimizing or ignoring concerns from the public and certain board members. PCE execs instruct staff not to comment or ask questions at board meetings, and they deride comments and concerns from certain board members. Staff who dare to ask questions or voice opinions or concerns are disciplined. Any suggestion that certain groups be included opens you up to ridicule and retaliation.
- The organization could be better at cultivating inclusive input for decision making processes on major decisions (ex: territory expansion).
- There could be more opportunities for leadership to solicit feedback, especially anonymously.

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- PCE's executive leadership is extremely sensitive to hearing other perspectives and often tries to hide decision making so that other opinions are not discussed. Many important decisions were made when I was an employee that the rest of the company disagreed with and had issues with, and only after the decisions were made did those issues come to light. Even after employee surveys showed that the only issue with the company was executive decision making - the CEO flat-out ignored it.
- Several C-Suite and Director-level staff perpetuate a culture of dismissive arrogance. Expressing new perspectives is not encouraged. It is a struggle to be heard, even on mission-critical points. Employees are pigeon-holed into worthy of being listened to or not, based on how "technical" your background is. The organizational culture is very top-down, the supervisor is always right, and only directors are asked to offer ideas. The organization misses out on fully leveraging its talent.
- Perspectives are really not discussed in regard to diversity.

Neutral:

- Generally, pretty neutral. I wouldn't say PCE "celebrates" diversity or has pride in describing ourselves as a diverse workplace.
- This is very broad. Diverse perspectives on what? Energy-related topics? Or more like personal opinions on hot button topics?
- When communicating to our community, most of our messages resonate with homeowners (solar+storage, electric vehicles). Even though we are doing work with renters, that does not seem to be prioritized.
- I haven't experienced anything where I feel that diverse perspectives were celebrated by PCE. I do think that within my team diversity is applauded, but I don’t think I feel that on an organizational basis.
- It's hard to say when we're not in person but at least the slack chat is tolerant of diverse viewpoints. I don't see any online bullying on slack.
- I feel fairly comfortable speaking my mind and sharing my perspective within my team. I struggle with imposter syndrome in regard to participating in conversations at the larger organization level. People are just so experienced and knowledgeable! I feel like some staff and senior leadership values experience over all else.

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- PCE is certainly an organization that respects individuals and their differences, but I haven't seen much done in the way to celebrate those differences or to educate us all on the cultural, sexual orientation, or lifestyle differences within our organization.
- I don't think that our org actively indicates that they value diverse perspectives, so it's hard to address this.
- In my experience, the only ways I saw Peninsula Clean Energy celebrating was through community outreach. Though I feel that was only because of the support from the Senior Outreach Manager and the Marketing Director.
- I don't think this is discouraged, but do not think it is specifically encouraged.
- Open to staff ideas and opinions.
- We actively try to recruit folks from diverse community sectors on the CAC and seek partnerships with local CBO's serving diverse communities.
- Hard to answer as I feel like there are limited opportunities that I hear of directly for input from people outside of PCE, except for Board and CAC meetings.
- My sense is that diverse perspectives are sufficiently encouraged for people to feel comfortable, and I have in the past felt comfortable, but I am unsure that others also share that perspective, so I hesitate to answer "strongly agree."



Key Observation 4. 73.5% agree or strongly agree that people from all backgrounds and with a range of identities have equitable opportunities to advance their careers at Peninsula Clean Energy. (Question 8)

- *No open format comment option on survey*



Key Observation 5. 73.5% agree or strongly agree that they feel Peninsula Clean Energy takes steps to make the workplace inviting, safe, and welcoming. (Question 16)

- *No open format comment option on survey*

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Key Observation 6. 76.5% agree or strongly agree that they feel comfortable discussing their social and cultural background in the workplace. (Question 20).

- *No open format comment option on survey*



Key Observation 7. 26.4% disagree or strongly disagree that Peninsula Clean Energy does a good job sourcing and hiring candidates from underrepresented communities. (Question 4).

- *No open format comment option on survey*



Key Observation 8. 70.6% agree or strongly agree that Peninsula Clean Energy customer service is accessible to all its customers. (Question 13).

- *No open format comment option on survey*

Note: Question 13 did not have a comment section. However, Question 14 had an open format comment section that asked a similar question to Q13.

Q13 was a agree/disagree statement: *PCE customer service is accessible to all its customers.*

Q14: What can PCE do to MAKE its customer service MORE accessible to all persons? Please Explain.

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Contact Information/Access/Call Centers:

- Stop hiding staff contact information. Staff contact information should be published on the website. If the board can publish contact information on the website, so should staff. As a public agency, why is PCE hiding? PCE execs prefer not to engage with members of the public, as if it's beneath them.
- Continue to audit call center interactions, especially of customers that call the call center to opt out so we can see why and if it is an issue with our service.
- Customer service is available in multiple modes - website and phone. It is not accessible for walk-ins but that's because the office is currently closed.
- The only enhancement I could see would be to have live agents available during evening and weekend hrs... but we get so few calls currently during those times that I don't think it would be a good investment.
- Make sure that customer service is available for those that may not have a computer or internet access.

Language:

- Support enhancing capacity of call center to serve customers in multiple languages.
- I am not aware of anything additional that needs to be done. Perhaps there are some languages used in our service area for which our materials are not available.
- Maybe hire more bi-lingual folks? I know Calpine has multi-lingual staff members for the call center, so that's great. Also, so much of the business is done online that it's not very accessible to folks that don't have computers or aren't tech-savvy. That's a really hard one to address, though, in this "day and age".
- As described above, we translate our communications through a range of different language to make the information about our organization as accessible as possible. Beyond that, continuing to partner with champions within our community to be liaisons or brand ambassadors for our organization will help further enhance our communities' awareness and access to our services.
- Peninsula Clean Energy's customer service has always been great. It is accessible to all customers and Peninsula Clean Energy has made an effort to provide this in the common languages spoken in the area.
- Different formats for communication, languages?

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- Supporting multiple languages.
- Test how smooth the experience is of interacting with our call center when you need a translator. Recruit speakers of languages other than English to call our call center as a customer to check if the translators offer a good customer experience.
- People can call or email. If they do not speak English, I suspect that there may be barriers (e.g., delays) in Observation a service rep who speaks their language. I don't know for sure.
- I think customer service is easy for anyone to reach with a call center. I would hope translation services exist in the call center already, but if not, that would be an added benefit.

Miscellaneous:

- I'm not sure. We have a phone number and email - that's how most companies provide contact info.
- I think it is already accessible to all, though it is a different matter if everyone uses it or now. Customer awareness of PCE is not that high.
- I'm not familiar with our customer service offerings.
- If any problems, they should be reviewed for potential action.
- Some customers may find it easier to have in-person interactions, although that is more of a pandemic-induced issue.
- I'm not that informed in this realm - I know many people don't know about Peninsula Clean Energy yet and are not aware of who to call.
- Again, I suspect the biggest issue is simply raising brand awareness and communicating to customers that we are here.



Key Observation 9. 88.2% agree or strongly agree that Peninsula Clean Energy electricity generation services are accessible to all its customers. (Question 9)

- *No open format comment option on survey*

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Key Observation 10

Key Observation 10. 26.5% disagree or strongly disagree that Peninsula Clean Energy employees are trained to serve a diverse customer base. (Question 2)

- *No open format comment option on survey*

Key Observation 11

Key Observation 11. 32.4% think Peninsula Clean Energy can make its electricity generation services more accessible to all persons. (Question 10)

Yes:

- Increased investment of funds, communication, education, and outreach to disadvantaged communities, specifically communities of color with ethnic minorities, is needed. Wealthy white communities already have considerable advantages. Minority and disadvantaged communities are either ignored or receive only token attention because they are not as visible, not as vocal, not as politically engaged or powerful, and are therefore not viewed as important.
- Probably? But it's pretty easy already since customers are auto-enrolled. I suspect you can always streamline/make more intuitive/offer more support for older people navigating the website and any required processes.
- More programs for low-income customers to help ease energy burden
- Peninsula Clean Energy could provide a new rate structure which allows for 0% bill savings versus PG&E and invests the extra percentage in programs or rate structures specifically for disadvantaged or low-income customers.
- Not sure if there are ways to make informed opt-up and opt-out decisions more accessible to people of all mental and physical abilities.

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- Since all our customers are opted-in by default, I would think we could make it more accessible only if we continue to be a more affordable option than PG&E. If we can lower our rates, that would make it easier for lower income community to afford it... we could consider a CARE type of rate to match PG&E's current CARE rate.
- For most customers, signing up for PCE services isn't hard, since we are the default, but presumably we can do more to make generation more affordable particularly for low-income customers. That said, staff and board have been interested in addressing these issues.
- A more separate rate structure could prevent customers from thinking PCE is causing their bill increases.

No:

- I work for PCE and don't know what this question is getting at. "Electricity generation services" are a mostly invisible service that we provide, and customers expect to just work. We're mostly only noticeable to customers currently when they pay their bill. I think we can do more in terms of how our customers interface with us, but don't see how electrical generation is a part of that.
- It's a universal service.
- Not sure because all customers are opted in to PCE by default, so doesn't that make it accessible to all persons by default? Customers have to actively opt out of using PCE's electricity and choose to use PG&E.
- Anyone can get our electricity. Cost of power is a big issue statewide. Peninsula Clean Energy works to get customers signed up for discount programs like CARE/FERA/DAC GT and works through community-based organizations to do so.
- It's already accessible to all.
- I think that by having PCE as an opt-out program it is automatically accessible to all.
- I don't feel like there's much room for improvement here.

- The cost of our generation services is universally offered to all customers. The rates do depend on customers class (residential, commercial, industrial, etc.), but

within a customer class (e.g., residential) the rates are equally accessible. Additionally, we have lower-incomes discounts to our generation service. We communicate about our service through numerous languages beyond English to help educate our community about our organization and what it does.
- Customers within PCE territory are automatically enrolled into the PCE service.
- Peninsula Clean Energy electricity generation is available to almost everyone in the County.
- No, because it is already accessible and offered to 100% of the residents and business in the county. Everyone who lives in the county can access PCEs electricity generation services by not opting out. So, I don't see how it could make its services more accessible because it is accessible to everyone who lives here.

Miscellaneous:

- I am not familiar with this area of operations.
- Not aware of a problem in this area.
- Question is unclear - by "services" do you mean electricity or clean energy programs? Electricity is available to all, but certain programs are not. I think PCE does a decent job at targeting programs to low-income folks, though.
- I don't know the definition of "all persons".... the CCAs are supposed to serve all persons in their service territory, so there is a physical boundary already.
- Through constant education demos.
- We could offer more discounts and credits to customers who are struggling to pay their bills.
- The service is automatically available to everyone...so not sure how to make it 'more' available.
- Not sure how, as the default electricity provider for SMC and LB, we could make it more accessible. Depends, if the "accessible" means the service is available to all customers, or perhaps we provide greater education/tools that are accessible to a wider range of folks to inform them about our generation services, how to reduce bills, comparing rate schedules, etc.

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Key Observation 12. 29.4% disagree or strongly disagree that Peninsula Clean Energy programs such as the HOME UPGRADE PROGRAM, USED EV REBATE PROGRAM, E-BIKES FOR EVERYONE, HEAT PUMP WATER HEATER REBATES, and SOLAR and BATTERY REBATES are accessible to all its customers. (Question 11)

Note: Q11 did not have a comment section. However, Q12 was a follow-up question to Q11.

12. What can Peninsula Clean Energy do to make its programs more accessible to all persons? Please explain.

Marketing/Outreach/Advertising:

- Enable broader participation at all levels. Remove barriers to entry in minority communities and disadvantaged communities. More outreach and advertising to communities of color, with invitations to participate in programs and invitations to provide feedback. PCE execs act like they have all the answers and outside input is not welcome.
- I think that it is possible to further engage communities on the programs PCE offers. Knowledge is power and if many don't know who PCE is, they likely won't know the programs and benefits that we offer. Perhaps partnering with community-based organizations, an increase in social media content around the programs offered, in a way that makes it engaging to the audience.
- Possibly translation.
- Most of these programs are only targeted at low-income folks, so they are not accessible to everyone. However, that's not a bad thing because being accessible to low-income folks is great. I think naming the "e-bikes for everyone" program that way was really dumb because it's quite literally not "for everyone" and only for a small portion of the County. So maybe instead make programs available to all but have a percentage that has to be allocated to low-income?

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- We try to work with organizations within our community to provide better outreach and education about the programmatic opportunities that we provide. While I think we're doing well there, we can probably do more. We try to design out programs through a frame of accessibility and equity, but I think we need to continue to be mindful and deliberate about this.
- Continuously find ways to improve outreach of these programs.
- Longer campaigns on high traffic channels teasing campaign before launch.
- Programs are designed in a technical vacuum that does not consult with customers or community groups. Design our programs by first talking with our community stakeholders, especially about the proposed program's value and accessibility for underserved communities. When creating a program that excludes renters, create a similar program that benefits renters. Ensure non-English speakers can fully participate in all steps of program outreach and enrollment, at least in Spanish and Chinese.
- More education and outreach about the programs to homeowners, and both landlords and tenants.
- We've made progressive changes to programs over time to respond to customer needs and to try and make them more inclusive and available. For the HPWH program one request I see often is for us to approve self-installs.... which as long as it's permitted seems like a reasonable request to expand access. The solar program is only available to customers who work with SunRun...would like to see more partners.
- More awareness of the programs, especially L/MI components, would enable broader accessibility. Common issue with incentive programs.

Currently Accessible:

- Certain programs that are earlier the process (e.g., home upgrades) are just for low-income homeowners. so many are equity focused, but still for folks who own their home in the Bay Area, which is different segment than renters. In general, I think our programs are very accessible to the community.
- Some programs listed are expressly intended as income qualified (Home Upgrade, e-bikes).
- Do more of what we do now: get the word out in a cluttered media environment.

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Income:

- Some of these programs are not widely accessible by design. For example, the home upgrade and E-bikes for Everyone programs are income qualified. The HPWH rebate program still requires a pretty significant investment on the part of the customer. So, many customers still cannot afford to take advantage of it. One of our biggest equity issues (as is the case across the state and nation) has to do with income inequality. This is a huge problem but not confined to Peninsula Clean Energy.
- I believe a number of these programs are limited to persons who are income qualified.
- Overall, I feel Peninsula Clean Energy programs are not accessible to all people. Peninsula Clean Energy has purposefully avoided providing programs for certain income levels. As a governmental agency, I think it is unfair that more program offerings aren't available for a range of incomes.
- Some of these programs like the home upgrade program are only accessible to low-income customers, so it is not a true statement that programs are accessible to all customers. Since accessibility as defined above includes socioeconomic status, some of these programs like solar and battery rebates wouldn't be accessible to someone without the economic means to pay the costs beyond the rebates.
- Technically accessible to all customers, but does it require customers to be low-income? If regardless of income, and first-come-first-served, wouldn't this skew towards customers who can readily afford or are going to do it anyways? Would something like a sliding scale for amount of rebate related to income be better? I don't know too much about the details of the programs.
- Work with San Mateo County to increase homeownership rate among lower income individuals, and to encourage slower growth in rent prices in the community.
- Direct Peninsula Clean Energy funding towards programs for low-income community... EV charging for multifamily, higher rebates with income qualification for other programs. Partner with non-profit such as Grid Alternatives...

Disclaimer: Comments deemed inappropriate, not constructive, or breached confidentiality have been removed.

Appendix F – DEAI Internal Survey Open Format Answers

Enrollment/Eligibility:

- Make it easier for people to enroll in programs. Currently our processes for low-income families are quite onerous and time intensive. 2) intentionally create programs that can benefit renters. We talk about programs that benefit homeowners, but we don't really talk about how we can directly help renters
- Some of these have specific eligibility requirements so they cannot be accessible to all.
- Facilitate offline application processes with CBOs to ensure we are reaching underserved populations. Have an "affirmative action" program and prioritize these populations in the application process.
- More programs for renters and engagement with landlords & apartment owners.
- Ensure a clear application process is widely known and available for those without access to internet/computers.



Key Observation 13. Less than half (41.1%) agree or strongly agree that Peninsula Clean Energy supports and promotes diversity in its procurement policies and practices. 11.7% disagree or strongly disagree that Peninsula Clean Energy supports and promotes diversity in its procurement policies and practices. (Question 3)

- *No open format comment option on survey*



Key Observation 14. 67.6% agree or strongly agree that on their team they are able to have discussions on difficult/uncomfortable topics. (Question 25)

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Appendix F – DEAI Internal Survey Open Format Answers

Yes:

- My boss fosters good dialogue.
- I have been a part of a few uncomfortable topics, and both sides were able to share their opinions and reach a compromise. It seemed like a fair discussion.
- I feel like my team is pretty open to discussing a wide range of topics. We haven't had to have too many difficult topics arise that we have had to discuss.
- We talk about social equity in a surface-level way, but I do not know that it always motivates action.
- Agree.
- When people on our team have lost people who are close to them, we've been able to talk about it with them and comfort them.
- Open discussions.
- Tough conversations are sometimes part of work and PCE has been supportive here.
- The specific team I was on created the culture to have those discussions. That did not apply broadly for the organization.
- We have had, and they get uncomfortable.
- My direct manager was great about discussing difficult/uncomfortable topics, but that was because we had a great relationship and thought similarly on things.
- I try to make myself available to discuss any topics that my staff wishes to discuss. I also encourage open and two-way dialogue as much as possible and try to make my schedule flexible to accommodate my staff's individual constraints.
- I think our team has such discussions.
- We can have debates or discuss opposing viewpoints.
- I feel like I've been direct with my team in regard to being open to feedback and that I want to hear if they are having struggles.... I do hope they know I'm sincere about that.
- My team is rather open about our opinions and able to discuss them in a deliberative manner.
- I assume we could have those conversations; however they have not been a priority in the past.
- I think we certainly could, although generally I hesitate to do so. That said I'm more comfortable at PCE than I have ever been at any other employer.

Disclaimer: Comments deemed inappropriate, not constructive, or breached confidentiality have been removed.

Appendix F – DEAI Internal Survey Open Format Answers

No:

- Attempts to ask certain questions or bring up certain topics are shut down. Staff are trained on a daily basis to stay in line, not to make waves, and not voice concerns. The abuse and intimidation wear down even the strongest people. Certain non-favorite staff members are targeted and excluded from participation in meetings where their perspectives might bring different outcomes or assist with decision making. Others are harassed and intimidated into submission and silence.
- Certain discussions of management approach and decision-making are routinely discouraged, especially in relation to delegation or strategic considerations such as the financial impact of our 24/7 renewable goal. Frequently topics for senior staff meetings are discouraged unless they've first been vetted by the CEO.
- We don't have that many uncomfortable topics, a lot of those topics seem to be swept under the rug.
- My team does not discuss difficult or uncomfortable topics.

Neutral:

- I would think so, but don't know because we haven't had any discussions on difficult or uncomfortable topics.
- We have not had any such conversations.
- I'm not sure we've had any discussions on difficult/uncomfortable topics.
- I think people in workplaces, for the most part, are not open communicating sensitive topics anyway, which I think is the right thing to do. We are here to get work done, not debating. Ha!
- I hope this is true.

Mixed:

- Team members were supportive, some more than others.
- Uncomfortable topics that are not discussed are: how much everyone is paid, salary ranges for different levels, expected salary increases based on performance ratings. These are not discussed. I am not aware of other difficult/uncomfortable topics that may be on the minds of my fellow staff members.

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Appendix F – DEAI Internal Survey Open Format Answers



Key Observation 15. 20% have experienced unwelcomed comments or conduct at Peninsula Clean Energy that they felt were offensive, embarrassing, or hurtful. (Question 22).

Yes:

- Very rarely. But when it does happen, it's inappropriate jokes from one of the male staff that make meetings awkward.
- I heard someone use the phrase "off the reservation" in a debrief session after RFP interviews.
- I did not experience this directly, but I have witnesses it happening to other staff firsthand from Leadership.
- For our in-person meeting in March, it was joked several times that we will finally be able to see how tall everyone is. Not necessarily hurtful unless certain people are sensitive about their height.
- Not directed at me or anyone in particular, but there was a recent comment on an all-staff meeting discussing a future in-person all-staff meeting and a joke was made that we'd be able to see who put on weight since the last time we were in the office. Strikes me as inappropriate.

No:

- I have not.
- I have not experienced unwelcome comments or conduct at Peninsula Clean Energy.
- Colleagues were great and open minded.
- I have never experienced this.
- I have not experienced any unwelcome comments or conduct at PCE.
- In my experience, staff are respectful and professional.
- I have not experienced all of this.
- Never experienced any sort of unwelcomed comments.

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Appendix F – DEAI Internal Survey Open Format Answers

- Have not. Very professional environment.
- I have no such experience.
- I have not experienced any unwelcome comments or conduct.
- I have not experienced any offensive behaviors at Peninsula Clean Energy.
- Nothing I have seen.
- Haven't experienced it.

Neutral:

- There used to be a pervasive culture of gossip. I didn't feel those comments personally, but it was quite visible. Two things changed 1) most of those people are no longer working at the company 2) we are all working remotely. I would say this is not an issue anymore.



Key Observation 16. 11.8% disagree or strongly disagree that they feel comfortable talking about issues of racism on their team. (Question 26)

- *No open format comment option on survey*

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PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Present

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jan Pepper, Chief Executive Officer, Peninsula Clean Energy Authority
Chelsea Keys, Senior Manager, Power Resources

SUBJECT: California Community Power (CC Power) Geothermal Power Purchase Agreements

RECOMMENDATION:
Resolution Delegating Authority to the Chief Executive Officer to Execute Necessary Agreements with California Community Power and Participating Community Choice Aggregators for Renewable Resources from Ormat Nevada Inc. and Open Mountain Energy, LLC as follows:

1. Ormat Nevada Inc. (Ormat) - Portfolio of Geothermal Projects
   a. Project Participation Share Agreement (PPSA) between Peninsula Clean Energy Authority, CC Power and participating community choice aggregators (Attachment 1)
   b. Power Purchase Agreement (PPA) - Buyer Liability Pass Through Agreement (BLPTA) between Peninsula Clean Energy Authority, CC Power and Ormat Nevada Inc. (Attachment 2)
   c. Expected Participation Share of 17.1% or 10.94 MW with quantity not to exceed 21.38 MW
   d. Delivery term of 20 years starting on or about June 1, 2024
   e. Dollar authority not to exceed $405,000,000

2. Open Mountain Energy LLC., (OME) - Fish Lake Geothermal
   a. Project Participation Share Agreement (PPSA) between Peninsula Clean Energy Authority, CC Power and participating community choice aggregators (Attachment 3)
   b. Power Purchase Agreement (PPA) - Buyer Liability Pass Through Agreement

(BLPTA) between Peninsula Clean Energy Authority, CC Power and OME (Attachment 4)

c. Expected Participation Share of 17.8% or 2.31 MW
d. Delivery term of 20 years starting on or about April 1, 2024
e. Dollar authority not to exceed $41,000,000

BACKGROUND:

The board set a goal for Peninsula Clean Energy to procure 100% of its energy supply from renewable energy by 2025. One set of technologies that will help Peninsula Clean Energy to meet this goal is geothermal renewable resources. Geothermal produces electricity in all hours of the day, with some seasonal variability but otherwise steady 24x7 generation. Peninsula Clean Energy's participation in these projects is helping to bring online new geothermal resources to serve its customers as well as other California community choice customers.

CPUC MTR Procurement Mandate

Through the 2020 Integrated Resource Planning (IRP) proceeding, the California Public Utilities Commission (CPUC) identified the need for additional clean energy resources and capacity including firm and/or baseload clean resources, and storage resources, to enable grid integration of a large fleet of intermittent resources to meet California's greenhouse gas emission reduction goals and to replace several methane gas once-through-cooling (OTC) power plants that are scheduled to be shut down, and the Diablo Canyon Nuclear Power Plant (DCNPP) slated to retire between in 2024 and 2025.

Subsequently, on June 24, 2021, the California Public Utilities Commission (CPUC) adopted D.21-06-035. This decision is commonly known as the mid-term reliability (MTR Order) procurement mandate. It directs load serving entities (LSEs) to collectively procure 11,500 MW[1] of new resources between 2023 to 2026 to meet mid-term grid reliability needs. The decision requires that contracts have a term of at least 10 years and that resources be zero-emission or eligible under the California renewable portfolio standard (RPS). Specific category requirements were assigned to 4,500 MW of the requirement.

Procurement Category	2023	2024	2025	2026	Total
Zero-emissions generation, generation paired with storage, or demand response resources[2]	-	-	2,500	-	2,500

[1] Requirement measured as net qualifying capacity (NQC) rather than nameplate capacity. The CPUC issued a report identifying what percent of a technology's nameplate capacity would count toward this requirement. This means that each LSE's nameplate capacity is higher than the requirement identified in the decision.

[2] Zero-emissions resources required to replace Diablo Canyon must be procured by 2025 but may occur in any of the years 2023-2025; therefore, the columns do not add to the total.

Firm zero-emitting resources	-	-	-	1,000	1,000
Long-duration storage resources	-	-	-	1,000	1,000
Remaining New Capacity Required			-	-	7,000
Total Annual Net Qualifying Capacity (NQC) Requirements	***2,000***	***6,000***	***1,500***	***2,000***	***11,500***

One of the categories of the MTR Order identified a need of 1,000 MW of new incremental capacity from Firm Clean Resources (FCR) delivered from geothermal and/or biomass resources with an online date by August 2026.

Peninsula Clean Energy's share of the MTR Order is 19 MW NQC which is determined based on load ratio share of the CPUC's jurisdictional load and equivalent to roughly 23 MW of nameplate capacity.

Formation of CC Power

In 2020, a group of CCAs came together to discuss forming a joint powers authority (JPA) called California Community Power (CC Power) to leverage their combined buying power to provide cost effective joint services, programs, and procurement of energy resources and products. In January 2021, Peninsula Clean Energy's Board voted for Peninsula Clean Energy to become a member of CC Power. The other CCAs that are members of CC Power include MCE, 3CE, SVCE, SJCE, RCEA, VCE, SCP, EBCE, and CPSF.

On January 18, 2022, the PCE Board approved participation in the first CC Power Agreement with Tumbleweed Energy Storage LLC to meet Peninsula Clean Energy's 19 MW long duration storage requirement set forth in D.21-06-035.

Joint CCA Request for Information and Offers

In October 2021, CC Power issued the Firm Clean Energy Resources RFO to seek resources that meet the requirements set forth in D.21-06-035 to procure new resources with at least 80% capacity factor that must not be subject to use limitations or be weather dependent with a requirement to achieve commercial operation before or in 2026.

Offers were due on December 13, 2021 and CC Power received 6 offers for 16 projects, of the 6 offers 5 were from projects located in Nevada. In collaboration with staff from the participating CCAs, these projects were evaluated and scored based on value to the CCAs, development status, transmission feasibility, ability to meet resource adequacy requirements, project development experience, as well as compliance with workforce policy and environmental impact. Two developers were shortlisted, one project from OME and the portfolio of new geothermal projects from Ormat. These projects met the

requirements of D.21-06-035, provided the best economics at the least cost, demonstrated satisfactory development experience, and complied with workforce and environmental policies. The remaining four projects that were not shortlisted were either expensive with poor economics and/or had high transmission risk which means there was potential that the CCAs may not receive Resource Adequacy. There are a limited number of new geothermal, biomass, and biogas resources that qualify in meeting the FCR requirements so CC Power began negotiations with the two shortlisted projects right away.

On May 31, 2022, CC Power Board of Directors, with Peninsula Clean Energy as a voting member, unanimously approved Resolutions to delegate authority to CC Power General Manager to execute the two PPAs, one with ORGP LLC (Ormat) and one with Fish Lake Geothermal LLC. The PPAs will become effective once all eight participating CCAs obtain their governing approvals to execute the associated Project Participation Share Agreements, which define the allocations each CCA will receive from both PPAs.

Overview of Projects

1. Ormat Geothermal Portfolio

Project Name	ORGP LLC (Ormat Geothermal Portfolio)
Developer	Ormat Nevada, Inc. (Ormat)
Technology	Geothermal
Capacity	Total between 64 to 125 MWs PCE's expected share: 10.94 -21.38 MW
Commercial Operation Date	Varies but expect 6/1/2024, 20 years
Location	Nevada and Imperial Valley, CA
Price	Fixed $/MWh, no escalation

Ormat will provide the project participants with a portfolio of new geothermal projects located primarily in Nevada with one project expected in Imperial Valley, California. The precise capacity per project is not known yet as the projects are still under development. At a minimum, the portfolio will provide 64 MW and will not exceed 125 MW. As projects become further in their development, project participants will be given the opportunity to elect projects to the portfolio if they meet the contract requirements. Ormat will provide notice to CC Power when they want to propose a project be added to the contract which will include the construction and commercial operation timeline for that project. All projects must satisfy RPS PCC1 and for the project to be eligible for Resource Adequacy (RA) the participants will need to obtain necessary import capability rights to qualify the capacity as imported RA into CAISO. In the event Peninsula Clean Energy or other participants are unable to obtain import allocation rights for a specific project, the participants may decline that project from being added to the portfolio. Declining a project, for this reason, may limit the total available capacity that Ormat can add to the portfolio, which is the primary reason for the capacity not being fixed, rather the min and max range allows the total contracted capacity to be between 64 – 125 MW. Projects may come online between June 1, 2024 and December 31, 2026, unless both parties

agree to extend it or the CPUC extends the FCR procurement decline in D.21-06-035 to a date later than December 31, 2026. The Ormat geothermal projects will deliver enough energy to meet approximately 1.9 – 3.6% of Peninsula Clean Energy's annual energy needs.

Developer

Ormat is a leading geothermal company, which owns, operates, designs, manufactures and sells geothermal power plants primarily based on the Ormat Energy Converter – a power generation unit that converts low-, medium- and high-temperature heat into electricity. Ormat has engineered, manufactured, and constructed power plants totaling over 3,000 MW of gross capacity and currently owns a generating portfolio of 1,100 MW (net), spread globally in the United States (California, Nevada, Oregon, Idaho and Hawaii), Guatemala, Guadeloupe, Kenya and Indonesia. In March, Peninsula Clean Energy executed a 15-year Power Purchase Agreement with Second Imperial Geothermal Company, a 26 MW geothermal resource being developed by Ormat which is located in Imperial County, CA.

Environmental Review

Peninsula Clean Energy staff worked with several environmental non-profits to develop a system for evaluating the environmental impact of projects for our RFOs and we carried this into the FCR RFO. Specifically, we asked each bidder to provide a geospatial footprint of their project. During the evaluation period, staff studied the geospatial footprint of the project to evaluate whether the project is located in a restricted or high conflict area for renewable energy development. These areas include but are not limited to:

- Protected areas at the federal, state, regional, local level (e.g. County-designated conservation areas, BLM Areas of Critical Environmental Concern, critical habitat for listed species, national, state, county parks, etc.).
- Identified and mapped important habitat and habitat linkages, especially for threatened and endangered species (either state or federally listed).

Further, projects that are located in areas designated for renewable energy development or in areas that are not suitable for other developmental activities, such as EPA re-power sites, receive positive environmental scores.

For this project, the analysis showed that this project will not impact any federal, state, local or other conservation designations or planning effort. Additionally, the project is not located in an area not suitable for renewable energy development as identified by the Renewable Energy Transmission Initiative (RETI)[3]

Workforce Requirements

For Nevada projects, all construction work shall comply with either a) the Nevada prevailing wage requirements, or b) the developer may apply for the State of Nevada Renewable Energy Tax Abatement (RETA)[4] program under the Nevada Governor's Office of Energy. The RETA program requires a construction workforce no less than

[3] RETI: https://reti.databasin.org/
[4] RETA: https://energy.nv.gov/Programs/Renewable_Energy_Tax_Abatements/

50% of Nevada residents, who are paid no less than 175% of statewide average annual wages[5] and receive health insurance satisfying RETA regulations. The developer is required to certify that it has complied with Nevada prevailing wage or RETA requirements. CC Power can request an audit of the US DOL Wage and Hour Division Forms WH 347 to validate compliance.

For California projects, all construction work shall either a) comply with the California prevailing wage requirements or b) ensure that any new construction work for the facility contracted by the developer is under a Project Labor Agreement.

2. Fish Lake Geothermal

Project Name	Fish Lake Geothermal LLC
Developer	Open Mountain Energy (OME)
Technology	Geothermal
Capacity	Total 13 MWs PCE's expected share: 2.31 MW
Commercial Operation Date	4/1/2024, 20 years
Location	Nevada
Price	Fixed $/MWh, no escalation

The OME Fish Lake Geothermal project is 13 MW of new capacity located in Esmeralda County, Nevada. The project will meet RPS PCC1 requirements and provide RA, provided Peninsula Clean Energy obtains the import capability rights which are required by CAISO to count the capacity as RA. Peninsula Clean Energy is obligated to take its allocation of the agreement regardless of whether it is able to obtain the necessary import capability to receive RA. However, per the agreement, OME may deliver to an alternate location if import capability can't be acquired from the preferred location so there is a better probability to secure the import capability by having two options. Peninsula Clean Energy's expected share from Fish Lake Geothermal is 2.31 MW of capacity and will deliver enough energy to meet approximately 0.5% of Peninsula Clean Energy's annual energy needs.

Developer

Open Mountain Energy combines its geothermal and project development expertise with their parent company, Kaishan Energy Group, in power plant technologies and manufacturing to form a cutting-edge industry leading vertically integrated geothermal energy company. Kaishan Energy Group has over 150 MW of operating geothermal projects globally utilizing similar technology.

Environmental Review

Peninsula Clean Energy staff worked with several environmental non-profits to develop a system for evaluating the environmental impact of projects for our RFOs and we carried this into the FCR RFO. Specifically, we asked each bidder to provide a geospatial

[5]https://energy.nv.gov/uploadedFiles/energynvgov/content/Programs/Nevada%20Statewide%20Average%20Wage%20for%20Green%20Industry%20Abatements%202020(1).pdf

footprint of their project. During the evaluation period, staff studied the geospatial footprint of the project to evaluate whether the project is located in a restricted or high conflict area for renewable energy development. These areas include but are not limited to:

- Protected areas at the federal, state, regional, local level (e.g. County-designated conservation areas, BLM Areas of Critical Environmental Concern, critical habitat for listed species, national, state, county parks, etc.).
- Identified and mapped important habitat and habitat linkages, especially for threatened and endangered species (either state or federally listed).

Further, projects that are located in areas designated for renewable energy development or in areas that are not suitable for other developmental activities, such as EPA re-power sites, receive positive environmental scores.

For this project, the analysis showed that this project will not impact any federal, state, local or other conservation designations or planning effort. Additionally, the project is not located in an area not suitable for renewable energy development as identified by the Renewable Energy Transmission Initiative (RETI)[6]

Workforce Requirements

Similar to Ormat's requirements for Nevada projects above, all construction work shall comply with either a) the Nevada prevailing wage requirements, or b) the developer may apply for the State of Nevada Renewable Energy Tax Abatement (RETA)[7] program under the Nevada Governor's Office of Energy. The RETA program requires a construction workforce no less than 50% Nevada residents, who are paid no less than 175% of statewide average annual wages[8] and receive health insurance satisfying RETA regulations. The developer is required to certify that it has complied with Nevada prevailing wage or RETA requirements. CC Power can request an audit of the US DOL Wage and Hour Division Forms WH 347 to validate compliance.

Participating CCAs

Eight of the CC Power CCAs are participating in this contract. The CCAs and their shares of the project are identified in the table below. The project's capacity was allocated to the CCAs based on their obligation under the CPUC MTR procurement mandate.

CCA	Nameplate Capacity Obligation MW	Ormat Entitlement Share	Ormat Allocation Minimum MW	Ormat Allocation Maximum MW	Fish Lake Entitlement Share	Fish Lake Allocation MW
3CE	24.0	17.9%	11.46	22.38	18.6%	2.42

[6] RETI: https://reti.databasin.org/
[7] RETA: https://energy.nv.gov/Programs/Renewable_Energy_Tax_Abatements/
[8] https://energy.nv.gov/uploadedFiles/energynvgov/content/Programs/Nevada%20Statewide%20Average%20Wage%20for%20Green%20Industry%20Abatements%202020(1).pdf

CPSF	18.7	13.9%	8.90	17.38	14.5%	1.89
PCE	**23.0**	**17.1%**	**10.94**	**21.38**	**17.8%**	**2.31**
RCEA	3.6	3.2%	2.05	4.00	2.8%	0.36
SJCE	26.0	19.6%	12.54	24.50	17.4%	2.26
SVCE	18.0	13.4%	8.58	16.75	14.0%	1.82
SCPA	15.1	11.2%	7.17	14.00	11.7%	1.52
VCE	4.8	3.7%	2.37	4.63	3.2%	0.42
Total	133.3	100.0%	64.00	125.00	100.0%	13.00

For Peninsula Clean Energy, we receive between 10.94 – 21.38 MW of capacity from the Ormat agreement and 2.31 MW from Fish Lake Geothermal which leaves Peninsula Clean Energy potentially 9.74 MW short of meeting its 23 MW FCR nameplate requirement or with 0.69 MW in excess of its requirement, as shown in the table below.

PCE Remaining Obligation w/ Ormat Min MW	PCE Remaining Obligation w/ Ormat Max MW
9.74	-0.69

Contract Structure

CC Power will enter into the Power Purchase Agreement (PPA) directly with both project companies, Ormat Nevada, Inc and Fish Lake Geothermal LLC. This agreement covers standard terms, including, among others, timelines for construction and commercial operations, payment timelines, Seller security requirements, default provisions, operating parameters and guarantees and operations and maintenance requirements.

Peninsula Clean Energy will execute the following agreements:

- Project Participation Share Agreement (PPSA): This agreement will be executed by CC Power and each of the participating CCAs. This agreement conveys the project benefits (energy, resource adequacy, ancillary services) from CC Power to each of the CCAs. It also details payment timelines from each CCA to CC Power and covers terms and procedures if a CCA does not make payments when due and if a CCA needs to be removed from the contract for non-performance. Under this agreement, each CCA commits to a 25% “step-up” obligation. If one of the participating CCAs defaults and is removed from the agreement, each CCA commits to take additional capacity up to 25% of its initial share. Under this agreement, each CCA also commits to pre-pay three months of expected project payments. This provides a cushion to CC Power to allow it to make payments to the project developer on a timely basis.

- Buyer Liability Pass Through Agreement (BLPTA): This agreement will be executed by Peninsula Clean Energy, CC Power and with each project company, Ormat Nevada, Inc and Fish Lake Geothermal LLC. The form of this agreement is an appendix to the PPA. This agreement is a guaranty by Peninsula Clean Energy of its share of payment obligations under the PPA.

DISCUSSION:
Peninsula Clean Energy's expected share of the combined geothermal projects is between 13.26 MW and 23.69 MW, meeting a minimum of 57% (leaving 9.74 MW remaining) or up to 102% (0.69 MW in excess) of the FCR mandate assigned to Peninsula Clean Energy.

Staff is asking the Board to approve up to 21.38 MW from Ormat Geothermal Portfolio and 2.31 MW from Fish Lake Geothermal, a combined 23.69 MW of nameplate capacity. Each of the participating CCAs is asking its Board for cushion to allow them to proceed with this project in case there are changes in share allocation due to any CCA not receiving their Board's approval. This will also cover situations where there is a step-up event. We do not anticipate any CCA to not receive approval, but this will avoid the need to go back to each of the CCA Boards for re-approval, which could cause CC Power to miss the 90-day requirement for securing approval under the PPSA.

The Strategic Plan approved by the Board in 2020 set Peninsula Clean Energy's Priority One to "design a power portfolio that is sourced by 100% renewable energy by 2025 that aligns supply and consumer demand on a 24x7 basis". FCR will play a key role in meeting Peninsula Clean Energy's goals for time-coincident renewable energy.

FISCAL IMPACT:
The fiscal impact of Peninsula Clean Energy's share of the Ormat Geothermal Portfolio will not exceed $405 million over the 20-year term of the agreement.

The fiscal impact of Peninsula Clean Energy's share of the Fish Lake Geothermal will not exceed $41 million over the 20-year term of the agreement.

STRATEGIC PLAN:
The Ormat Geothermal Portfolio and Fish Lake geothermal projects support the following objectives in Peninsula Clean Energy's strategic plan:

- Priority 1: Design a power portfolio that is sourced by 100% renewable energy by 2025 that aligns supply and consumer demand on a 24/7 basis
- Power Resources Goal 1: Secure sufficient, low-cost, clean sources of electricity that achieve Peninsula Clean Energy's priorities while ensuring reliability and meeting regulatory mandates

ATTACHMENTS:

Ormat Nevada Inc. (Ormat) Portfolio of Geothermal Project Agreements

- Project Participation Share Agreement – Attachment 1
- Ormat Power Purchase Agreement (Redacted Version) – Attachment 2
    - Buyer Liability Pass Through Agreement (Appendix L PPA)

Fish Lake Geothermal Project Agreements

- Project Participation Share Agreement – Attachment 3
- Fish Lake Power Purchase Agreement (Redacted Version) – Attachment 4
    - Buyer Liability Pass Through Agreement (Exhibit L PPA)

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * * *

RESOLUTION DELEGATING AUTHORITY TO THE CHIEF EXECUTIVE OFFICER TO EXECUTE NECESSARY AGREEMENTS WITH CALIFORNIA COMMUNITY POWER AND PARTICIPATING COMMUNITY CHOICE AGGREGATORS FOR RENEWABLE RESOURCES FROM ORMAT NEVADA INC. AND OPEN MOUNTAIN ENERGY, LLC

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, State of California, that

WHEREAS, the Peninsula Clean Energy Authority ("Peninsula Clean Energy") was formed on February 29, 2016; and

WHEREAS, launch of service for Phase I occurred in October 2016, and launch of service for Phase II occurred in April 2017; and

WHEREAS, Peninsula Clean Energy is purchasing energy, renewable energy, carbon-free energy, resource adequacy and related products and services (the "Products") to supply to its customers; and

WHEREAS, Peninsula Clean Energy is a member of the California Community Power (CC Power) joint powers authority; and

WHEREAS, Peninsula Clean Energy has regulatory obligations to procure firm clean resources (FCR); and

WHEREAS, Peninsula Clean Energy, in coordination with the other members of CC Power, conducted a request for offers for FCR projects and engaged in negotiations with Ormat for a portfolio of geothermal projects and Open Mountain Energy for the Fish Lake geothermal project; and

WHEREAS, consistent with its mission of reducing greenhouse gas emissions by expanding access to sustainable and affordable energy solutions, Peninsula Clean Energy seeks to execute agreements to effectuate its purchase of its share of energy from the geothermal projects based on the project's desirable offering of products, pricing, and terms; and

WHEREAS, the geothermal projects will contribute toward the Board's goal for Peninsula Clean Energy to procure 100% of its energy supply from renewable energy by providing renewable energy for a term of 20 years, with the Fish Lake project starting on or about April 1, 2024 and the Ormat portfolio will begin on or about June 1, 2024; and

WHEREAS, the geothermal projects will contribute to Peninsula Clean Energy's regulatory requirement to procure FCR; and

WHEREAS, staff is presenting to the Board for its review the Power Purchase Agreements, Buyer Liability Pass Through Agreements, and Project Participation Share Agreements, reference to which should be made for further particulars; and

WHEREAS, the Board wishes to delegate to the Chief Executive Officer authority to execute the Buyer Liability Pass Through Agreements, and Project Participation

Share Agreements and any other ancillary documents required for said purchase of energy storage from the project.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board delegates authority to the Chief Executive Officer to:

Approve Resolution Delegating Authority to Chief Executive Officer to execute on behalf of Peninsula Clean Energy as a member of California Community Power (CC Power) the agreements for renewable geothermal resources as follows:

1. Ormat Nevada Inc. (Ormat) - Portfolio of Geothermal Projects
   a. Project Participation Share Agreement (PPSA) between Peninsula Clean Energy Authority, CC Power and participating community choice aggregators (Attachment 1)
   b. Power Purchase Agreement (PPA) - Buyer Liability Pass Through Agreement (BLPTA) between Peninsula Clean Energy Authority, CC Power and Ormat Nevada Inc. (Attachment 2)
   c. Expected Participation Share of 17.1% or 10.94 MW with quantity not to exceed 21.38 MW
   d. Delivery term of 20 years starting on or about June 1, 2024
   e. Dollar authority not to exceed $405,000,000

2. Open Mountain Energy LLC., (OME) - Fish Lake Geothermal
   a. Project Participation Share Agreement (PPSA) between Peninsula Clean Energy Authority, CC Power and participating community choice aggregators (Attachment 3)
   b. Power Purchase Agreement (PPA) - Buyer Liability Pass Through Agreement (BLPTA) between Peninsula Clean Energy Authority, CC Power and OME (Attachment 4)
   c. Expected Participation Share of 17.8% or 2.31 MW
   d. Delivery term of 20 years starting on or about April 1, 2024
   e. Dollar authority not to exceed $41,000,000

* * * * * *

ORGP LLP GEOTHERMAL PORTFOLIO

PROJECT PARTICIPATION SHARE AGREEMENT

among

CENTRAL COAST COMMUNITY ENERGY

and

CITY AND COUNTY OF SAN FRANCISCO, ACTING BY AND THROUGH ITS PUBLIC UTILITIES COMMISSION CLEANPOWERSF

and

PENINSULA CLEAN ENERGY

and

REDWOOD COAST ENERGY AUTHORITY

and

CITY OF SAN JOSÉ, ADMINISTRATOR OF SAN JOSÉ CLEAN ENERGY

and

SILICON VALLEY CLEAN ENERGY

and

SONOMA CLEAN POWER

and

VALLEY CLEAN ENERGY

and

CALIFORNIA COMMUNITY POWER

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ORGP LLP GEOTHERMAL PORTFOLIO

PROJECT PARTICIPATION SHARE AGREEMENT

PREAMBLE

This Project Participation Share Agreement ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), by and among Central Coast Clean Energy, a California joint powers authority, the City and County of San Francisco acting by and through its Public Utilities Commission, CleanPowerSF, Peninsula Clean Energy, a California joint powers authority, Redwood Coast Energy Authority, a California joint powers authority, City of San José, a California municipality, Silicon Valley Clean Energy, a California joint powers authority, Sonoma Clean Power, a California joint powers authority, and Valley Clean Energy, a California joint powers authority (each individually a "**Project Participant**" and collectively referred to as the "**Project Participants**") and California Community Power ("**CCP**"), a California joint powers authority. CCP and the Project Participants are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS CCP is a Joint Powers Authority, was formed for the purpose of developing, acquiring, constructing, owning, managing, contracting for, engaging in, or financing electric energy generation and storage projects, and for other purposes; and

WHEREAS, the Project Participants have participated with CCP in the negotiation of an agreement for purchase of the electric output of a portfolio of geothermal powered electric generating plants (the "**Project**" as described in Section 3.1 of the PPA), and CCP is to enter into a Renewable Power Purchase Agreement ("**PPA**"), which is incorporated herein by this reference, with ORGP LLC, a Delaware limited liability company ("**Project Developer**"), providing for purchase of the electric output, and associated rights, benefits, and credits from the Project on behalf of the Project Participants.

WHEREAS, pursuant to this Agreement, CCP shall cause to deliver to each Project Participant the Project Participant's associated share of the electric output and associated rights, benefits, and credits of the Project.

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

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ARTICLE 1
DEFINITIONS

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

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 8.6(c) of the PPA.

"**Affiliate**" means, as to any Person, any other Person that, directly or indirectly, is in Control of, is under Control by, or is under common Control with such Person.

"**Agreement**" has the meaning set forth in the Preamble and any Exhibits, schedules, and any written supplements hereto.

"Amended Annual Budget" means the budget approved by the Project Committee and adopted by the CCP Board pursuant to Section 5.1(c) of this Agreement.

"**Ancillary Services**" means all ancillary services, products and other attributes, if any, associated with the installed capacity of the Project.

"**Annual Budget**" means the budget approved by the Project Committee and adopted by the CCP Board pursuant to Section 5.1(c) of this Agreement.

"**Authorized Representative**" has the meaning set forth in Section 1.1 of the PPA.

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

"**Billing Statement**" has the meaning set forth in Section 9.2 of this Agreement.

"**Buyer Liability Pass Through Agreement**" **or** "**BLPTA**" means, for each Project Participant, the form set forth in Appendix L of the PPA, as executed by such Project Participant, countersigned by CCP, and delivered to the Project Developer.

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

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

"**CAISO Balancing Authority Area**" has the meaning set forth in the CAISO Tariff.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewables portfolio standard 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, and as administered by the CEC as set forth in CEC RPS Eligibility Guidebook (9th Ed.), as may be subsequently modified by the CEC, and the CPUC as set forth in CPUC Decision ("D.") 08-08-028, D.08-04-009, D.10-03-021, D.11-01-025, D.11-12-020, D.11-12-052, D.12-06-038, D.13-11-024, D.14-12-023, D.17-06-026, and D.19-02-007, and as may be modified by subsequent decisions of the CPUC or by subsequent legislation and regulations promulgated with respect thereto.

"Capital Improvements" means any unit of property, property right, land or land right which is a replacement, repair, addition, improvement or betterment to the Project or any transmission facilities relating to, or for the benefit of, the Project, the betterment of land or land rights or the enlargement or betterment of any such unit of property constituting a part of the Project or related transmission facilities which is (i) consistent with Prudent Utility Practices and determined necessary and/or desirable by the CCP Board or (ii) required by any governmental agency having jurisdiction over the Project.

"CCP Board" means the Board of Directors of California Community Power.

"CCP Manager" means the General Manager of California Community Power.

"**CEC**" means the California Energy Commission, or any successor agency performing similar statutory functions.

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

"**Capacity Buydown Damages**" means any liquidated damages paid by the Project Developer to CCP pursuant to Section 3.7(a) of the PPA.

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"**CEQA**" means the California Environmental Quality Act, as amended or supplemented from time to time.

"Chairperson" has the meaning set forth in Exhibit D.

"**Change of Control**" has the meaning set forth in Section 1.1 of the PPA.

"**Compliance Costs**" has the meaning set forth in Section 8.6(c) of the PPA.

"**Commercial Operation**" has the meaning set forth in Section 1.1 of the PPA.

"**Commercial Operation Date**" or "**COD**" has the meaning set forth in Section 1.1 of the PPA.

"**Community Choice Aggregator**" has the meaning set forth in California Public Utilities Code § 331.1.

"**Confidential Information**" has the meaning set forth in Section 14.21(a) of the PPA.

"**Control**" means (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Construction Start**" has the meaning set forth in Section 1.1 of the PPA.

"**Contract Price**" has the meaning set forth on the Cover Sheet of the PPA.

"**Contract Year**" means (a) the period beginning on the Commercial Operation Date of the first Facility to achieve Commercial Operation, as determined pursuant to Section 3.5 of the PPA, and ending on December 31st of that year, and (b) each succeeding period of twelve (12) consecutive months following the period described in the preceding clause (a) until the end of the Delivery Term; provided that, unless the Commercial Operation Date for the last Facility to achieve Commercial Operation occurs on January 1st of any Contract Year, the last Contract Year will be shorter than twelve (12) months..

"**Costs**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Project Participant in terminating any arrangement pursuant to which it has hedged its obligations; and all reasonable attorneys' fees and expenses incurred by the Project Participant in connection with the Step-Up Allocation.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

"Cured Payment Default" means a Payment Default that has been cured in accordance with Section 12.4 of this Agreement.

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"**Damage Payment**" has the meaning set forth in Section 1.1 of the PPA.

"**Day-Ahead Market**" has the meaning set forth in the CAISO Tariff.

"**Day-Ahead Schedule**" has the meaning set forth in the CAISO Tariff.

"**Default**" has the meaning set forth in Section 13.1 of the PPA.

"Defaulting Project Participant" has the meaning set forth in Section 12.1.

"**Delay Damages**" has the meaning set forth in Section 3.7(a) of the PPA.

"**Delivered Energy**" has the meaning set forth in Section 1.1 of the PPA.

"**Delivery Term**" has the meaning set forth in Section 2.2 of the PPA.

"**Delivery Term Security**" has the meaning set forth in Section 5.9(b) of the PPA.

"Designated Fund" has the meaning set forth in Section 10.5.

"**Effective Date**" has the meaning set forth in the Preamble.

"**Electric Metering Devices**" has the meaning set forth in Section 1.1 of the PPA.

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

"**Energy**" means electrical energy, measured in kilowatt-hours or Megawatt-hours or multiple units thereof.

"**Energy Management System**" or "**EMS**" means the Project's energy management system.

"**Entitlement Share**" means the percentage entitlement of each Project Participant as set forth in Exhibit B of this Agreement (entitled "Schedule of Project Participant Entitlement Shares and Step-Up Allocation Caps") attributable to each such Project Participant, as may be amended pursuant to Section 4.2 or 12.8.

"**Entitlement Share Reduction Amount**" has the meaning set forth in Exhibit C.

"**Entitlement Share Reduction Compensation Amount**" has the meaning set forth in Exhibit C.

"**Entitlement Share Reduction Notice**" has the meaning set forth in Exhibit C.

"**Estimated Monthly Project Cost**" has the meaning set forth in Section 8.1.

"**Facility**" has the meaning set forth in Section 1.1 of the PPA.

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"**Facility Energy**" has the meaning set forth in Section 1.1 of the PPA.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Force Majeure**" has the meaning set forth in Section 14.6 of the PPA.

"**Gains**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from such Step-Up Allocation for the remaining Delivery Term of the PPA, determined in a commercially reasonable manner. Factors used in determining the economic benefit to such Project Participant may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of such Project Participant, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Delivery Term, and include the value of Green Attributes and Capacity Attributes.

"**GHG Regulations**" means Title 17, Division 3 (Air Resources), Chapter 1 (Air Resources Board), Subchapter 10 (Climate Change), Article 5 (Emissions Cap), Sections 95800 to 96023 of the California Code of Regulations, as amended or supplemented from time to time.

"**Governmental Authority**" means any federal, state, provincial, local, or municipal government, any political subdivision thereof or any other governmental, congressional, or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided*, "Governmental Authority" shall not in any event include any Party, except to the extent that the Party is acting solely in its governmental capacity.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from each Facility, or, as applicable, from any facility that generates Replacement Energy, and, in each case, its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Delivered Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from each Facility, (ii) production tax credits associated with the construction or operation of each Facility and other financial incentives

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in the form of credits, reductions, or allowances associated with each Facility that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, (iv) emission reduction credits encumbered or used by each Facility for compliance with local, state, or federal operating or air quality permits, or (v) "portfolio energy credits" as defined in Nevada Revised Statutes Section 704.7803 associated with the Parasitic Load of any Facility.

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

"**Greenhouse Gas**" or "**GHG**" has the meaning set forth in the GHG Regulations or in any other applicable Laws.

"**Indemnifying Party**" has the meaning set forth in Section 13.5.

"**Interest Rate**" has the meaning set forth in Section 11.3 of the PPA.

"**Invoice Amount**" has the meaning set forth in Section 9.2.

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

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

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated January 29, 2021, as amended from time to time, under which CCP is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Late Payment Notice**" means a notice issued by CCP to a Project Participant pursuant to Section 9.7.

"**Late Payment Charge**" has the meaning set forth in Section 9.7.

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

"**Letter(s) of Credit**" has the meaning set forth in Section 1.1 the PPA.

"**Losses**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section

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12.8(b) or 12.8(c), an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from such Step-Up Allocation for the remaining Delivery Term of the PPA, determined in a commercially reasonable manner. Factors used in determining economic loss to such Project Participant may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Project Participant, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Delivery Term of the PPA and must include the value of Green Attributes and Capacity Attributes.

"**Month**" means a calendar month.

"**Monthly Costs**" has the meaning set forth in Section 9.1.

"**Monthly Payment**" means the payment required to be made by CCP to Project Developer each month of the Delivery Term as compensation for the Product, as calculated in accordance with Section 11.2 of the PPA and Appendix A of the PPA.

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

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

"**Negative LMP Strike Price**" has the meaning set forth in Section 1.1 of the PPA.

"**NERC**" means the North American Electric Reliability Corporation.

"**Net Qualifying Capacity**" or "**NQC**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Project Participant**" has the meaning set forth in Section 12.1.

"**Normal Vote**" has the meaning set forth in Exhibit D.

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

"**Operating Account**" means an account established by CCP for each Project Participant pursuant to Section 8.2.

"**Operating Cost**" means the share of the Annual Budget or Amended Annual Budget attributable to the applicable Month for a Billing Statement plus any Accepted Compliance Costs approved by the CCP Board pursuant to Section 5.2(a)(xiii).

"**Party**" has the meaning set forth in the Preamble.

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"**Payment Default**" has the meaning set forth in Section 12.2.

"**Payment Default Termination Deadline**" has the meaning set forth in Section 12.6.

"**Parasitic Load**" has the meaning set forth in Section 1.1 of the PPA.

"**Permitted Transferee**" has the meaning set forth in Section 1.1 of the PPA.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Power Purchase Agreement**" or "**PPA**" means the agreement between CCP and Project Developer for the purchase of the electric output of the Project, executed on _____.

"**PPA Defaulting Party**" means a "Defaulting Party" as defined in in Section 13.1 of the PPA.

"**PPA Non-Defaulting Party**" means a "Non-Defaulting Party" as defined in Section 13.3 of the PPA.

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Facility.

"**PNode**" has the meaning set forth in the CAISO Tariff.

"**Product**" has the meaning set forth in Section 3.1

"**Progress Report**" means a progress report including the items set forth in Appendix O of the PPA.

"**Project**" has the meaning set forth in Section 1.1 of the PPA.

"**Project Committee**" means the committee established in accordance with Section 6.1.

"**Project Development Security**" has the meaning set forth in Section 5.9(a) of the PPA.

"**Project Developer**" means ORGP LLC or assignee as permitted under the PPA.

"**Project Participants**" means those entities executing this Agreement, as identified in the Preamble, together in each case with each entity's successors or assigns.

"**Project Revenue Rights**" means all rights of a Project Participant under this Agreement to any revenue associated with the Facility Energy, Capacity Attributes, Ancillary Services, or Green Attributes associated with the Project.

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"**Project Rights**" means all rights and privileges of a Project Participant under this Agreement, including but not limited to its Entitlement Share, its right to receive the Product from the Project, and its right to vote on Project Committee matters.

"**Project Rights and Obligations**" means the Project Participants' Project Rights and obligations under the terms of this Agreement.

"**Proposed Entitlement Share Reduction Compensation Amount**" has the meaning set forth in Exhibit C.

"**Proposed Facility**" has the meaning set forth in Section 3.1 of the PPA.

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

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the RAR compliance or advisory showings (or similar or successor showings) that an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" has the meaning set forth in Section 1.1 of the PPA.

"**RA Shortfall Month**" has the meaning set forth in Section 1.1 of the PPA.

"**Real-Time Market**" has the meaning set forth in the CAISO Tariff.

"**REC**" or "**Renewable Energy Credit**" means a certificate of proof associated with the generation of electricity from an Eligible Renewable Energy Resource, which certificate is issued through the accounting system established by the CEC pursuant to California Public Utilities Code Section 399.25 and satisfies the requirements of California Public Utilities Code Section 399.12(h), evidencing that one (1) MWh of energy was generated and delivered from such Eligible Renewable Energy Resource. Such certificate is a tradable environmental commodity (also known as a "green tag") for which the owner of the REC can prove that it has purchased renewable energy.

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"**Reliability Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Replacement Energy**" has the meaning set forth in Section 9.2 of the PPA.

"**Replacement RA**" has the meaning set forth in Section 1.1 of the PPA.

"**Resource Adequacy Benefits**" means the rights and privileges attached to a Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and includes local, zonal or otherwise locational attributes associated with a Facility (if any).

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" has the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-031, 20-06-028, 20-12-006, 21-06-035 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time.

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

"**Scheduled Energy**" has the meaning set forth in Section 1.1 of the PPA.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Settlement Interval**" has the meaning set forth in the CAISO Tariff.

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Showing Month**" means the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

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"**Site**" has the meaning set forth in Section 1.1 of the PPA.

"**Step-Up Allocation Cap**" has the meaning set forth in Section 12.8(a).

"**Step-Up Invoice**" means an invoice sent to a Non-Defaulting Project Participant as a result of a Defaulting Project Participant's Payment Default, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of the Defaulting Project Participant, as the case may be, pursuant to Section 12.7.

"Step-Up Invoice Amount" has the meaning set forth in Section 12.7.

"Step-Up Invoice Amount Cap" has the meaning set forth in Section 12.7.

"**Step-Up Reserve Account**" has the meaning set forth in Section 12.7(a)(i).

"**System Emergency**" has the meaning set forth in Section 1.1 of the PPA.

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

"**Termination Payment**" has the meaning set forth in Section 1.1 of the PPA.

"**Transmission Provider**" has the meaning set forth in Section 1.1 of the PPA.

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

"**Unanimous Vote**" has the meaning set forth in Exhibit D.

"**Uncontrollable Forces**" means any Force Majeure event and any cause beyond the control of any Party, which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, epidemic or pandemic (excluding impacts of the disease designated COVID-19 or the related virus designated SARS-CoV-2 impacts actually known by the Party claiming the event of Force Majeure as of the Effective Date), an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, licenseor permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the PPA, as defined therein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings;

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

(n) in the event of any conflict or inconsistency between the terms of this Agreement and the terms of the PPA, the terms and provisions of this Agreement shall control.

ARTICLE 2
EFFECTIVE DATE AND TERM

2.1. Term.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the occurrence of all of the following: (i) the termination of the PPA and (ii) the termination of the Buyer Liability Pass Through Agreement for all the Project Participants, and (iii) all Parties have met their obligations under this Agreement ("**Term**").

(b) Applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. All indemnity and audit rights shall remain in full force and effect for three (3) years following the termination of this Agreement.

ARTICLE 3
AGREEMENT

3.1. Transaction. Subject to the terms and conditions of this Agreement, the Project Participants authorize CCP to purchase all Facility Energy, Capacity Attributes, Ancillary Services, and Green Attributes associated with the Project, any Replacement RA, or Replacement Energy provided pursuant to the PPA (collectively the "**Product**"), on behalf of the Project Participants. CCP shall cause Project Developer to deliver each Project Participant's Entitlement Share of the Product to such Project Participant, including but not limited to (i) any revenue associated with the Facility Energy, Capacity Attributes, Ancillary Services, or Green Attributes associated with the Project, and (ii) the Capacity Attributes and Green Attributes associated with the Project or otherwise provided to CCP pursuant to the PPA. To the extent that any Facility Energy, Capacity Attributes, Ancillary Services, or Green Attributes associated with the Project, any Replacement RA, or Replacement Energy are delivered to CCP, then CCP shall transfer each Project Participant's Entitlement Share of such Facility Energy, Capacity Attributes, Ancillary Services, or Green Attributes to the Project Participants. CCP shall cause all Facility Energy and associated Green Attributes delivered to the Project Participants by the Project Developer, and shall deliver to the Project Participants all Facility Energy and associated Green Attributes that CCP receives from the Project Developer, on a fully bundled basis in order to meet the requirements of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1). CCP shall administer the PPA and oversee the operation of the Project. CCP shall not sell, assign, or otherwise transfer any Product, or any portion thereof, to any third party

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other than to the Project Participants, unless authorized by the Project Participants pursuant to this Agreement.

3.2. RPS Compliance.

(a) CCP represents and warrants that:

(i) the Product and any Replacement Energy purchased by CCP on behalf of the Project Participants consists of Energy and Green Attributes only from Eligible Renewable Energy Resources of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1);

(ii) the Energy and Green Attributes that are delivered to Project Participants by Project Developer, or delivered to Project Participants by CCP to the extent Project Developer delivers Energy and Green Attributes to CCP, consists only of Energy and Green Attributes that have not yet been generated prior to the commencement of the term of the PPA or the Effective Date of this Agreement;

(iii) the Energy that is delivered to Project Participants by Project Developer, or delivered to Project Participants by CCP to the extent Project Developer delivers Energy to CCP, shall be transferred to each Project Participant in real time; and

(b) If the PPA includes an agreement to dynamically transfer electricity to a California balancing authority, then any transactions implemented under this Agreement are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

ARTICLE 4
ENTITLEMENT SHARE

4.1. Initial Entitlement Share. Each Project Participant's initial Entitlement Share as of the Effective Date shall be set forth in Column B of the Table provided in Exhibit B of this Agreement (entitled "Schedule of Project Participant Entitlement Shares and Step-Up Allocation Caps"). Any revisions to the Entitlement Share specified in Exhibit B pursuant to Section 4.2. or Section 12.8 shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

4.2. Change of Entitlement Share.

(a) Any Project Participant may reduce its Entitlement Share of the Project pursuant to the process set forth in Exhibit C.

(b) Upon each occurrence of CCP accepting a Proposed Facility pursuant to Section 3.1 of the PPA, the CCP Board may consider and approve a change to the Entitlement Shares of the Project Participants.

4.3. Reduction of Entitlement Share to Zero. If any Project Participant's Entitlement Share is reduced to zero through any process specified in Exhibit C, such Project Participant shall

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remain a Party to this Agreement and shall be subject to all rights, obligations, and liabilities of this Agreement, including but not limited to any liabilities for Monthly Payments, Damage Payment, or Termination Payment, as applicable, and any other damage payments or reimbursement amounts under the PPA.

ARTICLE 5
OBLIGATIONS OF CCP; ROLE OF CCP BOARD AND CCP MANAGER

5.1. Obligations of CCP.

(a) CCP shall take such commercially reasonable actions or implement such commercially reasonable measures as may be necessary or desirable for the utilization, maintenance, or preservation of the rights and interests of the Project Participants in the Project including, if appropriate, such enforcement actions or other measures as the Project Committee or CCP Board deems to be in the Project Participants' best interests. To the extent not inconsistent with the PPA or other applicable agreements, CCP may also be authorized by the Project Participants to assume responsibilities for planning, designing, financing, developing, acquiring, insuring, contracting for, administering, operating, and maintaining the Project to effectuate the conveyance of the Product to Project Participants in accordance with Project Participants' Entitlement Shares.

(b) To the extent such services are available and can be carried forth in accordance with the PPA, CCP shall also provide such other services, as approved by the Project Committee or CCP Board, as may be deemed necessary to secure the benefits and/or satisfy the obligations associated with the PPA.

(c) Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with this Section 5.1(c).

(i) The CCP Manager will prepare and submit to the Project Committee a proposed Annual Budget at least ninety (90) days prior to the beginning of each Contract Year during the term of this Agreement. The proposed Annual Budget shall be based on the prior Contract Year's actual costs and shall include reasonable estimates of the costs CCP expects to incur during the applicable Contract Year in association with the administration of the PPA, including the cost of insurance coverages that are determined to be attributable to the Project by action of the CCP Board. Upon approval of the proposed Annual Budget by a Normal Vote of the Project Committee, the CCP Manager shall present the proposed Annual Budget to the CCP Board. The CCP Board shall adopt the Annual Budget no later than thirty (30) days prior to the beginning of such Contract Year and shall cause copies of such adopted Annual Budget to be delivered to each Project Participant.

(ii) At any time after the adoption of the Annual Budget for a Contract Year, the CCP Manager may prepare and submit to the Project Committee a proposed Amended Annual Budget for and applicable to the remainder of such Contract Year. The proposal shall (A) explain why an amendment to the Annual Budget is needed, (B) compare estimated costs against actual costs, and (C) describe the events that triggered the need for additional funding. Upon approval of the proposed Amended Annual Budget by a Normal Vote of the Project Committee,

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the CCP Manager shall present the proposed Amended Annual Budget to the CCP Board. Upon adoption of the Amended Annual Budget by the CCP Board, such Amended Annual Budget shall apply to the remainder of the Contract Year and the CCP Board shall cause copies of such adopted Amended Annual Budget to be delivered to each Project Participant.

(iii) Reports. CCP will prepare and issue to Project Participants the following reports each quarter of a year during the Term:

(A) Financial and operating statement relating to the Project.

(B) Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.

(d) Records and Accounts. CCP will keep, or cause to be kept, accurate records and accounts of the Project as well as of the operations relating to the Project, all in a manner similar to accepted accounting methodologies associated with similar projects. All transactions of CCP relating to the Project with respect to each Contract Year shall be subject to an annual audit. Each Project Participant shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice during regular business hours.

(e) Information Sharing. Upon CCP's request, each Project Participant agrees to coordinate with CCP to provide such information, documentation, and certifications that are reasonably necessary for the design, financing, refinancing, development, operation, administration, maintenance, and ongoing activities of the Project, including information required to respond to requests for such information from any federal, state, or local regulatory body or other authority.

(f) Consultants and Advisors Available. CCP shall make available to the Project Committee all consultants and advisors, including financial advisors and legal counsel that are retained by CCP, and such consultants, counsel and advisors shall be authorized to consult with and advise the Project Committee on Project matters. CCP agrees to waive any conflicts of interest or any other applicable professional standards or rules as required by consultants, counsel, and advisors to advise the Project Committee on Project matters.

(g) Deposit of Insurance Proceeds. CCP shall promptly deposit any insurance proceeds received by CCP from any insurance obtained pursuant to this Agreement or otherwise associated with the Project into the Operating Accounts of the Project Participants based on each Project Participants' Entitlement Shares.

(h) Liquidated and Other Damages. Any amounts paid to CCP, or applied against payments otherwise due by CCP pursuant to the PPA or each Project Participant's respective BLPTA, by the Project Developer shall be deposited on a pro rata share, based on each Project Participant's Entitlement Share into each Project Participant's Operating Account. Liquidated damages include, but are not limited to Delay Damages, RA Deficiency Amount, Capacity Buydown Damages, Shortfall Liquidated Damages, Damage Payment, and Termination Payment.

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(i) Green Attributes. CCP shall take such actions or implement such measures as may be necessary to facilitate the transfer of Green Attributes from the Project Developer to the Project Participants.

(j) Resale of Product. Any Project Participant may direct CCP to remarket such Project Participant's Entitlement Share of the Product, or such Project Participant's Entitlement Share of any part of the Product. If CCP incurs any expenses associated with the remarketing activities pursuant to this Section 5.1(j), then CCP shall include the total amount of such expenses as a Monthly Cost on the Project Participant's next Billing Statement. Prior to offering the Project Participant's Entitlement Share of the Product, or the Project Participant's Entitlement Share of any part of the Product to any third party, CCP shall first offer the Product or portion of the Product to the other Project Participants. The amount of compensation paid to the selling Project Participant shall be negotiated and agreed to between the selling Project Participant and the purchasing Project Participant or third party. Any payments for any resold Product pursuant to this Section 5.1(j) shall be transmitted directly from the purchasing Project Participant or purchasing third party to the reselling Project Participant. Any such resale to a third party shall not convey any rights or authority over the operation of the Project, and the Project Participant shall not make a representation to the third party that the resale conveys any rights or authority over the operation of the Project.

(k) Uncontrollable Forces. CCP shall not be required to provide, and CCP shall not be liable for failure to provide, the Product, Replacement RA, or other service under this Agreement when such failure, or the cessation or curtailment of, or interference with, the service is caused by Uncontrollable Forces or by the failure of the Project Developer, or its successors or assigns, to obtain any required governmental permits, licenses, or approvals to acquire, administer, or operate the Project; provided, however, that the Project Participants shall not thereby be relieved of their obligations to make payments under this Agreement except to the extent CCP is so relieved pursuant to the PPA, and provided further that CCP shall pursue all applicable remedies against the Project Developer under the PPA and distribute any remedies obtained pursuant to Section 5.1(h).

(l) Insurance. Within one hundred and eighty days (180) of the Effective Date of this Agreement, CCP shall secure and maintain, during the Term, insurance coverage as follows:

(i) Commercial General Liability. CCP shall maintain, or cause to be maintained, commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of One Million Dollars ($1,000,000) per occurrence, and an annual aggregate of not less than Two Million Dollars ($2,000,000), endorsed to provide contractual liability in said amount, specifically covering CCP's obligations under this Agreement and including each Project Participant as an additional insured.

(ii) Employer's Liability Insurance. CCP, if it has employees, shall maintain Employers' Liability insurance with limits of not less than One Million Dollars ($1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

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(iii) Workers' Compensation Insurance. CCP, if it has employees, shall also maintain at all times during the Term workers' compensation and employers' liability insurance coverage in accordance with statutory amounts, with employer's liability limits of not less than One Million Dollars ($1,000,000.00) for each accident, injury, or illness; and include a blanket waiver of subrogation.

(iv) Business Auto Insurance. CCP shall maintain at all times during the Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of CCP's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement and shall name each Project Participant as an additional insured and contain standard cross-liability and severability of interest provisions.

(v) Public Entity Liability Insurance. CCP shall maintain public entity liability insurance, including public officials' liability insurance, public entity reimbursement insurance, and employment practices liability insurance in an amount not less than One Million Dollars ($1,000,000) per claim, and an annual aggregate of not less than One Million Dollars ($1,000,000) and CCP shall maintain such coverage for at least two (2) years from the termination of this Agreement.

(m) Evidence of Insurance. Within ten (10) days after the deadline for securing insurance coverage specified in Section 5.1(l), and upon annual renewal thereafter, CCP shall deliver to each Project Participant certificates of insurance evidencing such coverage with insurers with ratings comparable to A-VII or higher, and that are authorized to do business in the State of California, in a form evidencing all coverages set forth above. Such certificates shall specify that each Project Participant shall be given at least thirty (30) days prior Notice by CCP in the event of cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of each Project Participant. Any other insurance maintained by CCP not associated with this Agreement is for the exclusive benefit of CCP and shall not in any manner inure to the benefit of Project Participants. The general liability, auto liability and worker's compensation policies shall be endorsed with a waiver of subrogation in favor of each Project Participant for all work performed by CCP, its employees, agents and sub-contractors.

5.2. Role of CCP Board.

(a) The rights and obligations of CCP under the PPA shall be subject to the ultimate control at all times of the CCP Board. The CCP Board, shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:

(i) Dispute Resolution. The CCP Board shall review, discuss and attempt to resolve any disputes among CCP, any of the Project Participants, and the Project Developer relating to the Project, the operation and management of the Project, and CCP's rights and interests in the Project.

(ii) PPA. The CCP Board shall have the authority to review, modify, and approve, as appropriate, all amendments, modifications, and supplements to the PPA.

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(iii) Capital Improvements. The CCP Board shall review, modify, and approve, if appropriate, all Capital Improvements undertaken with respect to the Project and all financing arrangements for such Capital Improvements. The CCP Board shall approve those budgets or other provisions for the payments associated with the Project and the financing for any development associated with the Project.

(iv) Committees. The CCP Board shall exercise such review, direction, or oversight as may be appropriate with respect to the Project Committee and any other committees established pursuant to this Agreement.

(v) Budgeting. Upon the submission of a proposed Annual Budget or proposed Amended Annual Budget, approved by a Normal Vote of the Project Committee, the CCP Board shall review, modify, and approve each Annual Budget and Amended Annual Budget in accordance with Section 5.1(c) of this Agreement.

(vi) Early Termination of PPA. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(ii) of this Agreement, as to an early termination of the PPA pursuant to Section 13.3 of the PPA.

(vii) Assignment by Project Developer. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(iii) of this Agreement, as to any assignment by Project Developer pursuant to Section 14.7.

(viii) Buyer Financing Assignment. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(iv) of this Agreement, as to an assignment by CCP to a financing entity.

(ix) Change of Control. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(v) of this Agreement, as to any Change of Control requiring CCP's consent, as specified in Section 14.7 of the PPA.

(x) Supervening Authority of the Board. The CCP Board has complete and plenary supervening power and authority to act upon any matter which is capable of being acted upon by the Project Committee or which is specified as being within the authority of the Project Committee pursuant to the provisions of this Agreement.

(xi) Other Matters. The CCP Board is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Project Committee or CCP Manager as may be provided for under this Agreement and under the PPA, or as may otherwise be appropriate.

(xii) Periodic Audits. The CCP Board or the Project Committee may arrange for the annual audit by certified accountants, selected by the CCP Board and experienced in electric generation or electric utility accounting, of the books and accounting records of CCP, the Project Developer to the extent authorized under the PPA, and any other counterparty under any agreement to the extent allowable, and such audit shall be completed and submitted to the CCP Board as soon as reasonably practicable after the close of the Contract Year. CCP shall

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promptly furnish to the Project Participant copies of all audits. No more frequently than once every calendar year, each Project Participant may, at its sole cost and expense, audit, or cause to be audited the books and cost records of CCP, and/or the Project Developer to the extent authorized under the PPA.

(xiii) Compliance Expenditures. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(vi) of this Agreement, as to Compliance Costs as specified in Section 8.6(c) of the PPA. If the CCP Board authorizes CCP to agree to reimburse Project Developer for Accepted Compliance Costs, then such amount shall be added to the amount of Operating Costs included in the Monthly Cost calculation for the subsequent month.

(b) Pursuant to Section 5.06 of the Joint Powers Agreement, this Agreement modifies the voting rules of the CCP Board for purposes of approving or acting on any matter identified in this Agreement, as follows:

(i) Quorum. A quorum shall consist of a majority of the CCP Board members that represent Project Participants.

(ii) Voting. Each CCP Board member that represents a Project Participant shall have one vote for any matter identified in this Agreement. Any CCP Board member representing a CCP member that is not a Project Participant shall abstain from voting on any matter identified in this Agreement. A vote of the majority of the CCP Board members representing Project Participants that are in attendance shall be sufficient to constitute action, provided a quorum is established and maintained.

5.3. Role of CCP Manager.

(a) In addition to the duties and responsibilities set forth elsewhere in this Agreement, the CCP Manager is delegated the following authorities and responsibilities:

(i) Request for Tax Documentation. Respond to any requests for tax-related documentation by the Project Developer.

(ii) Request for Financial Statements. Provide the Project Developer with Financial Statements as may be required by the PPA.

(iii) Request for Information by Project Participant. Respond to any request by a Project Participant for information or documents that are reasonably available to allow the Project Participant to respond to requests for such information from any federal, state, or local regulatory body or other authority.

(iv) Coordinate Response to a Request for Confidential Information. Upon a request or demand by any third person that is not a Party to the PPA or a Project Participant, for Confidential Information as described in Section 14.21 of the PPA, the CCP Manager shall notify the Project Developer and coordinate the response of CCP and Project Participants.

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(v) Invoices. The CCP Manager shall review each invoice submitted by Project Developer and shall request such other data necessary to support the review of such invoices.

ARTICLE 6
PROJECT COMMITTEE

6.1. Establishment and Authorization of the Project Committee. The Project Committee is hereby established and duly authorized to act on behalf of the Project Participants as provided for in this Section 6 for the purpose of (a) providing coordination among, and information to, the Project Participants and CCP, (b) making any recommendations to the CCP Board regarding the administration of the Project, and (c) execution of the Project Committee responsibilities set forth in Section 6.4.

6.2. Project Committee Membership. The Project Committee shall consist of one representative from each Project Participant. The CCP Manager shall be a non-voting member of the Project Committee. Within thirty (30) days after the Effective Date, each Project Participant shall provide notice to each other of such Project Participant's representative on the Project Committee. Alternate representatives may be appointed by similar written notice to act on the Project Committee, or on any subcommittee established by the Project Committee, in the absence of the regular representative. An alternate representative may attend all meetings of the Project Committee but may vote only if the representative for whom they serve as alternate for is absent. No Project Participant's representative shall exercise any greater authority than permitted by the Project Participant which they represent.

6.1. Project Committee Operations, Meetings, and Voting. Project Committee operations, meetings, and voting shall be in accordance with the procedures and requirements specified in Exhibit D.

6.2. Project Committee Responsibilities. The Project Committee shall have the following responsibilities:

(a) General Responsibilities of the Project Committee.

(i) Provide a liaison between CCP and the Project Participants with respect to the ongoing administration of the Project.

(ii) Exercise general supervision over any subcommittee established pursuant to Section 6.5.

(iii) Oversee, as appropriate, the completion of any Project design, feasibility, or planning studies or activities.

(iv) Review, discuss, and attempt to resolve any disputes among the Project Participants relating to this Agreement or the PPA.

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(v) Perform such other functions and duties as may be provided for under this Agreement, the PPA, or as may otherwise be appropriate or beneficial to the Project or the Project Participants.

(b) Recommendations to the CCP Board by a Normal Vote.

(i) Budgeting. Review, modify, and approve by a Normal Vote each proposed Annual Budget and proposed Amended Annual Budget for submission to the CCP Board for final approval.

(ii) Early Termination of PPA. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding an early termination of the PPA pursuant to Section 13.3 of the PPA.

(iii) Assignment by Project Developer. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding any assignment by Project Developer pursuant to Section 14.7 of the PPA.

(iv) Buyer Financing Assignment. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding an assignment by CCP to a financing entity.

(v) Change of Control. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding any Change of Control requiring CCP's consent, as specified in Section 14.7 of the PPA.

(vi) Compliance Expenditures. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding Compliance Expenditures, as specified in Section 8.6(c) of the PPA.

(c) Actions Delegated to the Project Committee by this Agreement Subject to a Unanimous Vote.

(i) Project Design. Review, modify, and approve by a Unanimous Vote any recommendations to the Project Developer on the design of the Project.

(ii) [Reserved.]

(iii) Default. Direct CCP to exercise its rights under the PPA if a Default has occurred under Section 13.1 of the PPA.

(d) Actions Delegated to the Project Committee by this Agreement Subject to a Normal Vote.

(i) Make recommendations to the CCP Manager, the CCP Board, the Project Participants or to the Project Developer, as appropriate, with respect to the development, operation, and ongoing administration of the Project.

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(ii) Review, develop, and, if appropriate, modify and approve rules, procedures, and protocols for the administration of the Project, including rules, procedures, and protocols for the management of the costs of the Project and the scheduling, handling, tagging, dispatching, and crediting of the Product, the handling and crediting of Green Attributes associated with the Project and the control and use of the Project.

(iii) Review, develop, and, if appropriate, modify rules, procedures, and protocols for the monitoring, inspection, and the exercise of due diligence activities relating to the operation of the Project.

(iv) Review, and, if appropriate, modify or otherwise act upon, the form or content of any written statistical, administrative, or operational reports, Project-related data and technical information, Project reliability data, transmission information, forecasting, scheduling, dispatching, tagging, parking, firming, exchanging, balancing, movement, or other delivery information, and similar information and records, or matters pertaining to the Project which are furnished to the Project Committee by the CCP Manager, the Project Developer, experts, consultants or others.

(v) Review, formulate, and, if appropriate, modify, or otherwise act upon, practices and procedures to be followed by Project Participants for, among other things, the production, scheduling, tagging, transmission, delivery, firming, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale, or disposition of the Product, including the control and use of the Project.

(vi) Review and act upon any matters involving any arrangements and instruments entered into by the Project Developer or any affiliate thereof to, among other things, secure certain performance requirements, including, but not limited to, the PPA, the Development Security or the Delivery Term Security and any other letter of credit delivered to, or for the benefit of, CCP by the Project Developer and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.

(vii) Review, and, if appropriate, recommend, modify, or approve policies or programs formulated by CCP or Project Developer for determining or estimating the values, quantities, volumes, or costs of the Product from the Project.

(viii) Review, and where appropriate, recommend the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of the Product to the Point of Delivery (directly or through the Project).

(ix) Review, to the extent permitted by this Agreement, the PPA, or any other relevant agreement relating to the Project, modify and approve or disapprove the specifications, vendors' proposals, bid evaluations, or any other matters with respect to the Project.

(x) Reserved.

(xi) Review and approve the submission of the written acknowledgement of the Commercial Operation Date in accordance with Section 3.5 of the PPA.

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(xii) Review and approve the return of the Project Development Security to Project Developer in accordance with Section 5.9(c) of the PPA.

(xiii) Review and approve the return of any unused Delivery Term Security to Project Developer in accordance with Section 5.9(d) of the PPA.

(xiv) Review Progress Reports provided by Project Developer to CCP pursuant to Section 3.6 of the PPA and participate in any associated regularly scheduled meetings with Project Developer to discuss construction progress.

(xv) Direct CCP to collect any liquidated damages owed by Project Developer to CCP under the PPA, and to the extent authorized by PPA, draw upon the Project Development Security or Delivery Term Security.

(xvi) Review invoices received by CCP from the Project Developer and, if appropriate, direct CCP to dispute an invoice pursuant to Section 11.3 of the PPA.

(xvii) Review and confirm that Project Developer has achieved the milestones identified in Appendix I of the PPA.

(xviii) Direct CCP change the Negative LMP Strike Price in pursuant to Appendix A of the PPA.

(xix) Direct CCP to take such actions or implement such measures as may be necessary to facilitate the transfer of Green Attributes from the Project Developer to the Project Participants.

(xx) Direct CCP to give Notice to Project Developer of an election to purchase Energy in excess of Maximum Generation pursuant to Section 3.10 of the PPA

(xxi) Direct CCP to demand payment and collect damages pursuant to Section 3.11 of the PPA.

(xxii) Direct CCP to withhold funds from Project Developer pursuant to Section 6.1(c) of the PPA.

(xxiii) Direct CCP to designate an authorized representative pursuant to Section 14.1 of the PPA.

(xxiv) Within three hundred and sixty-five (365) days of the Effective Date, adopt procedures for all Project Participants to acquire additional import capability rights or other similar rights for each Proposed Facility, and a process for directing CCP to accept or reject each Proposed Facility based on the acquisition of such import capability rights or other similar rights, as specified in Section 3.1 of the PPA. Such procedures may be amended, modified, or supplemented at any time by a subsequent Normal Vote by the Project Committee.

(xxv) Direct CCP to either accept or reject the Notice of Revised Net Capacity, as specified in Section 3.9 and 6.1 of the PPA.

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6.3. Subcommittees. The CCP Manager may establish as needed subcommittees including, but not limited to, auditing, legal, financial, engineering, mechanical, weather, geologic, diurnal, barometric, meteorological, operating, insurance, governmental relations, environmental, and public information subcommittees. The authority, membership, and duties of any subcommittee shall be established by the CCP Manager; provided, however, such authority, membership or duties shall not conflict with the provisions of the PPA or this Agreement.

6.4. Representative's Expenses. Any expenses incurred by any representative of any Project Participant or group of Project Participants serving on the Project Committee or any other committee in connection with their duties on such committee shall be the responsibility of the Project Participant which they represent and shall not be an expense payable under this Agreement.

6.5. Inaction by Committee. It is recognized by CCP and Project Participants that if the Project Committee is unable or fails to agree with respect to any matter or dispute which it is authorized to determine, resolve, approve, disapprove or otherwise act upon after a reasonable opportunity to do so, or within the time specified herein or in the PPA, then CCP may take such commercially reasonable action as CCP determines is necessary for its timely performance under any requirement pursuant to the PPA or this Agreement, pending the resolution of any such inability or failure to agree, but nothing herein shall be construed to allow CCP to act in violation of the express terms of the PPA or this Agreement.

6.6. Delegation. To secure the effective cooperation and interchange of information in a timely manner in connection with various administrative, technical, and other matters which may arise from time to time in connection with administration of the PPA, in appropriate cases, duties and responsibilities of the CCP Board or the Project Committee, as the case may be under this Section 6, may be delegated to the CCP Manager by the CCP Board upon notice to the Project Participants.

ARTICLE 7
[RESERVED]

ARTICLE 8
OPERATING ACCOUNT

8.1. Calculation of Estimated Monthly Project Cost.

(a) No later than one hundred and eighty (180) days after the Effective Date, the CCP Manager shall present to the Project Committee a proposed Estimated Monthly Project Cost, which shall be equal to the single highest forecasted Monthly Cost over the first Contract Year. The Project Committee shall review, and, if appropriate, recommend, modify, or approve through a Normal Vote, the proposed Estimated Monthly Project Cost.

8.2. Operating Account. CCP shall establish an Operating Account for each Project Participant that is accessible to and can be drawn upon by both CCP and the applicable Project Participant. Such Operating Accounts are for the purpose of providing a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.

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(a) Operating Account Amount. The Operating Account Amount for each Project Participant shall be an amount equal to the Estimated Monthly Project Cost multiplied by three (3), the product of which is multiplied by such Project Participant's Entitlement Share ("**Operating Account Amount**").

(b) Initial Funding of Operating Account. By no later than three hundred and sixty-five (365) days after the Effective Date, each Project Participant shall deposit into such Project Participant's Operating Account an amount equal to that Project Participant's Operating Account Amount.

(c) Use of Operating Account. CCP shall draw upon each Project Participant's Operating Account each month in an amount equal to the Monthly Costs multiplied by such Project Participant's Entitlement Share. As required by Section 9.5, each Project Participant must deposit sufficient funds into such Project Participant's Operating Account by the deadline specified in Section 9.5.

(d) Final Distribution of Operating Account. Following the expiration or earlier termination of the PPA, and upon payment and satisfaction of any and all liabilities and obligations to make payments of the Project Participants under this Agreement and upon satisfaction of all remaining costs and obligations of CCP under the PPA, any amounts then remaining in any Project Participant's Operating Account shall be paid to the associated Project Participant.

ARTICLE 9
BILLING

9.1. Monthly Costs. The amount of Monthly Costs for a particular Month shall be the sum of the Project Participant's Entitlement Share multiplied by the Monthly Payments for the Product, as specified in Section 11.2 of the PPA for such Month and to the extent such payment is made by CCP to the Project Developer, plus the Project Participant's Entitlement Share multiplied by the Operating Cost for such Month and subtracting the Project Participant's Entitlement Share multiplied by the positive revenue associated with the sale of any Facility Energy, Capacity Attributes, Ancillary Services, and/or Green Attributes, as shown in the following formula:

Monthly Cost = ((Project Participant's Entitlement Share) × (Monthly Payments)) + ((Project Participant's Entitlement Share) × (Operating Costs)) – ((Project Participant's Entitlement Share) × (revenue from sale of Facility Energy, Capacity Attributes, Ancillary Services and/or Green Attributes))

9.2. Billing Statements. By no later than ten (10) calendar days after CCP receives an invoice from Project Developer for the prior Month of each Contract Year pursuant to Section 11.2 of the PPA, CCP shall issue to each Project Participant a copy of the invoice and a "Billing Statement," which specifies such Project Participant's Monthly Costs, itemized by each part of such Monthly Cost. The amount of Monthly Costs attributable to a Project Participant, and specified in such Billing Statement, shall be the "**Invoice Amount**."

9.3. Disputed Monthly Billing Statement. A Project Participant may dispute, by written Notice to CCP, any portion of any Billing Statement submitted to that Project Participant by CCP pursuant to Section 9.2, provided that the Project Participant shall pay the full amount of the Billing Statement when due. If CCP determines that any portion of the Billing Statement is incorrect,

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CCP will deposit the difference between such correct amount and such full amount, if any, including interest at the rate received by CCP on any overpayment into the Project Participant's Operating Account. If CCP and a Project Participant disagree regarding the accuracy of a Billing Statement, CCP will give consideration to such dispute and will advise all Project Participants with regard to CCP's position relative thereto within thirty (30) days following receipt of written Notice by Project Participant of such dispute.

9.4. Payment Adjustments; Billing Errors. If CCP or Project Developer determines that a prior invoice or Billing Statement was inaccurate, CCP shall credit against or increase as appropriate each Project Participant's subsequent Monthly Costs according to such adjustment. The accompanying Billing Statement shall describe the cause of such adjustment and the amount of such adjustment.

9.5. Payment of Invoice Amount. Each Project Participant shall deposit the Invoice Amount for the applicable Month into such Project Participant's Operating Account by no later than the twentieth (20th) calendar day of the following Month after the Billing Statement is issued, unless CCP has failed to issue the Billing Statement by the deadline specified in Section 9.2, in which case, each Project Participant shall deposit the Invoice Amount for the applicable Month by no later than thirty (30) days after the date on which CCP issues the Billing Statement to the Project Participant.

9.6. Withdrawal of Invoice Amount from Operating Account. No sooner than five (5) calendar days after CCP issues a Billing Statement to a Project Participant or a Step-Up Invoice to a Project Participant, CCP shall withdraw the Invoice Amount or the Step-Up Invoice Amount from each Project Participant's Operating Account. If the Monthly Cost attributable to such Project Participant is a negative number, CCP shall deposit such funds into the Operating Account of that Project Participant.

9.7. Late Payments.

(a) If any Project Participant fails to deposit the Invoice Amount into the Project Participant's Operating Account by the deadline specified in Section 9.5, then CCP will issue such Project Participant a Late Payment Notice within five (5) days of the deadline specified in Section 9.5 directing the Project Participant to immediately deposit the Invoice Amount into the Project Participant's Operating Account and informing the Project Participant that such Project Participant must pay a charge (**"Late Payment Charge"**). Upon issuing a Late Payment Notice to any Project Participant, CCP shall promptly provide Notice of such occurrence to all other Project Participants.

(b) The Late Payment Charge shall be equal to the Invoice Amount minus any partial payment that was deposited into such Project Participant's Operating Account multiplied by the Interest Rate specified in Section 11.3 of the PPA for the period from the deadline specified in Section 9.5 until the date on which the Project Participant deposits the Invoice Amount plus the Late Payment Charge into such Project Participant's Operating Account. Upon payment, CCP shall withdraw the full amount of such Late Payment Charge from the Project Participant's Operating Account and deposit any such Late Payment Charge into the Operating Accounts of all

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other Project Participants on a pro rata share, based on such other Project Participants' Entitlement Shares.

ARTICLE 10
UNCONDITIONAL PAYMENT OBLIGATIONS; AUTHORIZATIONS; CONFLICTS; LITIGATION.

10.1. Unconditional Payment Obligation. Beginning with the earliest of (i) the date CCP is obligated to pay any portion of the costs of the Project, (ii) the date of the COD, or (iii) the date of the first delivery of the Product to Project Participants and continuing through the term of this Agreement, Project Participants shall pay CCP the amounts of Monthly Costs set forth in the Billing Statements submitted by CCP to Project Participants in accordance with the provisions of Section 9, whether or not the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output or the provision of Project products are suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever, provided that the obligation of Project Participants to pay amounts associated with the Monthly Payment shall be limited to the amount of Monthly Payment charged by the Project Developer to CCP and paid by CCP to the Project Developer.

10.2. Authorizations. Each Project Participant hereby represents and warrants that no order, approval, consent, or authorization of any governmental or public agency, authority, or person, is required on the part of such Project Participant for the execution and delivery by the Project Participant, or the performance by the Project Participant of its obligations under this Agreement except for such as have been obtained.

10.3. Conflicts. Each Project Participant represents and warrants to CCP as of the Effective Date that, to the Project Participant's knowledge, the execution and delivery of this Agreement by the Project Participants and the Project Participants' performance hereunder will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling of any court that is binding on the Project Participant, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of the Project Participant.

10.4. Litigation. Each Project Participant represents and warrants to CCP that, as of the Effective Date, to the Project Participant's knowledge, except as disclosed, there are no actions, suits or proceedings pending against the Project Participant (service of process on the Project Participant having been made) in any court that questions the validity of the authorization, execution or delivery by the Project Participant of this Agreement, or the enforceability on the Project Participant of this Agreement.

10.5. San José Clean Energy.

(a) The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing

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in the Agreement shall constitute an obligation of future legislative bodies of the City of San José to appropriate funds for purposes of the Agreement; provided, however, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et. seq.*) ("**Designated Fund**") for payment of its obligations under this Agreement.

(b) Limited Obligations. The City of San José's payment obligations under this Agreement are special limited obligations of San José Clean Energy payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

10.6. Clean Power San Francisco. With regard to Clean Power San Francisco only, (1) obligations under this Agreement are special limited obligations of Clean Power San Francisco payable solely from the revenues of Clean Power San Francisco, and shall not be a charge upon the revenues or general fund of the San Francisco Public Utilities Commission or the City and County of San Francisco or upon any non-Clean Power San Francisco moneys or other property of the San Francisco Public Utilities Commission or the City and County of San Francisco, (2) cannot exceed the amount certified by the San Francisco City Controller for the purpose and period stated in such certification, and (3) absent an authorized emergency per the San Francisco City Charter or Code, no San Francisco City representative is authorized to offer or promise, nor is San Francisco required to honor, any offered or promised payments under this Agreement for work beyond the agreed upon scope or in excess of the certified maximum amount without the San Francisco City Controller having first certified the additional promised amount.

ARTICLE 11
PROJECT SPECIFIC MATTERS AND PROJECT PARTICIPANTS' RIGHTS AND OBLIGATIONS UNDER THE PPA.

11.1. CCP Rights and Obligations under the PPA. Notwithstanding anything to the contrary contained in this Agreement: (i) the obligation of CCP to cause the delivery of the Project Participants' Entitlement Shares of the Product during the Delivery Term of this Agreement is limited to the Product which CCP receives from the Project (or the Project Developer, as applicable); (ii) the obligation of CCP to pay any amount to Project Participants hereunder or to give credits against amounts due from Project Participants hereunder is limited to amounts CCP receives in connection with the transaction to which the payment or credit relates (or is otherwise available to CCP in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs, capacity costs, Project costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which CCP is responsible under the PPA shall be considered purchase costs, operating costs, energy costs, capacity costs, Project costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by CCP and payable by Project Participants as provided in this Agreement; (iv) CCP shall carry out its obligations and exercise its rights under the PPA in a commercially reasonable manner; and (v) any Force Majeure under the PPA or other event of force majeure affecting the delivery of Product pursuant to applicable provisions of the PPA shall be considered an event caused by Uncontrollable Forces affecting CCP with respect to the delivery of the Product hereunder and

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CCP forwarding to Project Participants notices and information from the Project Developer concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a Notice that Uncontrollable Forces have occurred pursuant to Section 5.1 of this Agreement. Any net proceeds received by CCP from the sale of the Product by the Project Developer to any third-party as a result of a Force Majeure event or failure by CCP to accept delivery of Product pursuant to the PPA and any reimbursement received by CCP for purchase of Replacement RA shall be remitted by CCP to the Project Participants in accordance with their respective Entitlement Shares.

11.2. Obligations of CCP and Project Participants to Maximize the Economic and Compliance Value of the Project.

(a) Each Project Participant shall take all actions that are (i) reasonably necessary to maximize the economic and compliance value of the Project to the Project Participants, and (ii) only capable of being carried out by the Project Participants. Such actions include, but are not limited to, applying for and securing the import capability rights necessary to support the import of Capacity Attributes from the Project into the CAISO in an amount equal to at least its Entitlement Share of all of the import capability rights that are needed to utilize all of the Resource Adequacy Benefits from the Project.

(b) CCP shall take any actions requested by a Project Participant to support the individual Project Participant's obligation under Section 11.2(a) and any actions requested by a Project Participant that are reasonably necessary to maximize the economic and compliance value of the Project to the Project Participants, to the extent that such actions by CCP are feasible and commercially reasonable.

(c) If any individual Project Participant fails to secure import capability rights or other similar rights in an amount equal to at least its Entitlement Share of all of the import capability rights that are needed to utilize all of the Resource Adequacy Benefits available from the Project, then any resulting reduced economic or compliance value of the Project shall not reduce or otherwise modify that Project Participant's payment obligations under Section 10.1.

(d) CCP and the Project Participants agree to take such additional actions in order to help effectuate the transfer of any import capability rights or similar rights from a Defaulting Project Participant to any Non-Defaulting Project Participants that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c). Such actions include but are not limited to executing additional agreements among the Project Participants, amending this Agreement, and/or submitting necessary documents to CAISO and participating in any CAISO process related to the transfer of import capability rights.

ARTICLE 12
NONPERFORMANCE AND PAYMENT DEFAULT.

12.1. Nonperformance by Project Participants. If a Project Participant fails to perform any covenant, agreement, or obligation under this Agreement or shall cause CCP to be in default with respect to any undertaking entered into for the Project or to be in default under the PPA (**"Defaulting Project Participant"**), CCP may, in the event the performance of any such

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obligation remains unsatisfied after thirty (30) days' prior written notice thereof to such Project Participant and a demand to so perform, take any action permitted by law to enforce its rights under this Agreement, including but not limited to termination of such Project Participant's rights under this Agreement including any rights to its Entitlement Share of the Product, and/or bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against such Project Participant with regard to its failure to so perform. Any Project Participant that is not the Defaulting Project Participant (**"Non-Defaulting Project Participant"**) may submit Notice directly to the CCP Board, if such Non-Defaulting Project Participant determines that CCP is or may not be fully taking appropriate actions to enforce CCP's rights under this Agreement against a Defaulting Project Participant. The CCP Board shall consider such Notice and direct CCP to take appropriate action, if any.

12.2. Payment Default. If any Project Participant fails to deposit the Invoice Amount into the Project Participant's Operating Account by the deadline specified in Section 9.5, and if such Participant has not deposited the Invoice Amount plus the Late Payment Charge into such Project Participant's Operating Account within ten (10) calendar days of the issuance of the Late Payment Notice to such Project Participant by CCP, then such occurrence shall constitute a "**Payment Default**."

12.3. Payment Default Notice. Upon the occurrence of a Payment Default, CCP shall issue a Notice of Payment Default to the Project Participant notifying such Project Participant that as a result of a Payment Default, it is in default under this Agreement and has assumed the status of a Defaulting Project Participant and that such Defaulting Project Participant's Project Revenue Rights have been suspended and that such Defaulting Project Participant's Project Rights are subject to termination and disposal in accordance with Sections 12.6 and 12.8 of this Agreement. CCP shall provide a copy of such Notice of Default to all other Project Participants within five (5) calendar days after the issuance of the written Notice of Payment Default by CCP to the Defaulting Project Participant.

12.4. Cured Payment Default. If after a Payment Default, the Defaulting Project Participant cures such Payment Default within forty-five (45) calendar days after the issuance of the Late Payment Notice by CCP, the Defaulting Project Participant's Project Revenue Rights shall be reinstated and its Project Rights shall not be subject to termination and disposal as provided for in Sections 12.6 and 12.8. In order to cure a Payment Default, the Defaulting Project Participant must deposit the full amount of any unpaid Invoice Amounts and any associated Late Payment Penalties into its Operating Account.

12.5. Suspension of Project Participant's Project Revenue Rights and Treatment of Capacity Attributes and Green Attributes.

(i) Upon the occurrence of a Payment Default, the Defaulting Project Participant's Project Revenue Rights shall be suspended until such time as such Defaulting Project Participant cures the Payment Default pursuant to the requirements of Section 12.4. Any revenue associated with the sale of Facility Energy, Capacity Attributes, Ancillary Services, or Green Attributes associated with the Project shall be deposited by CCP into the Step-Up Reserve Account, as specified in Section 12.7.

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(ii) For any Month where the funds remaining in a Defaulting Project Participant's Operating Account are sufficient to pay the entire Invoice Amount, CCP shall withdraw the Invoice Amount from such Defaulting Project Participant's Operating Account and shall cause the delivery of the Defaulting Project Participant's Entitlement Share of the Product, including Capacity Attributes and Green Attributes, associated with the Project or otherwise provided for pursuant to the PPA. For any Month where the funds remaining in a Defaulting Project Participant's Operating Account are less than the amount necessary to pay the entire Invoice Amount, CCP shall withdraw all remaining funds from the Defaulting Project Participant's Operating Account, and to the extent reasonably possible, in CCP's sole discretion, CCP shall cause the delivery of a quantity of Capacity Attributes and Green Attributes proportionate to the portion of the Invoice Amount that the remaining funds were sufficient to pay for. For any Month where the Defaulting Project Participant's Operating Account has no funds remaining, the Defaulting Project Participant shall have no right to any such Capacity Attributes or Green Attributes associated with the Project or otherwise provided for under the PPA.

12.6. Termination and Disposal of Project Participant's Project Rights. If a Defaulting Project Participant has not cured a Payment Default within forty-five (45) calendar days after the payment deadline specified in Section 9.5 by CCP ("**Payment Default Termination Deadline**"), then all Project Rights and Obligations pursuant to this Agreement shall be terminated and disposed in accordance with Sections 12.6 and 12.8 of this Agreement; provided, however, that the Defaulting Project Participant shall be liable for all outstanding payment obligations accrued prior to the Payment Default Termination Deadline and shall remain subject to all rights, obligations, and liabilities of this Agreement, including but not limited to any liabilities for Damage Payment or Termination Payment, as applicable, and any other damage payments or reimbursement amounts under the PPA. CCP shall provide to the Defaulting Project Participant a separate monthly invoice of any such payment obligations of such Defaulting Project Participant. CCP shall immediately notify the other Project Participants of such termination of the Defaulting Project Participant's Project Rights and Obligations.

12.7. Step-Up Invoices.

(a) Upon the occurrence of a Payment Default, CCP shall, concurrently with the Late Payment Notice issued pursuant to Section 9.7(a), issue a Step-Up Invoice to each Non-Defaulting Project Participant that specifies such Non-Defaulting Project Participant's pro rata payment obligation, calculated based on the Entitlement Share of such Non-Defaulting Project Participant, of the amount of the Payment Default for the Defaulting Project Participant (the "**Step-Up Invoice Amount**"); provided, however, that a Non-Defaulting Project Participant's Step-Up Invoice Amount shall not exceed twenty-five percent (25%) of such Non-Defaulting Project Participant's Invoice Amount for the same month for which the Payment Default occurred (the **"Step-Up Invoice Amount Cap"**).

(i) Each Non-Defaulting Project Participant shall deposit the Step-Up Invoice Amount into such Non-Defaulting Project Participant's Operating Account by the later of the twentieth (20th) calendar day of the following Month or thirty (30) days after the date on which CCP issues the Step-Up Invoice to the other Project Participants. No sooner than five (5) calendar days after CCP issues the Step-Up Invoice, CCP may withdraw the amount of the Step-Up Invoice from each Project Participant's Operating Account and deposit such funds in a separate account

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("**Step-Up Reserve Account**"), which shall be accessible only by CCP, and which CCP may in its sole discretion draw upon in order to ensure that CCP can meet the payment obligations of the PPA. CCP first shall withdraw all funds from a Defaulting Project Participant's Operating Account before withdrawing funds from the Step-Up Reserve Account.

(ii) Application of Moneys Received from a Defaulting Project Participant. If a Defaulting Project Participant cures a Payment Default on or before the Payment Default Termination Deadline, any funds remaining in the Step-Up Reserve Account shall be deposited into the Operating Accounts of the other Project Participants on a pro rata share, based on the Entitlement Share of such other Project Participant. If a Defaulting Project Participant fails to cure a Payment Default and the Defaulting Project Participant's Project Rights and Obligations are terminated and disposed of in accordance with Section 12.8, any funds remaining in the Step-Up Reserve Account shall be deposited into the Operating Accounts of the Non-Defaulting Project Participants on a pro rata share, based on the Entitlement Share, subject to the Step-Up Invoice Amount Cap, of such other Project Participant. If any Non-Defaulting Project Participant has not deposited the full amount of its share of the Step-Up Invoice Amount into its Operating Account by the deadline specified in Section 12.7(a)(i), then such occurrence shall be a Late Payment as specified in Section 9.7(a) and is subject to a Late Payment Charge pursuant to Section 9.7(b), and any such Non-Defaulting Project Participant shall not be entitled to its share of any moneys received from the Defaulting Project Participant or any funds remaining in the Step-Up Reserve Account in accordance with this Section 12.7(a)(ii) until such Non-Defaulting Project Participant has deposited the full amount of its Step-Up Invoice Amount and the Late Payment Charge into its Operating Account.

12.8. Step-Up Allocation of Project Participant's Project Rights. In the event that a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant's Entitlement Share shall be allocated to the other Project Participants (**"Step-Up Allocation"**) pursuant to the process set forth in this Section 12.8.

(a) Step-Up Allocation Cap. If a Defaulting Project Participant's Entitlement Share is allocated to the Non-Defaulting Project Participants pursuant to this Section 12.8, no individual Non-Defaulting Project Participant shall be obligated to assume an allocation that exceeds that Project Participant's Step-Up Allocation Cap set forth in Column E of the Table in Exhibit B of this Agreement. Each Non-Defaulting Project Participant's initial Step-Up Allocation Cap shall be equal to the Non-Defaulting Project Participant Entitlement Share as of the Effective Date and set forth in Column B of the Table in Exhibit B of this Agreement, multiplied by one hundred and twenty-five percent (125%). If a Project Participant modifies its Entitlement Share pursuant to Section 4.2 of this Agreement, then that Project Participant's Step-Up Allocation Cap shall be equal to the Project Participant's Entitlement Share as modified pursuant to Section 4.2 multiplied by one hundred and twenty-five percent (125%). Upon a modification of a Project Participant's Entitlement Share pursuant to Section 4.2, the CCP Manager shall cause the Step-Up Allocation Cap specified in Column E of the Table in Exhibit B of this Agreement to be modified in accordance with this Section 12.8(a). For avoidance of doubt, if a Project Participant's Entitlement Share is increased pursuant to Section 12.8(b) or (c), then such Project Participant's Step-Up Allocation Cap shall not be modified.

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(b) Step-Up Allocation Share. If a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant's Entitlement Share shall be allocated to each Non-Defaulting Project Participant based on such Non-Defaulting Project Participant's pro rata share, calculated based on its Entitlement Share of the entire project minus the Entitlement Share of the Defaulting Project Participant, unless such allocation would cause any individual Non-Defaulting Project Participant to exceed its Step-Up Allocation Cap, in which case Section 12.8(c) shall apply. Upon allocation of a defaulting Project Participant's Entitlement Share pursuant to this Section 12.8(b), the CCP Manager shall cause each affected Project Participant's Entitlement Share specified in Column D of the Table in Exhibit B to be modified in accordance with this Section 12.8.

(c) Voluntary Allocation of Project Rights in Excess of the Step-Up Allocation Caps. If the allocation of a Defaulting Project Participant's Entitlement Share pursuant to Section 12.8(b) would cause any Non-Defaulting Project Participant's Entitlement Share to exceed its Step-Up Allocation Cap, then no allocation shall occur pursuant to Section 12.8(b). In such case, the CCP Manager shall oversee the offering of the total amount of the Defaulting Project Participant's Entitlement Share to the Non-Defaulting Project Participants on a voluntary basis. The initial offering shall be to each Non-Defaulting Project Participant on a pro rata share, based on such Non-Defaulting Project Participant's Entitlement Share. Each Project Participant may accept or reject the portion of the Defaulting Project Participant's Entitlement Share. If any portion of the Defaulting Project Participant's Entitlement Share remains unclaimed after the initial offering, then the remaining portion shall be offered to any Non-Defaulting Project Participant that accepted its full share of the Defaulting Project Participant's Entitlement Share in the initial offering on a pro rata share, based on such Non-Defaulting Project Participant's Entitlement Share as a percentage of the total Entitlement Shares of all Project Participants that are participating in the subsequent round of offerings. The CCP Manager shall conduct subsequent offering rounds until either the total amount of the Defaulting Project Participant's Entitlement Share is accepted by one or more of the Non-Defaulting Project Participants or some portion of the Defaulting Project Participant's Entitlement Share remains, but all Non-Defaulting Project Participants have rejected such remaining amount.

(d) Step-Up Allocation Damage Payment. A Defaulting Project Participant shall owe to each Non-Defaulting Project Participant that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c) a "**Step-Up Allocation Damage Payment**" equal to the Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Project Participant's Costs and Losses exceed its Gains, then the Step-Up Allocation Damage Payment shall be an amount owing to such Non-Defaulting Project Participant. If the Non-Defaulting Project Participant's Gains exceed its Costs and Losses, then the Step-Up Allocation Damage Payment shall be zero dollars ($0). A Defaulting Project Participant shall not be entitled to any Step-Up Allocation Damage Payment or any other damages otherwise authorized under this Agreement from any other Project Participant. The Step-Up Allocation Damage Payment does not include consequential, incidental, punitive, exemplary, or indirect or business interruption damages. Each Non-Defaulting Project Participant that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c) shall calculate, in a commercially reasonable manner, the Step-Up Allocation Damage Payment for the Defaulting Project Participant's Entitlement Share assumed by the Non-Defaulting Project Participant as of the effective date of such Step-Up

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Allocation. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Defaulting Project Participant disputes the Non-Defaulting Project Participant's calculation of the Step-Up Allocation Damage Payment, in whole or in part, the Defaulting Project Participant shall, within five (5) Business Days of receipt of the Non-Defaulting Project Participant's calculation of the Step-Up Allocation Damage Payment, provide to the Non-Defaulting Project Participant a detailed written explanation of the basis for such dispute. Disputes regarding the Step-Up Allocation Damage Payment shall be determined in accordance with Article 16. Each Party agrees and acknowledges that (i) the actual damages that the other Project Participant would incur in connection with a Step-Up Allocation would be difficult or impossible to predict with certainty, (ii) the Step-Up Allocation Damage Payment described in this Section 12.8(d) is a reasonable and appropriate approximation of such damages, and (iii) the Step-Up Allocation Damage Payment described in this Section 12.8(d) is the exclusive remedy of a Project Participant in connection with a Step-Up Allocation pursuant to the process set forth in Sections 12.8(b) or 12.8(c) against a Defaulting Project Participant but shall not otherwise act to limit any of the Non-Defaulting Project Participant's rights or remedies under this Agreement.

(e) Import Capacity Rights. If a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant shall transfer all import capacity rights and other similar rights that are associated with the Project and that are held by such Defaulting Project Participant to the Non-Defaulting Project Participants that assume any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c). The Defaulting Project Participant shall take all actions necessary to effectuate the transfer of such rights to the Non-Defaulting Project Participants.

(f) Remarketing of Unclaimed Defaulting Project Participant's Entitlement Share. If after the process set forth in Section 12.8(c), some portion of the Defaulting Project Participant's Entitlement Share remains unclaimed, the CCP Manager, in their discretion or as directed by the Non-Defaulting Project Participants, may take any action to generate revenue from such unclaimed Entitlement Share in order to meet CCP's payment obligation under the PPA. For avoidance of doubt, the CCP Manager shall not be limited by the requirements of Section 4.2 or 5.1(j) of this Agreement in remarketing or generating revenue base on the unclaimed share.

12.9. Elimination or Reduction of Payment Obligations. Notwithstanding anything to the contrary in this Agreement, upon termination of a Defaulting Project Participant's Project Rights pursuant to Section 12.6 and the disposal of such Defaulting Project Participant's Project Rights and Obligations pursuant to Section 12.8, such Defaulting Project Participant's obligation to make payments under this Agreement (notwithstanding anything to the contrary herein) shall not be eliminated or reduced; provided, however, such payment obligations for the Defaulting Project Participant may be eliminated or reduced to the extent permitted by law, through an amendment to this Agreement, which shall be subject to the consent and approval of all Parties to this Agreement.

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ARTICLE 13
LIABILITY

13.1. Project Participants' Obligations Several. No Project Participant shall be liable under this Agreement for the obligations of any other Project Participant or for the obligations of CCP incurred on behalf of other Project Participants. Each Project Participant shall be solely responsible and liable for performance of its obligations under this Agreement, except as otherwise provided for herein. The obligation of Project Participants to make payments under this Agreement is a several obligation and not a joint obligation with those of the other Project Participants.

13.2. No Liability of CCP or Project Participants, Their Directors, Officers, Etc.; CCP, The Project Participants' and CCP Manager's Directors, Officers, Employees Not Individually Liable. Except as provided for under Section 13.5 herein, the Parties agree that neither CCP, Project Participants, nor any of their past, present or future directors, officers, employees, board members, agents, attorneys or advisors (collectively, the "**Released Parties**") shall be liable to any other of the Released Parties for any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of Project Participants, CCP, or third persons) suffered by any Released Party as a result of the action or inaction or performance or non-performance by the Project Developer under the PPA. Except as provided for under Section 13.5 herein, each Party shall release each of the other Released Parties from any claim or liability that such Party may have cause to assert as a result of any actions or inactions or performance or non-performance by any of the other Released Parties under this Agreement (excluding gross negligence and willful misconduct, which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Notwithstanding the foregoing, no such action or inaction or performance or non-performance by any of the Released Parties shall relieve CCP or any Project Participants from their respective obligations under this Agreement, including, without limitation, the Project Participants' obligation to make payments required under Section 9.5 of this Agreement and CCP's obligation to make payments under Section 11.2 of the PPA. The provisions of this Section 13.2 shall not be construed so as to relieve the CCP or the Project Developer from any obligation or liability under this Agreement or the PPA.

13.3. Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 13.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, any Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of any other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other monetary damages owed by the other Party in accordance with the terms of this Agreement.

13.4. No General Liability of CCP. The undertakings under this Agreement by CCP shall not constitute a debt or indebtedness of CCP within the meaning of any provision or limitation of

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the Constitution or statutes of the State of California, and shall not constitute or give rise to a charge against its general credit.

13.5. Indemnification. Each Party (an "**Indemnifying Party**") shall indemnify, defend, protect, hold harmless, and release the other Parties, their directors, board members, officers, employees, agents, attorneys and advisors, past, present or future, from and against any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise, which include, without limitation, death, bodily injury, or personal injury to any person or damage or destruction to any property of Project Participants, CCP, or third persons, that may be imposed on, incurred by or asserted against any Party arising by manner of any breach of this Agreement by the Indemnifying Party, or the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of any such Indemnifying Party or any Indemnifying Party's directors, board members, officers, employees, agents and advisors, past, present or future.

ARTICLE 14
NOTICES

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

14.2. Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, five (5) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5:00 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 15
ASSIGNMENT

15.1. General Prohibition on Assignments. No Party may assign this Agreement, or its rights or obligations under this Agreement, without the prior written consent of all other Parties, in each Party's sole discretion.

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ARTICLE 16
GOVERNING LAW AND DISPUTE RESOLUTION

16.1. Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced, and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. The Parties agree that any suit, action, or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be brought in the federal or state courts located in the State of California in a location to be mutually chosen by all Parties, or in the absence of mutual agreement, the County of San Francisco.

16.2. Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate, and attempt, in good faith, to resolve the dispute quickly and informally without significant legal costs. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after Notice of the dispute, the Parties may pursue all remedies available to them at Law or in equity.

ARTICLE 17
MISCELLANEOUS

17.1. Entire Agreement; Integration; Exhibits. This Agreement, together with the Exhibits attached hereto constitutes the entire agreement and understanding by and among the Parties with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting or execution hereof.

17.2. Amendments. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of all Parties; *provided*, this Agreement may not be amended by electronic mail communications. Any revisions to the Entitlement Share specified in Exhibit B pursuant to Section 4.2. or Section 12.8 shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

17.3. No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

17.4. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally

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acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

17.5. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

17.6. Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)). Delivery of an executed counterpart in .pdf electronic version shall be binding as if delivered in the original. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law.

17.7. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17.8. Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and that the Parties are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

17.9. City of San Francisco Standard Provisions.

(a) False Claims. Pursuant to San Francisco Administrative Code § 21.35, any Party to this Agreement who submits a false claim shall be liable to the City and County of San Francisco for the statutory penalties set forth in that section. A Party will be deemed to have submitted a false claim to the City and County of San Francisco if the Party: (a) knowingly presents or causes to be presented to an officer or employee of the City and County of San Francisco a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City and County of San Francisco; (c) conspires to defraud the City and County of San Francisco by getting a false claim allowed or paid by the City and County of San Francisco; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City and County of San Francisco; or (e) is a beneficiary of an inadvertent submission of a false claim to the City and County of San Francisco, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City and County of San Francisco within a reasonable time after discovery of the false claim.

(b) Political Activity. In performing its responsibilities under this Agreement, CCP shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City and County of San Francisco for this Agreement from being expended to

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participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure.

(c) Non-discrimination Requirements.

(i) Non-discrimination in Contracts. CCP shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. CCP shall incorporate by reference in all subcontracts the provisions of Sections12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. CCP is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(ii) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. CCP does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(d) Consideration of Criminal History in Hiring and Employment Decisions. CCP agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to CCP's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law. MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride principles.

(e) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

(f) Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the Environment Code

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is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, CCP shall not provide any items to the City in performance of this Agreement which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of CCP to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

17.10. City of San José Standard Provisions.

(a) Nondiscrimination/Non-Preference. The Parties shall not, and shall not cause or allow its subcontractors to, discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. The Parties will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Parties from providing a reasonable accommodation to a person with a disability; (ii) the City of San José's Compliance Officer may require the Parties to file, and cause any Party's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City's Compliance Officer designates. They shall contain such information, data and/or records as the City's Compliance Officer determines is needed to show compliance with this provision.

(b) Conflict of Interest. The Parties represent that they are familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Parties certify that, as of the Effective Date, are unaware of any facts constituting a conflict of interest or creating an appearance of a conflict of interest. The Parties shall avoid all conflicts of interest or appearances of conflicts of interest in performing this Agreement. The Parties have the obligation of determining if the manner in which it performs any part of this Agreement results in a conflict of interest or an appearance of a conflict of interest, and a Party shall immediately notify the City of San José in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest. A Party's violation of this Section 17.10(b) is a material breach.

(c) Environmentally Preferable Procurement Policy. Parties shall perform its obligations under this Agreement in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 17.10(c) be a material breach of this Agreement or otherwise give rise to an Event of Default or entitle the City of San José to terminate this Agreement.

(d) Gifts Prohibited. The Parties represent that they are familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. The Parties shall not offer any City of San José

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officer or designated employee any gift prohibited by Chapter 12.08. A Party's violation of this Section 17.10(d) is a material breach.

(e) Disqualification of Former Employees. The Parties represent that they are familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San José connected with his/her former duties or official responsibilities. Parties shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

17.11. Further Assurances. Each of the Parties hereto agrees to provide such information, execute, and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

California Community Power By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	Central Coast Community Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____
Clean Power San Francisco By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	

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Peninsula Clean Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	Redwood Coast Energy Authority By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____
San José Clean Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	Silicon Valley Clean Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____

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Sonoma Clean Power	Valley Clean Energy
By:	By:
Name: _____	Name: _____
Title: _____	Title: _____
Approved as to form by Counsel	Approved as to form by Counsel
By:	By:
Name: _____	Name: _____
Title: _____	Title: _____

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EXHIBIT A

NOTICES

Party	*All Notices*	*Invoices*
California Community Power	**California Community Power** Tim Haines, Interim General Manager California Community Power 70 Garden Court, 3rd Floor Monterey, CA 93940 timhaines@powergridsymmetry.com	
Central Coast Community Energy	**Central Coast Community Energy** Robert M. Shaw, Chief Operating Officer & General Counsel Central Coast Community Energy 70 Garden Court, 3rd Floor Monterey, CA 93940 rshaw@3ce.org	
Clean Power San Francisco	**Clean Power San Francisco** Barbara Hale, Assistant General Manager, Power San Francisco Public Utilities Commission 525 Golden Gate Ave, 13th Floor San Francisco, CA 94102 bhale@sfwater.org	
Peninsula Clean Energy	**Peninsula Clean Energy** Jan Pepper, CEO Peninsula Clean Energy 2075 Woodside Road Redwood City, California 94061 jpepper@peninsulacleanenergy.com	

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Party	*All Notices*	*Invoices*
Redwood Coast Energy Authority	**Redwood Coast Energy Authority** Matthew Marshall, CEO Redwood Coast Energy Authority 633 3rd Street Eureka, CA 95501 mmarshall@redwoodenergy.org	
San José Clean Energy	**San José Clean Energy** Lori Mitchell, Director cc: Luisa Elkins, Senior Deputy City Attorney San José Clean Energy 200 E. Santa Clara Street, 14th Floor San José, CA 95113 Lori.Mitchell@sanjoseca.gov Luisa.Elkins@sanjoseca.gov	
Silicon Valley Clean Energy	**Silicon Valley Clean Energy** Girish Balachandran, CEO Silicon Valley Clean Energy Authority 333 W. El Camino Real, Suite 330 Sunnyvale, CA 94087 girish@svcleanenergy.org	
Sonoma Clean Power	**Sonoma Clean Power** Geof Syphers, CEO Sonoma Clean Power 50 Santa Rosa Avenue, 5th Floor Santa Rosa, CA 95404 gsyphers@sonomacleanpower.org	

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Party	*All Notices*	*Invoices*
Valley Clean Energy	**Valley Clean Energy** Gordon Samuel Assistant General Manager & Director of Power Resource 604 2nd Street Davis, CA 95616 gordon.samuel@valleycleanenergy.org	

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EXHIBIT B

SCHEDULE OF PROJECT PARTICIPANT ENTITLEMENT SHARES AND STEP-UP ALLOCATION CAPS

*Dated:*_____

A	B	C	D	E
Project Participant	**Entitlement Share** *As of Effective Date*	**Entitlement Share** *As Modified Pursuant to Section 4.2*	**Entitlement Share** *As Modified Pursuant to Section 12.8(b) or 12.8(c)*	**Step-Up Allocation Cap** *125% multiplied by Column B or C as applicable*
Central Coast Community Energy	17.9%			
Clean Power San Francisco	13.9%			
Peninsula Clean Energy	17.1%			
Redwood Coast Energy Authority	3.2%			
San José Clean Energy	19.6%			
Silicon Valley Clean Energy	13.4%			
Sonoma Clean Power	11.2%			
Valley Clean Energy	3.7%			
Total	100%			

Instructions: If the CCP Manager modifies one or more Project Participant's Entitlement Share pursuant to Section 4.2, the CCP Manager shall prepare an updated Exhibit B that shows the prior Entitlement Share (Column B or D) in ~~strikeout~~ and specifies the new Entitlement Share values and the effective date of such modification in Column C. If the CCP Manager modifies one or more Project Participant's Entitlement Share pursuant

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to Section 12.8, the CCP Manager shall prepare an updated Exhibit B that shows the prior Entitlement Share (Column B or Column C) in ~~strikeout~~ and specifies the new Entitlement Share values and the effective date of such modification in Column D.

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EXHIBIT C

PROCEDURE FOR VOLUNTARY REDUCTION OF PROJECT PARTICIPANT'S ENTITLEMENT SHARE

(a) Offer to Other Project Participants. A Project Participant proposing to reduce its Entitlement Share of the Project shall provide Notice to all other Project Participants and CCP specifying the quantity of the proposed reduction of Entitlement Share ("**Entitlement Share Reduction Amount**") and the first Month for which the Project Participant Proposes that the change of Entitlement Share would become effective (such Notice referred to as the "**Entitlement Share Reduction Notice**").

(i) Upon receiving an Entitlement Share Reduction Notice from any Project Participant, the CCP Manager shall promptly do all of the following:

(A) Establish Entitlement Share Reduction Compensation Amount. The CCP Manager shall secure at least one (1), but no more than three (3), valuations of the net present value of the Entitlement Share Reduction Amount over the remaining term of the PPA from one or more qualified firm(s) with the requisite experience to determine such valuation. The valuation, or if more than one valuation is obtained, the average of all valuations received, shall be the "**Proposed Entitlement Share Reduction Compensation Amount**." The CCP Manager shall call a meeting of the Project Committee and present the Proposed Entitlement Share Reduction Compensation Amount to the Project Committee. The Project Committee shall by a Normal Vote either approve the Proposed Entitlement Share Reduction Compensation Amount or direct the CCP Manager to secure additional valuations. The Proposed Entitlement Share Reduction Compensation Amount approved by the Project Committee shall be the "**Entitlement Share Reduction Compensation Amount**." The Project Participant proposing to reduce its Entitlement Share may modify the quantity of the Entitlement Share Reduction Amount associated with its proposal or withdraw its proposal at any time prior to the initiation of the process set forth in paragraph (a)(i)(B).

(B) Oversee the Offering of the Entitlement Share Reduction Amount to Other Project Participants. The CCP Manager shall facilitate the offering of the Entitlement Share Reduction Amount to the other Project Participants through multiple rounds of offerings.

a) The initial offering shall be to each Project Participant on a pro rata share, based on such Project Participant's Entitlement Share. Each Project Participant may accept or reject the portion of the Entitlement Share Reduction Amount offered to the Project Participant through this process. If any portion of the Entitlement Share Reduction Amount remains after the initial offering, then the remaining portion shall be offered to any Project Participant that accepted the share of the Entitlement Share Reduction Amount offered in the initial offering on a pro rata share, based on such Project Participant's Entitlement Share as a percentage of the total Entitlement Shares of all Project Participants that accepted the portion of the Entitlement Share Reduction Amount offered to them in the initial offering.

APPROVAL DRAFT

b) The CCP Manager shall conduct subsequent offering rounds until either the total Entitlement Share Reduction Amount is accepted by one or more of the other Project Participants or some portion of the Entitlement Share Reduction Amount remains, but all Project Participants have rejected such amount.

c) Any Project Participant accepting a share of the offered Entitlement Share Reduction Amount shall either pay the offering Project Participant or be compensated by the offering Project Participant at the Entitlement Share Reduction Compensation Amount multiplied by the quantity of the portion being accepted.

d) Before a transfer of all or a portion of any Project Participant's Entitlement share to another Project Participant can become effective, the proposed transfer must be submitted to and approved by the Project Committee through a Normal Vote.

e) After acceptance and payment for such portion of the Entitlement Share Reduction Amount, and upon approval of such transfer by the Project Committee, the CCP Manager shall cause the Entitlement Share specified in Exhibit B to be modified accordingly, and such modification shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

(C) Oversee the Offering of the Entitlement Share Reduction Amount to CCP Members that are not Project Participants. If there is any portion of the Entitlement Share Reduction Amount that remains unaccepted after the process specified in paragraph (a)(i)(B) is complete, then the Project Participant proposing to reduce its Entitlement Share may request that the CCP Manager offer the remaining portion of the Entitlement Share Reduction Amount to CCP Members that are not Project Participants. If any CCP Member wishes to accept any or all of the remaining portion of the Entitlement Share Reduction Amount, such action shall require the CCP Member to become a Project Participant through an amendment to this Agreement, which shall be subject to the consent and approval of all Parties to this Agreement and the CCP Member becoming a Project Participant. The compensation amount associated with the CCP Member accepting the remaining portion of the Entitlement Share Reduction Amount shall be negotiated between the CCP Member and the offering Project Participant.

(D) Oversee the Offering of the Entitlement Share Reduction Amount to a Community Choice Aggregator that is not a CCP Member. If there is any portion of the Entitlement Share Reduction Amount that remains unaccepted after the process specified in both paragraphs (a)(i)(B) and (a)(k)(C) is complete, then the Project Participant proposing to reduce its Entitlement Share, may request that the CCP Manager offer the remaining portion of the Entitlement Share Reduction Amount to a community choice aggregator that is not a CCP Member. If any community choice aggregator wishes to accept any or all of the remaining portion of the Entitlement Share Reduction Amount, such action shall require the community choice aggregator to become a CCP Member, and subsequent to becoming a CCP Member, to become a Project Participant through an amendment to this Agreement that is subject to the consent and approval of all Parties to this Agreement and the community choice aggregator becoming a Project Participant. The compensation amount associated with the community choice aggregator accepting the remaining portion of the Entitlement Share Reduction Amount shall be negotiated between the community choice aggregator and the offering Project Participant.

APPROVAL DRAFT

EXHIBIT D

PROJECT COMMITTEE OPERATIONS, MEETINGS, AND VOTING

(a) Chairperson of Project Committee. The chairperson of the Project Committee ("**Chairperson**") shall be the CCP Manager. The Chairperson shall be responsible for calling and presiding over meetings of the Project Committee in a manner and to the extent permitted by law.

(b) Conducting Meetings. Conducting of Project Committee meetings and actions taken by the Project Committee may be taken by vote given in an assembled meeting, by telephone, by video conferencing, or by any combination thereof, to the extent permitted by law.

(c) Calling of Meetings.

(i) The Chairperson may call a meeting of the Project Committee at their discretion.

(ii) The Chairperson shall promptly call a meeting of the Project Committee at the request of any representative of a Project Participant.

(d) Unanimous Votes. Certain actions, as designated in Section 6.4(c), require a unanimous affirmative vote by all Project Participants (**"Unanimous Vote"**). No such vote may be taken unless a representative from every Project Participant is present at the meeting of the Project Committee. If any Project Participant's Entitlement Share is reduced to zero through the process specified in Exhibit C, such Project Participant shall not be required to be present or be entitled to vote in order for such vote to be a Unanimous Vote.

(e) Normal Votes. All actions not designated as requiring unanimous vote, shall proceed pursuant to the **"Normal Vote"** process set forth in this paragraph (e).

(i) Quorum. No Normal Vote of the Project Committee shall be taken unless a representative is present for at least fifty percent (50%) of the total number of Project Participants, without regard to each Project Participant's Entitlement Share.

(ii) Initial Normal Vote. Unless a representative requests an Alternate Normal Vote, pursuant to paragraph (e)(iii), all actions requiring a Normal Vote, as specified in Section 6.4(b) or 6.4(d), shall require an affirmative vote of at least fifty-one percent (51%) of the total number of Project Participants, without regard to each Project Participant's Entitlement Share.

(iii) Alternate Normal Vote. Any representative may request that any Normal Vote be taken on an Entitlement Share basis (referred to as an "**Alternate Normal Vote**"). If a representative requests an Alternate Normal Vote, then the following vote requirements shall apply:

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(A) If any individual Project Participant has an Entitlement Share exceeding fifty percent (50%), then all actions for which an Alternate Normal Vote is taken shall require that the Project Participant with an Entitlement Share exceeding fifty percent (50%) plus any other Project Participant vote in the affirmative.

(B) If no individual Project Participant has an Entitlement Share exceeding fifty percent (50%), then all actions for which an Alternate Normal Vote is taken shall require an affirmative vote of Project Participants having Entitlement Shares aggregating at least fifty-one percent (51%) of the total Entitlement Shares.

APPROVAL DRAFT

Execution Version

RENEWABLE POWER PURCHASE AGREEMENT
COVERSHEET

Seller: ORGP LLC, a Delaware limited liability company

Buyer: California Community Power, a California joint powers authority

Description of Project: A portfolio of geothermal powered electric generating plants located in the States of California and Nevada with a maximum generating capacity of 125 MW.

Delivery Term: See Section 2.2.

Guaranteed Generation and Maximum Generation: See Appendix J.

Contract Price: [redacted]

Product:

- ☒ Delivered Energy
- ☒ Green Attributes (Portfolio Content Category 1) associated with the Delivered Energy
- ☒ Capacity Attributes (Resource Specific Import RA)
- ☒ Ancillary Services

Scheduling Coordinator: Seller

Security:

Project Development Security: [redacted]

Delivery Term Security: [redacted]

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APPROVAL DRAFT

RENEWABLE POWER PURCHASE AGREEMENT

PARTIES

THIS RENEWABLE POWER PURCHASE AGREEMENT (this "***Agreement***") is dated as of the 31st day of May, 2022 ("***Effective Date***"), and entered into by and between CALIFORNIA COMMUNITY POWER, a California joint powers authority ("***Buyer***"), and ORGP LLC, a limited liability company organized and existing under the laws of the State of Delaware ("***Seller***"). Each of Buyer and Seller is referred to individually in this Agreement as a "***Party***" and together they are referred to as the "***Parties***."

RECITALS

WHEREAS, the California Public Utilities Commission directed Buyer's members to procure Firm Clean Resources that meet the requirements of CPUC Decision 21-06-035; and

WHEREAS, Buyer issued a "Request for Offers Seeking Firm Clean Resources" ("***RFO***"); and

WHEREAS, Seller's parent company on behalf of Seller responded to the RFO and following negotiations, Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, certain renewable energy and associated environmental attributes; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which such sales and purchases shall be made.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, and the mutual covenants and agreements herein set forth, the Parties agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. The following terms in this Agreement and the appendices hereto shall have the following meanings when used with initial capitalized letters:

"**Accepted Compliance Costs**" has the meaning set forth in Section 8.6(c).

"**Affiliate**" means, as to any Person, any other Person that, directly or indirectly, is in Control of, is under Control by, or is under common Control with such Person. Subject to transfers as may be permitted under this Agreement, each Project Company, Upstream Equity Owner and Downstream Equity Owner shall be an Affiliate of Seller.

"**Agreement**" has the meaning set forth in the preamble of this Agreement and includes the Cover Sheet and any Appendices and Schedules and any written supplements hereto.

"**Agreement Term**" has the meaning set forth in Section 2.1.

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"**Alternate Points of Delivery**" means any of the following points of delivery: (a) Gonder.IPP, (b) Eldorado 230/Mead, (c) Imperial Valley 230, or (d) such other points of delivery as may be agreed between Buyer and Seller.

"**Ancillary Documents**" means the Buyer Ancillary Documents and the Seller Ancillary Documents.

"**Ancillary Services**" means all ancillary services, power products and other power attributes, if any, associated with the installed capacity of the Facility, in each case solely to the extent the same can be provided to Buyer without making any change to the applicable Facility or its operation.

"**ASME**" means American Society of Mechanical Engineers.

"**Assumed Daily Deliveries**" has the meaning set forth in Section 13.3(c).

"**ASTM**" means American Society for Testing and Materials.

"**Authorized Auditors**" means representatives of Buyer who are authorized to conduct audits on behalf of Buyer.

"**Authorized Representative**" means, with respect to each Party, the Person designated as such Party's authorized representative pursuant to Section 14.1.

"**AWS**" means American Welding Society.

"**Bankruptcy**" means any case, action, or proceeding under any bankruptcy, reorganization, debt arrangement, insolvency, or receivership law or any dissolution or liquidation proceeding commenced by or against a Person and, if such case, action, or proceeding is not commenced by such Person, such case or proceeding shall be consented to or acquiesced in by such Person or shall result in an order for relief or shall remain undismissed for ninety (90) days.

"**Business Day**" means any day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in New York, New York.

"**Buyer**" has the meaning set forth in the preamble of this Agreement.

"**Buyer Ancillary Documents**" all instruments, agreements, certificates, and documents executed by Buyer pursuant to this Agreement.

"**Buyer Liability Pass Through Agreement**" means an agreement by and between Seller, Buyer and the applicable Project Participant, in the form set forth in Appendix L.

"**Buyer's Member**" means any member of Buyer that has entered into the Joint Powers Agreement.

"**CAISO**" means the California Independent System Operator Corporation.

"**California Prevailing Wage Requirement**" has the meaning set forth in Section 12.2(o).

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"**California Public Utilities Code**" means the Public Utilities Code of the State of California, as may be amended from time to time.

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewables portfolio standard 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, and as administered by the CEC as set forth in CEC RPS Eligibility Guidebook (9th Ed.), as may be subsequently modified by the CEC, and the CPUC as set forth in CPUC Decision ("D.") 08-08-028, D.08-04-009, D.10-03-021, D.11-01-025, D.11-12-020, D.11-12-052, D.12-06-038, D.13-11-024, D.14-12-023, D.17-06-026, and D.19-02-007, and as may be modified by subsequent decisions of the CPUC or by subsequent legislation and regulations promulgated with respect thereto.

"**Capacity Buydown Damages**" has the meaning set forth in Section 3.7(a).

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

"**Capacity Rights**" means the rights, whether in existence as of the Effective Date or arising thereafter during the Agreement Term, to Capacity Attributes, Resource Adequacy Benefits, or reserves associated with the electric generating capability of each Facility, including the right to resell such rights.

"**CEC**" means California's State Energy Resources Conservation and Development Commission, also known as the California Energy Commission, and any successor agency thereto.

"**CEC Certification Deadline**" means for each Facility, the date that is either (a) one hundred eighty (180) days following the Commercial Operation Date for such Facility if failure to be CEC Certified at such time is the result of Seller's fault or negligence (including any failure to submit timely required documentation to the CEC) or (b) three hundred sixty (360) days following the Commercial Operation Date for such Facility if failure to be CEC Certified at such time is not the result of Seller's fault or negligence.

"**CEC Certified**" means that the CEC has certified that the Facility is an Eligible Renewable Energy Resource in accordance with California Public Utilities Code Section 399.12(e) and the guidelines adopted by the CEC, as amended from time to time, and any successor statute.

"CEC Pre-certified" means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for the Facility to be CEC Certified.

"**CEQA**" means the California Environmental Quality Act, Public Resources Code §§ 21000, *et seq.*, as amended from time to time, and any successor statute.

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"**Change in Control**" means the occurrence, whether in a single transaction or in a series of related transactions at any time during the Agreement Term of any one or more of the following: (a) a merger or consolidation of Seller, any Project Company or any Upstream Equity Owner or Downstream Equity Owner, with or into any other Person, or any other reorganization, as a result of which the members or shareholders, as applicable, of Seller or any Project Company or the members or shareholders, as applicable, of any Upstream Equity Owner or Downstream Equity Owner immediately prior to such consolidation, merger, or reorganization, (i) own less than fifty percent (50%) of the equity ownership of the surviving entity or any Project Company or (ii) cease to have the power to Control the management and policies of the surviving entity immediately after such consolidation, merger, or reorganization, (b) any transaction or series of related transactions in which in excess of fifty percent (50%) of the equity ownership of Seller or any Project Company, or any Upstream Equity Owner or Downstream Equity Owner, or the power to Control the management and policies of Seller or any Project Company, or any Upstream Equity Owner or any Downstream Equity Owner, is transferred to another Person, (c) a sale, lease, or other disposition of all or substantially all of the assets of Seller, any Project Company, or any Upstream Equity Owner or Downstream Equity Owner, (d) the dissolution or liquidation of Seller, any Project Company or any Upstream Equity Owner or any Downstream Equity Owner, or (e) any transaction or series of related transactions that has the substantial effect of any one or more of the foregoing, provided, however, that a Change in Control shall not include (1) any transaction or series of transactions in which the membership or other equity interests in or assets of Seller, any Project Company, or any Upstream Equity Owner or any Downstream Equity Owner, are issued or transferred to another Person solely for the purpose of a Tax Equity Financing; (2) any transaction or series of transactions in which the membership interests in or assets of Seller, any Project Company or any Upstream Equity Owner or Downstream Equity Owner are issued or transferred to any other Person that is directly or indirectly at least 50% owned and whose management and policies are controlled by Ormat Nevada Inc.; or (3) any transaction or series of transactions in which the membership or other equity interests in or assets of Seller, any Project Company, any Upstream Equity Owner or any Downstream Equity Owner are transferred to a Permitted Transferee.

"**Change in Law**" means a change in any federal, state, local, or other law (including any environmental laws), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval of a Governmental Authority (other than Buyer) which is applicable to either Party or any Facility or any of the products sold therefrom.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy.

"**Commercial Operation**" means, for each Facility, the date on which all of the following have occurred:

(a) Seller has delivered to Buyer a completion certificate from a Licensed Professional Engineer substantially in the form of Appendix K;

(b) All Permits for the operation of the Facility have been obtained and shall be in full force and effect, and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied, provided, that, Seller may demonstrate

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satisfaction of this clause (b) by delivery to Buyer of a copy of a temporary or final certificate of occupancy (or equivalent) for the Facility;

(c) The Facility has been CEC Pre-certified, and Seller reasonably expects the Facility to be CEC Certified in no more than one hundred eighty (180) days from the Commercial Operation Date;

(d) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements that are reasonably capable of being complete prior to the Commercial Operation Date under WREGIS rules, including (as applicable) the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(e) Buyer shall have received the Delivery Term Security required pursuant to Section 5.9, which includes the portion corresponding to such Facility;

(f) Seller or its Affiliate shall have entered into interconnection agreements with Transmission Providers pursuant to which it has obtained Facility Interconnection Rights and Interests as necessary for the delivery of Facility Energy to the Point of Interconnection;

(g) Seller shall have entered into, or been assigned, transmission agreements with Transmission Providers pursuant to which it has obtained Firm Transmission Rights as necessary for the delivery of Facility Energy from the Point of Interconnection to the Points of Delivery, in the case of Facilities located in Nevada, using NV Energy's Transmission Services and Transmission System;

(h) If Seller has elected to designate such Facility as a Pseudo-Tie Resource: (i) a Meter Service Agreement (as defined in the CAISO Tariff) between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of such agreement delivered to Buyer; (ii) a Pseudo-tie Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO shall have been executed and delivered and be in full force, and a copy of such agreement delivered to Buyer; and (iii) Seller shall have provided Buyer a CAISO Resource ID (as defined in the CAISO Tariff) and PMAX (as defined in the CAISO Tariff) for the Facility; and

(i) If Seller has elected to designate such Facility as a Dynamically Scheduled Resource, a Dynamic Scheduling Agreement, Dynamic Imports Operating Agreement, and, if applicable, a Meter Service Agreement between Seller, Seller's Scheduling Coordinator or the balancing authority for the Facility and CAISO.

"**Commercial Operation Date**" means, for a Facility, the date on which Commercial Operation of such Facility occurs, as determined pursuant to Section 3.5.

"**Compliance Actions**" has the meaning set forth in Section 8.6(c).

"**Compliance Costs**" has the meaning set forth in Section 8.6(c).

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"**Compliance Expenditure Cap**" has the meaning set forth in Section 8.6(c).

"**Compliance Obligations**" has the meaning set forth in Section 8.6(c).

"**Confidential Information**" has the meaning set forth in Section 14.21(a).

"**Construction Start**" means the date on which Seller has (a) executed an engineering, procurement, and construction contract, (b) issued thereunder a final Notice to Proceed to begin physical construction at the Site, and (c) commenced physical movement of soil at the Site.

"**Contract Year**" means (a) the period beginning on the Commercial Operation Date of the first Facility to achieve Commercial Operation, as determined pursuant to Section 3.5, and ending on December 31st of that year, and (b) each succeeding period of twelve (12) consecutive months following the period described in the preceding clause (a) until the end of the Delivery Term; provided that, unless the Commercial Operation Date for the last Facility to achieve Commercial Operation occurs on January 1st of any Contract Year, the last Contract Year will be shorter than twelve (12) months.

"**Contract Price**" has the meaning set forth on the Cover Sheet.

"**Control**" means (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Costs**" has the meaning set forth in Section 13.3(f).

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

"**CPUC**" means the California Public Utilities Commission and any successor thereto.

"**Day-Ahead Market**" has the meaning set forth in the CAISO Tariff.

"**Deemed Delivered RA**" means the amount of Net Qualifying Capacity expressed in MW that the Facility would have delivered, but for the failure of Project Participants to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO.

"**Default**" has the meaning set forth in Section 13.1.

"**Defaulting Party**" has the meaning set forth in Section 13.1.

"**Delay Damages**" has the meaning set forth in Section 3.7(a).

"**Delivered Energy**" means, in any Settlement Interval or Settlement Period, the lesser of (a) the aggregate amount of Energy, measured in MWh, delivered by Seller for receipt by Buyer at the Primary Point of Delivery for each Facility, or, if applicable in accordance with Section 7.5, the applicable Alternate Point of Delivery, net of Parastic Load and Electrical Losses, as

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measured by the Electric Metering Devices for each Facility, and (b) the amount of Energy specified in the E-Tags associated with the Delivered Energy.

"**Delivery Term**" has the meaning set forth in Section 2.2.

"**Delivery Term Security**" has the meaning set forth in Section 5.9(b).

"**Development Period**" means the period beginning on the Effective Date and ending on the Final COD Deadline; provided that if the Project Net Capacity is less than the Minimum Capacity on such date, then the Development Period shall be extended to the earliest of (a) the date that the Project Net Capacity becomes equal to or greater than the Minimum Capacity and (b) the Minimum Capacity Cure Date.

"**Dispute**" has the meaning set forth in Section 14.3(a).

"**Dispute Notice**" has the meaning set forth in Section 14.3(a).

"**Downgrade Event**" shall mean any event that results in a Person failing to meet the credit requirements of a Qualified Issuer or a Qualified Guarantor, as applicable, or the commencement of involuntary or voluntary bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar proceeding (whether under any present or future statute, law, or regulation) with respect to such Person. In the case of Ormat Technologies, Inc., a Downgrade Event would mean a material adverse change in such entity's financial condition after the time of a Delivery Term Security posting.

"**Downstream Equity Owner**" means a Person that owns or Controls at least fifty percent (50%) of the equity of a Project Company at any level below Seller.

"**Dynamically Scheduled Resource**" means a generating facility that executes a a Dynamic Scheduling Agreement, Dynamic Imports Operating Agreement, and, if applicable, a Meter Service Agreement between Seller, Seller's Scheduling Coordinator or the balancing authority for the Facility and CAISO and that complies with all CAISO Tariff requirements applicable to a Dynamic Resource-Specific System Resource, including Appendix M to the Tariff.

"**Dynamic Imports Operating Agreement**" means an agreement between the CAISO and the host balancing authority for the Facility that enables Dynamic Schedules from the host balancing authority to the CAISO balancing authority, which may be in the form of the agreement referred to in the CAISO Tariff as the "Dynamic Scheduling Host Balancing Authority Operating Agreement" or (b) an alternative agreement, reasonably acceptable to the CAISO and consistent with the CAISO Tariff, governing the terms of dynamic transfers between CAISO and the host balancing authority for the Facility and enabling Dynamic Schedules pursuant to this Agreement.

"**Dynamic Schedule**" has the meaning set forth in the CAISO Tariff.

"**Dynamic Resource-Specific System Resource**" has the meaning in the CAISO Tariff.

"**Dynamic Scheduling Agreement**" has the same meaning as that set forth in the CAISO Tariff for "Dynamic Scheduling Agreement for Scheduling Coordinators".

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"**Early Termination Date**" has the meaning set forth in Section 13.3(a).

"**Effective Date**" has the meaning set forth in the preamble of this Agreement.

"**Electric Metering Devices**" means the CAISO-approved, revenue-grade meters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to Facility Energy. Electric Metering Devices include the metering current transformers and the metering voltage transformers. Subject to meeting any applicable CAISO requirements, the Electric Metering Devices shall be programmed to adjust for Electrical Losses to the Primary Point of Delivery or, if applicable in accordance with Section 7.5, the applicable Alternate Point of Delivery, in accordance with CAISO's rules for Pseudo-Tie Resources or Dynamically Scheduled Resources, as applicable, and in a manner subject to Buyer's prior written approval, not to be unreasonably withheld.

"**Electrical Losses**" means all transmission or transformation losses or gains for a Facility associated with delivery of Facility Energy to the Primary Point of Delivery for such Facility or, if applicable in accordance with Section 7.5, the applicable Alternate Point of Delivery, in accordance with CAISO's rules for Pseudo-Tie Resources or Dynamically Scheduled Resources, as applicable.

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

"**Energy**" means electrical energy.

"**EPA**" means the Environmental Protection Agency and any successor agency.

"**EPC Contractor**" means Seller's or its Affiliate's contractor primarily responsible for the construction of the applicable Facility's power block.

"**Event of Default**" has the same meaning as Default.

"**Excluded Facility**" has the meaning set forth in Section 3.1.

"**Facility**" means each of the geothermal powered electric generating plants designated by Seller for inclusion in the Project in accordance with Section 3.1, whose Facility Energy, Green Attributes and Capacity Attributes Seller commits to sell to Buyer under the terms and conditions of this Agreement and as to which the provisions of this Agreement apply.

"**Facility Credit Agreement**" has the meaning set forth in Section 14.7(f).

"**Facility Energy**" means, for each Facility, Energy generated by such Facility, less its Parasitic Load, which Parasitic Load may be served by solar generating capacity as provided in Section 8.7, and adjusted for Electrical Losses to the Primary Point of Delivery for such Facility or, if applicable in accordance with Section 7.5, to the applicable Alternate Point of Delivery.

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"**Facility Interconnection Rights and Interests**" means the rights and interests of Seller or its Affiliate to use the capacity of and Schedule Facility Energy over the Transmission System providing Transmission Services to the Point of Interconnection and including such Facility Interconnection Rights and Interests as provided in the Facility Specifications for the applicable Facility.

"**Facility Lender**" means any lender providing senior or subordinated construction, interim or long-term debt or equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of a Facility or Portfolio or for the performance by Seller of its obligations under this Agreement pursuant to a Seller Financing or Security Document or Facility Credit Agreement, including any equity and tax investor providing financing or refinancing for a Facility or purchasing equity ownership interests of Seller or its Affiliates, and any trustee or agent acting on their behalf, and any Person providing interest rate protection agreements to hedge any of the foregoing debt obligations. Facility Lender includes any lender providing Performance Security under this Agreement.

"**Facility Net Capacity**" means, for each Facility, the electric generating capacity of such Facility (expressed in MW), net of its Parasitic Load and transmission and transformation losses to the Points of Delivery, as specified in the notice provided by Seller pursuant to Section 3.8, and as it may be further revised pursuant to Section 3.9.

"**Facility Specifications**" means, for each Facility, the information to be provided by Seller in accordance with and substantially in the form of Appendix B and delivered to Buyer in accordance with Section 3.1.

"**Facility Transmission Rights and Interests**" means the rights and interests of Seller to use the capacity of and Schedule Facility Energy over the Transmission System providing Transmission Services to each of the respective Points of Delivery and including such Facility Transmission Rights and Interests as provided in the Facility Specifications for the applicable Facility.

"**FERC**" means the Federal Energy Regulatory Commission.

"**Final COD Deadline**" means December 31, 2026, which date (i) may be extended upon mutual agreement of the Parties; (ii) shall be extended automatically on a day-for-day if the Firm Clean Resource procurement deadline of December 31, 2026 established by the CPUC in Decision 21-06-035, issued June 30, 2021, is extended to a later date without such extension resulting in any penalties to the Project Participants, (iii) shall be extended in accordance with Section 3.1, and (iv) shall be extended on a day-for-day basis for up to one hundred eighty (180) days in the aggregate for the duration of one or more Force Majeure Events that prevent or delay Seller from causing the Project Net Capacity to be equal to or greater than the Minimum Capacity by the Final COD Deadline then-in-effect; provided that such Force Majeure Event or Force Majeure Events impact a Facility that had been previously added to the Project in accordance with Section 3.1.

"**Firm Clean Resource**" means a resource that meets the requirements of CPUC Decision 21-06-035, including that such resource (i) has at least an eighty percent (80%) capacity factor, (ii) has zero on-site emissions or otherwise qualifies as RPS Compliant, (iii) is incremental to the

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CPUC's baseline list established pursuant to CPUC Decision 21-06-035, (iv) has a Commercial Operation Date later than June 24, 2021, (v) is a Resource Adequacy Resource that is eligible to provide Resource Adequacy Benefits as set forth in the Resource Adequacy Rulings, (vi) is able to deliver Energy every day, year-round during the Delivery Term (subject to Forced Outages), (vii) is not subject to use limitations, and (viii) has a capability to generate Energy that is not weather dependent.

"**Firm Transmission**" means Transmission Services to or from the Point of Delivery that cannot be curtailed within an operating hour for economic reasons or for higher priority transmission; provided that if Seller or Buyer, as applicable, uses commercially reasonable efforts to obtain Transmission Services meeting the foregoing criterion but is unable to obtain such Transmission Services notwithstanding such efforts, Firm Transmission shall be the most reliable Transmission Services available to Seller or Buyer, as applicable, for the transmission of Energy from the applicable Facility to or from such Point of Delivery at the time.

"**Force Majeure**" has the meaning set forth in Section 14.6(b).

"**Force Majeure Cure Period**" means a specified number of months following the end of a Force Majeure Trigger Period, calculated as follows:

Force Majeure Cure Period (in months) = [1 – (A/B)] x C

Where:

A = the reduced aggregate capacity net of Parasitic Load of the Facilities that have achieved Commercial Operation, as applicable, resulting from the Force Majeure event(s) associated with the Force Majeure Trigger Period, adjusted to reflect the difference between the actual ambient temperatures and the annual average temperature;

B = fifty percent (50%) of the Project Net Capacity immediately prior to the Force Majeure event(s) associated with the Force Majeure Trigger Period; and

C = twelve (12) months.

"**Force Majeure Notice**" has the meaning set forth in Section 14.6(a).

"**Force Majeure Trigger Period**" has the meaning set forth in Section 14.6(d).

"**Forced Labor**" has the meaning set forth in Section 12.2(q).

"**Forced Outage**" means the removal of service availability of a Facility, or any portion of a Facility, for emergency reasons or conditions in which a Facility, or any portion thereof, is unavailable due to unanticipated failure, including as a result of Force Majeure.

"**Forward Certificate Transfer**" has the meaning set forth in the WREGIS Operating Rules.

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"**GAAP**" means generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, in each case as the same are applicable to the circumstances as of the date of determination.

"**Gains**" has the meaning set forth in Section 13.3(f).

"**Governmental Authority**" means any federal, state, regional, city, or local government, any intergovernmental association or political subdivision thereof, or other governmental, regulatory, or administrative agency, court, commission, administration, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority, or any Person acting as a delegate or agent of any Governmental Authority. The term "Governmental Authority" shall not include Buyer or any Buyer's Member.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from each Facility, or, as applicable, from any facility that generates Replacement Energy, and, in each case, its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Delivered Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from each Facility, (ii) production tax credits associated with the construction or operation of each Facility and other financial incentives in the form of credits, reductions, or allowances associated with each Facility that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, (iv) emission reduction credits encumbered or used by each Facility for compliance with local, state, or federal operating or air quality permits, or (v) "portfolio energy credits" as defined in Nevada Revised Statutes Section 704.7803 associated with the Parasitic Load of any Facility.

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

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"**Guaranteed Amount**" has the meaning set forth in each Project Participant's Buyer Liability Pass Through Agreement, which amount may be different for each Project Participant given each Project Participant's Liability Share.

"**Guaranteed Generation**" has the meaning set forth in Appendix J.

"**Guaranteed Net Qualifying Capacity**" means, at any point in time, the maximum quantity of Net Qualifying Capacity (in MWs) that may be delivered in any given Showing Month pursuant to the then current law, including counting conventions set forth in the Resource Adequacy Rulings and the CAISO Tariff, from a hypothetical geothermal facility that (a) for the first three (3) Contract Years (i) has a PMAX equal to the Project Net Capacity, and (ii) is subject to the Technology Factors, and (b) for each Contract Year after the first three (3), achieves or exceeds the Operational Characteristics in Appendix D.

"**IEEE**" means the Institute of Electrical and Electronics Engineers.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval (as each is defined in the CAISO Tariff), by which the amount of Delivered Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability allocated to Project Participants by the CAISO that is necessary to support the importation of the Capacity Attributes from each Facility into the CAISO market in an amount equal to the Guaranteed Net Qualifying Capacity.

"**Included Facility**" has the meaning set forth in Section 3.1.

"**Insurance**" means the policies of insurance as set forth in Appendix F.

"**Interest Rate**" has the meaning set forth in Section 11.3.

"**Investment-Grade Credit Rating**" means a credit rating on a Person's senior long-term debt, unsecured and unenhanced, that is at least A- by S&P or A3 by Moody's.

"**ISA**" means Instrument Society of America.

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated January 29, 2021, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**Leases**" means, for each Facility, the geothermal resource leases and the other leases, easements, rights-of-way, or other contractual rights to use real property that are listed in Section 6 of the Facility Specifications for such Facility.

"**Liability Share**" means the percentage amount set forth for each Project Participant in Appendix M.

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"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the state of location of the Facility for which such Person delivers a completion certificate in the form of Appendix K.

"**Lien**" means any mortgage, deed of trust, lien, security interest, retention of title, or lease for security purposes, pledge, charge, encumbrance, equity, attachment, claim, easement, right of way, covenant, condition, or restriction, leasehold interest, purchase right, or other right of any kind, including an option, of any other Person in or with respect to any real or personal property.

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

"**Losses**" has the meaning set forth in Section 13.3(f).

"**Major Maintenance**" means (a) any planned maintenance for the purpose of achieving a major overhaul or (b) planned material maintenance that impacts the output of a Facility for seven (7) or more consecutive days.

"**Major Maintenance Blockout**" has the meaning set forth in Section 4.4.

"**Market Curtailment Period**" means the period-of-time, as measured using current Settlement Intervals, during which Seller reduces generation from a Facility during a Settlement Period or Settlement Interval in which there is a Negative LMP that is equal to or below the Negative LMP Strike Price; provided, that the duration of any Market Curtailment Period shall be inclusive of the time required for a Facility to ramp down and ramp up.

"**Maximum Capacity**" means Project Net Capacity of one hundred twenty-five (125) MW, as may be reduced in accordance with this Agreement.

"**Maximum Generation**" has the meaning set forth in Appendix J.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor method implemented by the CAISO with respect to the ability of generating units that are external to the CAISO balancing authority area to provide Resource Adequacy Benefits.

"**Milestone**" means each deadline for the development of a Facility through the Commercial Operation Date for such Facility, as set forth in the Milestone Schedule for such Facility.

"**Milestone Date**" means, with respect to a Milestone, the date for achieving such Milestone as set forth in the Milestone Schedule for the applicable Facility, including, if and to the extent that the date specified for such Milestone in the Milestone Schedule shall be extended as provided in Section 3.6, such extended date.

"**Milestone Schedule**" means, for each Facility, the schedule for achieving the Milestones substantially in the form of Appendix I and delivered to Buyer in accordance with Section 3.1.

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"**Minimum Capacity**" means Project Net Capacity of sixty-four (64) MW, as may be reduced in accordance with this Agreement.

"**Minimum Capacity Cure Date**" has the meaning set forth in Section 3.7(a).

"**Moody's**" means Moody's Investors Service, Inc., or its successors.

"**MW**" means megawatt.

"**MWh**" means megawatt-hours.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, whether in the Day-Ahead Market or Real-Time Market, the LMP at the Settlement Point is less than zero dollars ($0).

"**Negative LMP Strike Price**" means zero dollars per MWh ($0/MWh), as such price may be revised by Buyer by providing notice to Seller in accordance with Appendix A; *provided*, in no event shall the Negative LMP Strike Price be greater than zero dollars per MWh ($0/MWh).

"**NEPA**" means the National Environmental Policy Act, 42 USC §§4321 to 4370c, as amended from time to time.

"**NERC**" means the North American Electric Reliability Corporation.

"**Net Qualifying Capacity**" or "**NQC**" means the net capacity of a resource that can be counted towards system Resource Adequacy Requirements, as identified from time to time by the CAISO Tariff, the Resource Adequacy Rulings, or by another Governmental Authority having jurisdiction.

"**Nevada Prevailing Wage Requirement**" has the meaning set forth in Section 12.2(n).

"**Non-Defaulting Party**" has the meaning set forth in Section 13.3(a).

"**Notice to Proceed**" means the notice from Seller, or one of its subsidiaries, to the EPC Contractor instructing such contractor to commence Site preparation and other construction activities at the applicable Site for the construction of the applicable Facility's power block.

"**Notification Deadline**" for a given Showing Month shall mean twenty (20) Business Days before the submission of the CAISO Supply Plan filings applicable to that Showing Month.

"**Notifying Party**" has the meaning set forth in Section 14.3(a).

"**OEM**" has the meaning set forth in Section 12.2(p).

"**Operational Characteristics**" means the minimum performance requirements for the Project set forth on Appendix D.

"**OSHA**" means Occupational Safety & Health Administration.

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"**Pacific Prevailing Time**" means the then-prevailing local time in Sacramento, California.

"**Parasitic Load**" means the Energy produced by a Facility (or under the circumstances set forth in Section 8.7 Energy from another source) that is used to power the lights, motors, pumps, auxiliary facilities of the well field, control systems, cooling systems, ancillary equipment, and other electrical loads that are necessary for the operation of the power systems and related facilities for the production of Facility Energy.

"**Party**" or "**Parties**" has the meaning set forth in the preamble of this Agreement.

"**Payment Demand**" has the meaning set forth in Appendix L.

"**Performance Security**" means the Project Development Security or the Delivery Term Security, as applicable, that is required to be provided by Seller to Buyer to secure Seller's performance under this Agreement.

"**Performance Testing Conditions Criteria**" has the meaning set forth in Section 3.3.

"**Permits**" means, for each Facility, all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements, and similar requirements of whatever kind and however described that are required to be obtained from a Governmental Authority with respect to the development, siting, drilling, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation, or maintenance, as applicable, of such Facility, the production and delivery of Facility Energy, Capacity Rights, and Green Attributes, or any other transactions or matter contemplated by this Agreement (including those pertaining to electrical, building, zoning, environmental, and occupational safety and health requirements), including the NEPA Environmental Assessment, as applicable, and the Permits described in the Facility Specifications for such Facility.

"**Permitted Encumbrances**" means (a) any Lien approved by Buyer in a writing separate from this Agreement that expressly identifies the Lien as a Permitted Encumbrance, (b) Liens for Taxes not yet due or for taxes being contested in good faith by appropriate proceedings, so long as such proceedings do not involve a material risk of the sale, forfeiture, loss or restriction on the use of a Facility or any part thereof, provided that such proceedings are reasonably expected to end by the expiration of the Agreement Term, (c) subject to compliance under Section 14.7, any Lien arising under a financing arrangement associated with a Facility or constituting a Permitted Lien under, and as defined in, any Facility Credit Agreement or Seller Financing or Security Document, (d) suppliers', vendors', mechanics', workman's, repairman's, employees', or other like Liens arising in the ordinary course of business for work or service performed or materials furnished in connection with a Facility for amounts the payment of which is either not yet delinquent or is being contested in good faith by appropriate proceedings so long as such proceedings do not involve a risk of the sale, forfeiture, loss or restriction on use of the applicable Facility or any part thereof, and (e) easements, rights of way, use rights, exceptions, encroachments, reservations, restrictions, conditions or limitations, provided that in each case the same do not interfere with or impair the operation or use of the applicable Facility as contemplated by the Agreement, or have a material adverse effect on the useful life or utility of the applicable

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Facility, or shall impair or materially adversely affect the rights or interests of Buyer under this Agreement.

"**Permitted Transferee**" means any entity that satisfies, or is Controlled by another Person that satisfies, the following requirements: (a) a Tangible Net Worth of not less than one hundred fifty million dollars ($150,000,000); and (b) at least two (2) years of experience in the ownership and operations of power generation facilities similar to the Facility with a generating capacity of at least one hundred (100) MW or has retained a third-party with such experience to operate the Project or relevant Facility (as applicable).

"**Person**" means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government, or other political subdivision.

"**Planned Outage**" means, subject to and as further described in the CAISO Tariff, a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Facility that is conducted for the purposes of carrying out routine repair or maintenance of such Facility, or for the purposes of new construction work for such Facility.

"**Planned Outage Projection**" has the meaning set forth in Section 4.4(a).

"**Point of Interconnection**" means, for each Facility, the point of interconnection specified for such Facility in the Facility Specifications for such Facility.

"**Points of Delivery**" means the Primary Point of Delivery and, in the event of the curtailment or other interruption of Transmission Services as provided in Section 7.5, the Alternate Points of Delivery, and/or such other point(s) as mutually agreed by the Parties.

"**Portfolio**" means a portfolio of electrical energy generating assets that is (a) comprised solely of Facilities hereunder, and (b) pledged as collateral security in connection with a Portfolio Financing.

"**Portfolio Financing**" means a financing or refinancing in accordance with Section 14.7(f) where the debt is secured by a Portfolio.

"**Primary Point of Delivery**" means for each Facility, (a) one or more of the following points of delivery, as shall be designated with specificity for each Facility by written notice from Seller to Buyer in accordance with Section 3.1, and as may be adjusted in accordance with Section 3.8: (i) Gonder.IPP, (ii) Eldorado 230/Mead, (iii) Imperial Valley 230, or (iv) such other points of delivery as may be agreed between Buyer and Seller, or (b) after the Commercial Operation Date for a Facility, any point of delivery as may be agreed between Buyer and Seller and thereafter designated as the Primary Point of Delivery for a Facility.

"**Progress Report**" means a progress report including the items set forth in Appendix O.

"**Project**" means all of the Included Facilities.

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"**Project Company**" means with respect to each Facility, the limited liability company or partnership, as applicable, designated as the owner of the Facility as set forth in the Facility Specifications for such Facility. Subject to transfers as may be permitted under this Agreement, each Project Company shall be an Affiliate of Seller.

"**Project Development Security**" has the meaning set forth in Section 5.9(a).

"**Project Energy**" means the total Energy generated by all of the Facilities that have achieved Commercial Operation as of such time, less Parasitic Load associated with such Facilities, which Parasitic Load may be served by solar generating capacity as provided in Section 8.7.

"**Project Labor Agreement**" has the meaning set forth in Section 12.2(n).

"**Project Net Capacity**" means, for a given date, the sum of the Facility Net Capacity for each of the Facilities that has achieved Commercial Operation as of such date.

"**Project Participant**" means each Person identified in Appendix M that shall execute a Buyer Liability Pass Through Agreement in the form set forth in Appendix L.

"**Project Participant Approval**" means each Project Participant has obtained all necessary approvals from its board or governing authority necessary to execute a Buyer Liability Pass Through Agreement and the Project Participation Share Agreement, and that Buyer has delivered to Seller Buyer Liability Pass Through Agreements and the Project Participation Share Agreement executed by each Project Participant and countersigned by Buyer.

"**Project Participation Share Agreement**" means that certain ORGP LLP Geothermal Portfolio Project Participation Share Agreement executed by and among Buyer and all of the Project Participants relating to their allocation among themselves of Buyer's responsibilities and liabilities under this Agreement, and any successor agreement.

"**Proposed Facility**" has the meaning set forth in Section 3.1.

"**Proposed Facility Notice**" has the meaning set forth in Section 3.1.

"**Prudent Utility Practices**" means those practices, methods, and acts, that are commonly used by a significant portion of the geothermal powered electric generation industry in prudent engineering and operations to design and operate electric equipment (including geothermal powered facilities) lawfully and with safety, dependability, reliability, efficiency, and economy, including any applicable practices, methods, acts, guidelines, standards and criteria of FERC, NERC, WECC, each as may be amended from time to time, and all applicable Requirements of Law.

"**Pseudo-Tie Resource**" means a generating facility that is party to a FERC-approved Pseudo-Tie Participating Generator Agreement (as defined in the CAISO Tariff) with the CAISO which allows for Capacity Attributes from the generating facility to be imported into the CAISO as "unit-specific" or "resource specific" import pursuant to the Resource Adequacy Rulings.

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"**Qualified Guarantor**" means (i) Ormat Technologies, Inc., if reasonably acceptable to Buyer based on a review of such entity's financial condition at the time of a Delivery Term Security posting, or (ii) a guarantor, reasonably acceptable to Buyer, that has a current long-term credit rating (corporate or long term senior unsecured debt) of at least A- by S&P and A3 by Moody's and is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

"**Qualified Issuer**" means a Person, reasonably acceptable to Buyer, that has a current long-term credit rating (corporate or long-term senior unsecured debt) of (1) A3 or higher by Moody's and (2) A- or higher by S&P.

"**Quality Assurance Program**" has the meaning set forth in Section 5.7.

"**RA Compliance Showing**" means the RAR compliance or advisory showings (or similar or successor showings) that an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 10.3(b).

"**RA Penalties**" means the RA penalties assessed against load serving entities by the CPUC for RA deficiencies that are not replaced or cured, as established by the CPUC in the Resource Adequacy Rulings and subsequently incorporated into the annual Filing Guide for System, Local and Flexible Resource Adequacy Compliance Filings that is issued by the CPUC Energy Division, or any replacement or successor documentation established by the CPUC Energy Division to reflect RA penalties that are established by the CPUC and assessed against load serving entities for RA deficiencies.

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 10.3(b), any Showing Month, commencing with the Showing Month that contains the Commercial Operation Date of the first Facility to reach Commercial Operation, during which the Net Qualifying Capacity that was able to be included in the Supply Plans for the Project Participants for such Showing Month was less than the then applicable Guaranteed Net Qualifying Capacity for such Showing Month *minus* any Deemed Delivered RA.

"**REC**" or "**Renewable Energy Credit**" means a certificate of proof associated with the generation of electricity from an Eligible Renewable Energy Resource, which certificate is issued through the accounting system established by the CEC pursuant to California Public Utilities Code Section 399.25 and satisfies the requirements of California Public Utilities Code Section 399.12(h), evidencing that one (1) MWh of energy was generated and delivered from such Eligible Renewable Energy Resource. Such certificate is a tradable environmental commodity (also known as a "green tag") for which the owner of the REC can prove that it has purchased renewable energy.

"**Recipient Party**" has the meaning set forth in Section 14.3(a).

"**Remaining Term**" means, at any date, the remaining portion of the Agreement Term at that date without regard to any early termination of this Agreement.

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"**Replacement Energy**" has the meaning set forth in Section 9.2.

"**Replacement Price**" means [redacted]

"**Replacement RA**" means Resource Adequacy Benefits, if any, equivalent to those that would have been provided by the Project with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within NP 15 or SP 15.

"**Replacement Unit**" means a resource that (a) has been pre-approved by Buyer in Buyer's sole discretion, and (b) is a Firm Clean Resource.

"**Requirements**" means, collectively, Prudent Utility Practices, all applicable Requirements of Law, Seller's Quality Assurance Program, and all other requirements of this Agreement.

"**Requirement of Law**" means laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

"**Resource Adequacy Benefits**" means the rights and privileges attached to a Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and includes local, zonal or otherwise locational attributes associated with a Facility (if any).

"**Resource Adequacy Plan**" has the meaning specified in the Tariff.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to a load serving entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-12-006 and any other existing or subsequent ruling or decision, or any other resource adequacy law, however described, as such decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time.

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"**Resource Specific Import RA**" means a resource that is listed on the CPUC's Net Qualifying Capacity list and is either Pseudo-Tied or Dynamic Resource-Specific System Resource into the Day-Ahead Market and Real-Time Market, and which satisfies all other applicable requirements under the Resource Adequacy Rulings, including CPUC Decisions 05-10-042 and 20-06-028.

"**RETA**" has the meaning set forth in Section 12.2(n).

"**RETA Regulations**" has the meaning set forth in Section 12.2(n).

"**Revised Net Capacity**" has the meaning set forth in Section 3.9.

"**RFO**" has the meaning set forth in the recitals to this Agreement.

"**RPS Compliant**" means, when used with respect to a Facility or any other facility at any time, that all Energy generated by the Facility and delivered to the Points of Delivery, or by such other facility, together with all of the associated Green Attributes, delivered to the Points of Delivery qualify as "portfolio content category 1" eligible renewable resource under the RPS and meet the requirements of California Public Utilities Code Section 399.16(b)(1), as amended from time to time and any successor statute.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.

"**Sales Price**" means the price at which Seller, acting in a commercially reasonable manner, resells the Energy and Green Attributes or, absent a resale, the market price for the quantity of Energy and Green Attributes not received by the Buyer (adjusted for transmission difference, if any).

"**SCADA**" has the meaning set forth in Section 7.2(h).

"**Schedule**" or "**Scheduling**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" has a corollary meaning.

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

"**Scheduling Coordinator**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time. The contact information for Seller's Scheduler as of the Effective Date is set forth in item 3, Appendix C.

"**Seller**" has the meaning set forth in the preamble of this Agreement.

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"**Seller Ancillary Documents**" means all instruments, agreements, certificates, and documents executed by Seller or any of its Affiliates, including any Seller Party, pursuant to this Agreement and shall include the documents constituting part of the Performance Security.

"**Seller Financing or Security Documents**" means any credit, financing or security agreements heretofore or hereafter entered into by or otherwise affecting Seller and providing for any Lien or other security interest or rights enforceable by any lender, trustee, collateral agent or other party in respect of any of the Facilities or any assets thereof or rights or other interests therein.

"**Seller Party(ies)**" means Seller and any Affiliate of Seller that executes a Seller Ancillary Document and shall include each Project Company and each Upstream Equity Owner and Downstream Equity Owner.

"**Settlement Interval**" has the meaning set forth in the CAISO Tariff.

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Settlement Point**" shall mean, for each Facility, the node pricing at the Point of Delivery for the Delivered Energy from such Facility.

"**Shortfall Energy**" has the meaning set forth in Section 9.1.

"**Shortfall Liquidated Damages**" has the meaning set forth in Section 9.3.

"**Showing Month**" shall be the calendar month of the Delivery Term, commencing with the Showing Month that contains the Commercial Operation Date of the first Facility to achieve Commercial Operation, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff.

"**Site**" means, for each Facility, the real property (including all fixtures and appurtenances thereto) and related physical and intangible property generally identified in the Facility Specifications for such Facility as owned or leased by Seller, or its Affiliates, or over which Seller, or its Affiliates, has leasehold improvements, has a right-of-way or other right to use the property where such Facility is located or will be located, and including the well fields and the Leases (if applicable), easements, rights-of-way, geothermal wells and resources, well drilling rights and interests, and contractual rights including capacity rights held or to be held by Seller, or its Affiliates, with respect to the transmission lines or rights of roadways servicing such Site or such Facility and located (or to be located) thereon.

"**Supply Plan**" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing Resource Adequacy Resources submits to the CAISO.

"**System Emergency**" means an emergency condition or abnormal interconnection situation, or an operational adjustment to comply with NERC or other regulatory requirements, that prevents Buyer's Transmission Provider from receiving Energy at the applicable Points of Delivery.

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"**Tangible Net Worth**" means the tangible assets (for example, not including intangibles such as goodwill and rights to patents or royalties) that remain after deducting liabilities as determined in accordance with GAAP.

"**Tax**" or "**Taxes**" means each federal, state, county, local and other (a) net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise, property or leasehold tax and (b) customs, duty or other fee, assessment or charge of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto. Requirements of Buyer or Buyer's Members are not Taxes.

"**Tax Equity Financing**" means a transaction or a series of transactions in which a Person or Persons (i) invests in Seller or in a Project Company or any Upstream Equity Owner or Downstream Equity Owner, (ii) purchases a Facility and leases it back to Seller (or an Affiliate of Seller) or (iii) leases a Facility from Seller or an Affiliate of Seller or invests in a direct or indirect lessee of a Facility, in each case seeking to earn its economic return, in whole or in part, through tax benefits related to the ownership or operation of such Facility.

"**Tax Equity Investor**" means, with respect to a Tax Equity Financing, one or more tax equity investors that (i) invests in Seller or in a Project Company or any Upstream Equity Owner or Downstream Equity Owner, (ii) purchases a Facility and leases it back to Seller (or an Affiliate of Seller) or (iii) leases a Facility from Seller or an Affiliate of Seller or invests in a direct or indirect lessee of the Facility.

"**Technology Factor**" means the then-applicable monthly percentage published by the CPUC and used to establish Qualifying Capacity (as defined in the CAISO Tariff) for non-dispatchable geothermal resources that have less than three (3) years of historical production and bidding data. The Parties acknowledge and agree that the Technology Factors vary from year to year and month to month.

"**Termination Notice**" has the meaning set forth in Section 13.3(a).

"**Termination Payment**" means a payment in an amount equal to the Non-Defaulting Party's (a) Losses, *plus* (b) Costs, *minus* (c) Gains; provided, however that if such amount is a negative number, the Termination Payment shall be equal to zero.

"**Transmission Providers**" means the Persons operating the Transmission Systems providing Transmission Services to or from the Points of Delivery.

"**Transmission Services**" means the transmission and other services required to transmit Facility Energy to or from the Points of Delivery.

"**Transmission System**" means the facilities utilized to provide Transmission Services.

"**Unexcused Cause**" has the meaning set forth in Section 14.6(b).

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"**Upstream Equity Owner**" means Ormat Nevada Inc. and any Person that owns or Controls at least fifty percent (50%) or more of the equity of Seller at any level below Ormat Nevada Inc.

"**WECC**" means the Western Electricity Coordinating Council.

"**WREGIS**" means Western Renewable Energy Generation Information System, or any successor renewable energy tracking program designated by the CPUC for determining compliance by load serving entities with the RPS.

"**WREGIS Certificates**" has the meaning set forth in Section 8.4(a).

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 8.4(d).

"**WREGIS Operating Rules**" means the rules describing the operations of the Western Renewable Energy Generation Information System, as published by WREGIS.

Other terms defined herein have the meanings so given when used in this Agreement with initial-capitalized letters.

Section 1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

(a) the singular number includes the plural number and vice versa;

(b) reference to any Person includes such Person's successors and assigns but, in case of a Party hereto, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(c) reference to any gender includes the other;

(d) reference to any agreement (including this Agreement), document, instrument, tariff, or Requirement means such agreement, document, instrument, or tariff, or Requirement, as amended, modified, replaced, or superseded and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof;

(e) reference to any Article, Section, or Appendix means such Article of this Agreement, Section of this Agreement, or such Appendix to this Agreement, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

(f) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or Section or other provision hereof or thereof;

(g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;

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(h) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including";

(i) reference to time shall always refer to Pacific Prevailing Time; and reference to any "day" or "month" shall mean a calendar day or calendar month, as applicable, unless otherwise indicated; and

(j) the term "or" is not exclusive.

ARTICLE II
EFFECTIVE DATE, TERM, AND EARLY TERMINATION

Section 2.1 Effective Date and Agreement Term. This Agreement shall be effective beginning on the Effective Date and shall end on the last day of the Delivery Term or upon the expiration or earlier termination of this Agreement in accordance with the terms hereof (the "***Agreement Term***").

Section 2.2 Delivery Term. This Agreement shall have a delivery term that commences at the beginning of the first (1st) Contract Year and ends at the end of the day that is twenty (20) years after the Commercial Operation Date for the first Facility to achieve Commercial Operation, unless the Agreement is sooner terminated in accordance with the terms of this Agreement (the "***Delivery Term***"); provided, in no event shall the Commercial Operation Date for the first Facility to achieve such Milestone occur earlier than June 1, 2024.

Section 2.3 Survivability. Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The provisions of this Article II, Article XII, Article XIII, Section 14.19, and Section 14.21 shall survive for a period of one (1) year following the termination of this Agreement. The provisions of Article XI shall survive for a period of one (1) year following final payment made by the Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. The provisions of Article V, Article VI, Article VIII, and Article IX shall continue in effect after termination to the extent necessary to provide for final billing, refunds or other adjustments, and deliveries related to the period prior to termination of this Agreement.

Section 2.4 Early Termination Rights.

(a) Notwithstanding anything to the contrary in this Agreement, if Project Participant Approval of this Agreement is not obtained within one hundred twenty (120) days following the Effective Date, then either Party may terminate this Agreement upon written notice to the other Party. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.3. Seller and Buyer shall cooperate reasonably with each other to accomplish Project Participant Approval in a timely manner. Notwithstanding anything in this Agreement to the contrary, Buyer shall have a one-time right, but not an obligation, to lower the Maximum Capacity to an amount no less than sixty-four (64) MW by delivering to Seller notice of such adjustment no later than the earlier of (i) the date that the Project Participant Approval is obtained and (ii) the date that is one hundred twenty (120) days after the Effective Date. Any such reduction of the Maximum Capacity shall proportionally reduce

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the Minimum Capacity. For illustrative purposes only, if the Maximum Capacity is reduced by 10% (from 125 MW to 112.5 MW), then the Minimum Capacity shall be reduced by 10% (from 64 MW to 57.6 MW).

(b) Notwithstanding anything to the contrary in this Agreement, if (i) by September 30, 2024, Seller has provided Proposed Facility Notices to Buyer for Proposed Facilities with Facility Net Capacities that in the aggregate are no lower than the Minimum Capacity for the Project and (ii) by September 30, 2027, no Proposed Facility has been included as an Included Facility in accordance with Section 3.1, then at any time thereafter until the date that Buyer notifies Seller that the Project Participants (A) have obtained Import Capability for Proposed Facilities with Facility Net Capacities that in the aggregate are no lower than the Minimum Capacity for the Project or (B) have elected to include Proposed Facilities with Facility Net Capacities that in the aggregate are no lower than the Minimum Capacity for the Project as Included Facilities, notwithstanding that the Project Participants have not obtained Import Capability for some or all of such Proposed Facilities, Seller may, but is not obligated to, terminate this Agreement upon written notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.3, and Buyer shall return the Project Development Security to Seller in accordance with Section 5.9(c).

ARTICLE III
DEVELOPMENT OF THE FACILITIES

Section 3.1 Project Design and Facility Specifications. Subject to limitations on Project Participants' Import Capability, as set forth below, Seller shall use commercially reasonable efforts to deliver to Buyer, on or before the Final COD Deadline, Project Net Capacity equal to the Maximum Capacity. Seller shall determine the location, design, configuration, and Facility Net Capacity of each Facility, subject to the Requirements and to any conditions which are imposed by any Governmental Authority as part of the environmental review of each Facility required under applicable Federal and Nevada or California Requirements of Law, as applicable; provided, each Facility shall be a Firm Clean Resource and shall have a Commercial Operation Date that occurs no later than the Final COD Deadline. Promptly after Seller determines a Facility should be included in the Project (a "***Proposed Facility***"), Seller shall deliver to Buyer a notice (a "***Proposed Facility Notice***") that (a) includes the Facility Specifications for such Proposed Facility, which shall include the Facility Net Capacity and Primary Point of Delivery for such Proposed Facility, (b) includes the Milestone Schedule for such Proposed Facility, and (c) identifies whether Seller has elected to designate the Proposed Facility as a Pseudo-Tie Resource or a Dynamically Scheduled Resource. Each Proposed Facility shall have an expected Commercial Operation Date that is at least twenty-seven (27) months later than the date on which Seller delivers a Proposed Facility Notice, and Seller shall not deliver a Proposed Facility Notice to Buyer after the date that is twenty-seven (27) months prior to the Final COD Deadline without Buyer's prior written consent, which Buyer may withhold in Buyer's absolute discretion; provided, however, that Seller shall have the right to declare the Commercial Operation Date prior to the date that is twenty-seven (27) months after the date that Seller delivers a Proposed Facility Notice so long as such Commercial Operation Date is no less than twelve (12) months after the date that Seller delivers a Proposed Facility Notice. Buyer shall cause the Project Participants to use commercially reasonable efforts to obtain Import Capability necessary to import the Facility Net Capacity of each Proposed Facility into the CAISO at the Primary Point of Delivery for such

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Proposed Facility, and Buyer shall notify Seller as soon as reasonably practicable after receipt of the Proposed Facility Notice either (A) that the Project Participants have been able to obtain such Import Capability or have elected to include the Proposed Facility in the Project without obtaining Import Capability such that the Proposed Facility will be included in the Project ("***Included Facility***"), or (b) that the Project Participants have been unable to obtain such Import Capability such that the Proposed Facility will not be added to the Project ("***Excluded Facility***"), and both the Maximum Capacity of the Project and the Minimum Capacity of the Project will be reduced by the Facility Net Capacity of the Excluded Facility(ies). If Buyer fails to notify Seller that the Proposed Facility is an Included Facility or an Excluded Facility by the date that is twenty-four (24) months prior to the Final COD Deadline, then the Final COD Deadline shall be extended on a day-for-day basis for each day until the date that Buyer provides such notice to Seller or Seller withdraws the Proposed Facility Notice due to Buyer's failure to notify Seller that the Proposed Facility is an Included Facility or an Excluded Facility, which withdrawal shall become effective ten (10) Business Days after Seller's delivery to Buyer of written notice of the withdrawal, unless Buyer notifies Seller that the Proposed Facility shall be an Included Facility within such ten (10) Business Day period. An illustrative list of potential Facilities is included in Appendix N; provided, however, that Appendix N is for illustrative purposes only, and no Facility shall be added to the Project unless and until such Facility is added pursuant to the process set forth in this Section 3.1.

Section 3.2 Permitting and CEQA Exemption.

(a) Seller, at its expense, shall timely take, or cause its Affiliates to take, all steps necessary to obtain all Permits required to construct, maintain, or operate each Facility, including drilling of the geothermal wells of the Facility, in accordance with the Requirements, including the timely preparation of all environmental documents required to have the applicable Facility reviewed under applicable Federal and Nevada law to the extent required under such law.

(b) The Parties acknowledge and agree that (a) each Facility will be subject to environmental review pursuant to NEPA in connection with the procurement of rights-of-way from the U.S. Department of the Interior, Bureau of Land Management for the construction and installation of certain electrical facilities, (b) pursuant to that law, Seller will, or will cause its Affiliates to, submit to and complete the NEPA Environmental Assessment with respect to each Facility, and (c) each Facility that will be located in Nevada is statutorily exempt from CEQA pursuant to Title 14, California Code of Regulations, Section 15277.

Section 3.3 Performance Testing Conditions Criteria. For each Facility, no later than Construction Start for such Facility, Seller shall deliver to Buyer ambient conditions criteria and a cooling water correction curve applicable to the performance testing that will be performed to demonstrate the peak electrical output of such Facility (collectively, the "***Performance Testing Conditions Criteria***").

Section 3.4 Site Confirmation. For each Facility for which Seller has delivered the Facility Specifications to Buyer, Seller represents and warrants that (a) Seller's agents and representatives have visited, inspected, and are familiar with each Site and its surface physical condition relevant to the obligations of Seller pursuant to this Agreement, including surface conditions, normal and usual soil conditions, roads, utilities, and topographical, solar radiation,

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air, and water quality conditions, (b) to its knowledge, Seller is familiar with all local and other conditions that may be material to Seller's performance of its obligations under this Agreement (including transportation, seasons and climate, access, weather, handling and storage of materials and equipment, and availability and quality of labor and utilities), and (c) Seller has determined that the Site constitutes an acceptable and suitable site for the construction (if applicable) and operation of such Facility in accordance herewith. Any failure by Seller to have taken or to take the actions described in this Section 3.4 shall not relieve Seller from any responsibility for estimating properly the difficulty and cost of successfully constructing (if applicable), maintaining or operating a Facility in accordance with this Agreement or from proceeding to construct (if applicable), maintain, and operate such Facility successfully without any additional expense to Buyer. At all times after delivery to Buyer of the Facility Specifications for a Facility, Seller shall have "Site Control" for such Facility, which means that Seller or its Affiliates shall own the Site, have a right-of-way with respect to the Site, or be the lessee of the Site under a lease which permits Seller to perform its obligations under the Agreement and the Seller Ancillary Documents. Seller shall provide Buyer with prompt notice of any change in the status of Seller's Site Control. Seller shall not take any action or permit any action to be taken at or with respect to the Site that has a material adverse effect upon the applicable Facility or the geothermal resource, or the generating capability of the applicable Facility.

Section 3.5 Certification of Commercial Operation Dates. When Seller has determined that all requirements under this Agreement for achieving Commercial Operation of a Facility have been satisfied, Seller shall provide Buyer with a certificate from the Licensed Professional Engineer substantially in the form of Appendix K, together with notice that the other conditions precedent specified in the definition of "Commercial Operation" in Section 1.1 have been satisfied in respect of such Facility. Buyer shall either accept or reject the notice in its reasonable discretion by delivering a notice to Seller in writing within thirty (30) Business Days. If Buyer fails to respond within thirty (30) Business Days, it shall be deemed to have accepted the notice. If Buyer rejects the notice, Buyer shall state in detail the reasons for its rejection and the Parties shall immediately meet and confer to address Buyer's concerns. Commercial Operation of the Facility shall be deemed to have occurred on the date that the requirements for Commercial Operation are satisfied, which date may be earlier than the date on which Buyer accepts Seller's notice that Commercial Operation has occurred and/or the date on which any concerns that Buyer expresses in connection with Seller's notice are resolved; provided the Parties acknowledge or are deemed to have acknowledged, or it is determined through dispute resolution, that all such requirements for Commercial Operation, as applicable, for such Facility have been satisfied on such earlier date.

Section 3.6 Milestone Schedule. For each Facility that is added to the Project pursuant to the process set forth in Section 3.1, within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the date on which such Facility is added to the Project until the Construction Start for such Facility, and (ii) each calendar month from the first calendar month following Construction Start until the Commercial Operation Date for such Facility, Seller shall provide to Buyer a Progress Report and agrees to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Appendix O. Seller shall also provide Buyer with any reasonably requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of

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receipt of such request by Seller. Seller shall achieve each Milestone by the Milestone Date specified therefor in the Milestone Schedule for such Facility, provided that such Milestone Date may be extended by Seller by providing to Buyer notice of such extension at least fifteen (15) days (or, in the event of a Force Majeure concerning which fifteen (15) days advance notice is not practicable, as soon as practicable) prior to such Milestone Date, including the cause of the delay, if known, (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor) and Seller's description of its proposed course of action to achieve the missed Milestone by the extended Milestone Date. The date specified for each Milestone shall be the Milestone Date for achieving such Milestone, provided that, if and to the extent such date shall be extended as provided in this Section 3.6, the extended date shall be the new Milestone Date for purposes of this Agreement. Notwithstanding anything herein to the contrary, Seller shall not be in default or otherwise have any liability under this Agreement for failing to meet a Milestone Date, other than to the extent provided in Section 3.7 of this Agreement. To the extent that Seller determines that, due to Seller's inability to satisfy one or more Milestones timely, a Facility is unlikely to achieve Commercial Operation by the Final COD Deadline, Seller shall be entitled to deliver to Buyer a notice that removes such Facility from the Project; provided, however, that if Buyer has notified Seller that the Project Participants have secured Import Capability sufficient to import Capacity Attributes from such Facility into the CAISO Market, then within thirty (30) days after the notice of removal, Seller shall deliver to buyer a Proposed Facility Notice that identifies a replacement Proposed Facility that would use but not exceed such Import Capability and that will achieve Commercial Operation by the Final COD Deadline.

Section 3.7 Performance Damages.

(a) **Failure to Achieve Minimum Capacity by the Final COD Deadline**. If the Project Net Capacity as of the Final COD Deadline is less than the Minimum Capacity, then, subject to Section 3.7(d), Seller shall pay liquidated damages to Buyer in an amount equal to [redacted] ("***Delay Damages***") of difference between the Minimum Capacity and the Project Net Capacity per day for each day intervening between the Final COD Deadline and the earliest of (i) the date that the Project Net Capacity becomes equal to or greater than the Minimum Capacity, and (ii) the date that is one hundred eighty (180) days after the Final COD Deadline ("***Minimum Capacity Cure Date***"). If the Project Net Capacity as of the Minimum Capacity Cure Date is less than the Minimum Capacity, then, subject to Section 3.7(d), (A) Seller shall pay to Buyer an amount equal to [redacted] ("***Capacity Buydown Damages***") and (B) the Minimum Capacity shall be revised to equal the Project Net Capacity as of the Minimum Capacity Cure Date. Seller shall provide to Buyer a written notice of such revised Minimum Capacity.

(b) **[Reserved]**.

(c) **Payment of Delay Damages and Capacity Buydown Damages**. For each month during which Delay Damages have accrued, within twenty (20) Business Days after the end of such month, Seller shall deliver to Buyer a written statement of the amount of the applicable liquidated damages that accrued during such month in accordance with Section 3.7(a), together with payment thereof. Within twenty (20) Business Days after the Minimum Capacity Cure Date,

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Seller shall pay Buyer any Capacity Buydown Damages required to be paid to Buyer in accordance with Section 3.7(a).

(d) **Delay Damages and Capacity Buydown Damages Cap**. Notwithstanding anything to the contrary herein, Seller's obligation to pay Delay Damages and Capacity Buydown Damages, in the aggregate, shall not exceed an amount equal to two hundred percent (200%) of the amount of the Project Development Security (as the same may have been recalculated in accordance with Section 5.9(a)).

(e) Damages that Buyer would incur due to (i) Seller's failure to achieve a Project Net Capacity that meets the Minimum Capacity by the Final COD Date, or (ii) Seller's failure to achieve a Project Net Capacity that meets the Minimum Capacity by the Minimum Capacity Cure Date, would be difficult or impossible to predict with certainty, and it is impractical or difficult to assess actual damages in those circumstances, but the Delay Damages and Capacity Buydown Damages set forth in Sections 3.7(a) are fair and reasonable calculations of such damages. Buyer's right to collect liquidated damages pursuant to Sections 3.7(a) is Buyer's sole and exclusive remedy for any failure by Seller to achieve any required level of Project Net Capacity by the Minimum Capacity Cure Date.

Section 3.8 Notice of Facility Net Capacity and Primary Point of Delivery. At least one (1) year prior to the Commercial Operation Date of a Facility, Seller shall provide notice to Buyer confirming (a) the Facility Net Capacity for such Facility, subject to adjustment pursuant to Section 3.9 below, and (b) the Primary Point of Delivery for such Facility. If Seller proposes to increase the Facility Net Capacity of a Facility or to change the Primary Point of Delivery for a Facility, and the Parties do not mutually agree to the proposed increase to the Facility Net Capacity or the proposed change to the Primary Point of Delivery for a Facility, as applicable, (such agreement not to be unreasonably withheld, conditioned or delayed), then, unless Seller withdraws its proposal to increase the Facility Net Capacity or change the Primary Point of Delivery, as applicable, the Proposed Facility will be removed from the Project.

Section 3.9 Revision of Facility Net Capacity. No less than thirty (30) days prior to a Facility's Commercial Operation, Seller has the right, (a) without Buyer's consent, to reduce the Facility Net Capacity for such Facility, or (b) with Buyer's consent, to increase the Facility Net Capacity for such Facility, in either case by providing notice to Buyer stating the reduced or increased Facility Net Capacity ("***Revised Net Capacity***") and evidence reasonably demonstrating (i) the sustained operation of the Facility for at least five (5) consecutive hours at a delivery rate of at least ninety percent (90%) of the Revised Net Capacity (net of providing the full requirements for Parasitic Load and net of transmission losses) as measured by the Electric Metering Devices at the Primary Point of Delivery, as adjusted to reflect nominal resource temperature and flow rates and other environmental conditions in accordance with the Performance Testing Conditions Criteria for such Facility, and (ii) the delivery of Energy equal to at least the product of ninety percent (90%) of the Revised Net Capacity for each of one hundred twenty (120) consecutive hours (net of providing the full requirements for Parasitic Load and net of transmission losses) as measured by the Electric Metering Devices at the Primary Point of Delivery, as adjusted to reflect resource temperature and flow rates and other environmental conditions in accordance with the Performance Testing Conditions Criteria for such Facility. Notwithstanding the prior sentence, no reduction to Facility Net Capacity pursuant to this Section 3.9 shall reduce the Minimum Capacity.

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Buyer shall either accept or reject a notice increasing the Facility Net Capacity in its reasonable discretion by delivering a notice to Seller in writing within thirty (30) days. If Buyer fails to respond within thirty (30) days, it shall be deemed to have accepted the notice. If Buyer rejects the notice, Buyer shall state in detail the reasons for its rejection. The Parties shall immediately meet and confer to address Buyer's concerns. Upon Buyer's acceptance, or deemed acceptance, of the notice, the Facility Net Capacity will be revised to equal the Revised Net Capacity specified in the notice, effective as of the date that Seller provided its notice to Buyer. If Buyer rejects a proposal to increase the Facility Net Capacity, the Facility Net Capacity will remain unchanged. Notwithstanding anything to the contrary in the first sentence of this Section 3.9, if Seller provides a notice revising the Facility Net Capacity of more than one Facility that will deliver Energy to the same Primary Point of Delivery, then if the aggregate Facility Net Capacities of all such Facilities does not increase, then Buyer's consent shall not be required to increase the Facility Net Capacity of any individual Facility.

Section 3.10 Delivery of Energy Prior to Commercial Operation Date. For each Facility, prior to the Commercial Operation Date of such Facility, Seller shall sell and deliver to the Points of Delivery, and Buyer shall purchase and receive at and from the Points of Delivery, the Delivered Energy associated with such Facility for a maximum of thirty (30) days at the price set forth in Section 1 of Appendix A; provided, in no event shall Buyer be obligated to purchase or receive Delivered Energy in excess of the Maximum Generation unless Buyer shall by notice given to Seller elect to purchase any such Energy in excess of Maximum Generation. For avoidance of doubt, Buyer shall have no obligation to purchase and receive Delivered Energy for more than thirty (30) days from any Facility that has not achieved Commercial Operation.

Section 3.11 Facility Removal for Failure to Obtain CEC Certification. Seller shall remove from the Project any Facility or Facilities that have achieved Commercial Operation under this Agreement but have not been CEC Certified by the date that is (a) one hundred eighty (180) days following such Facility's Commercial Operation Date if such failure to be CEC Certified is the result of Seller's fault or negligence (including any failure to submit timely required documentation to the CEC) or (b) three hundred sixty (360) days following such Facility's Commercial Operation Date if such failure to be CEC Certified is not the result of Seller's fault or negligence. Seller shall provide notice to Buyer and remove such Facility from the Project and upon delivery of such notice the Project Net Capacity will be reduced by the amount of the Facility Net Capacity associated with such Facility and the Guaranteed Generation reduced in accordance with the reduced Project Net Capacity. If such Facility removal occurs after the Minimum Capacity Cure Date, Buyer shall calculate in a commercially reasonable manner, and consistent with Section 13.3(b), the positive amount, if any, calculated as its Costs, *plus* Losses, *minus* Gains with respect to such reduction in Project Net Capacity; provided, Costs, Losses and Gains shall all be determined with respect to the reduction in Project Net Capacity rather than with respect to termination of all obligations under this Agreement, and further provided that, if the result of the foregoing calculation is negative, no amount shall be due to Seller. As soon as reasonably practical, Buyer shall provide notice to Seller of such damages along with a demand for payment, which demand shall be provided with a written statement explaining in reasonable detail the calculation of the demanded amount. Within ten (10) Business Days after receipt of such demand and written statement, Seller shall pay the undisputed amount of such demand and provide written notice of any disputed amount (if any), which dispute shall be resolved in accordance with Section 14.3. If Buyer prevails in any such dispute, then Seller shall pay the amount determined to be due to Buyer,

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together with interest on such amount calculated at the Interest Rate from the original due date until the date paid. If, before the dispute is resolved, Buyer draws on the Delivery Term Security for any disputed amount and Seller thereafter prevails in the dispute, then Buyer (i) shall be required to refund the amount of the erroneous draw, together with interest calculated at the Interest Rate from the date of the draw through the date of refund and (ii) shall pay to Seller any documented costs and expenses incurred by Seller due to the erroneous draw on the Delivery Term Security. If Seller fails to pay or dispute the amount of a demand within ten (10) Business Days after receipt of Buyer's demand and supporting written statement, then Buyer shall be entitled to draw from the Delivery Term Security the unpaid amount. Payment of the damages as described in this Section 3.11 are Buyer's sole and exclusive remedies for Seller's failure to obtain CEC Certification for a Facility.

Section 3.12 [Reserved].

Section 3.13 Decommissioning and Other Costs. Buyer shall not be responsible for any cost of decommissioning or demolition of any Facility or any part thereof or any environmental or other liability associated with the decommissioning or demolition without regard to the timing or cause of the decommissioning or demolition.

ARTICLE IV
OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 General Operational Requirements. Seller shall, at all times:

(a) At its sole expense, operate and maintain, or cause an Affiliate to operate and maintain, each Facility (i) in accordance with the Requirements, and (ii) in a manner that, to the extent commercially reasonable to do so, is reasonably likely to maximize the output of Energy and Capacity Attributes from the Facility and result in a useful life for the Facility of not less than twenty (20) years;

(b) Employ, or cause an Affiliate to employ, qualified and trained personnel for managing, operating, and maintaining each Facility and for coordinating with Buyer, and ensure that necessary personnel are available on-site or on-call and available to be on Site within four (4) hours, twenty-four (24) hours per day, each day during the Delivery Term;

(c) Operate and maintain, or cause an Affiliate to operate and maintain, each Facility with due regard for the safety, security, and reliability of the interconnected facilities and Transmission System; and

(d) Comply, or cause compliance, to the extent commercially reasonable to do so, with operating and maintenance standards recommended or required by each Facility's equipment suppliers.

Section 4.2 Operation and Maintenance Plan; Operation and Maintenance Reports. Seller shall devise and implement, or cause an Affiliate to devise and implement, a plan of inspection, maintenance, and repair for each Facility and the components thereof in order to maintain such equipment in accordance with Prudent Utility Practices, and shall keep, or cause to be kept, records with respect to inspections, maintenance, and repairs thereto. The aforementioned

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plan and all records of such activities shall be available for inspection by Buyer during Seller's regular business hours upon reasonable notice; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at any Facility.

Section 4.3 Environmental Credits. Seller or its Affiliates shall, if applicable, obtain in its own name and at its own expense all pollution or environmental Permits, credits or offsets necessary to operate each Facility in compliance with the Requirements of Law.

Section 4.4 Planned and Forced Outages.

(a) Seller shall schedule all Planned Outages within the time-period determined by the CAISO for each Facility as a Resource Adequacy Resource that is subject to the Availability Standards (as defined in the CAISO Tariff) to qualify for an "Approved Maintenance Outage" under the CAISO Tariff. Seller shall reimburse Buyer for any documented cost incurred by a Project Participant to provide substitute Capacity Attributes, as required by the CAISO, during any Planned Outages, whether as originally scheduled or as rescheduled in accordance with this Section 4.4(a) (including, to the extent actually incurred and documented by Project Participants, the cost of procuring replacement Capacity Attributes for a full calendar month during any month in which a Planned Outage is planned or scheduled). Notwithstanding the foregoing, Seller shall not be permitted to schedule Planned Outages during the months of June through September each Contract Year (the "***Major Maintenance Blockout***"). No later than sixty (60) days prior to the anticipated commencement of the first (1st) Contract Year and the commencement of each Contract Year thereafter, Seller shall provide Buyer with its non-binding written projection of all Planned Outages for the succeeding three (3) years (the "***Planned Outage Projection***") reflecting no scheduled maintenance during the Major Maintenance Blockout. The Planned Outage Projection shall include information concerning all projected Planned Outages during such period, including (i) the anticipated start and end dates of each Planned Outage; (ii) a description of the maintenance or repair work to be performed during the Planned Outage; and (iii) the MW capacity anticipated to be impacted, if any, during the Planned Outage. Seller shall notify Buyer of any change in the Planned Outage Projection as soon as practicable; provided that Major Maintenance shall not be performed more than one week before or after the scheduled time without Buyer's consent unless (i) for changes that move the date of Major Maintenance to an earlier date, Seller provides notice of the change at least fifty (50) Business Days prior to the first day of the month in which such Major Maintenance is to be rescheduled, and (ii) for changes that move the date of such Major Maintenance to a later date, Seller provides notice of the change prior to the first day of the month in which such Major Maintenance was originally scheduled. Seller will use commercially reasonable efforts to accommodate reasonable requests of Buyer with respect to the timing of Planned Outages and Seller will, to the extent consistent with Prudent Utility Practices, coordinate Planned Outages to coincide with planned transmission outages. In the event of a System Emergency, Seller shall make all reasonable efforts to reschedule any Planned Outage previously scheduled to occur during the System Emergency.

(b) In the event of a Forced Outage affecting at least seven and a half (7.5) MW of Project Net Capacity which Seller anticipates shall be of a duration more than one (1) hour, to the extent practicable, Seller shall notify Buyer by email as soon as possible and shall make efforts to provide such notification within the hour of the commencement of the Forced Outage and, within seven (7) days thereafter, provide Buyer detailed information concerning the Forced

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Outage, including (i) the start and anticipated end dates of the Forced Outage; (ii) a description of the cause of the Forced Outage; (iii) a description of the maintenance or repair work to be performed during the Forced Outage; and (iv) the anticipated MW capacity, if any, during the Forced Outage. Seller shall take all reasonable measures and exercise commercially reasonable efforts to avoid Forced Outages and to limit the duration and extent of any such outages.

Section 4.5 Facility Operation. Each Facility shall be operated during the Delivery Term by Seller or an Affiliate of Seller that is under the Control of Seller or such other Person(s) as Seller or the applicable Project Company may contract with from time to time under an agreement for the operation of such Facility; provided that such agreement shall provide Seller with the rights, as a creditor, beneficiary or otherwise, to enforce such agreement so as to ensure compliance with all applicable provisions of this Agreement. The agreement with respect to the operations of such Facility shall require that such Facility be operated in a manner that is in full compliance with the Requirements. Seller shall provide to Buyer a copy of the relevant operations agreement (which may be redacted to remove confidential information of the parties thereto).

ARTICLE V
COMPLIANCE DURING OPERATION PERIOD; GUARANTEES

Section 5.1 Guarantees. Seller warrants and guarantees that (i) it will perform, or cause to be performed, all engineering, design, development, construction, operation and maintenance of each Facility in a good and workmanlike manner and in accordance with the Requirements; and (ii) throughout the Delivery Term (a) each Facility, its engineering, design and construction, its components, and related work, will be free from material defects caused by errors or omissions in design, engineering and construction or repaired as provided below, (b) each Facility will be free and clear of all Liens other than Permitted Encumbrances, and (c) each Facility and all parts thereof will be designed, constructed, tested, operated and maintained in material compliance with the Requirements, all applicable requirements of the latest revision of the ASTM, ASME, AWS, EPA, IEEE, ISA, National Electrical Code, National Electric Safety Code, and OSHA, as applicable, and the Uniform Building Code, Uniform Plumbing Code, and the applicable local County Fire Department Standards of the applicable county. Seller shall promptly repair or replace, or cause to be repaired or replaced, consistent with Prudent Utility Practice, any component of a Facility that does not comply with the foregoing warranties and guarantees. Seller shall at all times exercise commercially reasonable efforts to undertake, or cause to be undertaken, all recommended or required updates or modifications to each Facility, and its equipment and materials, including procedures, programming and software in a timely manner. Seller shall, at its expense, maintain or cause to be maintained throughout the Delivery Term an inventory of spare parts for each Facility in a quantity that is consistent with manufacturers' recommendations and Prudent Utility Practice.

Section 5.2 Buyer's Right to Monitor in General. At Buyer's sole expense and without interfering with Seller's or its Affiliates' activities at the Facility, Buyer shall have the right, and Seller shall permit Buyer and its representatives, advisors, engineers, and consultants, to observe, inspect, and monitor all operations and activities at each Site, including the performance of the contractors under the construction contracts pertaining to such Facility, the design, engineering, procurement, and installation of the equipment, start up and testing, and the achievement of Commercial Operation; provided that Buyer shall at all times comply with Seller's,

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the contractor's or the operator's safety and security requirements when present at the Facility. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold any proprietary information, including with respect to proprietary intellectual property of Seller; provided that such information shall be provided by Seller to Buyer to the extent required by Buyer to enforce its rights or to carry out its responsibilities under this Agreement. In addition, Buyer shall hold any information obtained during or in connection with such monitoring in confidence pursuant to Section 14.21.

Section 5.3 Effect of Review by Buyer. Any review by Buyer of the design, construction, engineering, operation or maintenance of a Facility is solely for the information of Buyer. Buyer shall have no obligation to share the results of any such review with Seller, nor shall any such review or the results thereof (whether or not the results are shared with Seller) nor any failure to conduct any such review relieve Seller from any of its obligations under this Agreement. By making any such review, Buyer makes no representation as to the economic and technical feasibility, operational capability or reliability of a Facility. Seller shall in no way represent to any third party that any such review by Buyer of a Facility, including, but not limited to, any review of the design, construction, operation or maintenance of the Facility by Buyer, is a representation by Buyer as to the economic and technical feasibility, operational capability, or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

Section 5.4 Reporting and Information; Administration and Periodic Reporting.

(a) Seller shall provide to Buyer such other information regarding the permitting, engineering, construction, or operation of each Facility by Seller or its subcontractors and other data concerning Seller, its subcontractors and the Facilities as Buyer may, from time to time, reasonably requested in order to enforce its rights or discharge its responsibilities under this Agreement. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold any proprietary information, including with respect to the intellectual property of Seller; provided that such information shall be provided by Seller to Buyer to the extent required by Buyer to enforce its rights or to carry out its responsibilities under this Agreement. In addition, Buyer shall hold any Confidential Information obtained during or in connection with such monitoring in confidence pursuant to Section 14.21.

(b) Seller shall perform administrative and periodic reporting to Buyer which shall include the following:

(i) Safety matters including monthly reports, including OSHA recordable and non-recordable incidents and site safety information;

(ii) Monthly operational reports with respect to Facility activities, including plant performance, capacity factor, availability, weather and generation data, and in each case confirming that applicable contractual requirements have been met;

(iii) Any notice of non-compliance with NERC and FERC rules or regulations;

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(iv) Any environmental contamination that Seller or its Affiliates, and any of their contractors, become aware of at any Site; and

(v) Any information that is requested by the CPUC with respect to a Facility, this Agreement, or the Project.

Section 5.5 Initial Performance Test. Prior to the Commercial Operation Date for each Facility, Seller shall provide to Buyer the opportunity, at Buyer's sole expense and without interfering with Seller's or its Affiliates' activities at the Facility, to:

(a) review and monitor the contractors' performance and achievement of all initial performance tests and all other tests required under the Facility construction contracts performed to achieve the Commercial Operation Date, and Seller shall, or shall cause its contractor, to provide at least ten (10) Business Days prior notice to Buyer before any such test begins; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility;

(b) be present to witness such initial performance tests and review the results thereof; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility; and

(c) perform such detailed examinations, inspections, quality surveillance, and tests as are appropriate and advisable to determine that the Facility equipment and all ancillary components of the Facility have been installed in accordance with the Facility construction contracts and the Requirements.

Section 5.6 Contract Provisions. For each Facility, Seller shall cause to be included in the Facility construction contracts provisions whereby the contractors and Seller:

(a) grant to Buyer, at Buyer's sole expense and without interfering with Seller's or the construction contractors' activities at the Facility, rights of access to the Facility at all reasonable times (but subject to reasonable safety precautions) and the right to inspect, make notes about, and copy all documents, drawings, plans, specifications, permits, test results, and information as Buyer may reasonably request; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold any proprietary information, including with respect to intellectual property of Seller; provided that such information shall be provided by Seller to Buyer to the extent required by Buyer to enforce its rights or to carry out its responsibilities under this Agreement. In addition, Buyer shall hold any Confidential Information obtained during or in connection with such monitoring in confidence pursuant to Section 14.21;

(b) make the personnel of, and consultants to, the contractors and Seller available to Buyer and its agents, representatives and consultants for a reasonable number of hours, at reasonable times, and with reasonable prior notice for purpose of discussing any aspect of the Facility or the development, engineering, construction, installation, testing, or performance thereof; and

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(c) otherwise cooperate in all reasonable respects with Buyer and its Authorized Representatives, advisors, engineers and consultants in order to allow Buyer to exercise its rights under this Section 5.6.

Section 5.7 Quality Assurance Program; Routine and Preventive Maintenance Services.

(a) Seller shall develop a written quality assurance policy ("***Quality Assurance Program***") in accordance with the requirements of Appendix H within sixty (60) days prior to commencement of construction on the first Facility, and Seller shall cause all work performed on or in connection with each Facility to comply with said Quality Assurance Program.

(b) Seller shall perform, or cause to be performed, routine and preventive maintenance services in accordance with manufacturers' instructions and Prudent Utility Practices, including:

(i) Conducting regular equipment inspections and recording any noncompliance with applicable standard specifications for the equipment, and reporting any noncompliance that materially and adversely affects a Facility's performance or is likely to materially and adversely affect a Facility's performance and any defective conditions or operational failures with respect to the equipment to Buyer;

(ii) Performing all required preventive maintenance, including meter calibration and testing, and scheduling and arranging for routine maintenance during operations and planned outages, and for maintenance that can be conducted during a Forced Outage;

(iii) Conducting periodic maintenance to equipment in accordance with Prudent Utility Practices, and providing a report thereof to Buyer;

(iv) Conducting monthly quality assurance inspections of Facility plant and equipment and providing a report thereof to Buyer.

Section 5.8 No Liens. Except as otherwise permitted by this Agreement, each Facility shall be owned by Seller or an Affiliate of Seller. Seller shall not, and shall cause its Affiliates not to, other than to another Affiliate, sell, transfer or otherwise dispose of or create, incur, assume or permit to exist any Lien (other than Permitted Encumbrances) on any portion of any Facility without the prior written consent of Buyer.

Section 5.9 Seller Performance Security.

(a) Within thirty (30) days following the date that the Project Participant Approval has been received, Seller shall have furnished to Buyer a letter of credit issued by a Qualified Issuer substantially in the form of Appendix E, as such form may be modified with the consent of Buyer (not to be unreasonably withheld, conditioned or delayed), in an amount equal to [redacted] which shall secure all of Seller's obligations to pay liquidated damages under Section 3.7 ("***Project Development Security***"). Seller shall maintain such Project Development

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Security until Buyer is required to return the Project Development Security under Section 5.9(c) below. Any reduction of the Minimum Capacity pursuant to Section 2.4 or Section 3.1 shall result in the recalculation of the amount of Project Development Security and Seller shall be entitled to reduce the Project Development Security in accordance with such calculation. In the event that Buyer draws on the Project Development Security at any time, Seller shall within ten (10) Business Days thereafter replenish such Project Development Security; provided, however, that in no event shall the aggregate amount of the original posting of Project Development Security plus all such replenishments exceed an amount equal to two hundred percent (200%) of the applicable amount of Project Development Security required to be maintained by Seller at the time of any such replenishment.

(b) As a condition to the achievement of Commercial Operation for each Facility, Seller shall have furnished to Buyer (i) one or more guarantees from a Qualified Guarantor substantially in the form of Appendix G, as such form may be modified with the consent of Buyer (not to be unreasonably withheld, conditioned or delayed), (ii) a letter of credit issued by a Qualified Issuer substantially in the form of Appendix E, as such form may be modified with the consent of Buyer (not to be unreasonably withheld, conditioned or delayed), or (iii) a combination of any of the foregoing, in the aggregate amount equal to [redacted], which shall guarantee Seller's obligations under this Agreement following the Commercial Operation Date ("***Delivery Term Security***"). From and after the Commercial Operation Date for a Facility, Seller shall maintain the corresponding Delivery Term Security until Buyer is required to return the Delivery Term Security to Seller as set forth in Section 5.9(d) below; provided that Seller may, from time to time, replace any portion of the Delivery Term Security with another form of Delivery Term Security meeting the foregoing requirements. In the event that Buyer draws on the Delivery Term Security at any time, Seller shall within ten (10) Business Days thereafter replenish such Delivery Term Security.

(c) Upon the earliest to occur of (i) the Project Net Capacity is increased to an amount that is equal to or greater than the Minimum Capacity, (ii) this Agreement is terminated while the Project Development Security is outstanding, or (iii) Seller's payment of Capacity Buydown Damages in accordance with Section 3.7(a), Seller shall no longer be required to maintain the Project Development Security, and Buyer shall return to Seller the Project Development Security, less any and all amounts drawn by Buyer as permitted under the terms of this Agreement. The Project Development Security (or portion thereof) due to Seller after any and all amounts are drawn by Buyer as permitted under the terms of this Agreement shall be returned to Seller within five (5) Business Days after the first event described in clauses (i) through (iii) of this Section 5.9(c) occurs.

(d) Buyer shall return the unused portion of Delivery Term Security, if any, to Seller promptly after both of the following have occurred: (i) the Agreement Term has ended, and (ii) all obligations of Seller arising under this Agreement are paid (whether directly or indirectly such as through set-off or netting) or performed in full.

(e) Seller shall notify Buyer of the occurrence of a Downgrade Event within five (5) Business Days after obtaining knowledge of the occurrence of such event. If at any time there shall occur a Downgrade Event, then Buyer may require that Seller replace the Performance

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Security from the Person that has suffered the Downgrade Event within ten (10) Business Days after notice from Buyer to Seller requesting such replacement Performance Security. In the event that such replacement Performance Security is not so provided by Seller, Buyer shall have the right to demand payment of the full amount of such Performance Security and retain such amount in order to secure Seller's obligations under this Section 5.9 and other applicable provisions of this Agreement. In such case, Buyer shall hold the demanded amount in an escrow account until the earlier of (i) Seller's delivery of replacement Performance Security, upon receipt of which Buyer shall return to Seller the portion of the Performance Security then remaining in the escrow account within ten (10) Business Days and (ii) the date that the applicable Performance Security is required to be returned to Seller in accordance with Section 5.9(c) for the Project Development Security or Section 5.9(d) for the Delivery Term Security.

(f) If any Performance Security is in the form of a letter of credit, then Seller shall either provide, or cause to be provided, a replacement letter of credit or guarantee (from a Qualified Issuer or Qualified Guarantor, as applicable) in the required amount set forth in this Section 5.9 within ten (10) Business Days after the earlier of the date that Seller becomes aware, or Buyer notifies Seller of the occurrence of any one of the following events:

(i) the failure of the issuer of the letter of credit to renew such letter of credit thirty (30) Business Days prior to the expiration of such letter of credit;

(ii) the failure of the issuer of the letter of credit to immediately honor Buyer's properly documented request to draw on such letter of credit; or

(iii) the issuer of the letter of credit suffers a Bankruptcy.

(g) If any Performance Security is in the form of a guarantee, then Seller shall either provide, or cause to be provided, a replacement guarantee or letter of credit (from Qualified Guarantor or Qualified Issuer, as applicable) in the required amount set forth in this Section 5.9 within ten (10) Business Days after the earlier of the date that Seller becomes aware, or Buyer notifies Seller, of the occurrence of any one of the following events:

(i) the failure of the guarantor to make a payment thereunder immediately following Buyer's properly documented claim made pursuant to the guarantee in accordance with its terms;

(ii) any representation or warranty made by the guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;

(iii) the guarantor suffers a Bankruptcy;

(iv) the guarantee fails to be in full force and effect in accordance with the terms of this Agreement prior to the satisfaction of all obligations of Seller under this Agreement; or

(v) the guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of, its guarantee.

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(h) In the event that a replacement letter of credit or guarantee is not delivered in accordance with Section 5.9(f) or (g), as applicable, Buyer shall have the right to demand payment of the full amount of the letter of credit or the guarantee, as applicable. In such case, Buyer shall hold the demanded amount in an escrow account until the earlier of (i) Seller's delivery of replacement Performance Security, upon receipt of which Buyer shall return to Seller the portion of the Performance Security then remaining in the escrow account within ten (10) Business Days and (ii) the date that the applicable Performance Security is required to be returned to Seller in accordance with Section 5.9(c) for the Project Development Security or Section 5.9(d) for the Delivery Term Security.

(i) To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest ("***Security Interest***") in, and lien on (and right to net against), and assignment of the Project Development Security and Delivery Term Security, and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller shall, from time to time as requested by Buyer, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments, and other documents as may be necessary or advisable to render fully valid, perfected, and enforceable under all Requirements of Law the Performance Security and the rights, Liens, and priorities of Buyer with respect to such Performance Security.

(j) Except as otherwise provided in this Agreement, the Performance Security: (i) constitutes security for, but is not a limitation of, Seller's obligations under this Agreement, and (ii) shall not be Buyer's exclusive remedy against Seller for Seller's failure to perform in accordance with this Agreement.

Section 5.10 Lease or Permit No Longer in Effect. Seller shall remove from the Project any Facility that is unable to operate because one or more of the Leases or Permits fails to be in effect or has terminated for such Facility; provided, if such failure or termination is due to a decision of a Governmental Authority, such decision must be final and non-appealable. Seller shall provide notice to Buyer and remove such Facility from the Project and upon delivery of such notice the Project Net Capacity will be reduced by the amount of the Facility Net Capacity associated with such Facility and the Guaranteed Generation reduced in accordance with the reduced Project Net Capacity. If such Facility removal occurs after the Minimum Capacity Cure Date, Buyer shall calculate in a commercially reasonable manner, and consistent with Section 13.3(b), the positive amount, if any, calculated as its Costs, *plus* Losses, *minus* Gains with respect to such reduction in Project Net Capacity; provided, Costs, Losses and Gains shall all be determined with respect to the reduction in Project Net Capacity rather than with respect to termination of all obligations under this Agreement, and further provided that, if the result of the foregoing calculation is negative, no amount shall be due to Seller. As soon as reasonably practical, Buyer shall provide notice to Seller of such damages along with a demand for payment, which demand shall be provided with a written statement explaining in reasonable detail the calculation of the demanded amount. Within ten (10) Business Days after receipt of such demand and written statement, Seller shall pay the undisputed amount of such demand and provide written notice of any disputed amount (if any), which dispute shall be resolved in accordance with Section 14.3. If Buyer prevails in any such dispute, then Seller shall pay the amount determined to be due to Buyer, together with interest on such amount calculated at the Interest Rate from the original due date

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until the date paid. If, before the dispute is resolved, Buyer draws on the Delivery Term Security for any disputed amount and Seller thereafter prevails in the dispute, then Buyer (i) shall be required to refund the amount of the erroneous draw, together with interest calculated at the Interest Rate from the date of the draw through the date of refund and (ii) shall pay to Seller any documented costs and expenses incurred by Seller due to the erroneous draw on the Delivery Term Security. If Seller fails to pay or dispute the amount of a demand within ten (10) Business Days after receipt of Buyer's demand and supporting written statement, then Buyer shall be entitled to draw from the Delivery Term Security the unpaid amount. Payment of the damages as described in this Section 5.10 are Buyer's sole and exclusive remedies for Seller's failure to maintain Leases or Permits for a Facility.

Section 5.11 Project Company Bankruptcy. Seller shall remove from the Project any Facility for which the Project Company is subject to a Bankruptcy. Seller shall provide notice to Buyer and remove the Facility of such bankrupt Project Company from the Project and upon delivery of such notice the Project Net Capacity will be reduced by the amount of the Facility Net Capacity associated with such Facility of the bankrupt Project Company and the Guaranteed Generation reduced in accordance with the reduced Project Net Capacity. If such Facility removal occurs after the Minimum Capacity Cure Date, Buyer shall calculate in a commercially reasonable manner, and consistent with Section 13.3(b), the positive amount, if any, calculated as its Costs, *plus* Losses, *minus* Gains with respect to such reduction in Project Net Capacity; provided, Costs, Losses and Gains shall all be determined with respect to the reduction in Project Net Capacity rather than with respect to termination of all obligations under this Agreement, and further provided that, if the result of the foregoing calculation is negative, no amount shall be due to Seller. As soon as reasonably practical, Buyer shall provide notice to Seller of such damages along with a demand for payment, which demand shall be provided with a written statement explaining in reasonable detail the calculation of the demanded amount. Within ten (10) Business Days after receipt of such demand and written statement, Seller shall pay the undisputed amount of such demand and provide written notice of any disputed amount (if any), which dispute shall be resolved in accordance with Section 14.3. If Buyer prevails in any such dispute, then Seller shall pay the amount determined to be due to Buyer, together with interest on such amount calculated at the Interest Rate from the original due date until the date paid. If, before the dispute is resolved, Buyer draws on the Delivery Term Security for any disputed amount and Seller thereafter prevails in the dispute, then Buyer (i) shall be required to refund the amount of the erroneous draw, together with interest calculated at the Interest Rate from the date of the draw through the date of refund and (ii) shall pay to Seller any documented costs and expenses incurred by Seller due to the erroneous draw on the Delivery Term Security. If Seller fails to pay or dispute the amount of a demand within ten (10) Business Days after receipt of Buyer's demand and supporting written statement, then Buyer shall be entitled to draw from the Delivery Term Security the unpaid amount. Payment of the damages as described in this Section 5.11 are Buyer's sole and exclusive remedies for a Bankruptcy of a Project Company.

Section 5.12 Buyer Credit Arrangements.

(a) To secure its obligations under this Agreement, Buyer shall deliver to Seller within one hundred twenty (120) days after the Effective Date, Buyer Liability Pass Through Agreements from Project Participants with Liability Shares as set forth on Appendix M. Seller shall countersign each Buyer Liability Pass Through Agreement within ten (10) days of receipt of

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each such Buyer Liability Pass Through Agreement. Buyer shall maintain such Buyer Liability Pass Through Agreements in full force and effect until both of the following have occurred: (a) the Agreement Term has expired or terminated early; and (b) all payment obligations of Buyer due and payable under this Agreement are paid in full (whether directly or indirectly such as through set-off or netting).

(b) Buyer may amend Appendix M in its sole discretion with respect to the identity of Project Participants and the amount of each Project Participant's Liability Share; and other amendments shall be subject to the consent of Seller (not to be unreasonably withheld, conditioned or delayed). If Buyer amends Appendix M, Buyer shall provide Seller replacement Buyer Liability Pass Through Agreements executed by Buyer and the applicable Project Participants that incorporate Liability Shares as set forth in the amended Appendix M (**"*Replacement BLPTAs*"**). Seller shall countersign each Replacement BLPTA executed by Buyer and the applicable Project Participant within ten (10) Business Days after Buyer's delivery of such Replacement BLPTAs to Seller; *provided* that until the Replacement BLPTAs have been executed by Seller and all applicable Project Participants, the prior agreements will remain in effect.

ARTICLE VI
PURCHASE AND SALE OF POWER

Section 6.1 Purchases by Buyer.

(a) For all Delivered Energy comprised of Facility Energy from a Facility prior to its Commercial Operation Date, Seller shall sell and deliver, and Buyer shall purchase and receive, such Delivered Energy in accordance with Section 3.10.

(b) For all Delivered Energy comprised of Facility Energy from a Facility after its Commercial Operation Date, Seller shall sell and deliver, and Buyer shall purchase and receive, all such Delivered Energy and all Replacement Energy for the price set forth in Section 2 of Appendix A; provided that, in no event shall Buyer be obligated to purchase or receive Delivered Energy in excess of the Maximum Generation unless Buyer shall by notice given to Seller elect to purchase any such Energy in excess of Maximum Generation.

(c) Notwithstanding Section 6.1(b), during the period of time between the day that is one hundred eighty (180) days following the Commercial Operation Date of a Facility and the day that is one (1) day following the date upon which Buyer receives evidence that such Facility is CEC Certified, Buyer may retain a portion of any payment to be made to Seller hereunder associated with the Delivered Energy from such Facility in an amount equal to the positive difference between (1) the price of the Delivered Energy pursuant to Section 6.1(b), and (2) the average of the on-peak and off-peak Energy prices, weighted by the number of hours in the on-peak and off-peak periods, during the month in which the deliveries occurred for Energy that is not from an Eligible Renewable Energy Resource under the RPS, as listed in the Intercontinental Exchange Palo Verde Electricity Price Index or its successor index, or any other index mutually agreed by the Parties. Buyer shall release such retained amount, which shall not be calculated with interest of any kind, within forty-five (45) days following the receipt of evidence satisfactory to Buyer from Seller that the Facility is CEC Certified. Within thirty (30) days after any removal of a Facility under Section 3.11, Seller shall refund to Buyer, for Delivered Energy associated with

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such Facility and purchased by Buyer during the first one hundred eighty (180) days following the Commercial Operation Date of such Facility that has not been CEC Certified at the price set forth in paragraph 2 of Appendix A, the positive difference between (1) the price paid by Buyer and (2) the average of the on-peak and off-peak Energy prices, weighted by the number of hours in the on-peak and off-peak periods, during the month or months in which the deliveries of such Delivered Energy occurred for Energy that is not from an Eligible Renewable Energy Resource under the RPS, as listed in the Intercontinental Exchange Palo Verde Electricity Price Index or its successor index, or any other index mutually agreed by the Parties. Upon such removal, Seller shall have no obligation to transfer any Green Attributes related to the Delivered Energy from the removed Facility.

(d) At its sole discretion, Buyer or Project Participants may re-sell or use for another purpose all or a portion of the Facility Energy, Replacement Energy, Capacity Rights, and associated Green Attributes, provided that no such re-sale or use shall relieve Buyer of any obligations hereunder. Buyer shall have exclusive rights to offer, bid, or otherwise submit the Facility Energy, Replacement Energy, Capacity Rights, and associated Green Attributes for resale in the market, and retain and receive any and all related revenues. Buyer has no obligation to purchase from Seller any Facility Energy, Replacement Energy, and associated Green Attributes for which the Facility Energy is not or cannot be delivered to the Points of Delivery as a result of an outage of a Facility, a Force Majeure, curtailments required under a Facility's interconnection agreement, or curtailments required by Buyer due to a System Emergency not resulting from the fault or negligence of Buyer.

Section 6.2 Seller's Failure. Except as provided in Article IX, and except for Energy that is RPS Compliant that is provided by the Transmission Provider pursuant to its tariff in connection with the Transmission Services, in no event shall Seller have the right to procure energy from sources other than the Project for sale and delivery pursuant to this Agreement. Seller shall not sell, deliver or convey any Facility Energy, Capacity Rights, and associated Green Attributes from any Facility to any third-party except as set forth in Section 6.4. If Seller sells any part of any Facility Energy, Capacity Rights, and associated Green Attributes to a third party in violation of Section 6.4 (including in connection with a claimed Force Majeure that does not satisfy the requirements of a Force Majeure in accordance with Section 14.3), Seller shall pay Buyer, within thirty (30) days of such sale all proceeds that Seller receives from such sale.

Section 6.3 Buyer's Failure. Unless excused by Force Majeure or Seller's failure to perform its obligations under this Agreement, if Buyer fails to receive at the Points of Delivery all or any part of any Facility Energy required to be received by Buyer under this Article VI, Article VIII, or Article IX, Buyer shall pay Seller, within thirty (30) days of Seller's written request therefor, an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the price per MWh that would have been payable by Buyer for the Energy and Green Attributes not received by Buyer. Seller shall provide Buyer prompt written notice of the Sales Price together with back-up documentation.

Section 6.4 Sales to Third Parties. Seller may sell to Persons other than Buyer (i) any Facility Energy and associated Green Attributes in excess of Maximum Generation not purchased by Buyer in accordance with Section 6.1, and (ii) any Facility Energy, Capacity Rights, and associated Green Attributes that Seller is unable to deliver to Buyer due to Force Majeure declared

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by Buyer or Seller that either prevents Seller from delivering to Buyer the Facility Energy, Capacity Rights, and associated Green Attributes, or that prevents Buyer from receiving the Facility Energy, Capacity Rights, and associated Green Attributes. Except as provided above in this Section 6.4, Seller shall not sell or otherwise transfer any Facility Energy, Capacity Rights, or associated Green Attributes to any Person other than Buyer during the Delivery Term, except for any Facility Energy (excluding any associated RECs or Capacity Rights) that is Imbalance Energy transferred or sold pursuant to the terms of a Transmission Provider's tariff.

Section 6.5 Nature of Remedies. The damages that Buyer would incur as a result of Seller's failure as described in Section 6.2 or that Seller would incur as a result of Buyer's failure as described in Section 6.3 would be difficult or impossible to predict with certainty, and it is impractical and difficult to assess actual damages in those circumstances, but the liquidated damages set forth in Section 6.2 and Section 6.3 are fair and reasonable calculations of such damages. The remedy set forth in Section 6.2 is in addition to, and not in lieu of, any other right or remedy of Buyer under this Agreement for failure of Seller to sell and deliver Energy and Green Attributes as and when required by this Agreement. The remedy set forth in Section 6.3 is in addition to any other right or remedy of Seller for any failure by Buyer to receive Energy as and when required by this Agreement.

ARTICLE VII
TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS

Section 7.1 In General. Seller shall arrange and be responsible for any Transmission Services required to deliver Facility Energy or Replacement Energy to the Point of Delivery and shall Schedule or arrange for Scheduling services with its Transmission Providers to deliver the Facility Energy or Replacement Energy to the Point of Delivery. Seller shall have no obligations or liability in respect of Facility Energy or Replacement Energy after the Point of Delivery (as to Transmission Services or otherwise).

Section 7.2 Scheduling of Energy.

(a) Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Project for the delivery of Delivered Energy to the Point of Delivery, and bid the Delivered Energy into the Day-Ahead Market and the Real-Time Market consistent with Prudent Operating Practice. Seller shall perform or cause to be performed all scheduling and transmission activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement. Seller (as the Project's Scheduling Coordinator) shall ensure that all Delivered Energy and Replacement Energy is electronically tagged (e-tagged) in accordance with Generally Accepted Utility Practice. Seller shall comply with any requirements of the CPUC, CEC, WREGIS and CARB, as applicable, with respect to documenting and reporting E-tags, including, as applicable, requirements to match E-tags to WREGIS Certificate creation. In addition to Seller's requirements under Section 8.4, Seller shall provide additional information as reasonably requested by Buyer on E-tags or as reasonably necessary to facilitate Buyer's members' reporting requirements under the RPS.

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(b) As Scheduling Coordinator for the Project, Seller shall be responsible for all CAISO costs, including without limitation, all penalties, Imbalance Energy charges, and other charges, and shall be entitled to all CAISO revenues, including without limitation, credits, Imbalance Energy payments, and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade (as defined in the CAISO Tariff) credits, or other credits in respect of the Delivered Energy. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be the Seller's responsibility.

(c) Seller (as the Project's Scheduling Coordinator) shall be responsible for all settlement functions with the CAISO related to the Project. Seller or its Affiliates shall also fulfill the contractual, metering, and interconnection requirements so as to be able to deliver Facility Energy and Replacement Energy to the Points of Delivery.

(d) At least forty-five (45) days before the first anticipated Commercial Operation Date and no later than forty-five (45) days before the beginning of each Contract Year, Seller or Seller's designee shall provide, or cause to be provided, a non-binding forecast of each month's average-day deliveries of Facility Energy and Replacement Energy, by hour, for the following eighteen (18) months.

(e) At least ten (10) days before the first anticipated Commercial Operation Date and no later than ten (10) Business Days before the beginning of each month during the Delivery Term, Seller or Seller's designee shall provide, or cause to be provided, a non-binding forecast of each day's average deliveries of Facility Energy and Replacement Energy, by hour, for the following month to Buyer at the addresses for scheduling notices set forth in Appendix C.

(f) By 4:30 a.m. on the Business Day immediately preceding each day of delivery of Facility Energy during the Delivery Term, Seller or Seller's designee shall cause Seller's Scheduling Coordinator to provide Buyer with a copy of a non-binding hourly forecast of deliveries of Facility Energy and Replacement Energy for each hour of the immediately succeeding day. A forecast provided a day prior to any non-Business Day shall include forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Seller shall provide Buyer with a copy of any updates to such forecast indicating a change in forecasted Facility Energy and Replacement Energy from the then current forecast at the addresses for scheduling notices set forth in Appendix C.

(g) By 12:00 p.m. on the normal Business Day prior to each pre-scheduling day as identified in the WECC pre-scheduling calendar, Seller shall provide Buyer via email, at the addresses for scheduling notices set forth in Appendix C, day-ahead pre-schedules for each of the succeeding twenty-four (24) hours in the form of an excel spreadsheet. Seller shall notify Buyer

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or Buyer's Agent via telephone of any hourly changes due to a change in unit availability or an outage no later than one-hundred five (105) minutes prior to the start of such Scheduling hour.

(h) Throughout the Delivery Term, Seller shall provide to Buyer and Project Participants, if requested by the applicable Project Participant, access to the supervisory control and data acquisition ("***SCADA***") system of each Facility to the extent necessary to allow Buyer and those Project Participants who have requested access to obtain the following data on a real-time basis: for each Facility that has achieved Commercial Operation, read-only access to megawatt capacity and any other facility availability information; read-only access to energy output information collected by the SCADA system for the Facility; provided that if Buyer is unable to access the Facility's SCADA system, then upon written request from Buyer, Seller shall provide energy output information to Buyer in four (4)-second intervals in the form of a flat file to Buyer through a secure file transport protocol (FTP) system with an e-mail back-up for each flat file submittal; and read-only access to all electricity, production, and consumption data from the Electric Metering Devices.

Section 7.3 Costs. Seller shall be responsible for any costs or charges imposed on or associated with the delivery and scheduling of Facility Energy to the Points of Delivery.

Section 7.4 Curtailment Required by Buyer; Market Curtailment Periods. Seller shall reduce deliveries of Energy for (a) curtailments required under a Facility's interconnection agreement or (b) curtailments required by Buyer due to a System Emergency not resulting from the fault or negligence of Buyer, and Seller may reduce deliveries of Energy in the event of a Market Curtailment Period; provided that, for any curtailed Energy resulting from a Market Curtailment Period, Buyer will pay Seller for such curtailed Energy as set forth in Section 3 of Appendix A. During the Delivery Term, the Parties shall estimate the amount of curtailed Energy for each such curtailment event by multiplying (i) the arithmetic average of the applicable Facility's metered output rate, in MW, immediately before and after such curtailment event, by (ii) the duration of such curtailment event. The Parties shall use the curtailed Energy estimate for the purpose of determining Seller's compliance towards Guaranteed Generation, and, solely with respect to curtailed Energy resulting from a Market Curtailment Period, for purposes of calculating any payments due from Buyer to Seller pursuant to Section 3 of Appendix A. For the avoidance of doubt, Buyer shall be obligated to take delivery of and pay for all Delivered Energy, except that Buyer shall not be obligated to take delivery of and pay for Energy to the extent that such Energy exceeds the Maximum Generation and Buyer has not elected to purchase such Energy as provided in Section 6.1.

Section 7.5 Curtailment of Seller's Transmission Services. In the event of the curtailment or other interruption of the Transmission Services utilized pursuant to the Agreement that prevents Seller from delivering Facility Energy to the Primary Point of Delivery, Seller shall, subject to the last sentence of this Section 7.5, upon furnishing notice as soon as practicable to Buyer obtain alternate Transmission Services complying with the requirements of the Agreement utilizing other Transmission System or Systems for delivery of the Facility Energy to such Primary Point of Delivery or the Alternate Points of Delivery during the period of such curtailment or other interruption of such Transmission Services. Seller shall provide Buyer with advance notice, at the addresses for general notices set forth in Appendix C, of the end of the period of such curtailment or interruption and the restoration of the Transmission Services pursuant to the Agreement for the

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delivery of the Facility Energy to the Primary Point of Delivery. This Section 7.5 shall (i) not obligate Seller to utilize such alternate Transmission Services or Alternate Points of Delivery, as applicable, and (ii) not preclude Seller from claiming Force Majeure under Section 14.6, unless such alternate Transmission Services or Alternate Points of Delivery, as applicable, are available at costs that do not exceed six dollars per MWh ($6/MWh), or such alternate Transmission Services shall be available at costs that exceed six dollars per MWh ($6/MWh) and Buyer agrees to pay the amount of such excess.

Section 7.6 Title; Risk of Loss. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of Facility Energy prior to a Point of Delivery, and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of Facility Energy at and from such Point of Delivery. Seller shall deliver all Facility Energy, Capacity Rights, and Green Attributes to Buyer free and clear of all Liens created by any Person other than Buyer. Title to and risk of loss as to all Facility Energy, Capacity Rights, and Green Attributes shall pass from Seller to Buyer at the respective Points of Delivery.

ARTICLE VIII
GREEN ATTRIBUTES; RPS COMPLIANCE

Section 8.1 Transfer of Green Attributes. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy on the terms and conditions set forth herein, subject to Section 6.4, Seller shall transfer to Project Participants, and Project Participants shall receive from Seller, all right, title, and interest in and to all Green Attributes, whether now existing or acquired by Seller or that hereafter come into existence or are acquired by Seller during the Delivery Term, for all Facility Energy and Replacement Energy. Seller agrees to transfer and make such Green Attributes available to Project Participants immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of the Green Attributes. Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of such Green Attributes to any Person other than Project Participants or attempt to do any of the foregoing with respect to any of the Green Attributes. The consideration for the transfer of Green Attributes is contained within the relevant prices for Delivered Energy under Articles VI and IX and Appendix A.

Section 8.2 Reporting of Ownership of Green Attributes. During the Delivery Term, Seller shall not report to any Person that the Green Attributes granted hereunder to Project Participants belong to any Person other than Buyer, and Buyer may report under any program that such Green Attributes purchased hereunder belong to it.

Section 8.3 Green Attributes. Upon Buyer's request, Seller shall take all reasonable actions and execute all documents or instruments as are reasonable and necessary under applicable law, bilateral arrangements or other voluntary Green Attribute programs of any kind, as applicable, to maximize the attribution, accrual, realization, generation, production, recognition and validation of Green Attributes throughout the Delivery Term. Upon request of Buyer, Seller shall submit, a Green-e® Energy Tracking Attestation Form ("***Attestation***") for Delivered Energy to the Center for Resource Solutions ("***CRS***") at https://www.tfaforms.com/4652008 or its successor. The Attestation shall be submitted in accordance with the requirements of CRS and shall be submitted

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within thirty (30) days of Buyer's request or the last day of the month in which the applicable Delivered Energy was generated, whichever is later.

Section 8.4 Use of Accounting System to Transfer Green Attributes.

(a) In furtherance and not in limitation of Section 8.3, Seller shall use WREGIS or any successor system to evidence the transfer of any Green Attributes considered RECs under applicable law or any voluntary program ("***WREGIS Certificates***") associated with Facility Energy or Replacement Energy in accordance with WREGIS reporting protocols. Prior to the Commercial Operation Date for a Facility, Seller shall establish an account with WREGIS and commence registration of such Facility with WREGIS. After each Facility is registered with WREGIS, at Buyer's option, Seller shall transfer WREGIS Certificates using the Forward Certificate Transfer method, as described in WREGIS Operating Rules, from Seller's WREGIS account to up to ten (10) Project Participant WREGIS accounts, as designated by Buyer; provided, however, that Buyer shall have identified such accounts by written notice to Seller delivered no later than ten (10) days prior to the Commercial Operation Date for such Facility.

(b) Seller shall be responsible for the WREGIS expenses associated with registering each Facility, maintaining its account, WREGIS Certificate issuance fees, and transferring WREGIS Certificates to Project Participants, and Project Participants shall be responsible for the WREGIS expenses associated with maintaining their accounts and any subsequent transferring or retiring of WREGIS Certificates.

(c) Forward Certificate Transfers shall occur monthly based on the certificate creation timeline established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Delivered Energy or Replacement Energy, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate. Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy and Replacement Energy for such calendar month, as evidenced by the Facility's or Replacement Unit's metered data, as applicable, and, unless otherwise agreed by Buyer, matching E-Tags. WREGIS Certificates must be matched with E-Tags, unless otherwise agreed by Buyer. Seller shall ensure that no WREGIS Certificates are transferred to a Project Participant's WREGIS Account unless they are the result of Delivered Energy or Replacement Energy and matched with E-Tags. WREGIS Certificates without matching E-Tags will be rejected.

(d) A "***WREGIS Certificate Deficit***" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy and Replacement Energy for the same calendar month caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused, or the result of any action or inaction by Seller, then the aggregate amount of Delivered Energy and Replacement Energy in the month of a WREGIS Certificate Deficit shall be reduced by the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer's payment to Seller under Article XI and Shortfall Energy for the applicable Contract Year; provided, however, that such adjustment shall not apply to the extent that Seller resolves the WREGIS Certificate Deficit within ninety (90) days after the month of such WREGIS Certificate Deficit. Without limiting Seller's obligations under this Section 8.4, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate

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in good faith to cause WREGIS to correct its error or omission. Seller shall be responsible for, at its expense, validating and disputing data with WREGIS prior to WREGIS Certificate creation each month. Buyer shall take all necessary actions to facilitate the transfer of Green Attributes as provided above, including accepting any transfer requests made by Seller through WREGIS in accordance with the foregoing. Notwithstanding any other provision of this Section 8.4, in the event that WREGIS is not in operation, Seller shall document the production and transfer of RECs under this Agreement by delivering to Buyer an attestation for the RECs produced by each Facility, or Replacement Energy, measured in whole MWh, or by such other method as Buyer shall designate, in accordance with the form set forth in Appendix P and the Parties shall cooperate to complete the transfer of WREGIS Certificates for the benefit of Buyer or Buyer's designees as soon as reasonably possible. Buyer shall take all necessary actions to facilitate the transfer of Green Attributes as provided above, including accepting any transfer requests made by Seller through WREGIS in accordance with the foregoing.

Section 8.5 Further Assurances. At Buyer's request, the Parties shall execute all such documents and instruments and take such other action in order to effect the transfer of the Green Attributes specified in this Agreement to Buyer's designees and to maximize the attribution, accrual, realization, generation, production, recognition and validation of Green Attributes throughout the Delivery Term as Buyer may reasonably request. If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 8.5 after the Effective Date, the Parties promptly shall modify Section 8.4 as reasonably required to cause and enable Seller to transfer to Buyer's designees a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy and Replacement Energy delivered in the same calendar month; provided, however, that Seller's obligations under Section 8.4 shall be subject to the Compliance Expenditure Cap, in accordance with Section 8.6(c).

Section 8.6 RPS Compliance.

(a) 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 ("ERR") 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].

(b) The term "commercially reasonable efforts" as used in Section 8.6(a) and in Section 8.6(e) means Seller's compliance with Section 8.6(c) and (d), below. The term "Project" as used in Section 8.6(a) means each Facility included in the Project.

(c) If (i) a Change in Law occurring after the Effective Date has increased Seller's known or reasonably expected costs (A) to cause any Facility, its Facility Energy or the associated Green Attributes to be RPS Compliant or to obtain, maintain, convey or effectuate Buyer's use of any Green Attributes, or (B) to cause any Facility to be or to remain a Firm Clean Resource, or (ii) a change in WREGIS Operating Rules after the Effective Date increases Seller's

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costs to comply with its obligations under Section 8.4 (the obligations set forth in the foregoing clauses (i) and (ii) collectively, "***Compliance Obligations***"), then the Parties agree that the maximum aggregate amount of out-of-pocket costs and expenses ("***Compliance Costs***") that Seller shall be required to bear during the Delivery Term with respect to each affected Facility to comply with all of such Compliance Obligations shall be capped at [redacted] of the Facility Net Capacity of the applicable affected Facility ("***Compliance Expenditure Cap***"). Seller's internal administrative costs associated with obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product are excluded from the Compliance Expenditure Cap.

(d) Any actions required for Seller to comply with its obligations set forth in Section 8.6(c) above, the Compliance Costs of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "***Compliance Actions***." If Seller reasonably anticipates the need to incur Compliance Costs in excess of the Compliance Expenditure Cap in order to take any Compliance Action, then Seller shall provide written notice to Buyer of such anticipated Compliance Costs. Buyer will have sixty (60) days to evaluate such notice (during which time period Seller is not obligated to take any Compliance Actions described in the notice) and shall, within such time, either (i) agree to reimburse Seller for all or some portion of the Compliance Costs that exceed the Compliance Expenditure Cap, as applicable (such Buyer-agreed upon costs, the "***Accepted Compliance Costs***"), or (ii) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a notice given by Seller under this Section 8.6(d) within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the notice, and Seller shall have no further obligation to take, and no liability for any failure to take, the Compliance Actions that are the subject of the notice for the remainder of the Term. If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

(e) 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].

(f) 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].

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(g) The phrase "such Facility qualifies and is certified by the CEC as an Eligible Renewable Energy Resource" as used in Section 8.6(a) means "such Facility qualifies and is CEC Pre-certified or CEC Certified as an Eligible Renewable Energy Resource."

Section 8.7 Solar Generating Capacity Serving Parasitic Load. Seller has the right, but not the obligation, to install and operate solar generating capacity behind a Facility's Electric Metering Devices at any Site for purposes of providing some or all of such Facility's Parasitic Load, in which case the geothermal Energy generated by such Facility that would have otherwise served the Parasitic Load shall for purposes of this Agreement constitute Facility Energy from such Facility and shall be sold to Buyer in accordance with the provisions of this Agreement; provided, that Seller shall ensure that such solar generation (i) is only used to serve Parasitic Load associated with the applicable Facility, and (ii) is not delivered to Buyer for sale hereunder. Buyer acknowledges that using on-site solar generation to supply the applicable Facility's Parasitic Load will result in an increase in Delivered Energy and associated Green Attributes delivered by Seller hereunder by reducing station use, and Buyer agrees that such increase in Delivered Energy and associated Green Attributes will be sold to Buyer in accordance with the terms of this Agreement.

ARTICLE IX
MAKEUP OF SHORTFALL ENERGY

Section 9.1 Makeup of Shortfall. During each Contract Year, all Delivered Energy during such Contract Year shall first be applied to the determination of whether Seller has delivered the Guaranteed Generation. Except to the extent caused by a Force Majeure (but subject to the provisions of Section 14.6(a) providing that the obligations of Seller with respect to satisfaction of Guaranteed Generation under this Article IX not satisfied due to Force Majeure are not excused, but such required delivery shall be extended for the duration of the Force Majeure), or except for curtailment under Section 7.4 or Buyer's failure to accept Facility Energy in accordance with this Agreement, if Seller fails during any Contract Year to deliver Delivered Energy in an amount equal to the Guaranteed Generation, then Seller shall make-up that shortfall of Delivered Energy (such shortfall between the Guaranteed Energy and the Delivered Energy, "***Shortfall Energy***") in the same Contract Year in accordance with this Article IX.

Section 9.2 Replacement Energy. Seller may reduce the amount of Shortfall Energy by providing Replacement Energy in the same Contract Year. The Replacement Energy shall be delivered to Buyer at the Points of Delivery on a delivery schedule reasonably approved by Buyer and consistent with the Project's historic delivery profile. As employed in this Agreement, "***Replacement Energy***" means Energy and associated Green Attributes that is produced by a Replacement Unit (a) for which Seller has obtained rights to sell prior to the time that the Energy and associated Green Attributes have been generated, (b) that Seller has not sold or transferred to any other person or entity, (c) that is free and clear of all encumbrances, (d) that includes Green Attributes that have the same value and the same vintage with respect to the timeframe for retirement of such Green Attributes as the Green Attributes that would have been generated by the Project during the period for which the Replacement Energy is being provided; and (e) that is transferred to Buyer in real time.

Section 9.3 Shortfall Liquidated Damages. To the extent Seller is unable to procure sufficient Replacement Energy to make up any remaining Shortfall Energy within the same

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Contract Year, Seller shall pay Buyer, as liquidated damages, an amount for each MWh of remaining Shortfall Energy equal to the positive difference, if any, obtained by subtracting the amount that Buyer would have paid had Project Energy equal to the amount of Shortfall Energy been delivered to the Points of Delivery from the Replacement Price ("***Shortfall Liquidated Damages***"). The Shortfall Liquidated Damages payable under this Section 9.3 shall be payable in lieu of actual damages, shall be guaranteed as to payment by the Delivery Term Security, and, notwithstanding any other provision of this Agreement, other than Buyer's remedies for a Default by Seller under Section 13.1(f), Shortfall Liquidated Damages shall be Buyer's sole remedy, and Seller's sole liability, for Seller's failure to deliver Facility Energy and the associated Green Attributes and Replacement Energy and associated Green Attributes as provided under Sections 9.1 and 9.2, above. The Parties acknowledge and agree that (i) the damages that Buyer would incur due to shortfalls in Delivered Energy would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in those circumstances and, therefore, Shortfall Liquidated Damages are a fair and reasonable calculation of such damages.

ARTICLE X
CAPACITY RIGHTS

Section 10.1 Purchase and Sale of Capacity Rights.

(a) For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy and Green Attributes on the terms and conditions set forth in this Agreement, Seller hereby transfers to Buyer, and Buyer hereby accepts from Seller, all of the Capacity Rights, subject to Section 6.4. The consideration for the transfer of Capacity Rights is contained within the relevant prices for Facility Energy. In no event shall Buyer have any obligation or liability whatsoever for any debt pertaining to any Facility by virtue of Buyer's ownership of the Capacity Rights or otherwise

(b) Prior to Commercial Operation of each Facility, Seller either shall qualify each such Facility as a Pseudo-Tie Resource or a Dynamically Scheduled Resource with the CAISO pursuant to the CAISO's New Resource Implementation process (as defined in the CAISO Tariff) and Seller shall maintain each Facility as either a Pseudo-Tie Resource or a Dynamically Scheduled Resource in compliance with the CAISO Tariff throughout the Delivery Term.

(c) Buyer shall cause the Project Participants to use commercially reasonable efforts to maintain the Import Capability necessary to import the Guaranteed Net Qualifying Capacity from the Project into the CAISO. Seller shall use commercially reasonable efforts to support Buyer and Project Participants in obtaining such Import Capability. To the extent Project Participants do not or cannot maintain Import Capability necessary to support the importation of the Guaranteed Net Qualifying Capacity into the CAISO for reasons other than a Seller failure under this Agreement or the inability of Seller to maintain each Facility as either a Pseudo-Tie Resource or a Dynamically Scheduled Resource, the Capacity Attributes that are not imported or that cannot be imported shall constitute Deemed Delivered RA.

(d) No later than the Notification Deadline corresponding to each Showing Month of the Delivery Term, Seller shall submit, or cause each Facility's Scheduling Coordinator

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to submit, Supply Plans to identify and confirm the Resource Adequacy Benefits provided to Project Participants for each Showing Month from each Facility.

(e) Resource Adequacy Benefits are delivered and received when the CIRA Tool shows that the Supply Plans for each Project Participant for each Facility have been accepted by the CAISO. If CAISO rejects either the Supply Plans or Project Participants' Resource Adequacy Plans with respect to any part of the Resource Adequacy Benefits in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plans or Resource Adequacy Plans for validation before the applicable Notification Deadline for the relevant Showing Month.

(f) If Seller anticipates that it will have an RA Shortfall Month, Seller may provide Replacement RA in the amount of (i) the Guaranteed Net Qualifying Capacity with respect to such Showing Month, *minus* (ii) the expected Net Qualifying Capacity that is able to be included in the Supply Plans for the Project Participants for such Showing Month *plus* any Deemed Delivered RA; *provided*, that any Replacement RA is communicated in the form of Appendix Q by Seller to Buyer no later than the Notification Deadline.

(g) Notwithstanding anything to the contrary in this Agreement, Seller shall be permitted to reduce deliveries of Capacity Attributes and Resource Adequacy Benefits during any Force Majeure Event that results in Seller's inability, despite the use of commercially reasonable efforts, to deliver Facility Energy to the Points of Delivery.

Section 10.2 Representation Regarding Ownership of Capacity Rights. Subject to Section 6.4, Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than the Project Participants or attempt to do any of the foregoing with respect to any of the Capacity Rights. Seller shall not report to any Person that any of the Capacity Rights belong to any Person other than Buyer (or at Buyer's designation, the Project Participants).

Section 10.3 Resource Adequacy Failure.

(a) For each RA Shortfall Month, Seller shall pay to Buyer as liquidated damages the RA Deficiency Amount, as set forth in Section 10.3(b), and/or provide Replacement RA, as set forth in Section 10.1(f), in each case, as the sole remedy for Capacity Attributes that Seller fails to convey to the Project Participants from each Facility.

(b) For each RA Shortfall Month, Seller shall pay to Buyer an amount (the "***RA Deficiency Amount***") equal to the product of (i) the difference, expressed in kW, of (A) the then applicable Guaranteed Net Qualifying Capacity, *minus* (B) the Net Qualifying Capacity included in the Supply Plans for the Project Participants (or any subsequent purchasers to whom Project Participants have resold Capacity Attributes), *plus* any Replacement RA that was able to be included in the Supply Plans for such Showing Month for the Project Participants (or any subsequent purchasers to whom Project Participants have resold Capacity Attributes) and any Deemed Delivered RA, *multiplied by* (ii) the lower of (A) thirteen dollars and fifty cents ($13.50) per kW-month, or (B) the sum of the CPM Soft Offer Cap and the RA Penalties paid or required

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to be paid Project Participants for RAR applicable to the RA Deficiency Amount for such RA Shortfall Month.

Section 10.4 CPUC Mid-Term Reliability Requirements.

(a) Seller acknowledges that Buyer intends for this product to comply with mandatory procurement obligations for incremental capacity pursuant to CPUC D.21-06-035. Seller represents and warrants to Buyer that commencing on the Effective Date and continuing throughout the Agreement Term:

(i) The Agreement includes the exclusive right to claim the Guaranteed Net Qualifying Capacity of the Facility as an incremental resource for purposes of CPUC D.21-06-035;

(ii) Seller has not and will not sell, assign, or transfer the right to claim any Facility as an incremental resource for purposes of CPUC D.21-06-035 to any other person or entity; and

(iii) Seller will reasonably cooperate with Buyer to ensure the Agreement will meet the procurement mandates set forth in CPUC D.21-06-035.

(b) In furtherance of any compliance and reporting obligations related to the foregoing, and without limiting Seller's obligations under any other provision of this Agreement, Seller agrees to provide documentation reasonably requested by Buyer in connection with such compliance obligations, including but not limited to the following:

(i) Evidence of interconnection, site control, notice to proceed with construction, and other evidence of construction status and progress towards Commercial Operation;

(ii) Engineering assessments demonstrating that each Facility satisfies the Firm Clean Resource requirements; and

(iii) Any other engineering assessments, contractual support, or relevant information required or requested by the CPUC pursuant to CPUC D.21-06-035 and any other applicable requirements of CPUC D.21-06-035 as such decision has been interpreted by the CPUC in public guidance documents or other public communications.

ARTICLE XI
BILLING; PAYMENT; AUDITS; METERING; POLICIES

Section 11.1 Billing and Payment. Billing and payment for all Delivered Energy, Green Attributes, and Capacity Rights shall be as set forth in this Article XI.

Section 11.2 Calculation of Delivered Energy; Invoices and Payment.

(a) **Delivered Quantity**. For each month during the Agreement Term, commencing with the first month in which Energy is delivered by Seller to and received by Buyer

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under this Agreement, Seller shall calculate the amount of Energy so delivered and received during such month as determined (i) in the case of Delivered Energy, from recordings produced by the Electric Metering Devices maintained pursuant to Section 11.6, at or near midnight on the last day of the month in question, (ii) in the case of a Market Curtailment Period, the amount of curtailed Energy determined pursuant to Section 7.4, and (iii) in the case of Replacement Energy, the amount in MWh actually supplied by Seller pursuant to Section 9.2, as measured by metering equipment approved by Buyer in its reasonable discretion. Seller shall measure the amount of Delivered Energy using the Electric Metering Devices. All Electric Metering Devices will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained as Seller's cost.

(b) **Invoice**. Not later than the tenth (10th) day of each month, commencing with the month next following the month in which Energy is first delivered by Seller and received by Buyer under this Agreement, Seller shall deliver to Buyer an invoice showing the amount of Energy delivered by Seller for each Facility of the Project and received by Buyer, or curtailed Energy during a Market Curtailment Period, during the preceding month (with a separate allocation for each Facility and any Replacement Energy), Seller's computation of the amount due Seller in respect thereof for Delivered Energy, including start-up and test Energy consistent with Section 3.10, for curtailed Energy resulting from a Market Curtailment Period, and for Replacement Energy, in each case in accordance with Appendix A. Seller shall deliver to Buyer with each monthly invoice copies of the recordings and data from the Electric Metering Devices that support the calculations of Energy and Green Attributes included in the invoice for such month. Each invoice shall include (a) a reconciliation in .xlsx format of hourly meter data, E-Tag data and associated calculations, including the lesser of each by hour, in a format reasonably requested by Buyer, plus any additional data as may be reasonably required by Buyer for compliance with CPUC reporting obligations, including pursuant to the CPUC's Energy Division *Portfolio Content Category Classification Review Handbook* (or successor publication); (b) a statement of the quantity of WREGIS Certificates transferred during the prior month that have been matched with E-Tags, including as associated with the Dynamic Schedules, and (c) any additional information reasonably requested by Buyer. Buyer may reconcile invoices using meter data made available through Section 11.6(d). Monthly invoices shall be sent to the address set forth in Appendix C or such other address as Buyer may provide to Seller. Buyer shall not be required to make invoice payments if the invoice is received more than six (6) months after the billing period, unless Seller's delay in delivering the invoice is due to one or more events of Force Majeure. Each invoice shall show the title of the Agreement and, if applicable, the Agreement number, the name, address and identifying information of Seller and the identification of material, equipment, or services covered by the invoices. To the extent applicable in accordance with Section 8.4, Seller shall deliver to Buyer attestations of Green Attributes concurrently with the monthly invoices sent pursuant to this Section 11.2(b).

(c) **Payment**. Not later than the thirtieth (30th) day after receipt by Buyer of Seller's monthly invoice (or the next succeeding Business Day, if such thirtieth (30th) day is not a Business Day), Buyer shall pay to Seller, by wire transfer of immediately available funds to an account specified by Seller or by any other means agreed to by the Parties from time to time, the amount set forth as due in such monthly invoice, subject to Section 11.3.

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Section 11.3 Disputed Invoices. In the event any portion of any invoice is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment shall promptly notify the other Party of the basis for the dispute, setting forth the details of such dispute in reasonable specificity. Disputes shall be discussed by the Authorized Representatives, who shall use reasonable efforts to amicably and promptly resolve the disputes, and any failure to agree shall be subject to resolution in accordance with Section 14.3. Upon resolution of any dispute, if all or part of the disputed amount is later determined to have been due, then the Party owing such payment or refund shall pay within ten (10) days after receipt of notice of such determination the amount determined to be due plus interest thereon at the Interest Rate from the due date until the date of payment. For purposes of this Section 11.3, "***Interest Rate***" shall mean the lesser of (i) two hundred (200) basis points above the per annum prime rate reported daily in The Wall Street Journal, or (ii) the maximum rate permitted by applicable Requirements of Law. Buyer may dispute an invoice at any time within three hundred sixty-five (365) days after Buyer's receipt of the invoice, provided that Buyer provides Seller with a written notification of such dispute, setting forth the details of such dispute in reasonable specificity. If, within three hundred sixty-five (365) days of Buyer's receipt of an invoice, Buyer does not notify Seller in writing of a dispute related to that invoice, Buyer shall be deemed to have waived any dispute related to that invoice and the invoice shall be considered correct and complete.

Section 11.4 Right of Setoff. In addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, either Party shall have the right at any time or from time to time without notice to the other Party or to any other Person, any such notice being hereby expressly waived, to set off against any amount due from such Party to the other under this Agreement any amount due from the other Party to it under this Agreement, including any amounts due because of breach of this Agreement or any other obligation.

Section 11.5 Records and Audits. Seller and its Affiliates shall maintain, and shall cause Seller's and its Affiliates' subcontractors and suppliers, as applicable, to maintain, all records pertaining to the management of this Agreement, related subcontracts, and performance of services pursuant to this Agreement (including all billings, costs, metering, and Green Attributes), in their original form, including reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (for example, machine readable media such as disk or tape, etc.) or type (for example, databases, applications software, database management software, or utilities), sufficient to properly reflect all services performed pursuant to this Agreement. If Seller and its Affiliates or Seller's and its Affiliates' subcontractors or suppliers are required to submit cost or pricing data in connection with this Agreement, Seller and its Affiliates shall maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Buyer and the Authorized Auditors may discuss such records with Seller's officers and independent public accountants (and by this provision Seller authorizes said accountants to discuss such billings and costs), all at such times and as often as may be reasonably requested. All such records shall be retained and shall be subject to examination and audit by the Authorized Auditors, for a period of not less than four (4) years following final payment made by Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. Seller and its Affiliates shall make said records or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, or other authentic reproductions thereof, available to the Authorized Auditors at the Seller's offices located at all

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reasonable times and without charge. The Authorized Auditors may reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by Seller and its Affiliates on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. Seller shall not, however, be required to furnish the Authorized Auditors with commonly available software. Seller, its Affiliates, and Seller's subcontractors and suppliers, as applicable to the services provided under this Agreement, shall be subject at any time with fourteen (14) days prior written notice to audits or examinations by Authorized Auditors, relating to all billings and to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation. Examinations and audits shall be performed using generally accepted auditing practices and principles. To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective. Consistent with standard auditing procedures, Seller shall be provided fifteen (15) days to review the Authorized Auditor's examination results or audit and respond to Buyer's prior to the examination's or audit's finalization and public release. If the Authorized Auditor's examination or audit indicates Seller has been overpaid under a previous payment application, the identified overpayment amount shall be paid by Seller to Buyer within fifteen (15) days of notice to Seller of the identified overpayment. Notwithstanding the foregoing, if the audit reveals that Buyer's overpayment to Seller is more than the greater of $100,000 or five percent (5.0%) of the billings reviewed, Seller shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit. Such examination or audit expenses and costs shall be paid by Seller to Buyer within fifteen (15) days of notice to the Seller of such costs and expenses. Any information provided by Seller to the Authorized Auditor shall be held by such Authorized Auditor in strict confidence and Seller may require such Authorized Auditor to enter into a reasonable confidentiality agreement prior to the disclosure of information hereunder; provided that the Authorized Auditors shall not be prevented from disclosure of such information to Buyer to the extent such disclosure to Buyer is required to enable Buyer to carry out its rights and responsibilities under this Agreement and Buyer shall treat such information as Confidential Information to the extent provided under Section 14.21.

Section 11.6 Electric Metering Devices.

(a) Delivered Energy shall be measured using Electric Metering Devices installed, owned and maintained by the Seller and its Affiliates. If the Electric Metering Devices are not installed at a Point of Delivery, meters or meter readings shall be adjusted to reflect losses from the Electric Metering Devices to such Point of Delivery. To the extent consistent with the requirements of the Transmission Provider, all Electric Metering Devices used to provide data for the computation of payments shall be sealed and Seller or its designee shall only break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Section 11.6. Seller or its designee shall specify the number, type, and location of such Electric Metering Devices.

(b) Seller, its Affiliates or its designee, at no expense to Buyer, shall inspect and test all Electric Metering Devices upon installation and at least annually thereafter. Seller or its Affiliates shall provide Buyer annual certified test reports for each Facility Electric Metering Device thereafter throughout the duration of the Delivery Term. Seller shall provide Buyer with reasonable advance notice of, and permit a representative of Buyer to witness and verify, such inspections and tests to the extent consistent with the requirements of the Transmission Provider.

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Upon request by Buyer, Seller or its designee shall perform additional inspections or tests of any Electric Metering Device and shall allow a qualified representative of Buyer the right to inspect or witness the testing of any Electric Metering Device. The actual expense of any such requested additional inspection or testing shall be borne by Buyer, unless the results of such additional inspection or testing show an inaccuracy greater than one percent (1%), in which case Seller shall bear such costs. Seller shall provide copies of any inspection or testing reports to Buyer. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold proprietary information unless such information is reasonably needed by Buyer to evaluate and verify such inspections and tests. In addition, Buyer shall hold any information obtained during or in connection with such inspections and tests in confidence.

(c) If an Electric Metering Device fails to register, or if the measurement made by an Electric Metering Device is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy. The adjustment period shall be determined by reference to Seller's check-meters, if any, or as far as can be reasonably ascertained by Seller from the best available data, subject to review and approval by Buyer. If the period of the inaccuracy cannot be ascertained reasonably, any such adjustment shall be for a period equal to one-third of the time elapsed since the preceding test of the Electric Metering Devices. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, Buyer shall use the corrected measurements as determined in accordance with this Section 11.6 to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller; if the difference is a negative number, that difference shall be paid by Seller to Buyer, or at the discretion of Buyer, may take the form of an offset to payments due to Seller from Buyer. Payment of such difference by the owing Party shall be made not later than thirty (30) days after the owing Party receives notice of the amount due, unless Buyer elects payment via an offset.

(d) Seller shall work with Buyer to establish direct access by the Buyer to interval meter data for purposes of Buyer reconciliation of invoices.

Section 11.7 Taxes. Seller shall be responsible for and shall pay before the due dates therefor, any and all federal, state and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed or assessed with respect to each Facility, each Site, or any other assets of Seller, the sale of Facility Energy and Green Attributes and all Taxes related to Seller's income. Buyer shall be responsible for and shall pay before the due dates therefor, any and all federal, state and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed or assessed with respect to any assets of Buyer or the purchase of Facility Energy and Green Attributes under this Agreement.

ARTICLE XII
REPRESENTATIONS AND WARRANTIES; COVENANTS OF SELLER

Section 12.1 Representations and Warranties of Buyer. Buyer makes the following representations and warranties to Seller as of the Effective Date:

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(a) Buyer is a validly existing California joint powers authority and has the legal power and authority to carry on its business as now being conducted and to enter into this Agreement and each Buyer Ancillary Document and carry out the transactions contemplated hereby and thereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement and all such Buyer Ancillary Documents.

(b) The execution, delivery and performance by Buyer of this Agreement and each Buyer Ancillary Document have been duly authorized by all necessary action, and do not and will not require any consent or approval of Buyer's regulatory or governing bodies, other than that which has been obtained and except as otherwise set forth in this Agreement.

(c) This Agreement and each of the Buyer Ancillary Documents constitute the legal, valid, and binding obligation of Buyer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

Section 12.2 Representations, Warranties and Covenants of Seller. Seller makes the following representations and warranties to Buyer as of the Effective Date:

(a) Each of the Seller Parties is a partnership, corporation or limited liability company duly organized, validly existing, and in good standing under the laws of its respective state of incorporation, organization or formation, is qualified to do business in the State of California and to the extent required by the nature or scope of its operations, the State of Nevada, and has the legal power and authority to own and lease its properties, to carry on its business as now being conducted and (in the case of Seller) to enter into this Agreement and (in the case of each Seller Party) each Seller Ancillary Document to which it may be party and, carry out the transactions contemplated hereby and/or thereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement and/or all Seller Ancillary Documents as applicable.

(b) The execution, delivery and performance by the Seller and the Seller Parties of this Agreement and all Seller Ancillary Documents, as applicable, have been duly authorized by all necessary action, and do not and will not require any consent or approval other than those which have already been obtained.

(c) The execution and delivery of this Agreement and all Seller Ancillary Documents, the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the provisions of this Agreement and the Seller Ancillary Documents by the respective Seller Party, do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any Requirement of Law, or any organizational documents, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other material agreement or instrument to which the applicable Seller Party is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any Lien upon any of the properties or assets of the applicable Seller Party (except for any Permitted Encumbrances or as

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otherwise contemplated or permitted hereby), and each Seller Party has obtained or shall timely obtain all Permits required for the performance of its obligations hereunder and thereunder, as the case may be, and Seller or its Affiliates will timely obtain all Permits required for the operation of the Facility in accordance with Prudent Utility Practices, the requirements of this Agreement, the Seller Ancillary Documents and all applicable Requirements of Law.

(d) Each of this Agreement and the Seller Ancillary Documents constitutes the legal, valid and binding obligation of the respective Seller Party which is party thereto enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) There is no pending, or to the knowledge of the Seller, threatened action or proceeding affecting any Seller Party before any Governmental Authority, which purports to affect the legality, validity or enforceability of this Agreement or any of the Seller Ancillary Documents.

(f) None of the Seller Parties is in violation of any Requirement of Law, which violations, individually or in the aggregate, would reasonably be expected to result in a material adverse effect on the business, assets, operations, condition (financial or otherwise) or prospects of any Seller Party, or the ability of any Seller Party to perform any of its obligations under this Agreement or any Seller Ancillary Document.

(g) The respective Seller Parties have (i) not entered into this Agreement or any Seller Ancillary Document with the actual intent to hinder, delay or defraud any creditor, and (ii) received reasonably equivalent value in exchange for their respective obligations under this Agreement and/or the Seller Ancillary Documents. No petition in bankruptcy has been filed against any of the Seller Parties, and none of the Seller Parties have ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for its benefit as a debtor.

(h) With respect to the Delivery Term, Seller has not assigned, transferred, conveyed, encumbered, sold, or otherwise disposed of any Facility Energy, Green Attributes, or Capacity Rights except in connection with Permitted Encumbrances or as otherwise permitted herein.

(i) As of the Effective Date, the organizational structure and ownership of Seller and each Project Company and each Upstream Equity Owner and each Downstream Equity Owner is as set forth on Schedule A.

(j) Subject to Section 8.6(c), Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that each Facility shall qualify as a Firm Clean Resource.

(k) Throughout the Delivery Term, Seller shall maintain Firm Transmission rights sufficient to deliver the Project Net Capacity to the Points of Delivery.

(l) With regard to each Facility that Seller has elected to designate as Pseudo-Tie Resource, throughout the Delivery Term, Seller shall comply with all CAISO Tariff

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requirements applicable to Pseudo-Tie Resources, including Appendix N to the Tariff, with respect to such Facility; and with regard to each Facility that Seller has elected to designate as Dynamically Scheduled Resource, throughout the Delivery Term, Seller shall comply with all CAISO Tariff requirements applicable to a Dynamic Resource-Specific System Resource, including Appendix M to the Tariff, with respect to such Facility.

(m) Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and orders and decrees of any courts or administrative bodies or tribunals, including, without limitation, and employment discrimination laws.

(n) With respect to each Facility that is located in Nevada, the Parties agree that such Facility is not a "public work" as defined by Nevada law, and Seller shall (i) use reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform new construction work or provide services at the Site related to new construction work of each Facility are paid wages not less than the rate of such wages then prevailing in the region in which each Facility is located, as determined by the Nevada Labor Commissioner in the manner provided in Nevada Revised Statutes Section 338.030 (as may be amended from time to time), and are paid wages in compliance with Nevada Revised Statutes Section 338.020 (as may be amended from time to time), despite such Facilities not constituting a public work under Nevada law ("***Nevada Prevailing Wage Requirement***"), or (ii) ensure that any new construction work for a Facility contracted by Seller in furtherance of this Agreement shall be conducted using a project labor agreement, community workforce agreement, work site agreement, collective bargaining agreement, or similar agreement providing for terms and conditions of employment with applicable labor organizations ("***Project Labor Agreement***"). To the extent any Facility that is located in Nevada may be eligible for a State of Nevada Renewable Energy Tax Abatement ("***RETA***") agreement pursuant to NRS 701A.300-.390, inclusive, and NAC 701A.500-660, inclusive (the "***RETA Regulations***"), in lieu of complying with the Nevada Prevailing Wage Requirement, should Seller apply for and receive a RETA agreement, Seller may instead opt to comply with the requirements of the RETA Regulations, including the requirements of having a construction workforce comprised of no less than 50% Nevada residents, paying the construction workforce no less than 175% of the statewide average annual wage (as that phrase is defined in the RETA Regulations), and providing a health insurance plan satisfying the applicable requirements of the RETA Regulations. If Seller does not execute a Project Labor Agreement for the construction of a Nevada Facility, at the time of Commercial Operation of such Facility, Seller must certify that it has either complied with the Nevada Prevailing Wage Requirement or the RETA Regulations, and upon Buyer's request, provide US DOL Wage & Hour Division Forms WH 347 to demonstrate such compliance.

(o) With respect to each Facility that is located in California, the Parties agree that such Facility is not a "public work" as defined by California law, and Seller shall (i) use reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform new construction work or provide services at the Site related to new construction work of each Facility shall be paid rates as set by the Department of Industrial Relations in accordance with California Labor Code section 1770, as may be amended from time to time ("***California Prevailing Wage Requirement***"), or (ii) ensure that any new construction work for a Facility contracted by Seller in furtherance of this Agreement shall be conducted using a Project Labor Agreement. If Seller does not execute a Project Labor Agreement for the

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construction of a California Facility, at the time of Commercial Operation of such Facility, Seller must certify that it has complied with the California Prevailing Wage Requirement, and upon Buyer's request, provide US DOL Wage & Hour Division Forms WH 347 to demonstrate such compliance.

(p) For purposes of Sections 12.2(n) and (o), new construction work does not include: (i) Seller inspections of incoming equipment, supplies, and materials; (ii) any engineering, design, or procurement work; (iii) any work performed by employees of an Original Equipment Manufacturer ("***OEM***") on the OEM's equipment if required by the standard warranty or guarantee for the equipment between the OEM and Seller in order to maintain the warranty or guarantee of such equipment, or as consistent with industry practice; (iv) start-up and commissioning work performed by Seller, OEM, or their contractors or subcontractors; (v) any work after Mechanical Completion of a Facility or any portion of a Facility, including operations, maintenance, and post-completion service and repair work (unless repair work is part of new construction and not repair of an OEM's equipment), or any work performed by Seller's employees, and with respect to the foregoing, "Mechanical Completion" shall mean the relevant portion of the Facility has been certified by the contractor(s) as mechanically complete and turned over to Seller for operation; (vi) any non-construction specialty services, including technical representatives from equipment or design suppliers, project management personnel, and all laboratory work for specialty testing or inspections and all testing or inspection; (vii) any non-construction support services contracted by Seller in connection with this Agreement; (viii) any installation of SCADA components and housing of SCADA systems, control devices, computers or servers; (ix) any off-site manufacturing, purchase, and/or handling of equipment, machinery and items produced in a genuine manufacturing facility and not in yards or lots adjacent to the gathering system; (x) any transportation and delivery of materials and equipment to a Facility, except the transportation of materials from any temporary yards or areas near a Facility or dedicated batch plant constructed solely to supply materials to the Facility construction site; and (xi) any work performed on, near, or leading to a Facility undertaken by state, county, city or local governmental bodies or their contractors, or work performed by public utilities or their contractors.

(q) Seller represents and warrants that it has not and will not knowingly utilize equipment or resources for the construction, operation or maintenance of a Facility that rely on work or services exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily ("***Forced Labor***"). Seller shall comprehensively implement due diligence procedures for its and its Affiliate's suppliers, subcontractors and other participants in its supply chains, to comply with this prohibition on the use of Forced Labor. Seller shall notify Buyer as soon as it becomes aware of any breach, or potential breach, of its obligations under this Section 12.2(q). Consistent with the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020, equipment or resources sourced from the Xinjiang region of China are presumed to involve Forced Labor

(r) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of any Facility or the delivery of materials necessary to complete any Facility, in each case that would cause the Minimum Capacity to achieve Commercial Operation later than the Final COD Deadline.

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Section 12.3 Covenant of Seller Related to Investments. Seller shall inform all investors in the Seller of the existence of this Agreement and all Seller Ancillary Documents on or before the date of such investment in the Seller.

Section 12.4 Covenants of Seller Related to Tax Equity Financing. Seller shall provide Buyer with at least thirty (30) days' prior written notice of the consummation of a Tax Equity Financing, which notice shall include (i) introductory and contact information about and for any potential Tax Equity Investor, (ii) a summary of the provisions related to, and the structure surrounding, the power to control the management and policies of Seller, and any entity that is jointly-owned by any Upstream Equity Owner and such Tax Equity Investor arising in connection with the Tax Equity Financing, and (iii) a statement of the circumstances under which such provisions and structure could be modified by such Tax Equity Investor.

Section 12.5 Additional Covenants of Seller. Seller and each Seller Party shall, at its expense, take all steps, or Seller shall cause its Affiliates to take all steps, necessary to maintain all Permits, including as set forth in the Facility Specifications for the applicable Facility, required for the performance of such Seller or Seller Party's obligations hereunder and under the Seller Ancillary Documents to which such Seller Party is a party, and for the construction of the Facility, and the operation of the Facility, in accordance with the Requirements.

ARTICLE XIII
DEFAULT; TERMINATION AND REMEDIES; PERFORMANCE DAMAGE

Section 13.1 Default. Each of the following events or circumstances shall constitute a "***Default***" by the responsible Party (the "***Defaulting Party***"):

(a) Payment Default. Failure by either Party to make any payment under this Agreement or any of the Buyer Ancillary Documents, in the case of Buyer, or Seller Ancillary Documents, in the case of Seller, when and as due which is not cured within thirty (30) calendar days after receipt of notice thereof.

(b) Performance Default. Failure by Buyer or Seller to perform any of its other duties or obligations under this Agreement or any of the Buyer Ancillary Documents, in the case of Buyer, or Seller Party Ancillary Documents, in the case of Seller, except for obligations as to which an express remedy is herein provided, when and as required that is not cured within thirty (30) days after receipt of notice thereof; provided that if such failure cannot be cured within such thirty (30) day period, despite reasonable commercial efforts and such failure is not a failure to make a payment when due, the non-performing Party shall have up to ninety (90) days to cure.

(c) Breach of Representation and Warranty. Inaccuracy in any material respect at the time made or deemed to be made of any representation, warranty, certification, or other statement made herein or in any Buyer Ancillary Document, in the case of Buyer, or Seller Ancillary Documents, in the case of Seller, which representation, warranty, certification or other statement is not cured within thirty (30) days after receipt of notice thereof.

(d) Buyer Bankruptcy. Bankruptcy of Buyer.

(e) Seller Bankruptcy. Bankruptcy of Seller.

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(f) Shortfall Energy Default. The failure of Seller to deliver in each of two consecutive Contract Years at least fifty percent (50%) of the Guaranteed Generation, which shall be reduced by the amount of Facility Energy that would have been generated and delivered during such Contract Year but for (i) Force Majeure, (ii) Buyer's failure to perform (including Buyer's failure to receive Facility Energy under Section 6.3), or (iii) curtailment pursuant to Section 7.4.

(g) Performance Security Failure. The failure of Seller to maintain or replace the Performance Security in compliance with Section 5.9.

(h) Buyer Financial Covenants. The failure of Buyer, following Project Participant Approval, to maintain Buyer Liability Pass Through Agreements from Project Participants with Liability Shares that total one hundred percent (100%), and such failure is not remedied within thirty (30) days after written notice thereof, or the termination or expiration of the Project Participation Share Agreement.

(i) Insurance Default. The failure of Seller or any Project Company to maintain and provide acceptable evidence of Insurance unless cured within ten (10) days.

(j) Fundamental Change. Except as permitted by Section 14.7 (i) a Party makes an assignment of its rights or a delegation of its obligations under this Agreement (other than as a result of a transaction or series of transactions that does not constitute a Change in Control) or (ii) a Change in Control occurs (whether voluntary or by operation of law).

Section 13.2 Default Remedy.

(a) If Buyer is in Default for nonpayment, subject to any duty or obligation under this Agreement, Seller may continue to provide services pursuant to its obligations under this Agreement; provided that nothing in this Section 13.2(a) shall affect Seller's rights and remedies set forth in this Section 13.2. Seller's continued service to Buyer shall not act to relieve Buyer of any of its duties or obligations under this Agreement.

(b) Notwithstanding any other provision herein, if any Default has occurred and is continuing, the affected Party may, whether or not the dispute resolution procedure set forth in Section 14.3 has been invoked or completed, bring an action in any court of competent jurisdiction as set forth in Section 14.13 seeking injunctive relief in accordance with applicable rules of civil procedure.

(c) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and the Buyer is the Defaulting Party, Seller may without further notice exercise any rights and remedies provided herein or otherwise available at law or in equity, including the right to terminate this Agreement pursuant to Section 13.3. No failure of Seller to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Seller of any other right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

(d) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and the Seller is the Defaulting Party, Buyer may without further notice exercise any rights and remedies provided for herein or otherwise available at law or equity, including (i)

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application of all amounts available under the Performance Security against any amounts then payable by Seller to Buyer under this Agreement and (ii) termination of this Agreement pursuant to Section 13.3. No failure of Buyer to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Buyer of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

Section 13.3 Termination for Default.

(a) If a Default occurs, the Party that is not the Defaulting Party (the "***Non-Defaulting Party***") may, for so long as the Default is continuing and without limiting any other rights or remedies available to the Non-Defaulting Party under this Agreement, by notice ("***Termination Notice***") to the Defaulting Party (i) establish a date (which shall be no earlier than the date of such notice and no later than twenty (20) days after the date of such notice) ("***Early Termination Date***") on which this Agreement shall terminate, and (ii) withhold any payments due in respect of this Agreement; provided, upon the occurrence of any Default of the type described in Section 13.1(d) or Section 13.1(e), this Agreement shall automatically terminate, without notice or other action by either Party as if an Early Termination Date had been declared immediately prior to such event.

(b) If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate in a commercially reasonable manner its Gains, Losses and Costs resulting from the termination of this Agreement and the resulting Termination Payment. The Gains, Losses and Costs relating to the Facility Energy, Capacity Rights and Green Attributes that would have been required to be delivered under this Agreement had it not been terminated shall be determined by comparing the amounts Buyer would have paid therefor under this Agreement to the equivalent quantities and relevant market prices either quoted by a bona fide third party offer or which are reasonably expected by Buyer to be available in the market under a replacement contract for this Agreement covering the same products and having a term equal to the Remaining Term at the date of the Termination Notice adjusted to account for differences in transmission, if any. The Non-Defaulting Party shall not be required to enter into any such replacement agreement in order to determine its Gains, Losses and Costs or the Termination Payment. To ascertain the market prices of a replacement contract, the Non-Defaulting Party may consider, among other valuations, quotations from dealers in energy contracts and bona fide third party offers. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Termination Payment shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Termination Payment shall be zero dollars ($0). The Termination Payment shall not include consequential, incidental, punitive, exemplary, or indirect or business interruption damages.

(c) For purposes of the Non-Defaulting Party's determination of its Gains, Losses and Costs and the Termination Payment, it shall be assumed, regardless of the facts, that Seller would have sold, and Buyer would have purchased, each day during the Remaining Term (i) Facility Energy in an amount equal the Assumed Daily Deliveries, and (ii) the Green Attributes associated therewith. The "***Assumed Daily Deliveries***" is an amount equal to the Guaranteed Generation for the then current Contract Year *multiplied by* 1.0556, divided by 365.

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(d) The Non-Defaulting Party shall notify the Defaulting Party of the Termination Payment, which notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Defaulting Party shall, within ten (10) Business Days after receipt of such notice, pay the Termination Payment to the Non-Defaulting Party, together with interest accrued at the Interest Rate from the Early Termination Date until paid.

(e) If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be submitted to informal non-binding dispute resolution as provided in Section 14.3(a). Following resolution of the dispute, the Defaulting Party shall pay the full amount of the Termination Payment (if any) determined by such resolution as and when required, but no later than thirty (30) days following the date of such resolution, together with all interest, at the Interest Rate, that accrued from the Early Termination Date until the date the Termination Payment is paid.

(f) For purposes of this Agreement:

(i) "***Gains***" means, with respect to a Party, an amount equal to the present value of the economic benefit (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner;

(ii) "***Losses***" means, with respect to a Party, an amount equal to the present value of the economic loss (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner;

(iii) "***Costs***" means, with respect to a Party, brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace this Agreement, excluding attorneys' fees, if any, incurred in connection with enforcing its rights under this Agreement. Each Party shall use reasonable efforts to mitigate or eliminate its Costs.

(iv) In no event shall a Party's Gains, Losses or Costs include any penalties or similar charges imposed by the Non-Defaulting Party; provided, however, that Buyer may include in a calculation of Losses, should Seller be the Defaulting Party, any RA Penalties resulting from Seller's Default.

(g) At the time for payment of any amount due under this Section 13.3, each Party shall pay to the other Party all additional amounts, if any, payable by it under this Agreement (including any amounts withheld pursuant to Section 13.3(a)(ii) above).

Section 13.4 Pass Through of Buyer Liability. Notwithstanding any other provision of this Agreement, if Buyer fails to make when due any payment required pursuant to this Agreement, and such failure is not remedied within thirty (30) calendar days after receipt of notice thereof, Seller may, without waiving any of its rights with respect to Buyer except as expressly provided herein, pursue remedies under any or all of the Buyer Liability Pass Through Agreements as provided therein. Seller hereby waives the right to recover directly from Buyer any Termination

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Payment owed by Buyer that is not paid by Buyer pursuant to Section 13.3(d), but the foregoing waiver does not apply to any other right or remedy of Seller under this Agreement, including the right to recover payments owed by Buyer pursuant to Section 11.2, other amounts payable or reimbursable under this Agreement or any other amounts incurred or accrued prior to termination of this Agreement, and the right to terminate the Agreement as the result of a Default by Buyer.

Section 13.5 No Recourse to Members of Buyer. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as set forth in Section 13.4 and any Buyer Liability Pass Through Agreements issued by one or more Project Participants pursuant to Section 5.12, Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement, and Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 Authorized Representative. Each Party shall designate an authorized representative who shall be authorized to act on its behalf with respect to those matters contained herein (each an "***Authorized Representative***"), which shall be the functions and responsibilities of such Authorized Representatives. Each Party may also designate an alternate who may act for the Authorized Representative. Within thirty (30) days after execution of this Agreement, each Party shall notify the other Party of the identity of its Authorized Representative, and alternate if designated, and shall promptly notify the other Party of any subsequent changes in such designation. The Authorized Representatives shall have no authority to alter, modify, or delete any of the provisions of this Agreement.

Section 14.2 Notices. With the exception of billing invoices pursuant to Section 11.2(b) hereof, all notices, requests, demands, consents, waivers and other communications which are required under this Agreement shall be (a) in writing (regardless of whether the applicable provision expressly requires a writing), (b) deemed properly sent if delivered in person or sent by facsimile transmission, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix C, and (c) deemed delivered, given and received on the date of delivery, in the case of facsimile transmission, or on the date of receipt in the case of registered or certified mail. In addition to the foregoing, the Parties may agree in writing at any time to deliver notices, requests, demands, consents, waivers and other communications through alternate methods, such as electronic mail.

Section 14.3 Dispute Resolution.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 14.3) (a "***Dispute***"), either Party (the "***Notifying Party***") may deliver to the other Party (the "***Recipient Party***") notice of the

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Dispute with a detailed description of the underlying circumstances of such Dispute (a "***Dispute Notice***"). The Dispute Notice shall include a schedule of the availability of the Notifying Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a parallel schedule of availability of the Recipient Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute. Following delivery of the respective senior officers' schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the thirty (30) day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party.

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Section 14.3(a) and Section 14.3(b) by the expiration of the thirty (30) day period set forth in Section 14.3(a), then either Party may pursue any legal remedy available to it in accordance with the provisions of Section 14.13 of this Agreement.

Section 14.4 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents and take all further action not inconsistent with the provisions of this Agreement that may be reasonably necessary to effectuate the purposes and intent of this Agreement.

Section 14.5 No Dedication of Facilities. Any undertaking by one Party hereto to the other Party under any provisions of this Agreement shall not constitute the dedication of the system or any portion thereof of either Party to the public or to the other Party or any other Person, and it is understood and agreed that any such undertaking by either Party shall cease upon the termination of such Party's obligations under this Agreement.

Section 14.6 Force Majeure.

(a) A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement, other than an obligation to make payment, when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate, provided the Party, as soon as practicable after becoming aware of the Force Majeure, declares the Force Majeure by giving a written notice (the "***Force Majeure Notice***") to the other Party and upon request by the other Party furnishes the other Party with a detailed description of the full particulars of the Force Majeure reasonably promptly (and in any event within fourteen (14) days after the request therefor), which shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party providing the Force Majeure Notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. If Seller is unable to deliver, or Buyer is unable to receive, Facility Energy due to a Force Majeure, Buyer shall have no obligation to pay Seller for the Energy not delivered or received by reason thereof. It is understood by the Parties that the foregoing provisions shall not

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excuse any obligations of Seller with respect to Guaranteed Generation, as provided for under Article IX, that is not achieved due to Force Majeure, provided that Seller's requirement to provide the Guaranteed Generation shall be extended for the duration of the Force Majeure. In no event shall Buyer be obligated to compensate Seller or any other Person for any losses, expenses or liabilities that Seller or such other Person may sustain as a consequence of any Force Majeure.

(b) The term "***Force Majeure***" means (i) curtailment or interruption of Transmission Service (subject to Section 14.6(c)), any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, civil disturbances, sabotage, blockade, expropriation, confiscation, fire, unusual or extreme adverse weather-related events or natural disasters (such as lightning, landslide, earthquake, tornado, hurricane, storm or flood), condemnation, epidemic, pandemic (including the disease designated COVID-19 or the related virus designated SARS-CoV-2 or any mutation thereof), or any order, regulation or restriction imposed by WECC or NERC or by governmental, military or lawfully established civilian authorities, or (ii) any other event of circumstance, which, in each case of clauses (i) and (ii), (A) prevents one Party from performing any of its obligations under this Agreement, (B) is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the Control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such subcontractor or Affiliate is responsible), and (C) which by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; provided, nothing in this clause (C) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise due diligence to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an "***Unexcused Cause***"): (1) any Change in Law that shall cause the RPS to be no longer in force or effect or that, as a result of such Change in Law, Seller shall be unable to make a Facility RPS Compliant as provided in Section 8.6; (2) events arising from the failure by Seller to construct, operate or maintain a Facility in accordance with this Agreement; (3) any increase of any kind in any cost; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (5) Seller's ability to sell any Energy at a price in excess of those provided in this Agreement; (6) Seller's failure to secure or obtain interconnection of a Facility or Transmission Services to a Point of Delivery; (7) curtailment or other interruption of any Transmission Services except as otherwise expressly provided in Section 14.6(c); (8) failure of third parties to provide goods or services essential to a Party's performance except to the extent caused by an event that otherwise constitutes Force Majeure hereunder; (9) Facility or equipment failure of any kind except to the extent caused by an event that otherwise constitutes Force Majeure hereunder; (10) any changes in the financial condition of the Buyer, any Seller Party, the Facility Lender or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement; or (11) drought in any county in which the affected Facility is located except to the extent it is a drought that (i) begins after the Effective Date, and (ii) is materially more severe than the drought conditions that have existed during the ten (10) year period prior to the Commercial Operation Date of the Facility as determined by the National Integrated Drought Information System.

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(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment or other interruption of Transmission Services for any Energy at any time unless (A) such Party has arranged for Firm Transmission to be provided for the Facility Energy in connection with such Transmission Service at the time, and (B) the curtailment or interruption is not due to the fault or negligence of the Party claiming Force Majeure; provided, that notwithstanding anything in this Section to the contrary, the 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 a Force Majeure as defined in Section 14.6(b) has occurred. For the avoidance of doubt, Buyer may not claim Force Majeure for any curtailment, interruption or other circumstance associated with Transmission Services downstream of a Point of Delivery, unless and to the extent that such curtailment, interruption or circumstance prevents Buyer or Buyer's Transmission Provider from receiving Facility Energy at such Point of Delivery.

(d) During the Delivery Term, if one or more events of Force Majeure (i) shall cause the aggregate capacity net of Parasitic Load of the Facilities that have achieved Commercial Operation to be reduced to a capacity of less than fifty percent (50%) of the Project Net Capacity prior to the event of Force Majeure (adjusted to reflect the difference between ambient temperatures and annual average temperature) for a period of six (6) consecutive months, or (ii) shall prevent Buyer from accepting more than fifty percent (50%) of the Project Net Capacity prior to the event of Force Majeure (adjusted to reflect the difference between ambient temperatures and annual average temperature) at the Points of Delivery for any hour that a Facility is able to generate Facility Energy for a period of six (6) consecutive months (the period of six (6) consecutive months in either (i) or (ii), the "***Force Majeure Trigger Period***"), the non-claiming Party shall have the right, if the claiming Party is unable to overcome the condition in clause (i) or (ii) above, as applicable, within the Force Majeure Cure Period, to terminate this Agreement upon the last day of such Force Majeure Cure Period, so long as written notice of termination is received by the other Party prior to the end of the Force Majeure Cure Period. Such termination shall automatically trigger release and return of the Delivery Term Security in accordance with Section 5.9(d).

(e) If one or more events of Force Majeure shall prevent or delay Seller from causing the Project Net Capacity to be equal to or greater than ninety percent (90%) of the Minimum Capacity by the Minimum Capacity Cure Date, then Buyer shall have the right to terminate this Agreement upon the Minimum Capacity Cure Date. Such termination shall automatically trigger release and return of the Project Development Security in accordance with Section 5.9(c).

Section 14.7 Assignment of Agreement; Certain Agreements by Seller.

(a) Except as set forth in this Section 14.7, neither Party may assign any of its rights, or delegate any of its obligations, under this Agreement or the Ancillary Documents without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed. Any Change in Control (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. Seller shall provide Buyer with sixty (60) days' prior written notice of any proposed Change in Control. Concurrently with any reorganization or financing transaction or transactions constituting any Change in Control in which

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Seller merges or consolidates with any other Person and ceases to exist, the successor entity to Seller shall execute a written assumption agreement in favor of Buyer pursuant to which any such successor entity shall assume all of the obligations of Seller under this Agreement and the Seller Ancillary Documents to which Seller is a party and agree to be bound by all the terms and conditions of this Agreement and such Seller Ancillary Documents, as applicable.

(b) Buyer may from time to time and at any time assign any or all of its rights, and delegate any or all of its obligations, under this Agreement in whole or in part without the consent of Seller to any of Buyer's Members that has executed, or will execute contemporaneously with such assignment, an agreement to purchase the Energy delivered to Buyer under this Agreement; provided that the proposed assignee has an Investment-Grade Credit Rating and an assignment pursuant to this Section 14.7 will not impair the assignee's credit rating. Except as set forth in this Section 14.7(b), Buyer shall not assign any of its rights, or delegate any of its obligations, under this Agreement without the prior written consent of Seller, which consent shall not be withheld, conditioned or delayed unreasonably. Any purported assignment or delegation in violation of this provision shall be null and void and of no force or effect.

(c) Except as set forth in or permitted by this Section 14.7, neither Seller nor any Project Company has sold or transferred or shall sell or transfer any Facility to any Person, without the prior written consent of Buyer, which consent shall not be withheld, conditioned or delayed unreasonably. Any purported sale or transfer in violation of this Section 14.7(c) shall be null and void and of no force or effect.

(d) There are no third-party beneficiaries of this Agreement, and, except as provided in this Section 14.7, this Agreement shall not grant any rights enforceable by any Person not a party to this Agreement. Notwithstanding the foregoing, Buyer's consent shall not be required for Seller to collaterally assign this Agreement to any Facility Lender for the sole purpose of financing or refinancing. Seller shall provide Buyer with prior written notice of any such assignment to any Facility Lender. Notwithstanding the foregoing or anything else expressed or implied herein to the contrary, Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of the Facility Energy, Capacity Rights or Green Attributes (not including the proceeds thereof) to any Facility Lender.

(e) To facilitate Seller's or its Affiliates' obtaining of financing or refinancing after the date of this Agreement in connection with the construction and/or operation of one or more Facilities, which may be financed individually or in one or more Portfolios as provided in Section 14.7(f), or the performance by Seller of its obligations under this Agreement, Buyer shall provide such consents to assignment of this Agreement, any Buyer Ancillary Documents and/or any Seller Ancillary Documents, in each case not including the deed of trust, mortgage or similar arrangement referred to in Section 14.7(f), (in form and substance reasonably satisfactory to Buyer), as may be reasonably requested by Seller or any Facility Lender in connection with such financing, including the acquisition of equity for the development, construction, or operation of one or more Facilities or Seller. Seller shall reimburse, or shall cause the Facility Lender to reimburse, Buyer for the reasonable incremental direct third-party expenses incurred by Buyer in the preparation, negotiation, execution or delivery of any documents requested by Seller or the Facility Lender, and provided by Buyer, pursuant to this Section 14.7(e).

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(f) Notwithstanding anything to the contrary in this Agreement, Seller or one of more Affiliates thereof may hereafter enter into one or more credit or other agreements with one or more Facility Lenders providing for financing or refinancing of one or more Facilities, individually or as a Portfolio, (each, a "***Facility Credit Agreement***") that provides, as security for Seller's or such Affiliates' performance thereunder, in addition to any assignment of this Agreement (if applicable), for a Lien on and security interest in and to the Facility(ies) or the Portfolio (as applicable) under a deed of trust, mortgage or similar arrangement, but only with the consent by Buyer (which consent shall not be withheld, conditioned or delayed unreasonably) provided pursuant to an agreement by and among Buyer, Seller or Seller's Affiliates and the Facility Lender which shall be in form and substance reasonably acceptable to Buyer and shall contain terms that are customary for such consents provided in the context of arrangements similar to those contemplated in this Agreement.

Section 14.8 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

Section 14.9 Attorney Fees & Costs. Both Parties hereto agree that in any action to enforce the terms of this Agreement that each Party shall be responsible for its own attorney fees and costs. Each of the Parties to this Agreement was represented by its respective legal counsel during the negotiation and execution of this Agreement. Notwithstanding the foregoing, to the extent Buyer incurs third party legal costs in order to facilitate any collateral assignment or pledge of this Agreement under Section 14.7 or in taking such other action or review that is at the request of Seller, Seller shall bear Buyer's reasonable and documented third party legal costs therefor.

Section 14.10 Voluntary Execution. Both Parties hereto acknowledge that they have read and fully understand the content and effect of this Agreement and that the provisions of this Agreement have been reviewed and approved by their respective counsel. The Parties to this Agreement further acknowledge that they have executed this Agreement voluntarily, subject only to the advice of their own counsel, and do not rely on any promise, inducement, representation or warranty that is not expressly stated herein.

Section 14.11 Entire Agreement. This Agreement (including all Appendices and Exhibits) contains the entire understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, discussions or agreements between the Parties, or any of them, concerning that subject matter, whether written or oral, except as expressly provided for herein. This is a fully integrated document. Each Party acknowledges that no other party, representative or agent, has made any promise, representation or warranty, express or implied, that is not expressly contained in this Agreement that induced the other Party to sign this document. This Agreement may be amended or modified only by an instrument in writing signed by each Party.

Section 14.12 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

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litigation arising under or in connection with this agreement. [STC 17]. For avoidance of doubt, although "agreement" is not capitalized in this Section 14.12, the parties intend for "agreement" to mean this Agreement, and for "party" and "parties" to refer to the Party and Parties as set forth in the preamble to this Agreement.

Section 14.13 Venue. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement shall be brought in the federal courts of the United States or the courts of the State of California sitting in San Francisco County, California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

Section 14.14 Execution in Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if all signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

Section 14.15 Effect of Section Headings. Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

Section 14.16 Waiver. The failure of either Party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. Notwithstanding anything expressed or implied herein to the contrary, nothing contained herein shall preclude either Party from pursuing any available remedies for breaches not rising to the level of a Default, including recovery of damages caused by the breach of this Agreement and specific performance or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise. Seller acknowledges that money damages may not be an adequate remedy for violations of this Agreement and that Buyer may, in its sole discretion, seek and obtain from a court of competent jurisdiction specific performance or injunctive or such other relief as such court may deem just and proper to enforce this Agreement or to prevent any violation hereof. Seller hereby waives any objection to specific performance or injunctive relief. The rights granted herein are cumulative.

Section 14.17 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties hereto or to impose any partnership obligation or liability upon either such Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 14.18 Third-Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

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Section 14.19 Damage or Destruction; Insurance; Condemnation; Limit of Liability.

(a) **Damage or Destruction**. In the event of any damage or destruction of a Facility or any part thereof, Subject to the consent of the Facility Lender, Seller shall apply any applicable proceeds of Insurance directly related to such damage or destruction to cause the Facility or such part thereof to be diligently repaired, replaced or reconstructed by Seller so that the Facility or such part thereof shall be restored to substantially the same general condition and use as existed prior to such damage or destruction, unless a different condition or use is approved by the Buyer.

(b) **Insurance**. Seller shall obtain and maintain the Insurance in accordance with Appendix F.

(c) **Condemnation or Other Taking**. For the Agreement Term, Seller shall immediately notify Buyer of the institution of any proceeding for the condemnation or other taking of a Facility or any portion thereof. Buyer may seek to participate in any such proceeding and Seller will deliver to Buyer all instruments reasonably available to Seller that are necessary or required by Buyer to permit such participation. Subject to the consent of the Facility Lender, all awards and compensation for the taking or purchase in lieu of condemnation of a Facility or any portion thereof shall be applied toward the repair, restoration, reconstruction or replacement of the Facility.

(d) **Limitation of Liability**. Except to the extent included in the liquidated damages, indemnification obligations related to third party claims or other specific charges expressly provided for herein, neither Party hereunder shall be liable for special, incidental, exemplary, indirect, punitive or consequential damages arising out of a Party's performance or non-performance under this Agreement, whether based on or claimed under contract, tort (including such Party's own negligence) or any other theory at law or in equity.

Section 14.20 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect, provided that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

Section 14.21 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective directors, officers, employees and representatives, to keep confidential, except as required by law, all documents, data, drawings, studies, projections, plans and other written information that relate to economic benefits to or amounts payable by either Party under this Agreement, and, with respect to documents, that are clearly marked "Confidential" at the time a Party shares such information with the other Party or, if orally disclosed, clearly identified as "Confidential" at the time a Party shares such information with the other Party ("***Confidential Information***"). The provisions of this Section 14.21 shall survive and shall continue to be binding upon the Parties for period of one (1) year following the

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date of termination of this Agreement. Notwithstanding the foregoing, information shall not be considered Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Either Party may, without violating this Section 14.21, disclose matters that are made confidential by this Agreement:

(i) to its counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, actual or prospective co-owners, investors, lenders, underwriters, contractors, suppliers, and others involved in construction, operation and financing transactions and arrangements for a Party or its subsidiaries, Affiliates, or parent;

(ii) to governmental officials and parties involved in any proceeding in which either Party is seeking a permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; and

(iii) to governmental officials or the public as required by any law, regulation, order, rule, order, ruling or other Requirement of Law, including oral questions, discovery requests, subpoenas, civil investigations or similar processes and laws or regulations requiring disclosure of financial information, information material to financial matters, and filing of financial reports. Each Party hereto acknowledges and agrees that information and documentation provided in connection with this Agreement may be subject to the California Records Act (Government Code Section 6250 et seq.).

(c) If a Party is requested or required, pursuant to any applicable law, regulation, order, rule, order, ruling or other Requirement of Law, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice to the other Party of such request or requirement so that at such other Party's expense, such other Party can seek a protective order or other appropriate remedy concerning such disclosure.

Section 14.22 Mobile-Sierra. Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of this Agreement proposed by a Party, a non-Party or the FERC acting sua sponte shall be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 US 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 US 348 (1956).

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Section 14.23 Service Contract and Forward Contract.

(a) The Parties intend that this Agreement will qualify as a "service contract" as such term is used in Section 7701(e) of the United States Internal Revenue Code of 1986.

(b) The Parties acknowledge and agree that this Agreement constitutes a "Forward Contract" within the meaning of the United States Bankruptcy Code.

[*Remainder of page intentionally left blank. Signature page follows.*]

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IN WITNESS WHEREOF, each Party was represented by legal counsel during the negotiation and execution of this Agreement and the Parties have executed this Agreement as of the dates set forth below effective as of the Effective Date.

CALIFORNIA COMMUNITY POWER

Date:_____ By:_____

Name: Tim Haines
Title: Interim General Manager

ORGP LLC
By: Ormat Nevada Inc., its managing member

Date:_____ By:_____

Name: Elizabeth Helms
Title: Corporate Secretary

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APPENDIX A

PAYMENT SCHEDULE

Buyer shall compensate Seller for the Delivered Energy, Capacity Rights, and associated Green Attributes in accordance with this Appendix A.

1. **Energy Delivered Prior to Commercial Operation**. The purchase price for Delivered Energy that is comprised of Facility Energy from a Facility prior to the Commercial Operation Date for such Facility shall be the Contract Price per MWh; provided, in no event shall Buyer be obligated to purchase or receive Delivered Energy in excess of the Maximum Generation unless Buyer shall by notice given to Seller elect to purchase any such Energy in excess of Maximum Generation.

2. **Energy Delivered Following Commercial Operation**. The purchase price for Delivered Energy that is comprised of Facility Energy from a Facility after the Commercial Operation Date for such Facility or for Replacement Energy shall be the Contract Price per MWh; provided, in no event shall Buyer be obligated to purchase or receive Delivered Energy in excess of the Maximum Generation unless Buyer shall by notice given to Seller elect to purchase any such Energy in excess of Maximum Generation.

3. **Payment for Curtailed Energy during Market Curtailment Period**. Buyer shall pay Seller the Contract Price per MWh for Energy that is curtailed as a result of a Market Curtailment Period, with the quantity of such curtailed Energy determined pursuant to Section 7.4.

4. **Calculation of Monthly Delivered Energy Payment**. For each MWh of Delivered Energy in each Settlement Period, Buyer shall pay Seller the difference of: (i) the Contract Price per MWh; *minus* (ii) the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Period; *provided*, *however*, that (A) if the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Period is less than the Negative LMP Strike Price, then the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Period shall be deemed to be equal to the Negative LMP Strike Price, and (B) if the result of the difference of (i) *minus* (ii) above results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller's monthly invoice). Seller, through its Scheduling Coordinator, shall receive (and, except as otherwise provided in subpart (B) above, is entitled to retain) payment for Delivered Energy from CAISO for such delivery based on the applicable Energy price, as published by CAISO. For the avoidance of doubt, Buyer is purchasing a bundled product and Seller's receipt of payment directly via CAISO settlements is for the Parties' mutual convenience.

5. **Negative LMP Strike Price**. Buyer may change the Negative LMP Strike Price by providing written notice to Seller at least five (5) Business Days prior to the effective date of such change, which notice must identify the new Negative LMP Strike Price and the effective date for the new Negative LMP Strike Price; *provided*, *however*, that the

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Negative LMP Strike Price identified by Buyer must be less than or equal to zero dollars per MWh ($0/MWh).

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APPENDIX B

FORM OF FACILITY SPECIFICATIONS

1. **Name of Facility**:

Seller may from time to time refurbish, repower, decommission or otherwise modify power plants and related property, equipment, facilities and improvements of any Facility using Prudent Utility Practices. Each such refurbishing, repowering, decommissioning or other modification shall comply with the applicable terms and provisions of the Agreement and shall not impair Seller's ability to carry out its obligations under the Agreement. For the avoidance of doubt, except as permitted pursuant to Section 3.9, the Guaranteed Generation and Maximum Generation will not be revised to reflect any such refurbishing, repowering, decommissioning or other modification of any Facility.

Location:

Facility Site:

Facility Interconnection Rights and Interests:

Facility Transmission Rights and Interests:

Point of Interconnection:

Primary Point of Delivery:

Pseudo-Tie Resource or a Dynamically Scheduled Resource:

2. **Owner:**

3. **Operator:** Ormat Nevada Inc., subject to Section 4.5

4. **Equipment:**

   (a) Type of Facility: Geothermal Electric Generation Facility

   (b) Facility Net Capacity:

5. **Commercial Operation Date:**

6. **Facility Geothermal Resource Leases and Rights of Way:**

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GEOTHERMAL LEASES				
LEASE #	ISSUER	HELD BY	ACRES	DATE ISSUED
RIGHTS OF WAY				
ROW	ISSUER	HELD BY	ACRES	DATE ISSUED

7. Construction period Permits:

AGENCY	PERMIT	DATE RECEIVED
DRILLING PERMITS		
STATE		
FEDERAL		
PRINCIPAL DISCRETIONARY PERMITS		
FEDERAL		
ENVIRONMENTAL DOCUMENTS		
FEDERAL		

8. Additional permits required to achieve Commercial Operation:

AGENCY	PERMIT
PRINCIPAL DISCRETIONARY PERMITS	
LOCAL/REGIONAL	
MINISTERIAL PERMITS	
LOCAL/REGIONAL	
STATE	

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AGENCY	PERMIT
FEDERAL	
ENVIRONMENTAL DOCUMENTS	
FEDERAL	

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APPENDIX C

BUYER AND SELLER BILLING, NOTIFICATION AND SCHEDULING CONTACT INFORMATION

1. **Authorized Representative**. Correspondence pursuant to Section 14.2 shall be transmitted to the following addresses:

   1.1 If to Buyer:

   Tim Haines
   70 Garden Court, Suite 300
   Monterey, CA 93940
   Telephone: 916-207-4078
   Email: timhaines@powergridsymmetry.com

   With a copy to: Brittany Iles – General Counsel
   Braun Blaising Smith Wynne, P.C.
   555 Capitol Mall, Suite 570
   Sacramento, CA 95814
   Telephone: 916-326-5812
   Email: iles@braunlegal.com

   1.2 If to Seller:

   OCGP LLC
   6140 Plumas Street
   Reno, NV 89519
   Attn: CEO

   With a copy to: OCGP LLC – Asset Manager
   Telephone: 775-356-9029
   Facsimile: 775-356-9039
   Email: Assetmanager@ormat.com

2. Billings and payments pursuant to Article XI and Appendix A shall be transmitted to the following addresses:

   2.1 If Billing to Buyer:

   Tim Haines
   70 Garden Court, Suite 300
   Monterey, CA 93940
   Telephone: 916-207-4078
   Email: timhaines@powergridsymmetry.com

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With a copy to: Brittany Iles – General Counsel
Braun Blaising Smith Wynne, P.C.
555 Capitol Mall, Suite 570
Sacramento, CA 95814
Telephone: 916-326-5812
Email: iles@braunlegal.com

2.2 If Payment to Buyer:

Tim Haines
70 Garden Court, Suite 300
Monterey, CA 93940
Telephone: 916-207-4078
Email: timhaines@powergridsymmetry.com

With a copy to: Brittany Iles – General Counsel
Braun Blaising Smith Wynne, P.C.
555 Capitol Mall, Suite 570
Sacramento, CA 95814
Telephone: 916-326-5812
Email: iles@braunlegal.com

2.3. If Billing to Seller:

OCGP LLC
6140 Plumas Street
Reno, NV 89519
Attn: CEO

With a copy to: OCGP LLC – Asset Manager
Telephone: 775-356-9029
Facsimile: 775-356-9039
Email: Assetmanager@ormat.com

2.4 If Payment to Seller:

OCGP LLC
6140 Plumas Street
Reno, NV 89519
Attn: CEO

With a copy to: OCGP LLC – Asset Manager
Telephone: 775-356-9029
Facsimile: 775-356-9039
Email: Assetmanager@ormat.com

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3. Unless otherwise specified by Buyer (for notices to Buyer) or Seller (for notices to Seller) all notices related to scheduling of the Facility shall be sent to the following address:

If to Buyer:

Tim Haines
70 Garden Court, Suite 300
Monterey, CA 93940
Telephone: 916-207-4078
Email: timhaines@powergridsymmetry.com

With a copy to: Brittany Iles – General Counsel
Braun Blaising Smith Wynne, P.C.
555 Capitol Mall, Suite 570
Sacramento, CA 95814
Telephone: 916-326-5812
Email: iles@braunlegal.com

If to Seller:

OCGP LLC
6140 Plumas Street
Reno, NV 89519
Attn: CEO

With a copy to: OCGP LLC – Scheduling Coordinator
Telephone: 775-398-4302
Facsimile: 775-356-9039
Email: energyscheduling@ormat.com

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APPENDIX D

OPERATIONAL CHARACTERISTICS

[redacted]

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APPENDIX E

[FORM OF LETTER OF CREDIT]

IRREVOCABLE AND UNCONDITIONAL STANDBY LETTER OF CREDIT NO. _____

Applicant:

Beneficiary:

CALIFORNIA COMMUNITY POWER

[ADDRESS]
Telephone:
Facsimile:

Amount:
Expiry Date:
Expiration Place:

Ladies and Gentlemen:

We, [insert bank name and address] ("Issuer"), hereby issue our Irrevocable Unconditional Documentary Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of California Community Power, a California joint powers authority (the "Beneficiary") by order and for the account of [_____] (the "Applicant"), pursuant to that certain Renewable Power Purchase Agreement dated as of [____], 2022 (the "Agreement") between Applicant and Beneficiary. This Letter of Credit is available at sight for USD $XX,XXX,XXX by sight payment:

(a) upon presentation to us at our office at [*bank's address*],[1] of: (i) your written demand for payment containing the text of Exhibit I and (ii) your signed statement containing the text of Exhibit II; or

(b) upon both your (1) telephone, e-mail or fax advice of demand to the attention of _____ at telephone [_____], e-mail [_____] and/or fax number _____ and (2) presentation to us by e-mail or fax of: (i) your written demand for payment containing the text of Exhibit I and (ii) your statement containing the text of Exhibit II. Funds may be drawn under this Letter of Credit, from time to time, in one or more drawings, in amounts not exceeding in the aggregate the amount specified above.

[1] Note to Issuer: The Letter of Credit must be payable in U.S. dollars within the continental U.S.

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Upon presentation to us in conformity with the foregoing, we will, on the next business day after such presentation (unless such presentation occurs after 3:00 p.m., Pacific Standard Time, on the day of such presentation, in which event payment will be made after the opening of business at the office specified above on the second business day), but without any other delay whatsoever, irrevocably and without reserve or condition: (a) if the office set forth above for presentation is in [_____], California, pay to your order in the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds in United States dollars which are immediately available to you, or (b) if the office set forth above for presentation is not in [_____], California, issue payment instructions to the Federal Reserve wire transfer system in proper form to transfer to the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds in United States dollars which are immediately available to you in [_____], California. We agree that if, on the expiration date of this Letter of Credit, the office specified above is (i) not open for business by virtue of an interruption of the nature described in the Uniform Customs and Practices for Documentary Credits, Article 36, this Letter of Credit will be duly honored if the specified statements are presented by you within thirty (30) days after such office is reopened for business, or (ii) not otherwise open for business, this Letter of Credit will be duly honored if the specified statements are presented by you within three (3) days after such office is reopened for business.

Payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from the Applicant or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely an effective written order issued otherwise than at our instance by a court of competent jurisdiction, which order is legally binding upon us and specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of the Applicant or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment. We agree that we will not take any action to cause the issuance of an order described in clause (a) of the preceding sentence. We agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related documents(s) referred to above with care so as to ascertain that on their face they appear to comply with the terms of this Letter of Credit and that if such demand(s) and document(s) on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s) and this Letter of Credit.

This Letter of Credit shall become effective immediately and shall renew annually until terminated in accordance with the terms hereof (the "Expiration Date").

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance. The stated amount of this Letter of Credit may be increased or decreased, by an amendment to this Letter of Credit in the form of Exhibit III. Any such amendment shall become effective only upon acceptance by your signature on a hard copy amendment.

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This Letter of Credit may only be terminated upon one hundred twenty (120) days' prior written notice from Issuer to Beneficiary by registered mail or overnight courier service that Issuer elects not to extend this Letter of Credit, in which case it will expire on the date specified in such notice. No presentation made under this Letter of Credit after such Expiration Date will be honored.

You shall not be bound by any written or oral agreement of any type between us and the Applicant or any other person relating to this credit, whether now or hereafter existing.

We hereby engage with you that your demand(s) for payment in conformity with the terms of this credit will be duly honored as set forth above. All fees and other costs associated with the issuance of and any drawing(s) against this Letter of Credit shall be for the account of the Applicant.

Except so far as otherwise expressly stated herein, this Letter of Credit is subject to the "Uniform Customs and Practices for Documentary Credits," International Chamber of Commerce, in effect on the date of issuance of this credit.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: California Community Power, [Address]. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

Yours faithfully,
(name of issuing bank)
By_____
Title_____

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EXHIBIT I
Demand for Payment

Re: Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated _____, 20__

To Whom It May Concern:

Demand is hereby made upon you for payment to us of $_____ by deposit to our account no. _____ at [insert name of bank]. This demand is made under, and is subject to and governed by, your Irrevocable and Unconditional Standby Letter of Credit no. _____ dated _____, 20__ in the amount of $_____ established by you in our favor for the account of _____ as the Applicant.
DATED: _____, 20__.

CALIFORNIA COMMUNITY POWER

By_____
Title_____

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EXHIBIT II
Statement

Re: Your Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated _____, 20_____

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit no. _____, dated _____, 20____ in the amount of $_____ established by you in our favor for the account of _____.

We hereby certify to you that $_____ is due and owing to us and unpaid under that certain **[Describe Agreement]**.

DATED: _____, 20__.

CALIFORNIA COMMUNITY POWER

By_____
Title_____

APPROVAL DRAFT

EXHIBIT III
Amendment

Re: Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated _____, 20__

Beneficiary:
CALIFORNIA COMMUNITY POWER
[ADDRESS]

Applicant:

To Whom It May Concern:

The above referenced Irrevocable and Unconditional Standby Letter of Credit is hereby amended as follows: by increasing / decreasing / leaving unchanged *(strike two)* the stated amount by $ _____ to a new stated amount of $ _____. All other terms and conditions of the Letter of Credit remain unchanged.

This amendment is effective only when accepted by CALIFORNIA COMMUNITY POWER, which acceptance may only be valid by a signature of an authorized representative.

Dated: _____

Yours faithfully,

(name of issuing bank)
By_____
Title_____

ACCEPTED
CALIFORNIA COMMUNITY POWER

By_____
Title_____
Date_____

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APPENDIX F

[INSURANCE]

I. GENERAL REQUIREMENTS

Prior to the start of work, but not later than thirty (30) days after the date of award of contract, Seller shall furnish Buyer evidence of coverage from insurers rated A VIII or higher by AM Best (for clauses II A - D below) and A- X (for clauses II F-G below) and in a form acceptable to the Risk Management Section of the project manager for Buyer for this purpose. Such insurance shall be maintained by Seller at Seller's sole cost and expense.

Such insurance shall not limit or qualify the liabilities and obligations of Seller assumed under this Agreement. Buyer shall not by reason of its inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

Any insurance carried by Buyer which may be applicable shall be deemed to be excess insurance and Seller's insurance is primary for all purposes despite any conflicting provision in Seller's policies to the contrary.

Said evidence of insurance shall contain a provision that the policy cannot be canceled or reduced in coverage or amount without first giving thirty (30) days prior notice thereof (ten (10) days for non-payment of premium) by registered mail to [INSERT BUYER CONTACT].

Should any portion of the required insurance be on a "Claims Made" policy, Seller shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

Seller shall be responsible for all subcontractors' compliance with the insurance requirements.

II. SPECIFIC COVERAGES REQUIRED

A. Commercial Automobile Liability

Seller shall provide Commercial Automobile Liability insurance which shall include coverages for liability arising out of the use of owned, non-owned, and hired vehicles for performance of the work as required to be licensed under the California or any other applicable state vehicle code. The Commercial Automobile Liability insurance shall have not less than $1,000,000.00 combined single limit per occurrence and shall apply to all operations of Seller.

The Commercial Automobile Liability policy shall include Buyer, its Board of Directors, its members, and their officers, agents, and employees while acting within the scope of

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their employment, as additional insureds with Seller (but only to the extent of Seller's insurable indemnity obligations under this Agreement), and shall insure against liability for death, bodily injury, or property damage resulting from the performance of this Agreement.

B. Commercial General Liability

Seller shall provide Commercial General Liability insurance with Contractual Liability, Independent Contractors, Broad Form Property Damage, Premises and Operations, Products and Completed Operations, fire Legal Liability and Personal Injury coverages included. Such insurance shall provide coverage for total limits actually arranged by Seller, but not less than $10,000,000.00 combined single limit per occurrence. Should the policy have an aggregate limit, such aggregate limits should not be less than double the Combined Single Limit. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such coverage shall provide for the following:

1. Include Buyer and its officers, agents, and employees as additional insureds with the Named Insured for the activities and operations under this Agreement (but only to the extent of Seller's insurable indemnity obligations under this Agreement).

2. Severability-of-Interest or Cross-Liability Clause such as: "The policy to which this endorsement is attached shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the company's liability."

3. A description of the coverages included under the policy.

C. Excess Liability

Seller may use an Umbrella or Excess Liability Coverage to meet coverage limits specified in this Agreement. Seller shall require the carrier for Excess Liability to properly schedule and to identify the underlying policies as provided for Buyer on the Buyer additional insured endorsement form, or on an endorsement to the policy acceptable to Buyer's risk management agent. Such policy shall include, as appropriate, coverage for Commercial General Liability, Commercial Automobile Liability, Employer's Liability, or other applicable insurance coverages.

D. Workers' Compensation/Employer's Liability Insurance

Seller shall provide Workers' Compensation insurance covering all of Seller's employees in accordance with the laws of any state in which the work is to be performed and including Employer's Liability insurance and a Waiver of Subrogation in favor of Buyer. The limit for Employer's Liability coverage shall be not less than $1,000,000.00 each accident and shall be a separate policy if not included with Workers' Compensation coverage. Evidence of such insurance shall be in the form of a Buyer Special Endorsement of insurance or on an endorsement to the policy acceptable to Buyer's risk management agent. Workers'

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Compensation/Employer's Liability exposure may be self-insured provided that Buyer is furnished with a copy of the certificate issued by the state authorizing Seller to self-insure. Seller shall notify Buyer's Risk Management Section by receipted delivery as soon as possible of the state withdrawing authority to self-insure.

F. Property All Risk Insurance

Seller shall procure and maintain an All Risk Physical Damage policy to insure the full replacement value of the property located at Facility as described in this Agreement. The policy shall include coverage for expediting expense, extra expense, Business Interruption, ensuing loss from faulty workmanship, faulty materials, or faulty design.

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APPENDIX G
[FORM OF GUARANTEE]

This GUARANTEE (this "Guarantee"), dated as of [_____] (the "Effective Date"), is issued by [_____], a corporation organized and existing under the laws of Delaware ("Guarantor") in favor of California Community Power, a California joint powers authority ("Company").

Pursuant to that certain Geothermal Portfolio Power Purchase Agreement, dated as of [_____] (as the same may be amended, modified or supplemented from time to time, the "Agreement"), by and between Company and [_____], a limited liability company organized and existing under the laws of Delaware, of which Guarantor is the [indirect] parent ("Subsidiary"), and pursuant to which Guarantor will indirectly benefit from the terms and conditions thereof, and the performance by Subsidiary of its obligations thereunder, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby covenants, undertakes and agrees with Company as follows:

SECTION 1. DEFINITIONS. Capitalized terms used herein and not otherwise defined shall have their respective meanings as set forth in the Agreement.

SECTION 2. GUARANTEE.

(a) Guarantee. Guarantor hereby irrevocably and unconditionally guarantees to and for the benefit of Company, the full and prompt payment when due of all obligations owing by Subsidiary to Company arising pursuant to the Agreement on or after the Effective Date up to the limitations set forth in the Agreement (the "Guaranteed Obligations"). The Guaranteed Obligations shall further include, without limitation, all reasonable costs and expenses (including reasonable attorneys' fees), if any, incurred in successfully enforcing Company's rights under this Guarantee.

(b) Nature of Guarantee. The Guarantee and the obligations of Guarantor hereunder shall continue to be effective or be automatically reinstated, as the case may be, even if at any time payment of any of the Guaranteed Obligations is rendered unenforceable or is rescinded or must otherwise be returned by Company upon the occurrence of any action or event including, without limitation, the bankruptcy, reorganization, winding-up, liquidation, dissolution or insolvency of the Subsidiary, Guarantor, any other Person or otherwise, all as though the payment had not been made.

(c) Absolute Guarantee. Guarantor agrees that its obligations under this Guarantee are irrevocable, absolute, independent, unconditional and continuing and shall not be affected by any circumstance that constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting

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the generality thereof, Guarantor agrees, subject to the other terms and conditions hereof, as follows:

(i) this Guarantee is a guarantee of payment when due and not of collectability;

(ii) Company may from time to time in accordance with the terms of the Agreement, without notice or demand and without affecting the validity or enforceability of this Guarantee or giving rise to any limitation, impairment or discharge of Guarantor's liability hereunder, (A) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment or performance of the same to the payment or performance of any other obligations, (B) request and accept other guaranties of or security for the Guaranteed Obligations and take and hold security for the payment or performance of this Guarantee or the Guaranteed Obligations, (C) release, exchange, compromise, subordinate or modify, with or without consideration, any security for payment or performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any person with respect to the Guaranteed Obligations, (D) enforce and apply any security now or hereafter held by or for the benefit of Company in respect of this Guarantee or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that Company may have against any such security, as Company in its discretion may determine consistent with the Agreement and any applicable security agreement, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or any other right or remedy of Guarantor against Subsidiary or any other guarantor of the Guaranteed Obligations or any other guarantee of or security for the Guaranteed Obligations, and (E) exercise any other rights available to Company under the Agreement, at law or in equity; and

(iii) this Guarantee and the obligations of Guarantor hereunder shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment in full of the Guaranteed Obligations and otherwise as set forth in this Guarantee), including, without limitation, the occurrence of any of the following, whether or not Guarantor shall have had notice or knowledge of any of them: (A) any failure to assert or enforce, or agreement not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, or the exercise or enforcement of, any claim or demand or any right, power or remedy with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guarantee of or security for the payment or performance of the Guaranteed Obligations; (B) any waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions of the Agreement or any agreement or instrument executed pursuant thereto or of any other guarantee or security for the Guaranteed Obligations; (C) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (D) the personal or corporate incapacity of any person; (E) any change in the financial condition, or the bankruptcy, administration, receivership or insolvency of Subsidiary or any other person, or any rejection, release, stay or discharge of Subsidiary's or any other person's obligations in connection with any bankruptcy, administration, receivership or similar proceeding or otherwise or any disallowance of all or any portion of any claim by Company, its successors or permitted assigns in connection with any such proceeding; (F) any change in the corporate existence of, or cessation of existence of, Guarantor or the Subsidiary

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(whether by way of merger, amalgamation, transfer, sale, lease or otherwise); (G) the failure to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, any person; (H) any substitution, modification, exchange, release, settlement or compromise of any security or collateral for or guaranty of any of the Guaranteed Obligations or failure to apply such security or collateral or failure to enforce such guaranty; (I) the existence of any claim, set-off, or other rights which Guarantor or any affiliate thereof may have at any time against Company or any affiliate thereof in connection with any matter unrelated to the Agreement; and (J) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.

(d) Currency. All payments made by Guarantor hereunder shall be made in U.S. dollars in immediately available funds.

(e) Defenses. Notwithstanding anything herein to the contrary, Guarantor specifically reserves to itself all rights, counterclaims and other defenses that the Subsidiary is or may be entitled to arising from or out of the Agreement, except for any defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of the Subsidiary, or the lack of power or authority of the Subsidiary to enter into the Agreement and to perform its obligations thereunder, or the lack of validity or enforceability of the Subsidiary's obligations under the Agreement or any transaction thereunder; provided, however, that under no circumstances shall Guarantor's liability under this Guarantee exceed Subsidiary's liability under the Agreement.

SECTION 3. OTHER PROVISIONS OF THE GUARANTEE.

(a) Demands and Payment.

(i) If Subsidiary fails to pay any Guaranteed Obligations when such Guaranteed Obligation is due and owing under the Agreement (an "Overdue Obligation"), Company may present a written demand to Guarantor calling for Guarantor's payment of such Overdue Obligation pursuant to this Guarantee (a "Payment Demand").

(ii) Guarantor's obligation hereunder to pay any particular Overdue Obligation(s) to Company is conditioned upon Guarantor's receipt of a Payment Demand from Company satisfying the following requirements: (1) such Payment Demand must identify the specific Overdue Obligation(s) covered by such demand, the specific date(s) upon which such Overdue Obligation(s) became due and owing under the Agreement, and the specific provision(s) of the Agreement pursuant to which such Overdue Obligation(s) became due and owing; (2) such Payment Demand must be delivered to Guarantor in accordance with Section 5 below; and (3) the specific Overdue Obligation(s) addressed by such Payment Demand must remain due and unpaid at the time of such delivery to Guarantor.

(iii) After issuing a Payment Demand in accordance with the requirements specified in Section 3(b) above, Company shall not be required to issue any further notices or make any further demands with respect to the Overdue Obligation(s) specified in that Payment Demand, and, subject to Section 2(e) above, Guarantor shall be required to make payment with respect to the Overdue Obligation(s) specified in that Payment Demand within twenty (20) Business Days after Guarantor receives such demand.

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(b) Waivers by Guarantor. Guarantor hereby waives for the benefit of Company, to the maximum extent permitted by Applicable Law:

(i) notice of acceptance hereof;

(ii) notice of any action taken or omitted to be taken by Company in reliance hereon;

(iii) any right to require Company, as a condition of payment by Guarantor, to (A) proceed against or exhaust its remedies against Subsidiary or any person, including any other guarantor of the Guaranteed Obligations, or (B) proceed against or exhaust any security held from Subsidiary or any person, including any other guarantor of the Guaranteed Obligations;

(iv) subject to Clause 2(e), any defense arising by reason of the incapacity, lack of authority or any disability of Subsidiary including, without limitation, any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Subsidiary from any cause other than payment in full of the Guaranteed Obligations or termination of this Guarantee in accordance with its terms; and

(v) any requirement that Company protect, secure, perfect or insure any security interest or lien or any property subject thereto.

(c) Deferral of Subrogation. Until such time as the Guaranteed Obligations have been paid or performed in full, notwithstanding any payment made by Guarantor hereunder or the receipt of any amounts by Company with respect to the Guaranteed Obligations, (i) Guarantor (on behalf of itself, its successors and assigns, including any surety) hereby expressly agrees not to exercise any right, nor assert the impairment of such rights, it may have to be subrogated to any of the rights of Company against Subsidiary or against any other collateral security held by Company for the payment or performance of the Guaranteed Obligations, (ii) Guarantor agrees that it will not seek any reimbursement from Company in respect of payments or performance made by Guarantor in connection with the Guaranteed Obligations, or amounts realized by Company in connection with the Guaranteed Obligations and (iii) Guarantor shall not claim or prove in a liquidation or other insolvency proceeding of the Subsidiary in competition with the Company. If any amount shall be paid to Guarantor on account of such subrogation rights at any time when all of the Guaranteed Obligations shall not have been paid in full or otherwise fully satisfied, such amount shall be held in trust by Guarantor for the benefit of Company and shall forthwith be paid to Company, to be credited and applied to the Guaranteed Obligations.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF GUARANTOR. Guarantor hereby represents, warrants, and undertakes to Company as follows:

(a) Guarantor is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and has the corporate power, authority and legal right to own its property and assets and to transact the business in which it is engaged.

(b) Guarantor has full power, authority and legal right to execute and deliver this Guarantee and all other instruments, documents and agreements required by the provisions of this

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Guarantee to be executed, delivered and performed by Guarantor, and to perform its obligations hereunder and thereunder.

(c) The execution, delivery and performance of this Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor have been duly authorized by all necessary company action on the part of Guarantor and do not contravene or conflict with Guarantor's memorandum and articles of association.

(d) This Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor have been duly executed and delivered by Guarantor and constitute the legal, valid and binding obligations of Guarantor, enforceable against it in accordance with their respective terms.

(e) Neither the execution and delivery of this Guarantee nor the performance of the terms and conditions hereof by Guarantor shall result in (i) a violation or breach of, or a default under, or a right to accelerate, terminate or amend, any contract, commitment or other obligation to which Guarantor is a party or is subject or by which any of its assets are bound, or (ii) a violation by Guarantor of any Applicable Law.

(f) There are no actions, suits, investigations, proceedings, condemnations, or audits by or before any court or other governmental or regulatory authority or any arbitration proceeding pending or, to its actual knowledge after due inquiry, threatened against or affecting Guarantor, its properties, or its assets that would impair Guarantor's ability to perform its obligations under this Guarantee.

(g) All necessary action has been taken under Applicable Laws to authorize the execution, delivery and performance of this Guarantee. No governmental approvals or other consents, approvals, or notices of or to any person are required in connection with the execution, delivery, performance by Guarantor, or the validity or enforceability, of this Guarantee.

SECTION 5. NOTICES. All Payment Demands, notices, demands, instructions, waivers, consents, or other communications required or permitted hereunder shall be in writing in the English language and shall be sent by personal delivery, courier, certified mail, electronic mail or facsimile, to the following addresses:

(a) If to Guarantor:

[_____].
6140 Plumas Street
Reno, NV 89519-6075
Attention: Asset Manager
Facsimile No.: 775-356-9039
Email: AssetManagement@ormat.com

With a copy to (which shall not constitute notice):

[_____].

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6140 Plumas Street
Reno, NV 89519-6075
Attention: Legal Department
Facsimile No.: 775-356-9039
Email: ContractNotices@ormat.onmicrosoft.com

(b) If to Company:

[_____]
[_____]
[_____]
Attention: [_____]
Facsimile No.: [_____]
Email: [_____]

With a copy to (which shall not constitute notice):

[_____]
[_____]
[_____]
Attention: [_____]
Facsimile No.: [_____]
Email: [_____]

The addresses and facsimile numbers of either party for notices given pursuant to this Guarantee may be changed by means of a written notice given to the other party at least three (3) Business Days (being a day on which clearing banks are generally open for business in the jurisdiction of the party to whom a notice is sent) prior to the effective date of such change. Any notice required or authorized to be given hereunder shall be in writing (unless otherwise provided) and shall be served (i) personally, (ii) by courier service, (iii) by electronic email or (iv) by facsimile transmission addressed to the relevant Person at the address stated below or at any other address notified by that Person as its address for service. Any notice so given personally shall be deemed to have been served on delivery, any notice so given by express courier service shall be deemed to have been served the next Business Day after the same shall have been delivered to the intended Person, and any notice so given by electronic mail or facsimile transmission shall be deemed to have been served on dispatch unless dispatched after the recipient's normal business hours on a Business Day or dispatched on any day other than a Business Day, in which case such notice shall be deemed to have been delivered on the next Business Day. As proof of such service it shall be sufficient to produce a receipt showing personal service, the receipt of a courier company showing the correct address of the addressee, a copy of the electronic mail showing the correct electronic mail address of the addressee or an activity report of the sender's facsimile machine showing the correct facsimile number of the Person on whom notice is served and the correct number of pages transmitted.

SECTION 6. MISCELLANEOUS PROVISIONS.

(a) Waiver; Remedies Cumulative. No failure on the part of Company to exercise, and no delay on the part of Company in exercising, any right or remedy, in whole or in part

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hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by Company shall be effective unless it is in writing and such writing expressly states that it is intended to constitute such waiver. Any waiver given by Company of any right, power or remedy in any one instance shall be effective only in that specific instance and only for the purpose for which given and will not be construed as a waiver of any right, power or remedy on any future occasion. The rights and remedies of Company herein provided are cumulative and not exclusive of any rights or remedies provided by Applicable Law.

(b) Successors and Assigns. This Guarantee shall be binding upon the successors of Guarantor and shall inure to the benefit of Company and its successors and permitted assigns. Guarantor shall not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of Company, which consent shall not be unreasonably withheld. Any purported assignment or delegation without such written consent shall be null and void. Company may assign its rights and obligations hereunder to any assignee of its rights under the Agreement permitted in accordance with Section 14.7 of the Agreement.

(c) Amendment. This Guarantee may not be modified, amended, terminated or revoked, in whole or in part, except by an agreement in writing signed by Company and Guarantor.

(d) Termination, Limits and Release. This Guarantee is irrevocable, unconditional and continuing in nature and is made with respect to all Guaranteed Obligations now existing or hereafter arising and shall remain in full force and effect until the earlier of (i) the time when in accordance with the terms of the Agreement all of the Guaranteed Obligations are fully satisfied and discharged or (ii) Subsidiary has provided the alternative Delivery Term Security to Buyer then, and only then, this Guarantee shall automatically be released and shall be of no further force and effect; otherwise, it shall remain in full force and effect. Other than as set forth in the previous sentence, no release of this Guarantee shall be valid unless executed by Company and delivered to Guarantor. Except with respect to (x) claims made by, damages incurred by, or amounts payable to third parties pursuant to an indemnity given under the Agreement and (y) claims arising out of Subsidiary's fraud or willful misconduct, under no circumstances will Guarantor's aggregate liability hereunder exceed the amount of Delivery Term Security required in the Agreement.

(e) Law and Jurisdiction.

(i) THIS GUARANTEE IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD FOR ANY PRINCIPLES OF CONFLICTS OF LAW THAT WOULD DIRECT OR PERMIT THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION.

(ii) GUARANTOR AND COMPANY IRREVOCABLY AGREE THAT THE STATE AND FEDERAL COURTS LOCATED IN SAN FRANCISCO COUNTY, CALIFORNIA, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY SUIT, ACTION OR PROCEEDING, AND TO SETTLE ANY DISPUTE, WHICH MAY ARISE OUT OF OR IN CONNECTION WITH THIS GUARANTEE, AND FOR SUCH PURPOSES HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF SUCH COURTS, AND GUARANTOR CONSENTS TO THE JURISDICTION OF, AND TO THE LAYING OF VENUE IN, SUCH COURTS FOR SUCH PURPOSES AND HEREBY WAIVES

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ANY DEFENSE BASED ON LACK OF VENUE OR PERSONAL JURISDICTION OR OF INCONVENIENT FORUM.

(f) Survival. All representations and warranties made in this Guarantee and by Guarantor in any other instrument, document, or agreement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Guarantee.

(g) Severability. Any provision of this Guarantee that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Where provisions of law or regulation resulting in such prohibition or unenforceability may be waived, they are hereby waived by Guarantor and Company to the full extent permitted by law so that this Guarantee shall be deemed a valid binding agreement in each case enforceable in accordance with its terms.

(h) Third Party Rights. The terms and provisions of this Guarantee are intended solely for the benefit of Company and Guarantor and their respective successors and permitted assigns, and it is not the intention of Company or Guarantor to confer upon any other persons any rights by reason of this Guarantee.

(i) No Set-off, Deduction or Withholding. Guarantor hereby guarantees that payments hereunder shall be made without set-off or counterclaim and free and clear of and without deduction or withholding for any taxes; provided, that if the Guarantor shall be required under Applicable Law to deduct or withhold any taxes from such payments, then (i) the sum payable by Guarantor shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable pursuant to this sentence) the Company receives an amount equal to the sum it would have received had no such deduction or withholding been required, (ii) Guarantor shall make such deduction or withholding, and (iii) Guarantor shall timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with Applicable Law.

(j) Waiver of Right to Trial by Jury. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF GUARANTOR AND COMPANY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTEE. EACH OF GUARANTOR AND COMPANY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

(k) Counterparts; Facsimile Signatures. This Guarantee may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered by facsimile shall be deemed to be original signatures.

[Signature page follows.]

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IN WITNESS WHEREOF, Guarantor has duly executed this Guarantee on the day and year first before written.

[_____], a Delaware Corporation

_____

Name:
Title:

Acknowledged and Accepted:

[_____], a [_____]

_____

Name:
Title:

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APPENDIX H

QUALITY ASSURANCE PROGRAM

Seller shall implement a Quality Assurance ("Q/A") Program to ensure that the operation of each Facility fulfills the requirements of this Agreement. The Q/A Program shall provide assurance that purchasing, manufacturing, shipping, storage, and examination of all equipment, materials, services and maintenance of each Facility will comply with the requirements of this Agreement, all applicable Requirements of Law and the manufacturers or suppliers' requirements for successful operation of the Facility.

Quality at Seller

Seller believes that quality is the unit of measure for assessing fulfillment of project goals. A quality project meets or exceeds the contract requirements and accepted standards of professional and industry practice. Furthermore, high quality projects are those that address client and societal needs more successfully than "low" quality projects. While this may seem like a straightforward definition, the process to ensure quality is much more involved and includes quality management, quality planning, quality control, quality assurance, a quality system, and total quality management.

"Quality assurance" refers to a process that reduces the potential for error throughout the phases of a project. On projects with a Q/A Program, the chances of producing a poor-quality deliverable are substantially reduced. Quality control procedures are an integral part of quality assurance. Historically, industry has used the term "quality control" to indicate a checking procedure for verifying the quality of deliverables. This checking commonly occurs at the end of the process, long after an error may have been made and compounded by subsequent work. While quality control checks at the end of a project are an essential exercise, scheduled periodic reviews at each phase are integral to Seller's Q/A Program. In addition, quality maintenance which meet or exceed manufacturers' or suppliers' requirements and best industry practices must be an integral part of Seller's Q/A Program.

The Quality Management Process

The surest way to achieve satisfactory quality is to adhere to a proven quality process. The term "quality" most accurately refers to a project's ability to satisfy needs when considered as a whole and each part of the process meets or exceeds the standards of Prudent Utility Practices.

Seller project management team is responsible for proactively planning and directing the quality of the work process, services, and deliverables. Seller's project management team utilizes a written maintenance manual for each Facility for the duration of the commercial operation that complies with the maintenance manuals of the manufacturers and suppliers from whom the Seller has purchased equipment or material and best industry practices.

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APPENDIX I

FORM OF MILESTONE SCHEDULE

Name of Facility:

Facility Milestones:

Milestone	Footnote	Milestone Date
Evidence of Site Control	1	
CEC Pre-Certification Obtained	2	
Interconnection Agreement executed	3	
Major Equipment procured	4	
Federal and State discretionary permits obtained	5	
Construction Start	6	
Firm Transmission obtained	7	
Commercial Operation Date	8	

The documents listed below in footnotes (which many be redacted to remove confidential information) shall be provided by Seller to Buyer by the Milestone Date for the Milestone shown above.

Footnotes:

1. Seller shall have provided Buyer with real property agreements sufficient to demonstrate that Seller or its Affiliates owns the Site, has a right-of-way with respect to the Site, or is the lessee of the Site under a lease.
2. Seller shall have provided Buyer with documentation from the CEC demonstrating the Facility is CEC Pre-Certified.
3. Seller shall have provided Buyer with a copy of the executed Interconnection Agreement for the Facility.
4. Seller shall have provided Buyer with documentation evidencing that all major equipment required for construction of the Facility have been ordered.
5. Seller shall have provided Buyer with a copy of a temporary or final certificate of occupancy (or equivalent) for the Facility.
6. Seller shall have provided Buyer with a fully executed copy of the Notice to Proceed, which many be redacted to remove confidential information, and evidence that construction has commenced (e.g., project management reports or photos on status of construction).

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7. Seller shall have provided Buyer with fully executed copy(ies) of the Transmission Service Agreements(s) with Transmission Service Provider showing Firm Transmission rights sufficient to deliver Facility Delivered Energy to the Points of Delivery.
8. Seller shall have provided written notice to Buyer certifying that the Facility satisfies the definition of Commercial Operation in Article I of this Agreement.

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APPENDIX J

GUARANTEED GENERATION AND MAXIMUM GENERATION

"**Guaranteed Generation**" means, for each Contract Year, the result of the following equation:

Guaranteed Generation (in MWh) =

$$\sum_{j=1}^{n} A_j \times (B_j \div C_j) \times D_j \times E_j$$

Where:

j = each Facility that has achieved Commercial Operation as of the end of such Contract Year;

n = the total number of Facilities that have achieved Commercial Operation as of the end of such Contract Year;

A = Facility Net Capacity for Facility "j";

B = the number of days in such Contract Year occurring after Facility "j" achieved Commercial Operation;

C = the total number of days in such Contract Year;

D = 8,760 hours;

E = ninety percent (90%); and.

∑ = summation of n Facilities.

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"**Maximum Generation**" means (i) for each hour, the product of the Project Net Capacity for such hour, expressed in MW, and one hundred fifty percent (150%); and (ii) for each Contract Year, the result of the following equation:

Maximum Generation (in MWh) =

$$\sum_{j=1}^{n} A_j \times (B_j \div C_j) \times D_j \times E_j$$

Where:

j = each Facility that has achieved Commercial Operation as of the end of such Contract Year;

n = the total number of Facilities that have achieved Commercial Operation as of the end of such Contract Year;

A = Facility Net Capacity for Facility "j";

B = the number of days in such Contract Year occurring after Facility "j" achieved Commercial Operation;

C = the total number of days in such Contract Year;

D = 8,760 hours;

E = one hundred ten percent (110%); and

$\sum$ = summation of n Facilities.

Within thirty (30) days after the last Facility achieves Commercial Operation hereunder, the Parties will administratively update this Appendix J to replace the formulas for Guaranteed Generation and Maximum Generation for each Contract Year with a table substantially in the form set forth below, which specifies the Guaranteed Generation and Maximum Generation for each Contract Year. For purposes of populating such table, (i) the Guaranteed Generation and Maximum Generation for the Contract Year following the Contract Year in which the last Facility achieves Commercial Operation hereunder will be established based on the formulas set forth above in this Appendix J, and (ii) the Guaranteed Generation and Maximum Generation for each Contract Year thereafter will be equal to 99.5% of the value for the prior Contract Year.

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Form of Guaranteed Generation and Maximum Generation Table

Contract Year	Guaranteed Generation [MWh]	Maximum Generation [MWh]
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24(if applicable)		
25(if applicable)		

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APPENDIX K

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of commercial operation is delivered by _____[*licensed professional engineer*] ("**Engineer**") to _____ **(**"**Buyer**") in accordance with the terms of that certain Geothermal Portfolio Power Purchase Agreement dated _____ ("**Agreement**") by and between _____ and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Facility with a nameplate capacity of no less than one hundred percent (100%) of the Facility Net Capacity.

3. The Facility's testing included a performance test demonstrating peak electrical output of no less than one hundred percent (100%) of the Facility Net Capacity for the Facility at the Points of Delivery, as adjusted for ambient temperature, resource temperature, and flow rate in accordance with the Performance Testing Conditions Criteria on the date of the Facility testing, and such peak electrical output, as adjusted, was peak output in MW.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**
this _____ day of _____, 20__.

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APPENDIX L

FORM OF BUYER LIABILITY PASS THROUGH AGREEMENT

This Buyer Liability Pass Through Agreement (this "***BLPTA***") is entered into as of [_____], 2022 (the "***BLPTA Effective Date***") by and between [_____], a [_____] (together with its successors and permitted assigns "***Project Participant***"), California Community Power, a California joint powers authority ("***CC Power***"), and [_____], a [_____] (together with its successors and permitted assigns "***Seller***"). Seller, CC Power, and Project Participant are sometimes referred to herein individually as a "***Party***" and jointly as the "***Parties***".

RECITALS

WHEREAS, CC Power and Seller have entered into that certain Renewable Power Purchase Agreement (as amended, restated or otherwise modified from time to time, the "***PPA***") dated as of [_____], 2022;

WHEREAS, Project Participant is entering into this BLPTA to secure, in part, CC Power's obligations under the PPA;

WHEREAS, Project Participant is named as a Project Participant under the PPA and will derive substantial direct and indirect benefits from the execution and delivery of the PPA;

WHEREAS, Seller and CC Power will derive substantial and direct benefits from the execution and delivery of this BLPTA; and

WHEREAS, initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

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

AGREEMENT

1. Project Participant Covenants. For value received, Project Participant does hereby unconditionally, absolutely, and irrevocably guarantee, as obligor and not as a surety, to Seller the complete and prompt payment of such Project Participant's Liability Share as set forth on Appendix M, as the same may be adjusted pursuant to Paragraph 4 hereof, of all payment obligations and liabilities now or hereafter owing by CC Power to Seller under the PPA, including liabilities for payments owed by CC Power pursuant to Section 11.2 of the PPA or any Termination Payment owed by CC Power, as applicable, and any other damage payments or reimbursement amounts (each such obligation or liability of CC Power under the PPA, a "***Guaranteed Amount***"). Any payment made directly from CC Power to Seller under the PPA shall reduce Project Participant's liability hereunder by reducing the total amount that is used to calculate the Guaranteed Amount pursuant to the preceding sentence. This BLPTA is an irrevocable, absolute, unconditional, and

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continuing guarantee of the punctual payment and performance, and not of collection, of Project Participant's Liability Share of the Guaranteed Amount. In the event CC Power shall fail to duly, completely, or punctually pay any amount owed by Buyer pursuant to the terms and conditions of the PPA, and such failure is not remedied within thirty (30) calendar days after notice thereof pursuant to Section 13.1(a) of the PPA, or in the event CC Power shall fail to duly, completely, or punctually pay any Termination Payment owed by CC Power pursuant to Section 13.3(d) of the PPA, Project Participant shall promptly pay Project Participant's Liability Share of the Guaranteed Amount, as required herein. Project Participant shall be liable to Seller for all reasonable costs and expenses (including reasonable attorneys' fees), if any, incurred in successfully enforcing Seller's rights under this Agreement ("***Enforcement Costs***"), which Enforcement Costs shall be in addition to Project Participant's liability for the Guaranteed Amount. Project Participant shall pay any Enforcement Costs to Seller within thirty (30) calendar days after Seller's delivery of an invoice therefor, together with documentation reasonably supporting the invoiced amount.

2. **Seller Waiver**. In consideration of the foregoing, Seller unconditionally waives all right to recover directly from CC Power any Termination Payment that is not paid by CC Power pursuant to Section 13.3(d) of the PPA, but the foregoing waiver does not apply to any other right or remedy of Seller under the PPA, including the right to recover payments owed by CC Power pursuant to Section 11.2 of the PPA, other amounts payable or reimbursable under the PPA or any other amounts incurred or accrued prior to termination of the PPA and the right to terminate the PPA as the result of a Default by Buyer.

3. **Demand Notice**. For avoidance of doubt, Seller may demand payment from Project Participant for purposes of this BLPTA only when and if a Termination Payment that is owed by CC Power pursuant to Section 13.3(d) is not duly, completely, or punctually paid by CC Power pursuant to the terms and conditions of the PPA, or when and if CC Power fails to make timely payment as required in the PPA and such failure is not remedied by CC Power within thirty (30) calendar days after notice thereof is issued pursuant to Section 13.1(a), as applicable. If CC Power fails to pay any amount when due pursuant to the PPA, and such failure is not remedied by CC Power within the timeframe afforded to CC Power to cure such non-payment, then Seller may exercise its rights under this BLPTA and make a payment demand upon Project Participant to pay Project Participant's Liability Share of the unpaid Guaranteed Amount (a "***Payment Demand***"). A Payment Demand shall be in writing and shall reasonably specify (a) what amount CC Power has failed to pay, (b) an explanation of why such payment is due and owing, (c) a calculation of Project Participant's Liability Share of the Guaranteed Amount, and (d) a specific statement that Seller is requesting that Project Participant pay its Liability Share of the unpaid Guaranteed Amount under this BLPTA. Project Participant shall, within fifteen (15) Business Days following its receipt of the Payment Demand, pay to Seller Project Participant's Liability Share of the unpaid Guaranteed Amount.

4. **Replacement BLPTAs.** Upon Seller's execution of Replacement BLPTAs pursuant to Section 5.12(b) of the PPA, Seller shall cancel this Buyer Liability Pass Through Agreement, effective upon the effectiveness of the Replacement BLPTAs. For the avoidance of doubt, the cancellation of existing Buyer Liability Pass Through Agreements shall not be effective unless and until the Replacement BLPTAs have become effective and binding.

5. **Scope and Duration of BLPTA**. The obligations under this BLPTA are independent of the obligations of CC Power under the PPA, and an action may be brought to enforce this BLPTA whether or

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not action is brought against CC Power under the PPA. This BLPTA shall continue in full force and effect from the BLPTA Effective Date, unless Replacement BLPTAs are executed, until both of the following have occurred: (a) the Agreement Term of the PPA has expired or terminated early, and (b) either (i) all payment and indemnity obligations of CC Power due and payable under the PPA are paid in full (whether directly or indirectly such as through set-off or netting) or have otherwise expired or (ii) Project Participant has paid the maximum Guaranteed Amount in full. This BLPTA shall also continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Amount by CC Power is rescinded or must otherwise be returned by Seller upon the insolvency, bankruptcy or reorganization of CC Power or similar proceeding, all as though such payment had not been made, and Project Participant's Liability Share of such Guaranteed Amount shall be subject to payment following a Payment Demand issued pursuant to this BLPTA. Without limiting the generality of the foregoing, and to the extent that the Project Participant has not paid its maximum Guaranteed Amount in full, the obligations of the Project Participant hereunder shall not be released, discharged, or otherwise affected, and this BLPTA shall not be invalidated or impaired or otherwise affected for the following reasons:

a) The extension of time for the payment of any Guaranteed Amount; or

b) Any amendment, modification or other alteration of the PPA; or

c) Any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount; or

d) Any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting CC Power, or any Project Participant, including but not limited to any rejection or other discharge of CC Power's obligations under the PPA, or such Project Participant's obligations hereunder, imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding; or

e) Any reorganization of CC Power or Project Participant, or any merger or consolidation of CC Power or Project Participant into or with any other Person, or the sale of all or substantially all of the assets of CC Power or Project Participants; or

f) The receipt, release, modification or waiver of, or failure to pursue or seek relief under or with respect to, the PPA, any other BLPTA, guaranty, collateral, pledge or security device whatsoever; or

g) CC Power's, or any Project Participant's inability to pay any Guaranteed Amount or perform its obligations under the PPA or hereunder as the case may be; or

h) Any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, by either CC Power or any Project Participant, including, without limitation, statute of frauds and accord and satisfaction; *provided* that Project Participant reserves the right to assert for itself any defenses, setoffs or counterclaims that CC Power is or may be entitled to assert against Seller under the terms of the PPA (but not otherwise), including with respect to disputes regarding the calculation of a Guaranteed Amount.

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6. **Waivers by Project Participant**. Project Participant hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraphs 2 and 3, (a) notice of acceptance, presentment, demand, or protest, notice of any of the events described in Paragraph 5, or any other notice or demand of any kind with respect to the Guaranteed Amounts and this BLPTA, (b) any requirement that Seller pursue or exhaust any right, power or remedy or proceed against CC Power under the PPA or otherwise or against any other Person, including any obligation to pursue any other BLPTAs, or to marshal assets, (c) any defense based on any of the matters described in Paragraph 4, (d) all rights of subrogation or other rights to pursue CC Power for payments made under this BLPTA until all amounts owing under the PPA have been paid in full, and (e) any duty of Seller to disclose any information or other matters relating to the business, operations or finances or other condition of CC Power, any Project Participant, or any other Person who has provided a BLPTA or other security or guaranty with respect to the PPA now or hereafter known to Seller. Project Participant further acknowledges and agrees that it is and will be bound by actions taken and elections made by CC Power under the PPA and waives any defense based on lack of notice or consent, or CC Power's authority or lack thereof or the validity, regularity or advisability of the actions taken or elections made.

7. **Project Participant Representations and Warranties**. Project Participant hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Project Participant's organizational documents, any applicable Law or any contractual provisions binding on or affecting Project Participant, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Project Participant, threatened, against or affecting Project Participant or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Project Participant to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of the Project Participant), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Project Participant.

8. **Seller Representations and Warranties**. Seller hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Seller's organizational documents, any applicable Law or any contractual provisions binding on or affecting Seller, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Seller, threatened, against or affecting Seller or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Seller to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including,

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any stockholder or creditor of the Seller), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Seller.

9. CC Power Representations and Warranties. CC Power hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene CC Power's organizational documents, any applicable Law or any contractual provisions binding on or affecting CC Power, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the CC Power, threatened, against or affecting CC Power or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of CC Power to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of CC Power), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by CC Power.

10. Notices. Notices under this BLPTA shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four (4) Business Days after mailing if sent by certified, first-class mail, return receipt requested. Any Party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 10.

If delivered to Seller, to it at:

[_____]
Attn: [_____]
Fax: [_____]

If delivered to Project Participant, to it at:

[_____]
Attn: [_____]
Fax: [_____]

If delivered to CC Power, to it at:

[_____]
Attn: [_____]
Fax: [_____]

11. Governing Law and Forum Selection. This BLPTA shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its affiliates or designees) with respect to or arising out of this BLPTA shall be brought in the federal courts of

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the United States or the courts of the State of California sitting in the county of San Francisco, California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

12. **Miscellaneous**. This BLPTA shall be binding upon the Parties and their respective successors and assigns and shall inure to the benefit of the Parties and their successors and permitted assigns. No provision of this BLPTA may be amended or waived except by a written instrument executed by Seller, CC Power, and Project Participant. No provision of this BLPTA confers, nor is any provision intended to confer, upon any third party (other than the Parties' successors and permitted assigns) any benefit or right enforceable at the option of that third party. This BLPTA embodies the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this BLPTA is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the Parties hereto, and (ii) such determination shall not affect any other provision of this BLPTA and all other provisions shall remain in full force and effect. This BLPTA may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This BLPTA may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

13. **Assignment**. Except as provided below in this Paragraph 13, no Party may assign this BLPTA or its rights or obligations under this BLPTA, without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Seller may, without the prior written consent of Project Participant and CC Power, transfer or assign this BLPTA to any Person to whom Seller may assign its rights or obligations under the PPA, including assignments for financing purposes, including a Portfolio Financing; *provided*, Seller shall give Project Participant and CC Power notice at least fifteen (15) Business Days before the date of such proposed assignment and, except in the case of a collateral assignment or other assignment for financing purposes, provide Project Participant and CC Power a written agreement signed by the Person to which Seller wishes to assign its interests that provides that such Person will fully assume all of Seller's obligations and liabilities under this BLPTA, including obligations and liabilities that arose prior to the date of transfer or assignment, upon such transfer or assignment. Project Participant may, without the prior written consent of Seller and CC Power, transfer or assign this BLPTA to any member of CC Power that (A) has a Credit Rating of at least BBB- from S&P or Baa3 from Moody's, and (B) is a load serving entity; *provided*, Project Participant shall give Seller and CC Power notice at least fifteen (15) Business Days before the date of such proposed assignment and provide to Seller and CC Power a written agreement signed by the Person to which Project Participant wishes to assign its interests that provides that such Person will fully assume all of Project Participant's obligations and liabilities, including obligations and liabilities that arose prior to the date of transfer or assignment, under this BLPTA upon such transfer or assignment, and such agreement is reasonably acceptable to Seller.

14. **No Recourse to Members of Project Participant**. Project Participant is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its joint powers agreement and is a public entity separate from its constituent members. Project Participant shall solely be responsible for all debts, obligations and liabilities

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accruing and arising out of this BLPTA. Seller and CC Power shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Project Participant's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

15. No Recourse to Members of CC Power. CC Power is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as expressly set forth in the PPA and this BLPTA, CC Power shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA, and as such, Seller and Project Participant shall have no rights and shall not make any claims, take any actions or assert any remedies against any of CC Power's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

16. CleanPowerSF as Project Participant. Paragraph 14 shall not apply if CleanPowerSF is the Project Participant, but the following shall apply:

a) Designated Fund. CleanPowerSF payment obligations under this BLPTA are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. CleanPowerSF's payment obligations under this BLPTA are not a charge upon the revenues or general fund of the San Francisco Public Utility Commission ("***SFPUC***") or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco.

b) Controller Certification. CleanPowerSF's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of CleanPowerSF are not authorized to request, and CleanPowerSF is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of CleanPowerSF are not authorized to offer or promise, nor is CleanPowerSF required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

c) Biennial Budget Process. For each City and County of San Francisco biennial budget cycle during the term of this BLPTA, CleanPowerSF agrees to take all necessary action to include the maximum amount of its annual payment obligations under this BLPTA in its budget submitted to the City and County of San Francisco's Board of Supervisors for each year of that budget cycle.

d) Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligations under this BLPTA, and must at all times materially comply with such applicable laws as they may be amended from time to time.

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e) Prohibition on Political Activity with City Funds. In performing any services required under this BLPTA, Seller shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this BLPTA from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

f) Non-discrimination in Contracts. Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

g) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Seller does not as of the date of this BLPTA, and will not during the term of this BLPTA, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

h) Submitting False Claims. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (1) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (3) conspires to defraud the City by getting a false claim allowed or paid by the City; (4) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (5) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

i) Consideration of Salary History. Seller shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Seller is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this BLPTA or in furtherance of this BLPTA, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property.

j) Consideration of Criminal History in Hiring and Employment Decisions. Seller agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to Seller's operations to the extent those operations are in furtherance of the performance of this BLPTA, shall apply only to applicants and employees

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who would be or are performing work in furtherance of this BLPTA, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

k) Conflict of Interest. By executing this BLPTA, Seller certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this BLPTA.

l) Campaign Contributions. By executing this BLPTA, Seller acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors; Seller's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Seller. Seller shall inform the relevant persons of the limitation on contributions imposed by Section 1.126.

m) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride principles.

n) Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the Environment Code is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, Seller shall not provide any items to the City in performance of this BLPTA which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of Seller to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

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o) Effect on Payment Obligations. The Parties agree that, although breach of an obligation set forth in Sections 16(d) through 16(n) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, and no breach of or default by Seller under Sections 16(d) through 16(n) will relieve Project Participant of its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

17. City of San José (San José Clean Energy) as Project Participant. Paragraph 14 shall not apply if the City of San José, as administrator of San José Clean Energy ("***SJCE***") is the Project Participant, but the following shall apply:

a) Designated Fund. The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of the Agreement; *provided*, *however*, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et. seq.*) ("***Designated Fund***") for payment of its obligations under this BLPTA. Subject to the requirements and limitations of applicable law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the SJCE's obligations, SJCE agrees to establish rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this BLPTA.

b) Limited Obligations. SJCE's payment obligations under this BLPTA are special limited obligations of the SJCE payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

c) Nondiscrimination/Non-Preference. In performing its obligations under this BLPTA, Seller shall not, and shall not cause or allow its subcontractors to, discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. Seller will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Seller from providing a reasonable accommodation to a person with a disability; (ii) the City's Compliance Officer may require Seller to file, and cause any Seller's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City's Compliance Officer designates. They shall contain such information, data and/or records as the City's Compliance Officer determines is needed to show compliance with this provision.

d) Conflict of Interest. Seller represents that it is familiar with the local and state conflict of interest laws and agrees to comply with those laws in performing this BLPTA. Seller certifies that, as of the Effective Date, it was unaware of any facts constituting a conflict of interest or creating an appearance of

APPROVAL DRAFT

a conflict of interest. Seller shall avoid all conflicts of interest or appearances of conflicts of interest in performing this BLPTA. Seller has the obligation of determining if the manner in which it performs any part of this BLPTA results in a conflict of interest or an appearance of a conflict of interest and shall immediately notify SJCE in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest. Seller's violation of this subsection (ii) is a material breach.

e) Environmentally Preferable Procurement Policy. Seller shall perform its obligations under this BLPTA in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 13.1(g) be a material breach of this BLPTA or otherwise give rise to a Default or entitle SJCE to terminate this BLPTA.

f) Gifts Prohibited. Seller represents that it is familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. Seller shall not offer any City of San José officer or designated employee any gift prohibited by Chapter 12.08. Seller's violation of this subsection (iv) is a material breach.

g) Disqualification of Former Employees. Seller represents that it is familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San José connected with his/her former duties or official responsibilities. Seller shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

h) Effect on Payment Obligations. The Parties agree that, although breach of an obligation set forth in Sections 17(d) through 17(g) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, and no breach of or default by Seller under Sections 17(c) through 17(h) will relieve Project Participant of its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

IN WITNESS WHEREOF, the Parties have caused this BLPTA to be duly executed and delivered by their duly authorized representatives on the date first above written.

[**PROJECT PARTICIPANT**]:

By:_____

Printed Name:_____
Title:_____

CALIFORNIA COMMUNITY POWER, a California joint powers authority:

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By:_____

Printed Name:_____
Title:_____

[**SELLER**]:
By:_____

Printed Name:_____
Title:_____

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APPENDIX M

PROJECT PARTICIPANTS AND LIABILITY SHARES

Project Participant	Liability Share
Central Coast Community Energy	17.9%
CleanPowerSF	13.9%
Peninsula Clean Energy	17.1%
Redwood Coast Energy Authority	3.2%
San Jose Clean Energy	19.6%
Silicon Valley Clean Energy	13.4%
Sonoma Clean Power Authority	11.2%
Valley Clean Energy	3.7%

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APPENDIX N

ILLUSTRATIVE FACILITY LIST

Project Name	Location	New or Existing	2023	2024	2025	2026	2027	2028	Estimated COD
NV Gonder 1	NV	New		15					12/31/2024
NV Gonder 2	NV	New			20				9/1/2025
NV Gonder 3	NV	New			20				10/1/2025
NV Eldorado 4	NV	New			20				10/1/2024
NV Eldorodo 5	NV	New				20			1/1/2026
CA Imperial Valley 1	CA	New			25				6/1/2025
CA Imperial Valley 2	CA	New				25			12/31/2026
CA CAISO 3	CA	New						30	12/31/2028

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APPENDIX O

FORM OF PROGRESS REPORT

Each Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any material planned changes to the Facility or the Site.

5. Gantt chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.

9. List of issues that are likely to potentially affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. A detailed description of all actions taken by Seller to comply with Prevailing Wage Requirement and Project Labor Agreement requirements of this Agreement.

12. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.

14. Workforce Development reporting (if applicable). Format to be provided by Buyer.

15. Any other documentation reasonably requested by Buyer.

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APPENDIX P

FORM OF ATTESTATION

(Seller) Green Attribute Attestation and Bill of Sale

_____ ("Seller") hereby sells, transfers and delivers to _____ ("Buyer") the Green Attributes and Green Tag Reporting Rights associated with the generation from the Facility described below:

Facility name and location:
Fuel Type:
Capacity (MW):_____ Operational Date:

As applicable: CEC Reg. no. ___ Energy Admin. ID no. ____ Q.F. ID no. ___

Dates		MWhrs generated
_____	_	_____
_____	_	_____
_____	_	_____

in the amount of one Green Attribute or its equivalent for each megawatt hour generated.

Seller further attests, warrants and represents as follows:

i) the information provided herein is true and correct;

ii) its sale to Buyer is its one and only sale of the Green Attributes and associated Green Tag Reporting Rights referenced herein;

iii) the Facility generated and delivered to the grid the Energy in the amount indicated as undifferentiated Energy; and

iv) Seller owns the Facility and each of the Green Attributes and Green Tag Reporting Rights associated with the generation of the indicated Energy for delivery to the grid have been generated and sold by the Facility.

This serves as a bill of sale, transferring from Seller to Buyer all of Seller's right, title and interest in and to the Green Attributes and Green Tag Reporting Rights associated with the generation of the Energy for delivery to the grid.

Contact Person: _____

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APPENDIX Q

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by ORGP LLC, a Delaware limited liability company ("**Seller**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 10.1(f) of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information:[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Dispatchable (yes or no)	
Point of Interconnection with CAISO Controlled Grid (substation or transmission line)	
Path 26 (North or South)	
LCR Area (if any)	
Flexible Capacity (MW) (if any)	
Flexible Capacity category	
Slice of Day category (if applicable)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

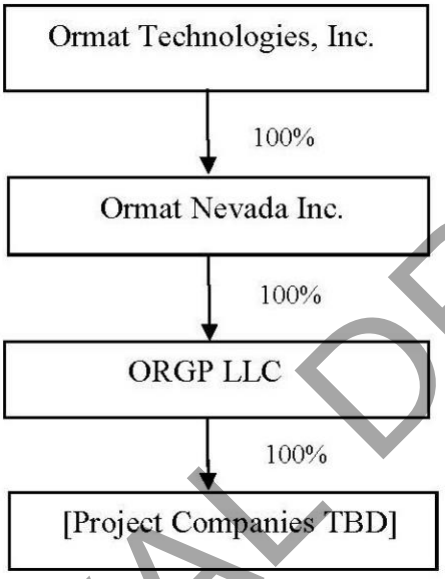
Month	Unit CAISO NQC (MW)	Unit CAISO EFC (MW)	Unit Contract Quantity (MW)
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			

[1] To be repeated for each unit if more than one.

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SCHEDULE A

ORGANIZATIONAL AND OWNERSHIP STRUCTURE OF PROJECT COMPANIES, SELLER, AND EQUITY OWNERS



APPROVAL DRAFT

FISH LAKE GEOTHERMAL

PROJECT PARTICIPATION SHARE AGREEMENT

among

CENTRAL COAST COMMUNITY ENERGY

and

CITY AND COUNTY OF SAN FRANCISCO, ACTING BY AND THROUGH ITS PUBLIC UTILITIES COMMISSION CLEANPOWERSF

and

PENINSULA CLEAN ENERGY

and

REDWOOD COAST ENERGY AUTHORITY

and

CITY OF SAN JOSÉ, ADMINISTRATOR OF SAN JOSÉ CLEAN ENERGY

and

SILICON VALLEY CLEAN ENERGY

and

SONOMA CLEAN POWER

and

VALLEY CLEAN ENERGY

and

CALIFORNIA COMMUNITY POWER

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FISH LAKE GEOTHERMAL

PROJECT PARTICIPATION SHARE AGREEMENT

PREAMBLE

This Project Participation Share Agreement ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), by and among Central Coast Clean Energy, a California joint powers authority, the City and County of San Francisco acting by and through its Public Utilities Commission, CleanPowerSF, Peninsula Clean Energy, a California joint powers authority, Redwood Coast Energy Authority, a California joint powers authority, City of San José, a California municipality, Silicon Valley Clean Energy, a California joint powers authority, Sonoma Clean Power, a California joint powers authority, and Valley Clean Energy, a California joint powers authority (each individually a "**Project Participant**" and collectively referred to as the "**Project Participants**") and California Community Power ("CCP"), a California joint powers authority. CCP and the Project Participants are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS CCP is a Joint Powers Authority, was formed for the purpose of developing, acquiring, constructing, owning, managing, contracting for, engaging in, or financing electric energy generation and storage projects, and for other purposes; and

WHEREAS, the Project Participants have participated with CCP in the negotiation of an agreement for purchase of the electric output of the Fish Lake Geothermal Project (the "**Project**" as defined in Exhibit A of the PPA), and CCP is to enter into a Renewable Power Purchase Agreement ("**PPA**"), which is incorporated herein by this reference, with Fish Lake Geothermal LLC, a Nevada limited liability company ("**Project Developer**"), providing for purchase of the electric output, and associated rights, benefits, and credits from the Project on behalf of the Project Participants.

WHEREAS, pursuant to this Agreement, CCP shall cause to deliver to each Project Participant the Project Participant's associated share of the electric output and associated rights, benefits, and credits of the Project.

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

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ARTICLE 1
DEFINITIONS

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

"**AC**" means alternating current.

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

"**Agreement**" has the meaning set forth in the Preamble and any Exhibits, schedules, and any written supplements hereto.

"Amended Annual Budget" means the budget approved by the Project Committee and adopted by the CCP Board pursuant to Section 5.1(c) of this Agreement.

"**Ancillary Services**" means all ancillary services, products and other attributes, if any, associated with the Installed Capacity of the Facility.

"**Annual Budget**" means the budget approved by the Project Committee and adopted by the CCP Board pursuant to Section 5.1(c) of this Agreement.

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

"**Billing Statement**" has the meaning set forth in Section 9.2 of this Agreement.

"**Buyer Liability Pass Through Agreement**" **or** "**BLPTA**" means, for each Project Participant, the form set forth in Exhibit L of the PPA, as executed by such Project Participant, countersigned by CCP, and delivered to the Project Developer.

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

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

"**CAISO Balancing Authority Area**" has the meaning set forth in the CAISO Tariff.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 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.

"Capital Improvements" means any unit of property, property right, land or land right which is a replacement, repair, addition, improvement or betterment to the Project or any transmission facilities relating to, or for the benefit of, the Project, the betterment of land or land rights or the enlargement or betterment of any such unit of property constituting a part of the Project or related transmission facilities which is (i) consistent with Prudent Utility Practices and determined necessary and/or desirable by the CCP Board or (ii) required by any governmental agency having jurisdiction over the Project.

"CCP Board" means the Board of Directors of California Community Power.

"CCP Manager" means the General Manager of California Community Power.

"**CEC**" means the California Energy Commission, or any successor agency performing similar statutory functions.

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

"**Capacity Damages**" means any liquidated damages paid by the Project Developer to CCP pursuant to Exhibit B of the PPA.

"**CEQA**" means the California Environmental Quality Act, as amended or supplemented from time to time.

"Chairperson" has the meaning set forth in Exhibit D.

"**Change of Control**" has the meaning set forth in Section 1.1 of the PPA.

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"**Commercial Operation**" has the meaning set forth in Section 1.1 of the PPA.

"**Commercial Operation Date**" or "**COD**" has the meaning set forth in Section 1.1 of the PPA.

"**Commercial Operation Delay Damages**" has the meaning set forth in Section 1.1 of the PPA.

"**Community Choice Aggregator**" has the meaning set forth in California Public Utilities Code § 331.1.

"**Confidential Information**" has the meaning set forth in Section 18.1 of the PPA.

"**Construction Start**" has the meaning set forth in Exhibit B of the PPA.

"**Construction Start Date**" has the meaning set forth in Exhibit B of the PPA.

"**Contract Price**" has the meaning set forth on the Cover Sheet of the PPA.

"**Contract Term**" has the meaning set forth in Section 2.1 of the PPA.

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

"**Costs**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Project Participant in terminating any arrangement pursuant to which it has hedged its obligations; and all reasonable attorneys' fees and expenses incurred by the Project Participant in connection with the Step-Up Allocation.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

"Cured Payment Default" means a Payment Default that has been cured in accordance with Section 12.4 of this Agreement.

"**Daily Delay Damages**" has the meaning set forth in Section 1.1 of the PPA.

"**Damage Payment**" has the meaning set forth in Section 1.1 of the PPA.

"**Day-Ahead Market**" has the meaning set forth in the CAISO Tariff.

"**Day-Ahead Schedule**" has the meaning set forth in the CAISO Tariff.

"Defaulting Project Participant" has the meaning set forth in Section 12.1.

"**Delivery Point**" means the Facility Pnode on the CAISO grid.

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"**Delivery Term**" means the period of Contract Years set forth on the Cover Sheet of the PPA beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of the PPA.

"Designated Fund" has the meaning set forth in Section 10.5.

"**Development Security**" means (a) cash or (b) a Letter of Credit in the amount set forth on the Cover Sheet of the PPA.

"**Effective Date**" has the meaning set forth in the Preamble.

"**Electrical Losses**" has the meaning set forth in Section 1.1 of the PPA.

"**Emission Reduction Credits**" or "**ERCs**" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby a district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"**Energy**" means electrical energy, measured in kilowatt-hours or Megawatt-hours or multiple units thereof.

"**Energy Management System**" or "**EMS**" means the Facility's energy management system.

"**Entitlement Share**" means the percentage entitlement of each Project Participant as set forth in Exhibit B of this Agreement (entitled "Schedule of Project Participant Entitlement Shares and Step-Up Allocation Caps") attributable to each such Project Participant, as may be amended pursuant to Section 4.2 or 12.8.

"**Entitlement Share Reduction Amount**" has the meaning set forth in Exhibit C.

"**Entitlement Share Reduction Compensation Amount**" has the meaning set forth in Exhibit C.

"**Entitlement Share Reduction Notice**" has the meaning set forth in Exhibit C.

"**Environmental Attributes**" shall mean any and all attributes under the RPS regulations or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable now, or in the future to the Facility and its displacement of conventional energy generation.

"**Estimated Monthly Project Cost**" has the meaning set forth in Section 8.1.

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"**Event of Default**" has the meaning set forth in Section 11.1 of the PPA.

"**Expected Commercial Operation Date**" means the date set forth on the Cover Sheet of the PPA.

"**Expected Energy**" means the quantity of Energy specified on the Cover Sheet of the PPA.

"**Facility**" means the geothermal generating facility described on the Cover Sheet of the PPA and in Exhibit A of the PPA, located at the Site, and including mechanical equipment and associated facilities and equipment required to deliver Energy to the Delivery Point.

"**Facility Energy**" means the Energy delivered from the Facility to the Delivery Point during any Settlement Interval or Settlement Period, as measured at the Facility Metering Point by the Facility Meter, as such meter readings are adjusted by the CAISO for any applicable Electrical Losses or Station Use.

"**Facility Meter**" has the meaning set forth in Section 1.1 of the PPA.

"**Facility Metering Point**" means the location(s) of the Facility Meter shown in Exhibit P of the PPA.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Flexible Capacity**" means, with respect to any particular Showing Month, the number of MWs of Product which are eligible to satisfy Flexible RAR.

"**Flexible RAR**" means the flexible capacity requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Force Majeure Event**" has the meaning set forth in Section 10.1 of the PPA.

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

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

"**Gains**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from such Step-Up Allocation for the remaining Contract Term of the PPA, determined in a commercially reasonable manner. Factors used in determining the economic benefit to such Project Participant may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of such Project Participant, including without limitation, quotations (either firm or indicative) of relevant rates,

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prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term, and include the value of Environmental Attributes and Capacity Attributes.

"**GHG Regulations**" means Title 17, Division 3 (Air Resources), Chapter 1 (Air Resources Board), Subchapter 10 (Climate Change), Article 5 (Emissions Cap), Sections 95800 to 96023 of the California Code of Regulations, as amended or supplemented from time to time.

"**Governmental Authority**" means any federal, state, provincial, local, or municipal government, any political subdivision thereof or any other governmental, congressional, or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided*, "Governmental Authority" shall not in any event include any Party, except to the extent that the Party is acting solely in its governmental capacity.

"**Greenhouse Gas**" or "**GHG**" has the meaning set forth in the GHG Regulations or in any other applicable Laws.

"**Guaranteed Commercial Operation Date**" means the date set forth on the Cover Sheet of the PPA, as such date may be extended pursuant to Exhibit B of the PPA.

"**Guaranteed Construction Start Date**" means the date set forth on the Cover Sheet of the PPA, as such date may be extended pursuant to Exhibit B of the PPA.

"**Guaranteed Energy Production Damages**" means any liquidated damages paid by the Project Developer to CCP pursuant to Section 4.7 of the PPA.

"**Indemnifying Party**" has the meaning set forth in Section 13.5.

"**Installed Capacity**" means the lesser of (a) Facility PMAX, and (b) the peak electrical output of the Facility, as measured in MW(AC) at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date of the performance test.

"**Interconnection Agreement**" means the interconnection agreement entered into by Project Developer pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Project Developer's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated, and maintained during the PPA Contract Term.

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

"**Interest Rate**" has the meaning set forth in Section 8.2 of the PPA.

"**Invoice Amount**" has the meaning set forth in Section 9.2.

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

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

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated January 29, 2021, as amended from time to time, under which CCP is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Late Payment Notice**" means a notice issued by CCP to a Project Participant pursuant to Section 9.7.

"**Late Payment Charge**" has the meaning set forth in Section 9.7.

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

"**Letter(s) of Credit**" has the meaning set forth in Section 1.1 the PPA.

"**Local Capacity Area Resource**" has the meaning set forth in the CAISO Tariff.

"**Local RAR**" means the local Resource Adequacy Requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority. "Local RAR" may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirements in other regulatory proceedings or legislative actions.

"**Losses**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from such Step-Up Allocation for the remaining Contract Term of the PPA, determined in a commercially reasonable manner. Factors used in determining economic loss to such Project Participant may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Project Participant, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term of the PPA and must include the value of Environmental Attributes and Capacity Attributes.

"**Marketable Emission Trading Credits**" means emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code

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Section 39616 and Section 40440.2 for market-based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (42 U.S.C. § 7651b (a) to (f)).

"**Month**" means a calendar month.

"**Monthly Costs**" has the meaning set forth in Section 9.1.

"**Monthly Product Payment**" means the payment required to be made by CCP to Project Developer each month of the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C of the PPA.

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

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

"**Negative LMP Strike Price**" has the meaning set forth in Section 1.1 of the PPA.

"**NERC**" means the North American Electric Reliability Corporation.

"**Net Qualifying Capacity**" or "**NQC**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Project Participant**" has the meaning set forth in Section 12.1.

"**Normal Vote**" has the meaning set forth in Exhibit D.

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

"**Operating Account**" means an account established by CCP for each Project Participant pursuant to Section 8.2.

"**Operating Cost**" means the share of the Annual Budget or Amended Annual Budget attributable to the applicable Month for a Billing Statement plus any Accepted Compliance Costs approved by the CCP Board pursuant to Section 5.2(a)(xiii).

"**Party**" has the meaning set forth in the Preamble.

"**Payment Default**" has the meaning set forth in Section 12.2.

"**Payment Default Termination Deadline**" has the meaning set forth in Section 12.6.

"**Performance Security**" means (i) cash or (ii) a Letter of Credit in the amount set forth on the Cover Sheet of the PPA.

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"**Permitted Transferee**" has the meaning set forth in Section 1.1 of the PPA.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Power Purchase Agreement**" or "**PPA**" means the agreement between CCP and Project Developer for the purchase of the electric output of the Fish Lake Geothermal Project, executed on May 31, 2022.

"**PPA Defaulting Party**" has the meaning set forth in Section 11.1(a) of the PPA.

"**PPA Non-Defaulting Party**" has the meaning set forth in Section 11.2 of the PPA.

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Facility.

"**PNode**" has the meaning set forth in the CAISO Tariff.

"**Product**" has the meaning set forth in Section 3.1

"**Progress Report**" means a progress report including the items set forth in Exhibit E of the PPA.

"**Project**" shall be broadly construed to entail the aggregate of rights, liabilities, interests, and obligations of CCP pursuant to the PPA, including but not limited to all rights, liabilities, interests, and obligations associated with the Product, all rights, liabilities, interests and obligations associated with the Facility, and including all aspects of the operation and administration of the Facility and the PPA and the rights, liabilities, interests and obligations associated therewith.

"**Project Committee**" means the committee established in accordance with Section6.1.

"**Project Developer**" means Fish Lake Geothermal LLC or assignee as permitted under the PPA.

"**Project Participants**" means those entities executing this Agreement, as identified in the Preamble, together in each case with each entity's successors or assigns.

"**Project Revenue Rights**" means all rights of a Project Participant under this Agreement to any revenue associated with the Facility Energy, Capacity Attributes, Ancillary Services, or Environmental Attributes associated with the Facility.

"**Project Rights**" means all rights and privileges of a Project Participant under this Agreement, including but not limited to its Entitlement Share, its right to receive the Product from the Facility, and its right to vote on Project Committee matters.

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"**Project Rights and Obligations**" means the Project Participants' Project Rights and obligations under the terms of this Agreement.

"**Proposed Entitlement Share Reduction Compensation Amount**" has the meaning set forth in Exhibit C.

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

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" has the meaning set forth in Section 1.1 of the PPA.

"**RA Guarantee Date**" means the date by which the Facility is expected to achieve Full Capacity Deliverability Status, which is the Commercial Operation Date.

"**RA Shortfall Month**" has the meaning set forth in Section 1.1 of the PPA.

"**Real-Time Market**" has the meaning set forth in the CAISO Tariff.

"**Reliability Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4 of the PPA.

"**Replacement RA**" has the meaning set forth in Section 1.1 of the PPA.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's Resource Adequacy Requirements, as those obligations are set forth in any

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ruling issue by a Governmental Authority, including the Resource Adequacy Rulings and shall include Flexible Capacity, and any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" has the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-031, 20-06-028, 20-12-006, 21-06-035 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

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

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

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Scheduling Coordinator Services Agreement**" means the agreement between CCP and a Scheduling Coordinator that was approved by the CCP Board pursuant to Section 5.2(a)(xiii).

"**Settlement Interval**" has the meaning set forth in the CAISO Tariff.

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

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

"**Shared Facilities Agreements**" has the meaning set forth in Section 6.3 PPA.

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"**Showing Month**" means the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" has the meaning set forth in Section 1.1 of the PPA, as further described in Exhibit A of the PPA.

"**Station Use**" means the Energy that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility.

"**Step-Up Allocation Cap**" has the meaning set forth in Section 12.8(a).

"**Step-Up Invoice**" means an invoice sent to a Non-Defaulting Project Participant as a result of a Defaulting Project Participant's Payment Default, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of the Defaulting Project Participant, as the case may be, pursuant to Section 12.7.

"Step-Up Invoice Amount" has the meaning set forth in Section 12.7.

"Step-Up Invoice Amount Cap" has the meaning set forth in Section 12.7.

"**Step-Up Reserve Account**" has the meaning set forth in Section 12.7(a)(i).

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

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

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

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a) the PPA.

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

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

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

"**Unanimous Vote**" has the meaning set forth in Exhibit D.

"**Uncontrollable Forces**" means any Force Majeure event and any cause beyond the control of any Party, which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, epidemic or pandemic (excluding impacts of the disease designated COVID-19 or the related virus designated SARS-CoV-2 impacts actually known by the Party claiming the Force Majeure Event as of the Effective Date), an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, licenseor permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the PPA, as defined therein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) in the event of any conflict or inconsistency between the terms of this Agreement and the terms of the PPA, the terms and provisions of this Agreement shall control.

ARTICLE 2
EFFECTIVE DATE AND TERM

2.1. Term.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the occurrence of all of the following: (i) the termination of the PPA and (ii) the termination of the Buyer Liability Pass Through Agreement for all the Project Participants, and (iii) all Parties have met their obligations under this Agreement ("**Term**").

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(b) Applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. All indemnity and audit rights shall remain in full force and effect for three (3) years following the termination of this Agreement.

ARTICLE 3
AGREEMENT

3.1. Transaction. Subject to the terms and conditions of this Agreement, the Project Participants authorize CCP to purchase all Facility Energy, Capacity Attributes, Ancillary Services, and Environmental Attributes associated with the Facility and any Replacement RA provided pursuant to the PPA (collectively the "**Product**"), on behalf of the Project Participants. CCP shall cause Project Developer to deliver each Project Participant's Entitlement Share of the Product to such Project Participant, including but not limited to (i) any revenue associated with the Facility Energy, Capacity Attributes, Ancillary Services, or Environmental Attributes associated with the Facility, and (ii) the Capacity Attributes and Environmental Attributes associated with the Facility or otherwise provided to CCP pursuant to the PPA. To the extent that any Facility Energy, Capacity Attributes, Ancillary Services, or Environmental Attributes associated with the Project or any Replacement RA are delivered to CCP, then CCP shall transfer each Project Participant's Entitlement Share of such Facility Energy, Capacity Attributes, Ancillary Services, or Environmental Attributes to the Project Participants. CCP shall cause all Facility Energy and associated Environmental Attributes delivered to the Project Participants by the Project Developer, and shall deliver to the Project Participants all Facility Energy and associated Environmental Attributes that CCP receives from the Project Developer, on a fully bundled basis in order to meet the requirements of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1). CCP shall administer the PPA and oversee the operation of the Project. CCP shall not sell, assign, or otherwise transfer any Product, or any portion thereof, to any third party other than to the Project Participants, unless authorized by the Project Participants pursuant to this Agreement.

3.2. RPS Compliance.

(a) CCP represents and warrants that:

(i) the Product purchased by CCP on behalf of the Project Participants consists of Energy and Environmental Attributes from only Eligible Renewable Energy Resources of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1);

(ii) the Energy and Environmental Attributes that are delivered to Project Participants by Project Developer, or delivered to Project Participants by CCP to the extent Project Developer delivers Energy and Environmental Attributes to CCP, consists only of Energy and Environmental Attributes that have not yet been generated prior to the commencement of the term of the PPA or the Effective Date of this Agreement;

(iii) the Energy that is delivered to Project Participants by Project Developer, or delivered to Project Participants by CCP to the extent Project Developer delivers Energy to CCP, shall be transferred to each Project Participant in real time; and

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(b) If the PPA includes an agreement to dynamically transfer electricity to a California balancing authority, then any transactions implemented under this Agreement are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

ARTICLE 4
ENTITLEMENT SHARE

4.1. Initial Entitlement Share. Each Project Participant's initial Entitlement Share as of the Effective Date shall be set forth in Column B of the Table provided in Exhibit B of this Agreement (entitled "Schedule of Project Participant Entitlement Shares and Step-Up Allocation Caps"). Any revisions to the Entitlement Share specified in Exhibit B pursuant to Section 4.2. or Section 12.8 shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

4.1. Change of Entitlement Share. Any Project Participant may reduce its Entitlement Share of the Project pursuant to the process set forth in Exhibit C.

4.2. Reduction of Entitlement Share to Zero. If any Project Participant's Entitlement Share is reduced to zero through any process specified in Exhibit C, such Project Participant shall remain a Party to this Agreement and shall be subject to all rights, obligations, and liabilities of this Agreement, including but not limited to any liabilities for Monthly Product Payments, Damage Payment, or Termination Payment, as applicable, and any other damage payments or reimbursement amounts under the PPA.

ARTICLE 5
OBLIGATIONS OF CCP; ROLE OF CCP BOARD AND CCP MANAGER

5.1. Obligations of CCP.

(a) CCP shall take such commercially reasonable actions or implement such commercially reasonable measures as may be necessary or desirable for the utilization, maintenance, or preservation of the rights and interests of the Project Participants in the Project including, if appropriate, such enforcement actions or other measures as the Project Committee or CCP Board deems to be in the Project Participants' best interests. To the extent not inconsistent with the PPA or other applicable agreements, CCP may also be authorized by the Project Participants to assume responsibilities for planning, designing, financing, developing, acquiring, insuring, contracting for, administering, operating, and maintaining the Project to effectuate the conveyance of the Product to Project Participants in accordance with Project Participants' Entitlement Shares.

(b) To the extent such services are available and can be carried forth in accordance with the PPA, CCP shall also provide such other services, as approved by the Project Committee or CCP Board, as may be deemed necessary to secure the benefits and/or satisfy the obligations associated with the PPA.

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(c) Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with this Section 5.1(c).

(i) The CCP Manager will prepare and submit to the Project Committee a proposed Annual Budget at least ninety (90) days prior to the beginning of each Contract Year during the term of this Agreement. The proposed Annual Budget shall be based on the prior Contract Year's actual costs and shall include reasonable estimates of the costs CCP expects to incur during the applicable Contract Year in association with the administration of the PPA, including the cost of insurance coverages that are determined to be attributable to the Project by action of the CCP Board. Upon approval of the proposed Annual Budget by a Normal Vote of the Project Committee, the CCP Manager shall present the proposed Annual Budget to the CCP Board. The CCP Board shall adopt the Annual Budget no later than thirty (30) days prior to the beginning of such Contract Year and shall cause copies of such adopted Annual Budget to be delivered to each Project Participant.

(ii) At any time after the adoption of the Annual Budget for a Contract Year, the CCP Manager may prepare and submit to the Project Committee a proposed Amended Annual Budget for and applicable to the remainder of such Contract Year. The proposal shall (A) explain why an amendment to the Annual Budget is needed, (B) compare estimated costs against actual costs, and (C) describe the events that triggered the need for additional funding. Upon approval of the proposed Amended Annual Budget by a Normal Vote of the Project Committee, the CCP Manager shall present the proposed Amended Annual Budget to the CCP Board. Upon adoption of the Amended Annual Budget by the CCP Board, such Amended Annual Budget shall apply to the remainder of the Contract Year and the CCP Board shall cause copies of such adopted Amended Annual Budget to be delivered to each Project Participant.

(iii) Reports. CCP will prepare and issue to Project Participants the following reports each quarter of a year during the Term:

(A) Financial and operating statement relating to the Project.

(B) Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.

(d) Records and Accounts. CCP will keep, or cause to be kept, accurate records and accounts of the Project as well as of the operations relating to the Project, all in a manner similar to accepted accounting methodologies associated with similar projects. All transactions of CCP relating to the Project with respect to each Contract Year shall be subject to an annual audit. Each Project Participant shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice during regular business hours.

(e) Information Sharing. Upon CCP's request, each Project Participant agrees to coordinate with CCP to provide such information, documentation, and certifications that are reasonably necessary for the design, financing, refinancing, development, operation, administration, maintenance, and ongoing activities of the Project, including information required to respond to requests for such information from any federal, state, or local regulatory body or other authority.

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(f) Consultants and Advisors Available. CCP shall make available to the Project Committee all consultants and advisors, including financial advisors and legal counsel that are retained by CCP, and such consultants, counsel and advisors shall be authorized to consult with and advise the Project Committee on Project matters. CCP agrees to waive any conflicts of interest or any other applicable professional standards or rules as required by consultants, counsel, and advisors to advise the Project Committee on Project matters.

(g) Deposit of Insurance Proceeds. CCP shall promptly deposit any insurance proceeds received by CCP from any insurance obtained pursuant to this Agreement or otherwise associated with the Project into the Operating Accounts of the Project Participants based on each Project Participants' Entitlement Shares.

(h) Liquidated and Other Damages. Any amounts paid to CCP, or applied against payments otherwise due by CCP pursuant to the PPA or each Project Participant's respective BLPTA, by the Project Developer shall be deposited on a pro rata share, based on each Project Participant's Entitlement Share into each Project Participant's Operating Account. Liquidated damages include, but are not limited to Daily Delay Damages, RA Deficiency Amount, Capacity Damages, Guaranteed Energy Production Damages, Damage Payment, and Termination Payment.

(i) Environmental Attributes. CCP shall take such actions or implement such measures as may be necessary to facilitate the transfer of Environmental Attributes from the Project Developer to the Project Participants.

(j) Resale of Product. Any Project Participant may direct CCP to remarket such Project Participant's Entitlement Share of the Product, or such Project Participant's Entitlement Share of any part of the Product. If CCP incurs any expenses associated with the remarketing activities pursuant to this Section 5.1(j), then CCP shall include the total amount of such expenses as a Monthly Cost on the Project Participant's next Billing Statement. Prior to offering the Project Participant's Entitlement Share of the Product, or the Project Participant's Entitlement Share of any part of the Product to any third party, CCP shall first offer the Product or portion of the Product to the other Project Participants. The amount of compensation paid to the selling Project Participant shall be negotiated and agreed to between the selling Project Participant and the purchasing Project Participant or third party. Any payments for any resold Product pursuant to this Section 5.1(j) shall be transmitted directly from the purchasing Project Participant or purchasing third party to the reselling Project Participant. Any such resale to a third party shall not convey any rights or authority over the operation of the Project, and the Project Participant shall not make a representation to the third party that the resale conveys any rights or authority over the operation of the Project.

(k) Uncontrollable Forces. CCP shall not be required to provide, and CCP shall not be liable for failure to provide, the Product, Replacement RA, or other service under this Agreement when such failure, or the cessation or curtailment of, or interference with, the service is caused by Uncontrollable Forces or by the failure of the Project Developer, or its successors or assigns, to obtain any required governmental permits, licenses, or approvals to acquire, administer, or operate the Project; provided, however, that the Project Participants shall not thereby be relieved of their obligations to make payments under this Agreement except to the

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extent CCP is so relieved pursuant to the PPA, and provided further that CCP shall pursue all applicable remedies against the Project Developer under the PPA and distribute any remedies obtained pursuant to Section 5.1(h).

(l) Insurance. Within one hundred and eighty days (180) of the Effective Date of this Agreement, CCP shall secure and maintain, during the Term, insurance coverage as follows:

(i) Commercial General Liability. CCP shall maintain, or cause to be maintained, commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of One Million Dollars ($1,000,000) per occurrence, and an annual aggregate of not less than Two Million Dollars ($2,000,000), endorsed to provide contractual liability in said amount, specifically covering CCP's obligations under this Agreement and including each Project Participant as an additional insured.

(ii) Employer's Liability Insurance. CCP, if it has employees, shall maintain Employers' Liability insurance with limits of not less than One Million Dollars ($1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

(iii) Workers' Compensation Insurance. CCP, if it has employees, shall also maintain at all times during the Term workers' compensation and employers' liability insurance coverage in accordance with statutory amounts, with employer's liability limits of not less than One Million Dollars ($1,000,000.00) for each accident, injury, or illness; and include a blanket waiver of subrogation.

(iv) Business Auto Insurance. CCP shall maintain at all times during the Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of CCP's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement and shall name each Project Participant as an additional insured and contain standard cross-liability and severability of interest provisions.

(v) Public Entity Liability Insurance. CCP shall maintain public entity liability insurance, including public officials' liability insurance, public entity reimbursement insurance, and employment practices liability insurance in an amount not less than One Million Dollars ($1,000,000) per claim, and an annual aggregate of not less than One Million Dollars ($1,000,000) and CCP shall maintain such coverage for at least two (2) years from the termination of this Agreement.

(m) Evidence of Insurance. Within ten (10) days after the deadline for securing insurance coverage specified in Section 5.1(l), and upon annual renewal thereafter, CCP shall deliver to each Project Participant certificates of insurance evidencing such coverage with insurers with ratings comparable to A-VII or higher, and that are authorized to do business in the State of California, in a form evidencing all coverages set forth above. Such certificates shall specify that each Project Participant shall be given at least thirty (30) days prior Notice by CCP in the event of cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of each Project Participant. Any other insurance maintained by

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CCP not associated with this Agreement is for the exclusive benefit of CCP and shall not in any manner inure to the benefit of Project Participants. The general liability, auto liability and worker's compensation policies shall be endorsed with a waiver of subrogation in favor of each Project Participant for all work performed by CCP, its employees, agents and sub-contractors.

5.2. Role of CCP Board.

(a) The rights and obligations of CCP under the PPA shall be subject to the ultimate control at all times of the CCP Board. The CCP Board, shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:

(i) Dispute Resolution. The CCP Board shall review, discuss and attempt to resolve any disputes among CCP, any of the Project Participants, and the Project Developer relating to the Project, the operation and management of the Facility, and CCP's rights and interests in the Facility.

(ii) PPA. The CCP Board shall have the authority to review, modify, and approve, as appropriate, all amendments, modifications, and supplements to the PPA.

(iii) Capital Improvements. The CCP Board shall review, modify, and approve, if appropriate, all Capital Improvements undertaken with respect to the Project and all financing arrangements for such Capital Improvements. The CCP Board shall approve those budgets or other provisions for the payments associated with the Project and the financing for any development associated with the Project.

(iv) Committees. The CCP Board shall exercise such review, direction, or oversight as may be appropriate with respect to the Project Committee and any other committees established pursuant to this Agreement.

(v) Budgeting. Upon the submission of a proposed Annual Budget or proposed Amended Annual Budget, approved by a Normal Vote of the Project Committee, the CCP Board shall review, modify, and approve each Annual Budget and Amended Annual Budget in accordance with Section 5.1(c) of this Agreement.

(vi) Early Termination of PPA. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(ii) of this Agreement, as to an early termination of the PPA pursuant to Section 11.2 of the PPA.

(vii) Assignment by Project Developer. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(iii) of this Agreement, as to any assignment by Project Developer pursuant to Section 14.1 of the PPA other than any assignment pursuant to Sections 14.2 or 14.3 of the PPA.

(viii) Buyer Financing Assignment. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(iv) of this Agreement, as to an assignment by CCP to a financing entity.

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(ix) Change of Control. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(v) of this Agreement, as to any Change of Control requiring CCP's consent, as specified in Section 14.1 of the PPA.

(x) Supervening Authority of the Board. The CCP Board has complete and plenary supervening power and authority to act upon any matter which is capable of being acted upon by the Project Committee or which is specified as being within the authority of the Project Committee pursuant to the provisions of this Agreement.

(xi) Other Matters. The CCP Board is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Project Committee or CCP Manager as may be provided for under this Agreement and under the PPA, or as may otherwise be appropriate.

(xii) Periodic Audits. The CCP Board or the Project Committee may arrange for the annual audit by certified accountants, selected by the CCP Board and experienced in electric generation or electric utility accounting, of the books and accounting records of CCP, the Project Developer to the extent authorized under the PPA, and any other counterparty under any agreement to the extent allowable, and such audit shall be completed and submitted to the CCP Board as soon as reasonably practicable after the close of the Contract Year. CCP shall promptly furnish to the Project Participant copies of all audits. No more frequently than once every calendar year, each Project Participant may, at its sole cost and expense, audit, or cause to be audited the books and cost records of CCP, and/or the Project Developer to the extent authorized under the PPA.

(xiii) Compliance Expenditures. The CCP Board shall review, modify, and approve the recommendations of the Project Committee, made pursuant to Section 6.4(b)(vi) of this Agreement, as to Compliance Expenditures, as specified in Section 3.12(c), (d), and (e) of the PPA. If the CCP Board authorizes CCP to agree to reimburse Project Developer for Accepted Compliance Costs, then such amount shall be added to the amount of Operating Costs included in the Monthly Cost calculation for the subsequent month.

(b) Pursuant to Section 5.06 of the Joint Powers Agreement, this Agreement modifies the voting rules of the CCP Board for purposes of approving or acting on any matter identified in this Agreement, as follows:

(i) Quorum. A quorum shall consist of a majority of the CCP Board members that represent Project Participants.

(ii) Voting. Each CCP Board member that represents a Project Participant shall have one vote for any matter identified in this Agreement. Any CCP Board member representing a CCP member that is not a Project Participant shall abstain from voting on any matter identified in this Agreement. A vote of the majority of the CCP Board members representing Project Participants that are in attendance shall be sufficient to constitute action, provided a quorum is established and maintained.

5.3. Role of CCP Manager.

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(a) In addition to the duties and responsibilities set forth elsewhere in this Agreement, the CCP Manager is delegated the following authorities and responsibilities:

(i) Request for Tax Documentation. Respond to any requests for tax-related documentation by the Project Developer.

(ii) Request for Financial Statements. Provide the Project Developer with Financial Statements as may be required by the PPA.

(iii) Request for Information by Project Participant. Respond to any request by a Project Participant for information or documents that are reasonably available to allow the Project Participant to respond to requests for such information from any federal, state, or local regulatory body or other authority.

(iv) Coordinate Response to a Request for Confidential Information. Upon a request or demand by any third person that is not a Party to the PPA or a Project Participant, for Confidential Information as described in Section 18.2 of the PPA, the CCP Manager shall notify the Project Developer and coordinate the response of CCP and Project Participants.

(v) Invoices. The CCP Manager shall review each invoice submitted by Project Developer and shall request such other data necessary to support the review of such invoices.

ARTICLE 6
PROJECT COMMITTEE

6.1. Establishment and Authorization of the Project Committee. The Project Committee is hereby established and duly authorized to act on behalf of the Project Participants as provided for in this Section 6 for the purpose of (a) providing coordination among, and information to, the Project Participants and CCP, (b) making any recommendations to the CCP Board regarding the administration of the Project, and (c) execution of the Project Committee responsibilities set forth in Section 6.4.

6.2. Project Committee Membership. The Project Committee shall consist of one representative from each Project Participant. The CCP Manager shall be a non-voting member of the Project Committee. Within thirty (30) days after the Effective Date, each Project Participant shall provide notice to each other of such Project Participant's representative on the Project Committee. Alternate representatives may be appointed by similar written notice to act on the Project Committee, or on any subcommittee established by the Project Committee, in the absence of the regular representative. An alternate representative may attend all meetings of the Project Committee but may vote only if the representative for whom they serve as alternate for is absent. No Project Participant's representative shall exercise any greater authority than permitted by the Project Participant which they represent.

6.1. Project Committee Operations, Meetings, and Voting. Project Committee operations, meetings, and voting shall be in accordance with the procedures and requirements specified in Exhibit D.

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6.2. Project Committee Responsibilities. The Project Committee shall have the following responsibilities:

(a) General Responsibilities of the Project Committee.

(i) Provide a liaison between CCP and the Project Participants with respect to the ongoing administration of the Project.

(ii) Exercise general supervision over any subcommittee established pursuant to Section 6.5.

(iii) Oversee, as appropriate, the completion of any Project design, feasibility, or planning studies or activities.

(iv) Review, discuss, and attempt to resolve any disputes among the Project Participants relating to this Agreement or the PPA.

(v) Perform such other functions and duties as may be provided for under this Agreement, the PPA, or as may otherwise be appropriate or beneficial to the Project or the Project Participants.

(b) Recommendations to the CCP Board by a Normal Vote.

(i) Budgeting. Review, modify, and approve by a Normal Vote each proposed Annual Budget and proposed Amended Annual Budget for submission to the CCP Board for final approval.

(ii) Early Termination of PPA. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding an early termination of the PPA pursuant to Section 11.2 of the PPA.

(iii) Assignment by Project Developer. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding any assignment by Project Developer pursuant to Section 14.1 of the PPA other than any assignment pursuant to Sections 14.2 or 14.3 of the PPA.

(iv) Buyer Financing Assignment. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding an assignment by CCP to a financing entity.

(v) Change of Control. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding any Change of Control requiring CCP's consent, as specified in Section 14.1 of the PPA.

(vi) Compliance Expenditures. Review, modify, and approve by a Normal Vote a recommendation to the CCP Board regarding Compliance Expenditures, as specified in Section 3.12(c), (d), and (e) of the PPA.

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(c) Actions Delegated to the Project Committee by this Agreement Subject to a Unanimous Vote.

(i) Project Design. Review, modify, and approve by a Unanimous Vote any recommendations to the Project Developer on the design of the Project.

(ii) Extension of Guaranteed Construction Start Date and Guaranteed Commercial Operation Date. Review and confirm that requirements of Exhibit B of the PPA have been satisfied, such that the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date has been extended.

(iii) Event of Default. Direct CCP to exercise its rights under the PPA if an Event of Default has occurred under Section 11.1 of the PPA.

(d) Actions Delegated to the Project Committee by this Agreement Subject to a Normal Vote.

(i) Make recommendations to the CCP Manager, the CCP Board, the Project Participants or to the Project Developer, as appropriate, with respect to the development, operation, and ongoing administration of the Project.

(ii) Review, develop, and, if appropriate, modify and approve rules, procedures, and protocols for the administration of the Project, including rules, procedures, and protocols for the management of the costs of the Facility and the scheduling, handling, tagging, dispatching, and crediting of the Product, the handling and crediting of Environmental Attributes associated with the Facility and the control and use of the Facility.

(iii) Review, develop, and, if appropriate, modify rules, procedures, and protocols for the monitoring, inspection, and the exercise of due diligence activities relating to the operation of the Facility.

(iv) Review, and, if appropriate, modify or otherwise act upon, the form or content of any written statistical, administrative, or operational reports, Facility-related data and technical information, facility reliability data, transmission information, forecasting, scheduling, dispatching, tagging, parking, firming, exchanging, balancing, movement, or other delivery information, and similar information and records, or matters pertaining to the Project which are furnished to the Project Committee by the CCP Manager, the Project Developer, experts, consultants or others.

(v) Review, formulate, and, if appropriate, modify, or otherwise act upon, practices and procedures to be followed by Project Participants for, among other things, the production, scheduling, tagging, transmission, delivery, firming, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale, or disposition of the Product, including the control and use of the Facility.

(vi) Review and act upon any matters involving any arrangements and instruments entered into by the Project Developer or any affiliate thereof to, among other things, secure certain performance requirements, including, but not limited to, the PPA, the Development

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Security or the Performance Security and any other letter of credit delivered to, or for the benefit of, CCP by the Project Developer and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.

(vii) Review, and, if appropriate, recommend, modify, or approve policies or programs formulated by CCP or Project Developer for determining or estimating the values, quantities, volumes, or costs of the Product from the Facility.

(viii) Review, and where appropriate, recommend the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of the Product to the Point of Delivery (directly or through the Facility).

(ix) Review, to the extent permitted by this Agreement, the PPA, or any other relevant agreement relating to the Project, modify and approve or disapprove the specifications, vendors' proposals, bid evaluations, or any other matters with respect to the Facility.

(x) Review and approve any Remedial Action Plan submitted by Project Developer to CCP pursuant to Section 2.4 of the PPA.

(xi) Review and approve the submission of the written acknowledgement of the Commercial Operation Date in accordance with Section 2.2 of the PPA.

(xii) Review and approve the return of the Development Security to Project Developer in accordance with Section 8.8 of the PPA.

(xiii) Review and approve the return of any unused Performance Security to Project Developer in accordance with Section 8.9 of the PPA.

(xiv) Review Progress Reports provided by Project Developer to CCP pursuant to Section 2.3 of the PPA and participate in any associated regularly scheduled meetings with Project Developer to discuss construction progress.

(xv) Direct CCP to collect any liquidated damages owed by Project Developer to CCP under the PPA, and to the extent authorized by PPA, draw upon the Development Security or Performance Security.

(xvi) Review invoices received by CCP from the Project Developer and, if appropriate, direct CCP to dispute an invoice pursuant to Section 8.5 of the PPA.

(xvii) Review and approve the return of the CP Security to Project Developer in accordance with Section 8.7 of the PPA.

(xviii) Review and approve the submission of the Pseudo-tie Participating Generator Agreement in accordance with Section 2.2(b) of the PPA.

(xix) Review and approve the submission of the Meter Service Agreement in accordance with Section 2.2(c) of the PPA.

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(xx) Review and approve the submission of the Interconnection Agreement in accordance with Section 2.2(d) of the PPA.

(xxi) Review and confirm that Project Developer has secured the required Firm Transmission Rights in accordance with Section 2.2(f) of the PPA.

(xxii) Review and confirm that Project Developer has received CEC Precertification for the Facility in accordance with Section 2.2(g) of the PPA.

(xxiii) Direct CCP request that Project Developer submit a Green-e® Energy Tracking Attestation Form the Product delivered under the PPA to the Center for Resource Solutions pursuant to Section 4.10 of the PPA.

(xxiv) Direct CCP change the Negative LMP Strike Price in pursuant to subdivisions (e) of Exhibit C of the PPA.

(xxv) Direct CCP to take such actions or implement such measures as may be necessary to facilitate the transfer of Environmental Attributes from the Project Developer to the Project Participants.

6.3. Subcommittees. The CCP Manager may establish as needed subcommittees including, but not limited to, auditing, legal, financial, engineering, mechanical, weather, geologic, diurnal, barometric, meteorological, operating, insurance, governmental relations, environmental, and public information subcommittees. The authority, membership, and duties of any subcommittee shall be established by the CCP Manager; provided, however, such authority, membership or duties shall not conflict with the provisions of the PPA or this Agreement.

6.4. Representative's Expenses. Any expenses incurred by any representative of any Project Participant or group of Project Participants serving on the Project Committee or any other committee in connection with their duties on such committee shall be the responsibility of the Project Participant which they represent and shall not be an expense payable under this Agreement.

6.5. Inaction by Committee. It is recognized by CCP and Project Participants that if the Project Committee is unable or fails to agree with respect to any matter or dispute which it is authorized to determine, resolve, approve, disapprove or otherwise act upon after a reasonable opportunity to do so, or within the time specified herein or in the PPA, then CCP may take such commercially reasonable action as CCP determines is necessary for its timely performance under any requirement pursuant to the PPA or this Agreement, pending the resolution of any such inability or failure to agree, but nothing herein shall be construed to allow CCP to act in violation of the express terms of the PPA or this Agreement.

6.6. Delegation. To secure the effective cooperation and interchange of information in a timely manner in connection with various administrative, technical, and other matters which may arise from time to time in connection with administration of the PPA, in appropriate cases, duties and responsibilities of the CCP Board or the Project Committee, as the case may be under this Section 6, may be delegated to the CCP Manager by the CCP Board upon notice to the Project Participants.

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ARTICLE 7
[RESERVED]

ARTICLE 8
OPERATING ACCOUNT

8.1. Calculation of Estimated Monthly Project Cost.

(a) No later than one hundred and eighty (180) days after the Effective Date, the CCP Manager shall present to the Project Committee a proposed Estimated Monthly Project Cost, which shall be equal to the single highest forecasted Monthly Cost over the first Contract Year. The Project Committee shall review, and, if appropriate, recommend, modify, or approve through a Normal Vote, the proposed Estimated Monthly Project Cost.

8.2. Operating Account. CCP shall establish an Operating Account for each Project Participant that is accessible to and can be drawn upon by both CCP and the applicable Project Participant. Such Operating Accounts are for the purpose of providing a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.

(a) Operating Account Amount. The Operating Account Amount for each Project Participant shall be an amount equal to the Estimated Monthly Project Cost multiplied by three (3), the product of which is multiplied by such Project Participant's Entitlement Share ("**Operating Account Amount**").

(b) Initial Funding of Operating Account. By no later than three hundred and sixty-five (365) days after the Effective Date, each Project Participant shall deposit into such Project Participant's Operating Account an amount equal to that Project Participant's Operating Account Amount.

(c) Use of Operating Account. CCP shall draw upon each Project Participant's Operating Account each month in an amount equal to the Monthly Costs multiplied by such Project Participant's Entitlement Share. As required by Section 9.5, each Project Participant must deposit sufficient funds into such Project Participant's Operating Account by the deadline specified in Section 9.5.

(d) Final Distribution of Operating Account. Following the expiration or earlier termination of the PPA, and upon payment and satisfaction of any and all liabilities and obligations to make payments of the Project Participants under this Agreement and upon satisfaction of all remaining costs and obligations of CCP under the PPA, any amounts then remaining in any Project Participant's Operating Account shall be paid to the associated Project Participant.

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ARTICLE 9
BILLING

9.1. Monthly Costs. The amount of Monthly Costs for a particular Month shall be the sum of the Project Participant's Entitlement Share multiplied by the Monthly Product Payments for the Product, as specified in Section 8.2 of the PPA for such Month and to the extent such payment is made by CCP to the Project Developer, plus the Project Participant's Entitlement Share multiplied by the Operating Cost for such Month and subtracting the Project Participant's Entitlement Share multiplied by the positive revenue associated with the sale of any Facility Energy, Capacity Attributes, Ancillary Services, and/or Environmental Attributes, as shown in the following formula:

Monthly Cost = ((Project Participant's Entitlement Share) × (Monthly Product Payments)) + ((Project Participant's Entitlement Share) × (Operating Costs)) – ((Project Participant's Entitlement Share) × (revenue from sale of Facility Energy, Capacity Attributes, Ancillary Services and/or Environmental Attributes))

9.2. Billing Statements. By no later than ten (10) calendar days after CCP receives an invoice from Project Developer for the prior Month of each Contract Year pursuant to Section 8.1 of the PPA, CCP shall issue to each Project Participant a copy of the invoice and a "Billing Statement," which specifies such Project Participant's Monthly Costs, itemized by each part of such Monthly Cost. The amount of Monthly Costs attributable to a Project Participant, and specified in such Billing Statement, shall be the "**Invoice Amount**."

9.3. Disputed Monthly Billing Statement. A Project Participant may dispute, by written Notice to CCP, any portion of any Billing Statement submitted to that Project Participant by CCP pursuant to Section 9.2, provided that the Project Participant shall pay the full amount of the Billing Statement when due. If CCP determines that any portion of the Billing Statement is incorrect, CCP will deposit the difference between such correct amount and such full amount, if any, including interest at the rate received by CCP on any overpayment into the Project Participant's Operating Account. If CCP and a Project Participant disagree regarding the accuracy of a Billing Statement, CCP will give consideration to such dispute and will advise all Project Participants with regard to CCP's position relative thereto within thirty (30) days following receipt of written Notice by Project Participant of such dispute.

9.4. Payment Adjustments; Billing Errors. If CCP or Project Developer determines that a prior invoice or Billing Statement was inaccurate, CCP shall credit against or increase as appropriate each Project Participant's subsequent Monthly Costs according to such adjustment. The accompanying Billing Statement shall describe the cause of such adjustment and the amount of such adjustment.

9.5. Payment of Invoice Amount. Each Project Participant shall deposit the Invoice Amount for the applicable Month into such Project Participant's Operating Account by no later than the twentieth (20th) calendar day of the following Month after the Billing Statement is issued, unless CCP has failed to issue the Billing Statement by the deadline specified in Section 9.2, in which case, each Project Participant shall deposit the Invoice Amount for the applicable Month by no later than thirty (30) days after the date on which CCP issues the Billing Statement to the Project Participant.

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9.6. Withdrawal of Invoice Amount from Operating Account. No sooner than five (5) calendar days after CCP issues a Billing Statement to a Project Participant or a Step-Up Invoice to a Project Participant, CCP shall withdraw the Invoice Amount or the Step-Up Invoice Amount from each Project Participant's Operating Account. If the Monthly Cost attributable to such Project Participant is a negative number, CCP shall deposit such funds into the Operating Account of that Project Participant.

9.7. Late Payments.

(a) If any Project Participant fails to deposit the Invoice Amount into the Project Participant's Operating Account by the deadline specified in Section 9.5, then CCP will issue such Project Participant a Late Payment Notice within five (5) days of the deadline specified in Section 9.5 directing the Project Participant to immediately deposit the Invoice Amount into the Project Participant's Operating Account and informing the Project Participant that such Project Participant must pay a charge (**"Late Payment Charge"**). Upon issuing a Late Payment Notice to any Project Participant, CCP shall promptly provide Notice of such occurrence to all other Project Participants.

(b) The Late Payment Charge shall be equal to the Invoice Amount minus any partial payment that was deposited into such Project Participant's Operating Account multiplied by the Interest Rate specified in Section 8.2 of the PPA for the period from the deadline specified in Section 9.5 until the date on which the Project Participant deposits the Invoice Amount plus the Late Payment Charge into such Project Participant's Operating Account. Upon payment, CCP shall withdraw the full amount of such Late Payment Charge from the Project Participant's Operating Account and deposit any such Late Payment Charge into the Operating Accounts of all other Project Participants on a pro rata share, based on such other Project Participants' Entitlement Shares.

ARTICLE 10
UNCONDITIONAL PAYMENT OBLIGATIONS; AUTHORIZATIONS; CONFLICTS; LITIGATION.

10.1. Unconditional Payment Obligation. Beginning with the earliest of (i) the date CCP is obligated to pay any portion of the costs of the Project, (ii) the date of the COD, or (iii) the date of the first delivery of the Product to Project Participants and continuing through the term of this Agreement, Project Participants shall pay CCP the amounts of Monthly Costs set forth in the Billing Statements submitted by CCP to Project Participants in accordance with the provisions of Section 9, whether or not the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output or the provision of Facility products are suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever, provided that the obligation of Project Participants to pay amounts associated with the Monthly Product Payment shall be limited to the amount of Monthly Product Payment charged by the Project Developer to CCP and paid by CCP to the Project Developer.

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10.2. Authorizations. Each Project Participant hereby represents and warrants that no order, approval, consent, or authorization of any governmental or public agency, authority, or person, is required on the part of such Project Participant for the execution and delivery by the Project Participant, or the performance by the Project Participant of its obligations under this Agreement except for such as have been obtained.

10.3. Conflicts. Each Project Participant represents and warrants to CCP as of the Effective Date that, to the Project Participant's knowledge, the execution and delivery of this Agreement by the Project Participants and the Project Participants' performance hereunder will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling of any court that is binding on the Project Participant, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of the Project Participant.

10.4. Litigation. Each Project Participant represents and warrants to CCP that, as of the Effective Date, to the Project Participant's knowledge, except as disclosed, there are no actions, suits or proceedings pending against the Project Participant (service of process on the Project Participant having been made) in any court that questions the validity of the authorization, execution or delivery by the Project Participant of this Agreement, or the enforceability on the Project Participant of this Agreement.

10.5. San José Clean Energy.

(a) The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City of San José to appropriate funds for purposes of the Agreement; provided, however, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et. seq.*) ("**Designated Fund**") for payment of its obligations under this Agreement.

(b) Limited Obligations. The City of San José's payment obligations under this Agreement are special limited obligations of San José Clean Energy payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

10.6. Clean Power San Francisco. With regard to Clean Power San Francisco only, (1) obligations under this Agreement are special limited obligations of Clean Power San Francisco payable solely from the revenues of Clean Power San Francisco, and shall not be a charge upon the revenues or general fund of the San Francisco Public Utilities Commission or the City and County of San Francisco or upon any non-Clean Power San Francisco moneys or other property of the San Francisco Public Utilities Commission or the City and County of San Francisco, (2) cannot exceed the amount certified by the San Francisco City Controller for the purpose and period stated in such certification, and (3) absent an authorized emergency per the San Francisco City Charter or Code, no San Francisco City representative is authorized to offer or promise, nor is San

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Francisco required to honor, any offered or promised payments under this Agreement for work beyond the agreed upon scope or in excess of the certified maximum amount without the San Francisco City Controller having first certified the additional promised amount.

ARTICLE 11
PROJECT SPECIFIC MATTERS AND PROJECT PARTICIPANTS' RIGHTS AND OBLIGATIONS.

11.1. CCP Rights and Obligations under the PPA. Notwithstanding anything to the contrary contained in this Agreement: (i) the obligation of CCP to cause the delivery of the Project Participants' Entitlement Shares of the Product during the Delivery Term of this Agreement is limited to the Product which CCP receives from the Facility (or the Project Developer, as applicable); (ii) the obligation of CCP to pay any amount to Project Participants hereunder or to give credits against amounts due from Project Participants hereunder is limited to amounts CCP receives in connection with the transaction to which the payment or credit relates (or is otherwise available to CCP in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs, capacity costs, Facility costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which CCP is responsible under the PPA shall be considered purchase costs, operating costs, energy costs, capacity costs, Facility costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by CCP and payable by Project Participants as provided in this Agreement; (iv) CCP shall carry out its obligations and exercise its rights under the PPA in a commercially reasonable manner; (v) all remedies provided to CCP pursuant to the PPA or the Scheduling Coordinator Services Agreement shall be provided to Project Participants in accordance with Section 5.1(h); and (vi) any Force Majeure under the PPA or other event of force majeure affecting the delivery of Product pursuant to applicable provisions of the PPA shall be considered an event caused by Uncontrollable Forces affecting CCP with respect to the delivery of the Product hereunder and CCP forwarding to Project Participants notices and information from the Project Developer concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a Notice that Uncontrollable Forces have occurred pursuant to Section 5.1 of this Agreement. Any net proceeds received by CCP from the sale of the Product by the Project Developer to any third-party as a result of a Force Majeure event or failure by CCP to accept delivery of Product pursuant to the PPA and any reimbursement received by CCP for purchase of Replacement RA shall be remitted by CCP to the Project Participants in accordance with their respective Entitlement Shares.

11.2. Obligations of CCP and Project Participants to Maximize the Economic and Compliance Value of the Project.

(a) Each Project Participant shall take all actions that are (i) reasonably necessary to maximize the economic and compliance value of the Project to the Project Participants, and (ii) only capable of being carried out by the Project Participants. Such actions include, but are not limited to, applying for and securing the import capability rights necessary to support the import of Capacity Attributes from the Project into the CAISO in an amount equal to at least its Entitlement Share of all of the import capability rights that are needed to utilize all of the Resource Adequacy Benefits from the Project.

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(b) CCP shall take any actions requested by a Project Participant to support the individual Project Participant's obligation under Section 11.2(a) and any actions requested by a Project Participant that are reasonably necessary to maximize the economic and compliance value of the Project to the Project Participants, to the extent that such actions by CCP are feasible and commercially reasonable.

(c) If any individual Project Participant fails to secure import capability rights or other similar rights in an amount equal to at least its Entitlement Share of all of the import capability rights that are needed to utilize all of the Resource Adequacy Benefits available from the Project, then any resulting reduced economic or compliance value of the Project shall not reduce or otherwise modify that Project Participant's payment obligations under Section 10.1.

(d) CCP and the Project Participants agree to take such additional actions in order to help effectuate the transfer of any import capability rights or similar rights from a Defaulting Project Participant to any Non-Defaulting Project Participants that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c). Such actions include but are not limited to executing additional agreements among the Project Participants, amending this Agreement, and/or submitting necessary documents to CAISO and participating in any CAISO process related to the transfer of import capability rights.

ARTICLE 12
NONPERFORMANCE AND PAYMENT DEFAULT.

12.1. Nonperformance by Project Participants. If a Project Participant fails to perform any covenant, agreement, or obligation under this Agreement or shall cause CCP to be in default with respect to any undertaking entered into for the Project or to be in default under the PPA (**"Defaulting Project Participant"**), CCP may, in the event the performance of any such obligation remains unsatisfied after thirty (30) days' prior written notice thereof to such Project Participant and a demand to so perform, take any action permitted by law to enforce its rights under this Agreement, including but not limited to termination of such Project Participant's rights under this Agreement including any rights to its Entitlement Share of the Product, and/or bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against such Project Participant with regard to its failure to so perform. Any Project Participant that is not the Defaulting Project Participant (**"Non-Defaulting Project Participant"**) may submit Notice directly to the CCP Board, if such Non-Defaulting Project Participant determines that CCP is or may not be fully taking appropriate actions to enforce CCP's rights under this Agreement against a Defaulting Project Participant. The CCP Board shall consider such Notice and direct CCP to take appropriate action, if any.

12.2. Payment Default. If either of the following occurs, then such occurrence shall constitute a "**Payment Default**":

(a) any Project Participant fails to deposit the Invoice Amount into the Project Participant's Operating Account by the deadline specified in Section 9.5, and if such Participant has not deposited the Invoice Amount plus the Late Payment Charge into such Project Participant's

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Operating Account within ten (10) calendar days of the issuance of the Late Payment Notice to such Project Participant by CCP; or

(b) any Project Participant files a petition for Bankruptcy or has a petition for Bankruptcy filed against it, and such Project Participant has not shown that it is able to comply with its obligations under this Agreement to the reasonable satisfaction of Project Developer within sixty (60) days of such Bankruptcy filing, in which case a Payment Default shall occur upon the date that CCP receives a notice regarding such determination from Project Developer.

12.3. Payment Default Notice. Upon the occurrence of a Payment Default, CCP shall issue a Notice of Payment Default to the Project Participant notifying such Project Participant that as a result of a Payment Default, it is in default under this Agreement and has assumed the status of a Defaulting Project Participant and that such Defaulting Project Participant's Project Revenue Rights have been suspended and that such Defaulting Project Participant's Project Rights are subject to termination and disposal in accordance with Sections 12.6 and 12.8 of this Agreement. CCP shall provide a copy of such Notice of Default to all other Project Participants within five (5) calendar days after the issuance of the written Notice of Payment Default by CCP to the Defaulting Project Participant.

12.4. Cured Payment Default. If after a Payment Default, the Defaulting Project Participant cures such Payment Default within forty-five (45) calendar days after the issuance of the Late Payment Notice by CCP, the Defaulting Project Participant's Project Revenue Rights shall be reinstated and its Project Rights shall not be subject to termination and disposal as provided for in Sections 12.6 and 12.8. In order to cure a Payment Default occurring under Section 12.2(a), the Defaulting Project Participant must deposit the full amount of any unpaid Invoice Amounts and any associated Late Payment Penalties into its Operating Account. In order to cure a Payment Default occurring under Section 12.2(b), the Bankruptcy proceeding against the Defaulting Project Participant must be dismissed or Project Developer must issue a Notice to CCP stating that Project Developer has determined that the Defaulting Project Participant has demonstrated that it is able to comply with its obligations under the Agreement.

12.5. Suspension of Project Participant's Project Revenue Rights and Treatment of Capacity Attributes and Environmental Attributes.

(i) Upon the occurrence of a Payment Default, the Defaulting Project Participant's Project Revenue Rights shall be suspended until such time as such Defaulting Project Participant cures the Payment Default pursuant to the requirements of Section 12.4. Any revenue associated with the sale of Facility Energy, Capacity Attributes, Ancillary Services, or Environmental Attributes associated with the Facility shall be deposited by CCP into the Step-Up Reserve Account, as specified in Section 12.7.

(ii) For any Month where the funds remaining in a Defaulting Project Participant's Operating Account are sufficient to pay the entire Invoice Amount, CCP shall withdraw the Invoice Amount from such Defaulting Project Participant's Operating Account and shall cause the delivery of the Defaulting Project Participant's Entitlement Share of the Product, including Capacity Attributes and Environmental Attributes, associated with the Facility or otherwise provided for pursuant to the PPA. For any Month where the funds remaining in a

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Defaulting Project Participant's Operating Account are less than the amount necessary to pay the entire Invoice Amount, CCP shall withdraw all remaining funds from the Defaulting Project Participant's Operating Account, and to the extent reasonably possible, in CCP's sole discretion, CCP shall cause the delivery of a quantity of Capacity Attributes and Environmental Attributes proportionate to the portion of the Invoice Amount that the remaining funds were sufficient to pay for. For any Month where the Defaulting Project Participant's Operating Account has no funds remaining, the Defaulting Project Participant shall have no right to any such Capacity Attributes or Environmental Attributes associated with the Facility or otherwise provided for under the PPA.

12.6. Termination and Disposal of Project Participant's Project Rights. If a Defaulting Project Participant has not cured a Payment Default within forty-five (45) calendar days after the payment deadline specified in Section 9.5 by CCP ("**Payment Default Termination Deadline**"), then all Project Rights and Obligations pursuant to this Agreement shall be terminated and disposed in accordance with Sections 12.6 and 12.8 of this Agreement; provided, however, that the Defaulting Project Participant shall be liable for all outstanding payment obligations accrued prior to the Payment Default Termination Deadline and shall remain subject to all rights, obligations, and liabilities of this Agreement, including but not limited to any liabilities for Damage Payment or Termination Payment, as applicable, and any other damage payments or reimbursement amounts under the PPA. CCP shall provide to the Defaulting Project Participant a separate monthly invoice of any such payment obligations of such Defaulting Project Participant. CCP shall immediately notify the other Project Participants of such termination of the Defaulting Project Participant's Project Rights and Obligations.

12.7. Step-Up Invoices.

(a) Upon the occurrence of a Payment Default, CCP shall, concurrently with the Late Payment Notice issued pursuant to Section 9.7(a), issue a Step-Up Invoice to each Non-Defaulting Project Participant that specifies such Non-Defaulting Project Participant's pro rata payment obligation, calculated based on the Entitlement Share of such Non-Defaulting Project Participant, of the amount of the Payment Default for the Defaulting Project Participant (the "**Step-Up Invoice Amount**"); provided, however, that a Non-Defaulting Project Participant's Step-Up Invoice Amount shall not exceed twenty-five percent (25%) of such Non-Defaulting Project Participant's Invoice Amount for the same month for which the Payment Default occurred (the **"Step-Up Invoice Amount Cap"**).

(i) Each Non-Defaulting Project Participant shall deposit the Step-Up Invoice Amount into such Non-Defaulting Project Participant's Operating Account by the later of the twentieth (20th) calendar day of the following Month or thirty (30) days after the date on which CCP issues the Step-Up Invoice to the other Project Participants. No sooner than five (5) calendar days after CCP issues the Step-Up Invoice, CCP may withdraw the amount of the Step-Up Invoice from each Project Participant's Operating Account and deposit such funds in a separate account ("**Step-Up Reserve Account**"), which shall be accessible only by CCP, and which CCP may in its sole discretion draw upon in order to ensure that CCP can meet the payment obligations of the PPA. CCP first shall withdraw all funds from a Defaulting Project Participant's Operating Account before withdrawing funds from the Step-Up Reserve Account.

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(ii) Application of Moneys Received from a Defaulting Project Participant. If a Defaulting Project Participant cures a Payment Default on or before the Payment Default Termination Deadline, any funds remaining in the Step-Up Reserve Account shall be deposited into the Operating Accounts of the other Project Participants on a pro rata share, based on the Entitlement Share of such other Project Participant. If a Defaulting Project Participant fails to cure a Payment Default and the Defaulting Project Participant's Project Rights and Obligations are terminated and disposed of in accordance with Section 12.8, any funds remaining in the Step-Up Reserve Account shall be deposited into the Operating Accounts of the Non-Defaulting Project Participants on a pro rata share, based on the Entitlement Share, subject to the Step-Up Invoice Amount Cap, of such other Project Participant. If any Non-Defaulting Project Participant has not deposited the full amount of its share of the Step-Up Invoice Amount into its Operating Account by the deadline specified in Section 12.7(a)(i), then such occurrence shall be a Late Payment as specified in Section 9.7(a) and is subject to a Late Payment Charge pursuant to Section 9.7(b), and any such Non-Defaulting Project Participant shall not be entitled to its share of any moneys received from the Defaulting Project Participant or any funds remaining in the Step-Up Reserve Account in accordance with this Section 12.7(a)(ii) until such Non-Defaulting Project Participant has deposited the full amount of its Step-Up Invoice Amount and the Late Payment Charge into its Operating Account.

12.8. Step-Up Allocation of Project Participant's Project Rights. In the event that a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant's Entitlement Share shall be allocated to the other Project Participants (**"Step-Up Allocation"**) pursuant to the process set forth in this Section 12.8.

(a) Step-Up Allocation Cap. If a Defaulting Project Participant's Entitlement Share is allocated to the Non-Defaulting Project Participants pursuant to this Section 12.8, no individual Non-Defaulting Project Participant shall be obligated to assume an allocation that exceeds that Project Participant's Step-Up Allocation Cap set forth in Column E of the Table in Exhibit B of this Agreement. Each Non-Defaulting Project Participant's initial Step-Up Allocation Cap shall be equal to the Non-Defaulting Project Participant Entitlement Share as of the Effective Date and set forth in Column B of the Table in Exhibit B of this Agreement, multiplied by one hundred and twenty-five percent (125%). If a Project Participant modifies its Entitlement Share pursuant to Section 4.2 of this Agreement, then that Project Participant's Step-Up Allocation Cap shall be equal to the Project Participant's Entitlement Share as modified pursuant to Section 4.2 multiplied by one hundred and twenty-five percent (125%). Upon a modification of a Project Participant's Entitlement Share pursuant to Section 4.2, the CCP Manager shall cause the Step-Up Allocation Cap specified in Column E of the Table in Exhibit B of this Agreement to be modified in accordance with this Section 12.8(a). For avoidance of doubt, if a Project Participant's Entitlement Share is increased pursuant to Section 12.8(b) or (c), then such Project Participant's Step-Up Allocation Cap shall not be modified.

(b) Step-Up Allocation Share. If a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant's Entitlement Share shall be allocated to each Non-Defaulting Project Participant based on such Non-Defaulting Project Participant's pro rata share, calculated based on its Entitlement Share of the entire project minus the Entitlement Share of the Defaulting Project Participant, unless such allocation would cause any individual Non-Defaulting Project Participant to exceed its Step-Up

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Allocation Cap, in which case Section 12.8(c) shall apply. Upon allocation of a defaulting Project Participant's Entitlement Share pursuant to this Section 12.8(b), the CCP Manager shall cause each affected Project Participant's Entitlement Share specified in Column D of the Table in Exhibit B to be modified in accordance with this Section 12.8.

(c) Voluntary Allocation of Project Rights in Excess of the Step-Up Allocation Caps. If the allocation of a Defaulting Project Participant's Entitlement Share pursuant to Section 12.8(b) would cause any Non-Defaulting Project Participant's Entitlement Share to exceed its Step-Up Allocation Cap, then no allocation shall occur pursuant to Section 12.8(b). In such case, the CCP Manager shall oversee the offering of the total amount of the Defaulting Project Participant's Entitlement Share to the Non-Defaulting Project Participants on a voluntary basis. The initial offering shall be to each Non-Defaulting Project Participant on a pro rata share, based on such Non-Defaulting Project Participant's Entitlement Share. Each Project Participant may accept or reject the portion of the Defaulting Project Participant's Entitlement Share. If any portion of the Defaulting Project Participant's Entitlement Share remains unclaimed after the initial offering, then the remaining portion shall be offered to any Non-Defaulting Project Participant that accepted its full share of the Defaulting Project Participant's Entitlement Share in the initial offering on a pro rata share, based on such Non-Defaulting Project Participant's Entitlement Share as a percentage of the total Entitlement Shares of all Project Participants that are participating in the subsequent round of offerings. The CCP Manager shall conduct subsequent offering rounds until either the total amount of the Defaulting Project Participant's Entitlement Share is accepted by one or more of the Non-Defaulting Project Participants or some portion of the Defaulting Project Participant's Entitlement Share remains, but all Non-Defaulting Project Participants have rejected such remaining amount.

(d) Step-Up Allocation Damage Payment. A Defaulting Project Participant shall owe to each Non-Defaulting Project Participant that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c) a "**Step-Up Allocation Damage Payment**" equal to the Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Project Participant's Costs and Losses exceed its Gains, then the Step-Up Allocation Damage Payment shall be an amount owing to such Non-Defaulting Project Participant. If the Non-Defaulting Project Participant's Gains exceed its Costs and Losses, then the Step-Up Allocation Damage Payment shall be zero dollars ($0). A Defaulting Project Participant shall not be entitled to any Step-Up Allocation Damage Payment or any other damages otherwise authorized under this Agreement from any other Project Participant. The Step-Up Allocation Damage Payment does not include consequential, incidental, punitive, exemplary, or indirect or business interruption damages. Each Non-Defaulting Project Participant that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c) shall calculate, in a commercially reasonable manner, the Step-Up Allocation Damage Payment for the Defaulting Project Participant's Entitlement Share assumed by the Non-Defaulting Project Participant as of the effective date of such Step-Up Allocation. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Defaulting Project Participant disputes the Non-Defaulting Project Participant's calculation of the Step-Up Allocation Damage Payment, in whole or in part, the Defaulting Project Participant shall, within five (5) Business Days of receipt of the Non-Defaulting Project Participant's calculation of the Step-Up Allocation

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Damage Payment, provide to the Non-Defaulting Project Participant a detailed written explanation of the basis for such dispute. Disputes regarding the Step-Up Allocation Damage Payment shall be determined in accordance with Article 16. Each Party agrees and acknowledges that (i) the actual damages that the other Project Participant would incur in connection with a Step-Up Allocation would be difficult or impossible to predict with certainty, (ii) the Step-Up Allocation Damage Payment described in this Section 12.8(d) is a reasonable and appropriate approximation of such damages, and (iii) the Step-Up Allocation Damage Payment described in this Section 12.8(d) is the exclusive remedy of a Project Participant in connection with a Step-Up Allocation pursuant to the process set forth in Sections 12.8(b) or 12.8(c) against a Defaulting Project Participant but shall not otherwise act to limit any of the Non-Defaulting Project Participant's rights or remedies under this Agreement.

(e) Import Capacity Rights. If a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant shall transfer all import capacity rights and other similar rights that are associated with the Project and that are held by such Defaulting Project Participant to the Non-Defaulting Project Participants that assume any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c). The Defaulting Project Participant shall take all actions necessary to effectuate the transfer of such rights to the Non-Defaulting Project Participants.

(f) Remarketing of Unclaimed Defaulting Project Participant's Entitlement Share. If after the process set forth in Section 12.8(c), some portion of the Defaulting Project Participant's Entitlement Share remains unclaimed, the CCP Manager, in their discretion or as directed by the Non-Defaulting Project Participants, may take any action to generate revenue from such unclaimed Entitlement Share in order to meet CCP's payment obligation under the PPA. For avoidance of doubt, the CCP Manager shall not be limited by the requirements of Section 4.2 or 5.1(j) of this Agreement in remarketing or generating revenue base on the unclaimed share.

12.9. Elimination or Reduction of Payment Obligations. Notwithstanding anything to the contrary in this Agreement, upon termination of a Defaulting Project Participant's Project Rights pursuant to Section 12.6 and the disposal of such Defaulting Project Participant's Project Rights and Obligations pursuant to Section 12.8, such Defaulting Project Participant's obligation to make payments under this Agreement (notwithstanding anything to the contrary herein) shall not be eliminated or reduced; provided, however, such payment obligations for the Defaulting Project Participant may be eliminated or reduced to the extent permitted by law, through an amendment to this Agreement, which shall be subject to the consent and approval of all Parties to this Agreement.

ARTICLE 13
LIABILITY

13.1. Project Participants' Obligations Several. No Project Participant shall be liable under this Agreement for the obligations of any other Project Participant or for the obligations of CCP incurred on behalf of other Project Participants. Each Project Participant shall be solely responsible and liable for performance of its obligations under this Agreement, except as otherwise provided for herein. The obligation of Project Participants to make payments under this

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Agreement is a several obligation and not a joint obligation with those of the other Project Participants.

13.2. No Liability of CCP or Project Participants, Their Directors, Officers, Etc.; CCP, The Project Participants' and CCP Manager's Directors, Officers, Employees Not Individually Liable. Except as provided for under Section 13.5 herein, the Parties agree that neither CCP, Project Participants, nor any of their past, present or future directors, officers, employees, board members, agents, attorneys or advisors (collectively, the "**Released Parties**") shall be liable to any other of the Released Parties for any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of Project Participants, CCP, or third persons) suffered by any Released Party as a result of the action or inaction or performance or non-performance by the Project Developer under the PPA. Except as provided for under Section 13.5 herein, each Party shall release each of the other Released Parties from any claim or liability that such Party may have cause to assert as a result of any actions or inactions or performance or non-performance by any of the other Released Parties under this Agreement (excluding gross negligence and willful misconduct, which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Notwithstanding the foregoing, no such action or inaction or performance or non-performance by any of the Released Parties shall relieve CCP or any Project Participants from their respective obligations under this Agreement, including, without limitation, the Project Participants' obligation to make payments required under Section 9.5 of this Agreement and CCP's obligation to make payments under Section 8.2 of the PPA. The provisions of this Section 13.2 shall not be construed so as to relieve the CCP or the Project Developer from any obligation or liability under this Agreement or the PPA.

13.3. Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 13.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, any Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of any other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other monetary damages owed by the other Party in accordance with the terms of this Agreement.

13.4. No General Liability of CCP. The undertakings under this Agreement by CCP shall not constitute a debt or indebtedness of CCP within the meaning of any provision or limitation of the Constitution or statutes of the State of California, and shall not constitute or give rise to a charge against its general credit.

13.5. Indemnification. Each Party (an "**Indemnifying Party**") shall indemnify, defend, protect, hold harmless, and release the other Parties, their directors, board members, officers, employees, agents, attorneys and advisors, past, present or future, from and against any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses

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(including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise, which include, without limitation, death, bodily injury, or personal injury to any person or damage or destruction to any property of Project Participants, CCP, or third persons, that may be imposed on, incurred by or asserted against any Party arising by manner of any breach of this Agreement by the Indemnifying Party, or the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of any such Indemnifying Party or any Indemnifying Party's directors, board members, officers, employees, agents and advisors, past, present or future.

ARTICLE 14
NOTICES

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

14.2. Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, five (5) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5:00 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 15
ASSIGNMENT

15.1. General Prohibition on Assignments. No Party may assign this Agreement, or its rights or obligations under this Agreement, without the prior written consent of all other Parties, in each Party's sole discretion.

ARTICLE 16
GOVERNING LAW AND DISPUTE RESOLUTION

16.1. Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced, and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. The Parties agree that any suit, action, or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be

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brought in the federal or state courts located in the State of California in a location to be mutually chosen by all Parties, or in the absence of mutual agreement, the County of San Francisco.

16.2. Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate, and attempt, in good faith, to resolve the dispute quickly and informally without significant legal costs. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after Notice of the dispute, the Parties may pursue all remedies available to them at Law or in equity.

ARTICLE 17
MISCELLANEOUS

17.1. Entire Agreement; Integration; Exhibits. This Agreement, together with the Exhibits attached hereto constitutes the entire agreement and understanding by and among the Parties with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting or execution hereof.

17.2. Amendments. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of all Parties; *provided*, this Agreement may not be amended by electronic mail communications. Any revisions to the Entitlement Share specified in Exhibit B pursuant to Section 4.2. or Section 12.8 shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

17.3. No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

17.4. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

17.5. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

17.6. Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)). Delivery of an executed counterpart in .pdf electronic version shall be binding as if delivered in the original. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to

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include electronic signatures or electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law.

17.7. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17.8. Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and that the Parties are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

17.9. City of San Francisco Standard Provisions.

(a) False Claims. Pursuant to San Francisco Administrative Code § 21.35, any Party to this Agreement who submits a false claim shall be liable to the City and County of San Francisco for the statutory penalties set forth in that section. A Party will be deemed to have submitted a false claim to the City and County of San Francisco if the Party: (a) knowingly presents or causes to be presented to an officer or employee of the City and County of San Francisco a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City and County of San Francisco; (c) conspires to defraud the City and County of San Francisco by getting a false claim allowed or paid by the City and County of San Francisco; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City and County of San Francisco; or (e) is a beneficiary of an inadvertent submission of a false claim to the City and County of San Francisco, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City and County of San Francisco within a reasonable time after discovery of the false claim.

(b) Political Activity. In performing its responsibilities under this Agreement, CCP shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City and County of San Francisco for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure.

(c) Non-discrimination Requirements.

(i) Non-discrimination in Contracts. CCP shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. CCP shall incorporate by reference in all subcontracts the provisions of Sections12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. CCP is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

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(ii) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. CCP does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(d) Consideration of Criminal History in Hiring and Employment Decisions. CCP agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to CCP's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law. MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride principles.

(e) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

(f) Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the Environment Code is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, CCP shall not provide any items to the City in performance of this Agreement which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of CCP to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

17.10. City of San José Standard Provisions.

(a) Nondiscrimination/Non-Preference. The Parties shall not, and shall not cause or allow its subcontractors to, discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender

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identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. The Parties will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Parties from providing a reasonable accommodation to a person with a disability; (ii) the City of San José's Compliance Officer may require the Parties to file, and cause any Party's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City's Compliance Officer designates. They shall contain such information, data and/or records as the City's Compliance Officer determines is needed to show compliance with this provision.

(b) Conflict of Interest. The Parties represent that they are familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Parties certify that, as of the Effective Date, are unaware of any facts constituting a conflict of interest or creating an appearance of a conflict of interest. The Parties shall avoid all conflicts of interest or appearances of conflicts of interest in performing this Agreement. The Parties have the obligation of determining if the manner in which it performs any part of this Agreement results in a conflict of interest or an appearance of a conflict of interest, and a Party shall immediately notify the City of San José in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest. A Party's violation of this Section 17.10(b) is a material breach.

(c) Environmentally Preferable Procurement Policy. Parties shall perform its obligations under this Agreement in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 17.10(c) be a material breach of this Agreement or otherwise give rise to an Event of Default or entitle the City of San José to terminate this Agreement.

(d) Gifts Prohibited. The Parties represent that they are familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. The Parties shall not offer any City of San José officer or designated employee any gift prohibited by Chapter 12.08. A Party's violation of this Section 17.10(d) is a material breach.

(e) Disqualification of Former Employees. The Parties represent that they are familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San José connected with his/her former duties or official responsibilities. Parties shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

17.11. Further Assurances. Each of the Parties hereto agrees to provide such information, execute, and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions

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of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

California Community Power By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	Central Coast Community Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____
Clean Power San Francisco By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	

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Peninsula Clean Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	Redwood Coast Energy Authority By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____
San José Clean Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____	Silicon Valley Clean Energy By: Name: _____ Title: _____ Approved as to form by Counsel By: Name: _____ Title: _____

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Sonoma Clean Power	Valley Clean Energy
By:	By:
Name: _____	Name: _____
Title: _____	Title: _____
Approved as to form by Counsel	Approved as to form by Counsel
By:	By:
Name: _____	Name: _____
Title: _____	Title: _____

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EXHIBIT A

NOTICES

Party	*All Notices*	*Invoices*
California Community Power	**California Community Power** Tim Haines, Interim General Manager California Community Power 70 Garden Court, 3rd Floor Monterey, CA 93940 timhaines@powergridsymmetry.com	
Central Coast Community Energy	**Central Coast Community Energy** Robert M. Shaw, Chief Operating Officer & General Counsel Central Coast Community Energy 70 Garden Court, 3rd Floor Monterey, CA 93940 rshaw@3ce.org	
Clean Power San Francisco	**Clean Power San Francisco** Barbara Hale, Assistant General Manager, Power San Francisco Public Utilities Commission 525 Golden Gate Ave, 13th Floor San Francisco, CA 94102 bhale@sfwater.org	
Peninsula Clean Energy	**Peninsula Clean Energy** Jan Pepper, CEO Peninsula Clean Energy 2075 Woodside Road Redwood City, California 94061 jpepper@peninsulacleanenergy.com	

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Party	*All Notices*	*Invoices*
Redwood Coast Energy Authority	**Redwood Coast Energy Authority** Matthew Marshall, CEO Redwood Coast Energy Authority 633 3rd Street Eureka, CA 95501 mmarshall@redwoodenergy.org	
San José Clean Energy	**San José Clean Energy** Lori Mitchell, Director cc: Luisa Elkins, Senior Deputy City Attorney San José Clean Energy 200 E. Santa Clara Street, 14th Floor San José, CA 95113 Lori.Mitchell@sanjoseca.gov Luisa.Elkins@sanjoseca.gov	
Silicon Valley Clean Energy	**Silicon Valley Clean Energy** Girish Balachandran, CEO Silicon Valley Clean Energy Authority 333 W. El Camino Real, Suite 330 Sunnyvale, CA 94087 girish@svcleanenergy.org	
Sonoma Clean Power	**Sonoma Clean Power** Geof Syphers, CEO Sonoma Clean Power 50 Santa Rosa Avenue, 5th Floor Santa Rosa, CA 95404 gsyphers@sonomacleanpower.org	

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Party	*All Notices*	*Invoices*
Valley Clean Energy	**Valley Clean Energy** Gordon Samuel Assistant General Manager & Director of Power Resource 604 2nd Street Davis, CA 95616 gordon.samuel@valleycleanenergy.org	

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EXHIBIT B

SCHEDULE OF PROJECT PARTICIPANT ENTITLEMENT SHARES AND STEP-UP ALLOCATION CAPS

*Dated:*_____

A	B	C	D	E
Project Participant	**Entitlement Share** *As of Effective Date*	**Entitlement Share** *As Modified Pursuant to Section 4.2*	**Entitlement Share** *As Modified Pursuant to Section 12.8(b) or 12.8(c)*	**Step-Up Allocation Cap** *125% multiplied by Column B or C as applicable*
Central Coast Community Energy	18.6%			
Clean Power San Francisco	14.5%			
Peninsula Clean Energy	17.8%			
Redwood Coast Energy Authority	2.8%			
San José Clean Energy	17.4%			
Silicon Valley Clean Energy	14.0%			
Sonoma Clean Power	11.7%			
Valley Clean Energy	3.2%			
Total	100%			

Instructions: If the CCP Manager modifies one or more Project Participant's Entitlement Share pursuant to Section 4.2, the CCP Manager shall prepare an updated Exhibit B that shows the prior Entitlement Share (Column B or D) in ~~strikeout~~ and specifies the new Entitlement Share values and the effective date of such modification in Column C. If the CCP Manager modifies one or more Project Participant's Entitlement Share pursuant

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to Section 12.8, the CCP Manager shall prepare an updated Exhibit B that shows the prior Entitlement Share (Column B or Column C) in ~~strikeout~~ and specifies the new Entitlement Share values and the effective date of such modification in Column D.

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EXHIBIT C

PROCEDURE FOR VOLUNTARY REDUCTION OF PROJECT PARTICIPANT'S ENTITLEMENT SHARE

(a) Offer to Other Project Participants. A Project Participant proposing to reduce its Entitlement Share of the Project shall provide Notice to all other Project Participants and CCP specifying the quantity of the proposed reduction of Entitlement Share ("**Entitlement Share Reduction Amount**") and the first Month for which the Project Participant Proposes that the change of Entitlement Share would become effective (such Notice referred to as the "**Entitlement Share Reduction Notice**").

(i) Upon receiving an Entitlement Share Reduction Notice from any Project Participant, the CCP Manager shall promptly do all of the following:

(A) Establish Entitlement Share Reduction Compensation Amount. The CCP Manager shall secure at least one (1), but no more than three (3), valuations of the net present value of the Entitlement Share Reduction Amount over the remaining term of the PPA from one or more qualified firm(s) with the requisite experience to determine such valuation. The valuation, or if more than one valuation is obtained, the average of all valuations received, shall be the "**Proposed Entitlement Share Reduction Compensation Amount**." The CCP Manager shall call a meeting of the Project Committee and present the Proposed Entitlement Share Reduction Compensation Amount to the Project Committee. The Project Committee shall by a Normal Vote either approve the Proposed Entitlement Share Reduction Compensation Amount or direct the CCP Manager to secure additional valuations. The Proposed Entitlement Share Reduction Compensation Amount approved by the Project Committee shall be the "**Entitlement Share Reduction Compensation Amount**." The Project Participant proposing to reduce its Entitlement Share may modify the quantity of the Entitlement Share Reduction Amount associated with its proposal or withdraw its proposal at any time prior to the initiation of the process set forth in paragraph (a)(i)(B).

(B) Oversee the Offering of the Entitlement Share Reduction Amount to Other Project Participants. The CCP Manager shall facilitate the offering of the Entitlement Share Reduction Amount to the other Project Participants through multiple rounds of offerings.

a) The initial offering shall be to each Project Participant on a pro rata share, based on such Project Participant's Entitlement Share. Each Project Participant may accept or reject the portion of the Entitlement Share Reduction Amount offered to the Project Participant through this process. If any portion of the Entitlement Share Reduction Amount remains after the initial offering, then the remaining portion shall be offered to any Project Participant that accepted the share of the Entitlement Share Reduction Amount offered in the initial offering on a pro rata share, based on such Project Participant's Entitlement Share as a percentage of the total Entitlement Shares of all Project Participants that accepted the portion of the Entitlement Share Reduction Amount offered to them in the initial offering.

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b) The CCP Manager shall conduct subsequent offering rounds until either the total Entitlement Share Reduction Amount is accepted by one or more of the other Project Participants or some portion of the Entitlement Share Reduction Amount remains, but all Project Participants have rejected such amount.

c) Any Project Participant accepting a share of the offered Entitlement Share Reduction Amount shall either pay the offering Project Participant or be compensated by the offering Project Participant at the Entitlement Share Reduction Compensation Amount multiplied by the quantity of the portion being accepted.

d) Before a transfer of all or a portion of any Project Participant's Entitlement share to another Project Participant can become effective, the proposed transfer must be submitted to and approved by the Project Committee through a Normal Vote.

e) After acceptance and payment for such portion of the Entitlement Share Reduction Amount, and upon approval of such transfer by the Project Committee, the CCP Manager shall cause the Entitlement Share specified in Exhibit B to be modified accordingly, and such modification shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

(C) Oversee the Offering of the Entitlement Share Reduction Amount to CCP Members that are not Project Participants. If there is any portion of the Entitlement Share Reduction Amount that remains unaccepted after the process specified in paragraph (a)(i)(B) is complete, then the Project Participant proposing to reduce its Entitlement Share may request that the CCP Manager offer the remaining portion of the Entitlement Share Reduction Amount to CCP Members that are not Project Participants. If any CCP Member wishes to accept any or all of the remaining portion of the Entitlement Share Reduction Amount, such action shall require the CCP Member to become a Project Participant through an amendment to this Agreement, which shall be subject to the consent and approval of all Parties to this Agreement and the CCP Member becoming a Project Participant. The compensation amount associated with the CCP Member accepting the remaining portion of the Entitlement Share Reduction Amount shall be negotiated between the CCP Member and the offering Project Participant.

(D) Oversee the Offering of the Entitlement Share Reduction Amount to a Community Choice Aggregator that is not a CCP Member. If there is any portion of the Entitlement Share Reduction Amount that remains unaccepted after the process specified in both paragraphs (a)(i)(B) and (a)(k)(C) is complete, then the Project Participant proposing to reduce its Entitlement Share, may request that the CCP Manager offer the remaining portion of the Entitlement Share Reduction Amount to a community choice aggregator that is not a CCP Member. If any community choice aggregator wishes to accept any or all of the remaining portion of the Entitlement Share Reduction Amount, such action shall require the community choice aggregator to become a CCP Member, and subsequent to becoming a CCP Member, to become a Project Participant through an amendment to this Agreement that is subject to the consent and approval of all Parties to this Agreement and the community choice aggregator becoming a Project Participant. The compensation amount associated with the community choice aggregator accepting the remaining portion of the Entitlement Share Reduction Amount shall be negotiated between the community choice aggregator and the offering Project Participant.

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EXHIBIT D

PROJECT COMMITTEE OPERATIONS, MEETINGS, AND VOTING

(a) Chairperson of Project Committee. The chairperson of the Project Committee ("**Chairperson**") shall be the CCP Manager. The Chairperson shall be responsible for calling and presiding over meetings of the Project Committee in a manner and to the extent permitted by law.

(b) Conducting Meetings. Conducting of Project Committee meetings and actions taken by the Project Committee may be taken by vote given in an assembled meeting, by telephone, by video conferencing, or by any combination thereof, to the extent permitted by law.

(c) Calling of Meetings.

(i) The Chairperson may call a meeting of the Project Committee at their discretion.

(ii) The Chairperson shall promptly call a meeting of the Project Committee at the request of any representative of a Project Participant.

(d) Unanimous Votes. Certain actions, as designated in Section 6.4(c), require a unanimous affirmative vote by all Project Participants (**"Unanimous Vote"**). No such vote may be taken unless a representative from every Project Participant is present at the meeting of the Project Committee. If any Project Participant's Entitlement Share is reduced to zero through the process specified in Exhibit C, such Project Participant shall not be required to be present or be entitled to vote in order for such vote to be a Unanimous Vote.

(e) Normal Votes. All actions not designated as requiring unanimous vote, shall proceed pursuant to the **"Normal Vote"** process set forth in this paragraph (e).

(i) Quorum. No Normal Vote of the Project Committee shall be taken unless a representative is present for at least fifty percent (50%) of the total number of Project Participants, without regard to each Project Participant's Entitlement Share.

(ii) Initial Normal Vote. Unless a representative requests an Alternate Normal Vote, pursuant to paragraph (e)(iii), all actions requiring a Normal Vote, as specified in Section 6.4(b) or 6.4(d), shall require an affirmative vote of at least fifty-one percent (51%) of the total number of Project Participants, without regard to each Project Participant's Entitlement Share.

(iii) Alternate Normal Vote. Any representative may request that any Normal Vote be taken on an Entitlement Share basis (referred to as an "**Alternate Normal Vote**"). If a representative requests an Alternate Normal Vote, then the following vote requirements shall apply:

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(A) If any individual Project Participant has an Entitlement Share exceeding fifty percent (50%), then all actions for which an Alternate Normal Vote is taken shall require that the Project Participant with an Entitlement Share exceeding fifty percent (50%) plus any other Project Participant vote in the affirmative.

(B) If no individual Project Participant has an Entitlement Share exceeding fifty percent (50%), then all actions for which an Alternate Normal Vote is taken shall require an affirmative vote of Project Participants having Entitlement Shares aggregating at least fifty-one percent (51%) of the total Entitlement Shares.

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EXECUTION VERSION

RENEWABLE POWER PURCHASE AGREEMENT
COVERSHEET

Seller: Fish Lake Geothermal LLC ("**Seller**")

Buyer: California Community Power, a California joint powers authority ("**Buyer**")

Description of Facility: Fish Lake Geothermal Project, a 13 MW geothermal power plant, located in Esmeralda County, in the State of Nevada, as further described in Exhibit A.

Milestones:

Milestone	Expected Date for Completion
Evidence of Site Control	Complete
CEC Pre-Certification Obtained	September 1, 2022
Documentation of Conditional Use Permit if required: [ ] CEQA, [ ] Cat Ex, [ ]Neg Dec, [ ] Mitigated Neg Dec, [ ] EIR, [X] NEPA	June 1, 2023
Seller's receipt of facilities study results for Seller's Interconnection Facilities	November 1, 2022
Interconnection Agreement executed	March 1, 2023
Major Equipment procured	June 1, 2023
Federal and State discretionary permits obtained	December 1, 2023
Guaranteed Construction Start Date	January 1, 2024
Initial Synchronization	May 1, 2024
Network Upgrades completed	May 1, 2024
Expected Commercial Operation Date	June 1, 2024
Guaranteed Commercial Operation Date	June 1, 2024

Delivery Term: Twenty (20) Contract Years.

Expected Energy:

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Contract Year	Expected Energy (MWh)
1 – 20	[redacted]

Guaranteed Capacity: 13 MW

Contract Price:

Contract Year	Contract Price
1 – 20	[redacted]

Product:

- ☒ Delivered Energy
- ☒ Green Attributes (Portfolio Content Category 1) associated with Delivered Energy
- ☒ Capacity Attributes
- ☒ Ancillary Services

Scheduling Coordinator: Seller

Security:

CP Security: $[redacted]/kW times the Guaranteed Capacity

Development Security: $[redacted]/kW times the Guaranteed Capacity

Performance Security: $[redacted]/kW times the Installed Capacity

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Exhibits:

Exhibit A	Facility Description
Exhibit B	Major Project Development Milestones and Commercial Operation
Exhibit C	Compensation
Exhibit D	Scheduling Coordinator Responsibilities
Exhibit E	Progress Reporting Form
Exhibit F-1	Form of Average Expected Energy Report
Exhibit F-2	Form of Monthly Available Capacity Report
Exhibit G	Guaranteed Energy Production Damages Calculation
Exhibit H	Form of Commercial Operation Date Certificate
Exhibit I	Form of Installed Capacity Certificate
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Exhibit K	Form of Letter of Credit
Exhibit L	Form of Buyer Liability Pass Through Agreement
Exhibit M	Form of Replacement RA Notice
Exhibit N	Notices
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RENEWABLE POWER PURCHASE AGREEMENT

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

RECITALS

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

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

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

ARTICLE 1
DEFINITIONS

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

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(d).

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

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

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Ancillary Services**" means all ancillary services, products and other attributes, if any, associated with the Installed Capacity of the Facility.

"**Attestation**" has the meaning set forth in Section 4.10.

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

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

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. Pacific Prevailing Time ("**PPT**") for the Party sending a Notice, or payment, or performing a specified action.

"**Buyer**" means California Community Power, a California joint powers authority.

"**Buyer Default**" means a failure by Buyer or its agents to perform Buyer's obligations hereunder and includes an Event of Default of Buyer.

"**Buyer Liability Pass Through Agreement**" means an agreement by and between Seller, Buyer and the applicable Project Participant, in the form set forth in Exhibit L.

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**CAISO**" means the California Independent System Operator Corporation, or any successor entity performing similar functions.

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

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

"**CAISO Operating Order**" means the "operating order" defined in Section 37.2.1.1 of the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public

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Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

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

"**Capacity Damages**" has the meaning set forth in Exhibit B.

"**CEC**" means the California Energy Commission, or any successor agency performing similar statutory functions.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the date that is one hundred eighty (180) days following the Commercial Operation Date, that the CEC has pre-certified, as such date may be extended pursuant to Section 3.9) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Delivered Energy delivered to the Delivery Point qualifies as generation from an Eligible Renewable Energy Resource.

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

"**CEQA**" means the California Environmental Quality Act.

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

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

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any cash equity and tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller or its Affiliates, and any trustee or agent or similar representative acting on their behalf) or assignee or transferee thereof shall be excluded from the total outstanding equity interests in Seller.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy.

"**Claim**" has the meaning set forth in Section 16.2.

"**COD Certificate**" has the meaning set forth in Exhibit B.

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"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" has the meaning set forth in Exhibit B.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) sixty (60).

"**Compliance Action**" has the meaning set forth in Section 3.12(b).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12(b).

"**Compliant Project Participant**" means a Project Participant that is not a Defaulted Project Participant.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Price**" has the meaning set forth on the Cover Sheet.

"**Contract Term**" has the meaning set forth in Section 2.1(a).

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

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

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**CP Satisfaction Date**" means the date on which the condition precedent described in Section 2.1(b) has been satisfied (or waived in writing by the Parties).

"**CP Security**" means (i) cash or (ii) a Letter of Credit in the amount set forth on the Cover Sheet.

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

"**CPUC**" means the California Public Utilities Commission, or any successor agency performing similar statutory functions.

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

"**CRS**" has the meaning set forth in Section 4.10.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(vi).

"**Curtailment Cap**" is the yearly quantity per Contract Year, in MWh, equal to fifty (50) hours multiplied by the Installed Capacity.

"**Curtailment Order**" means any of the following:

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

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

(c) a curtailment ordered by the CAISO or Transmission Provider due to scheduled or unscheduled maintenance on the Transmission Provider's or CAISO's transmission facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Delivered Energy to the Delivery Point; or

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

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which generation from the Facility is reduced pursuant to a Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) ninety (90).

"**Damage Payment**" means the dollar amount that equals the amount of the Development Security.

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"**Day-Ahead Forecast**" has the meaning set forth in Section 4.3(c).

"**Day-Ahead Market**" has the meaning set forth in the CAISO Tariff.

"**Day-Ahead Schedule**" has the meaning set forth in the CAISO Tariff.

"**Deemed Delivered Energy**" means the amount of electrical energy above the Curtailment Cap expressed in MWh that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility during a Market Curtailment Period, which amount shall be calculated as the difference between (a) the product of (i) the arithmetic average of the Facility's metered output rate, in MW, immediately before and after such Market Curtailment Period, as applicable, by (ii) the duration of such Market Curtailment Period, as applicable, less (b) the amount of Delivered Energy delivered to the Delivery Point during the Market Curtailment Period, if any; *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0).

"**Deemed Delivered RA**" means the amount of Net Qualifying Capacity expressed in MW that the Facility would have delivered to the Delivery Point, but for (i) the failure of the Project Participants to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO, or (ii) a Force Majeure Event as provided in Section 3.7(h).

"**Defaulted Liability Share**" means the Liability Share of a Defaulted Project Participant.

"**Defaulted Project Participant**" means a Project Participant that has incurred but not cured a Project Participant Payment Default, including any Project Participant whose rights under the Project Participation Agreement have been suspended or terminated.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.8(e).

"**Delivered Energy**" means for each hour, the electric Energy generated by the Facility, net of Electrical Losses and Station Use, and delivered to the Delivery Point.

"**Delivery Point**" has the meaning set forth in Exhibit A.

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

"**Development Cure Period**" has the meaning set forth in Exhibit B.

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

"**Disclosing Party**" has the meaning set forth in Section 18.2.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

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"**Effective Date**" has the meaning set forth in the Preamble.

"**Effective Flexible Capacity**" means the net capacity of a Resource Adequacy Resource that can be counted towards Flexible Capacity Requirements, as identified from time to time by the CAISO Tariff, the Resource Adequacy Rulings, or by any other Governmental Authority having jurisdiction.

"**Electrical Losses**" means all transmission or transformation losses or gains for the Facility in accordance with CAISO's rules for Pseudo-Tie Resources.

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

"**Energy**" means electrical energy generated by the Facility.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Expected Commercial Operation Date**" is the date set forth on the Cover Sheet by which Seller reasonably expects to achieve Commercial Operation.

"**Expected Energy**" means the quantity of Energy attributable to the Installed Capacity that Seller expects to be able to deliver from the Facility during each Contract Year in the quantity specified on the Cover Sheet.

"**Facility**" means the geothermal generating facility described on the Cover Sheet and in Exhibit A, located at the Site, and including mechanical equipment and associated facilities and equipment required to deliver Energy to the Delivery Point.

"**Facility Meter**" means the CAISO Approved Meter that will measure all electric energy generated by the Facility, including Delivered Energy. Without limiting Seller's obligation to deliver Delivered Energy to the Delivery Point, the Facility Meter may be located at the low voltage or the high voltage side of the main step-up transformer, and Delivered Energy will be subject to adjustment in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses and Station Use.

"**FCR Showings**" means the Flexible Capacity Requirement showings (or similar or successor showings) that Project Participants are required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings and the CAISO Tariff.

"**FERC**" means the Federal Energy Regulatory Commission, or any successor government agency.

"**Firm Clean Resource**" means a resource that meets the requirements of CPUC Decision 21-06-035, including that such resource (i) has at least an eighty percent (80%) capacity factor and zero on-site emissions or otherwise qualifies under the California Renewable Portfolio Standard (RPS) program eligibility rules as PCC1, (ii) is incremental to the CPUC's baseline list, and (iii)

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is a Resource Adequacy Resource that is eligible to provide RA Capacity as set forth in the Resource Adequacy Rulings.

"**Firm Transmission**" means transmission that cannot be curtailed within an operating hour for economic reasons or for higher priority transmission within the operating hour.

"**Flexible Capacity Requirements**" means the flexible capacity requirements established by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority having jurisdiction.

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

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

"**Forced Labor**" has the meaning set forth in Section 13.4(c).

"**Forward Certificate Transfers**" has the meaning set forth in Section 4.8(a).

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

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

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau,

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or entity with authority to bind a Party at law, including CAISO; *provided*, *however*, that "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Delivered Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating or air quality permits. If the Facility is a biomass or landfill gas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility.

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

"**Guaranteed Amount**" has the meaning set forth in each Project Participant's Buyer Liability Pass Through Agreement, which amount may be different for each Project Participant given each Project Participant's Liability Share.

"**Guaranteed Capacity**" means the net dependable generating capacity of the Facility in the amount set forth on the Cover Sheet, as measured in accordance with the CAISO Tariff in MW(AC)at the Interconnection Point, which Seller commits to install pursuant to this Agreement.

"**Guaranteed Commercial Operation Date**" means the date set forth on the Cover Sheet, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B.

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"**Guaranteed Construction Start Date**" means the date set forth on the Cover Sheet, as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B.

"**Guaranteed Energy Production**" means for the first (1st) Performance Measurement Period, [redacted] of the total aggregate Expected Energy, measured in MWh, and for the second (2nd) Performance Measurement Period and each Performance Measurement Period thereafter, [redacted] of the total aggregate Expected Energy, measured in MWh, for the applicable Performance Measurement Period.

"**Guaranteed Net Qualifying Capacity**" means, at any point in time, [redacted]

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Delivered Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability allocated by the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed Net Qualifying Capacity.

"**Indemnifiable Loss(es)**" has the meaning set forth in Section 16.1(a).

"**Indemnified Group**" has the meaning set forth in Section 16.1(a).

"**Indemnified Party**" has the meaning set forth in Section 16.1(a).

"**Indemnifying Party**" has the meaning set forth in Section 16.1(a).

"**Initial Liability Share**" means the Liability Share of each Project Participant shown on Exhibit S as of the Effective Date.

"**Initial Synchronization**" means the initial delivery of Energy to the Delivery Point.

"**Installed Capacity**" means the peak electrical output of the Facility, as measured in MW(AC) at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date of the performance test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller pursuant to which the Facility will be interconnected with the Transmission System, providing for interconnection capacity available or allocable to the Facility, and pursuant to which

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Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Capacity Limit**" means the maximum instantaneous amount of Energy that is permitted to be delivered by the Facility to the Interconnection Point under Seller's Interconnection Agreement, in an amount no less than 19 MW.

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

"**Interconnection Point**" has the meaning set forth in Exhibit A.

"**Interest Rate**" has the meaning set forth in Section 8.2.

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

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

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

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated January 29, 2021, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

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

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

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank (a) having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook

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designation of "stable" from Moody's or (b) being reasonably acceptable to Buyer, in a form substantially similar to the letter of credit set forth in Exhibit K.

"**Liability Share**" means the percentage amount set forth for each Project Participant in Exhibit S.

"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of Nevada.

"**Local Capacity Area**" has the meaning set forth in the CAISO Tariff.

"**Local Capacity Area Resource**" has the meaning set forth in the CAISO Tariff.

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

"**Losses**" means, with respect to the Non-Defaulting Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs, all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives. Seller's lost revenue under this Agreement resulting from a Buyer Default shall not be considered to be consequential, incidental, punitive, exemplary or indirect or business interruption damages for purposes of determining Losses under this Agreement.

"**Lost Output**" means the amount of Energy that Seller could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any Force Majeure Events, Curtailment Period, System Emergency, or Buyer Default. The Lost Output shall be calculated in the same manner as Deemed Delivered Energy is calculated, in accordance with the definition thereof.

"**Major Equipment**" means power generation units, the generator step-up transformer, wellfield pumps, pressure vessels, condensing system, and electrical control equipment.

"**Market Curtailment Period**" means the period-of-time, as measured using current Settlement Intervals, during which Seller reduces generation from the Facility during a Settlement Period or Settlement Interval in which there is a Negative LMP that is equal to or below the Negative LMP Strike Price; provided, that the duration of any Market Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Master File**" has the meaning set forth in the CAISO Tariff.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor method implemented by the CAISO with respect to the

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ability of generating units that are external to the CAISO balancing authority area to provide Resource Adequacy Benefits.

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

"**Monthly Delivery Forecast**" has the meaning set forth in Section 4.3(b).

"**Monthly Product Payment**" means the payment required to be made by Buyer to Seller each month of the Delivery Term as compensation for delivered Product, as calculated in accordance with Exhibit C.

"**Moody's**" means Moody's Investors Service, Inc.

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

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

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, whether in the Day-Ahead Market or Real-Time Market, the LMP at the Settlement Point is less than zero dollars ($0).

"**Negative LMP Strike Price**" means zero dollars per MWh ($0/MWh), as such price may be revised by Buyer by providing Notice to Seller in accordance with Exhibit C; *provided*, in no event shall the Negative LMP Strike Price be greater than zero dollars per MWh ($0/MWh).

"**Net Qualifying Capacity**" or "**NQC**" means the net capacity of a resource that can be counted towards system Resource Adequacy Requirements, as identified from time to time by the CAISO Tariff, the Resource Adequacy Rulings, or by another Governmental Authority having jurisdiction.

"**Network Upgrades**" has the meaning set forth in the Transmission Provider's open access transmission tariff.

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

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

"**Notice of Claim**" has the meaning set forth in Section 16.2.

"**Notification Deadline**" for a given Showing Month shall mean twenty (20) Business Days before the earlier of the submission of the CAISO Supply Plan filings applicable to that Showing Month.

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"**NP 15**" means the Existing Zone Generation Trading Hub for Existing Zone region NP 15 as set forth in the CAISO Tariff.

"**Operational Characteristics**" means the minimum performance requirements for the Facility, as set forth in Exhibit O.

"**Party**" or "**Parties**" has the meaning set forth in the Preamble.

"**Payment Demand**" has the meaning set forth in Exhibit L.

"**Performance Measurement Period**" means [redacted]

"**Performance Security**" means (i) cash or (ii) a Letter of Credit in the amount set forth on the Cover Sheet.

"**Permitted Transferee**" means (ii) any Affiliate of Seller or (ii) any entity that has, or is controlled by another Person that satisfies the following requirements:

(a) A tangible net worth of not less than [redacted] or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least three (3) years of experience in the ownership and operations of power generation facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means, subject to and as further described in the CAISO Tariff, a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Facility that is conducted for the purposes of carrying out routine repair or maintenance of such Facility, or for the purposes of new construction work for such Facility.

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Facility.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code

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Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Prevailing Wage Requirement**" has the meaning set forth in Section 13.4(b).

"**Pro Rata**" means, for purposes of calculating a Project Participant's Revised Liability Share, the ratio of (i) such Project Participant's Initial Liability Share to (ii) the sum of the Initial Liability Shares of all of the Compliant Project Participants.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Project Labor Agreement**" has the meaning set forth in Section 13.4(b).

"**Project Participant**" means each Person identified in Exhibit S that shall execute a Buyer Liability Pass Through Agreement in the form set forth in Exhibit L.

"**Project Participant Approval**" means each Project Participant has obtained all necessary approvals from its board or governing authority necessary to execute a Buyer Liability Pass Through Agreement for the Liability Shares as set forth in Exhibit S and the Project Participation Agreement, and that Buyer has delivered to Seller Buyer Liability Pass Through Agreements and the Project Participation Agreement executed by each Project Participant and countersigned by Buyer.

"**Project Participant Payment Default**" means any failure by a Project Participant to pay any material amount under the Project Participation Agreement as and when due (without giving effect to any extensions of time, waivers or late notices), including monthly amounts collected to fund, or to reserve funds for, payment of Buyer's obligations under this Agreement or a Project Participant does not show to Seller's reasonable satisfaction that it is able to comply with its obligations under the Project Participation Agreement within sixty (60) days of any Bankruptcy filing and Seller issues notice of its lack of consent within thirty (30) days thereafter.

"**Project Participation Agreement**" means that certain Fish Lake Geothermal Project Participation Agreement executed by and among Buyer and all of the Project Participants relating to their allocation among themselves of Buyer's responsibilities and liabilities under this Agreement, and any successor agreement.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale generating facilities in the western United States, or (b) any of the practices, methods and acts which, in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale generating facilities in the western United States.

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Prudent Operating Practice includes compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**Pseudo-Tie Resource**" means a generating facility that is party to a FERC-approved Pseudo-Tie Participating Generator Agreement with the CAISO which allows for Capacity Attributes from the generating facility to be imported into the CAISO as "unit-specific" or "resource specific" import RA Capacity pursuant to applicable decisions of the CPUC.

"**PTC**" means the production tax credit established pursuant to Section 45 of the United States Internal Revenue Code of 1986.

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the (a) RAR compliance or advisory showings (or similar or successor showings), and (b) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 3.8(b).

"**RA Guarantee Date**" means the Commercial Operation Date.

"**RA Penalties**" means the RA penalties assessed against load serving entities by the CPUC for RA deficiencies that are not replaced or cured, as established by the CPUC in the Resource Adequacy Rulings and subsequently incorporated into the annual Filing Guide for System, Local and Flexible Resource Adequacy Compliance Filings that is issued by the CPUC Energy Division, if applicable, or any replacement or successor documentation established by the CPUC Energy Division to reflect RA penalties that are established by the CPUC and assessed against load serving entities for RA deficiencies.

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any Showing Month, commencing with the Showing Month that contains the RA Guarantee Date, during which the Net Qualifying Capacity of the Facility that was able to be included in the Supply Plans of Project Participants for such Showing Month was either (i) not published by or otherwise established with the CAISO by the Notification Deadline for such Showing Month, or (ii) was less than the then applicable Guaranteed Net Qualifying Capacity for such Showing Month minus any Deemed Delivered RA.

"**Real-Time Forecast**" means any Notice of any change to the Available Generating Capacity or hourly expected Delivered Energy delivered by or on behalf of Seller pursuant to Section 4.3(d).

"**Real-Time Market**" has the meaning set forth in the CAISO Tariff.

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"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the ownership or operation of the Facility; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute or a Future Environmental Attribute.

"**Replacement Green Attributes**" means Renewable Energy Credits that are Portfolio Content Category 1 (PCC1) and of the same type of resource (e.g., wind, solar, etc.) as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement RA**" means Resource Adequacy Benefits, if any, equivalent to those that would have been provided by the Facility with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within NP 15 or SP 15.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and includes any local, zonal or otherwise locational attributes associated with the Facility, in addition to flex attributes.

"**Resource Adequacy Capacity**" or "**RA Capacity**" has the meaning set forth in the CAISO Tariff.

"**Resource Adequacy Plan**" has the meaning specified in the Tariff.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-12-006 and any other existing or subsequent ruling or decision, or any other resource adequacy Law,

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however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Delivery Term.

"**RETA**" has the meaning set forth in Section 13.4(b).

"**RETA Regulations**" has the meaning set forth in Section 13.4(b).

"**Revised Liability Share**" means the sum of a Project Participant's Initial Liability Share plus its Pro Rata portion of all Defaulted Liability Shares, not to exceed one hundred twenty-five percent (125%) of such Participant's Initial Liability Share.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.).

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

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

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Security Interest**" has the meaning set forth in Section 8.10.

"**Self-Schedule**" has the meaning set forth in the CAISO Tariff.

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary, or indirect or business interruption damages; *provided* that the Parties agree that Seller's lost revenue under this Agreement resulting from a Buyer Default may be included in the determination of Losses.

"**Settlement Interval**" has the meaning set forth in the CAISO Tariff.

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

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"**Settlement Point**" has the meaning set forth in Exhibit A.

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

"**Shared Facilities Agreements**" has the meaning set forth in Section 6.3.

"**Showing Month**" shall be the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, as may be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided* that any such update to the Site that includes real property that was not originally contained with or contiguous with the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion. "Site" does not include any land rights or interests in the real property constituting the Site that relate to or are used by other projects constructed or owned by any party to any Shared Facility Agreements. An update provided by Seller pursuant to this definition shall be automatically incorporated as the new Exhibit A upon its receipt by Buyer unless Buyer's approval is required, then it shall be incorporated automatically as the new Exhibit A upon Buyer's approval.

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

"**Station Use**" means:

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

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

"**Step-Up Event**" means the forty-fifth (45th) day following the occurrence of a Project Participant Payment Default if such Project Participant Payment Default has not been cured by that date, regardless of whether or not notice was given to the Defaulted Project Participant under the Project Participation Agreement or otherwise or by Buyer hereunder.

"**Supply Plan**" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO in order for that RA Capacity to count, as applicable, for RAR Attributes and/or FCR Attributes.

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

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

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

"**Technology Factor**" means the then-applicable monthly percentage published by the CPUC and used to establish Qualifying Capacity for non-dispatchable geothermal resources that have less than three (3) years of historical production and bidding data. The Parties acknowledge and agree that the Technology Factors vary from year to year and month to month.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

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

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

"**Test Energy Rate**" has the meaning set forth in Section 3.6.

"**Transmission Provider**" means any entity or entities transmitting or transporting the Delivered Energy on behalf of Seller or Buyer to or from the Delivery Point. For purposes of this Agreement, the Transmission Provider is set forth in Exhibit A.

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

"**Ultimate Parent**" means Open Mountain Energy, LLC, a Delaware limited liability company.

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

"**WREGIS**" means the Western Renewable Energy Generation Information System, or any successor renewable energy tracking program.

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"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.8(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein, including Section 2.1(b) ("**Contract Term**"); *provided*, *however*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Buyer will provide written Notice to Seller upon receipt of Project Participant Approval of this Agreement. Notwithstanding anything to the contrary in this Agreement, if Project Participant Approval of this Agreement is not obtained within one hundred twenty (120) days following the Effective Date, then either Party may terminate this Agreement upon written Notice to the other Party. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(c), and Buyer shall promptly return to Seller any CP Security then held by Buyer, if any, less any amounts drawn in accordance with this Agreement.

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

2.2 **Condition Precedent**. The Delivery Term shall not commence until Seller completes each of the following conditions:

(a) Seller has delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed

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Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity on the Commercial Operation Date;

(b) A Pseudo-tie Participating Generator Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect and Seller shall have provided Buyer a CAISO Resource ID and a PMAX, if applicable, for the Facility;

(c) If applicable, a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of such agreement delivered to Buyer;

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

(e) All applicable regulatory authorizations, approvals and permits for commercial operation of the Facility have been obtained and shall be in full force and effect, and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied, and Seller has delivered to Buyer an attestation certificate from an officer of Seller certifying to the satisfaction of this condition;

(f) Seller has obtained Firm Transmission rights sufficient to deliver 13 MW to the Delivery Point and has provided documentation of the same to Buyer;

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

(h) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements (that are reasonably capable of being completed prior to the Commercial Operation Date under WREGIS rules and reasonably expects to complete all other applicable requirement thereafter), including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(i) The Facility has successfully completed all testing required by Prudent Operating Practice or any requirement of Law to operate the Facility;

(j) Insurance requirements for the Facility have been met, with evidence provided in writing to Buyer, in accordance with Section 17.1;

(k) Seller has delivered the Performance Security to Buyer in accordance with Section 8.9; and

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(l) Seller has paid Buyer for all amounts owing under this Agreement, if any, including Daily Delay Damages, and Commercial Operation Delay Damages.

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

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

ARTICLE 3
PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer will purchase all the Product produced by or associated with the Facility at the Contract Price and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of the Product, provided that no such re-sale or use shall relieve Buyer of any obligations hereunder, including the last sentence of Section 5.2. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit the Product, or any Capacity Attributes thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues. Buyer has no obligation to purchase from Seller any Product for which the associated Energy is not or cannot be delivered to the Delivery Point as a result of an outage of the Facility, a Force Majeure Event, or a Curtailment Order. For the avoidance of doubt, settlement

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with CAISO shall not be deemed a sale by Seller to a third party of Product in contravention of this Section 3.1.

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

3.3 **Imbalance Energy**. Buyer and Seller recognize that in any given Settlement Period the amount of Delivered Energy may deviate from the amount of Energy Scheduled with the CAISO. To the extent there are such deviations, any costs or revenues from such imbalances shall be allocated to the Party that is acting as Scheduling Coordinator for the Facility.

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

3.5 **Future Environmental Attributes**.

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a) and Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or operation of the Facility to reduce Delivered Energy unless the Parties have agreed on all necessary terms and conditions relating to such alteration or changes in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.6 **Test Energy**. No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, Seller shall notify Buyer of the availability of

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the Test Energy. If and to the extent the Facility generates Test Energy, Seller shall sell and Buyer shall purchase from Seller all Test Energy and any associated Products on an as-available basis for up to ninety (90) days from the first delivery of Test Energy. As compensation for such Test Energy and associated Product, Buyer shall pay Seller an amount equal to [redacted] for the Delivered Energy (the "**Test Energy Rate**"). For the avoidance of doubt, the conditions precedent in Section 2.2 are not applicable to the Parties' obligations under this Section 3.6.

3.7 **Capacity Attributes**.

(a) Prior to the Delivery Term, Seller shall qualify the Facility as a Pseudo-Tie Resource with the CAISO pursuant to the CAISO's New Resource Implementation process (as defined in the CAISO Tariff). Seller shall maintain the Facility as a Pseudo-Tie Resource in compliance with the CAISO Tariff throughout the Delivery Term.

(b) Throughout the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes and Resource Adequacy Benefits, including Flexible Capacity, if any, available from the Facility. Subject to Section 3.12, Seller shall take all commercially reasonable administrative actions during the Delivery Term, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable the Project Participants to use all the Capacity Attributes and Resource Adequacy Benefits committed by Seller to Buyer pursuant to this Agreement.

(c) Buyer shall cause the Project Participants to use commercially reasonable efforts to obtain the Import Capability at the Delivery Point and at [redacted] necessary to import the Guaranteed Net Qualifying Capacity from the Facility into the CAISO. Seller shall use commercially reasonable efforts to support Buyer and Project Participants in obtaining such Import Capability. To the extent Project Participants do not or cannot maintain Import Capability at the Delivery Point, or at [redacted], if applicable, necessary to support the importation of the Guaranteed Net Qualifying Capacity into the CAISO for reasons other than a Seller failure under this Agreement or the inability of Seller to maintain the Facility as a Pseudo-Tie Resource, the Capacity Attributes that are not imported or that cannot be imported shall constitute Deemed Delivered RA.

(d) No later than the Notification Deadline corresponding to each Showing Month of the Delivery Term, Seller shall submit, or cause the Facility's Scheduling Coordinator to submit, Supply Plans to identify and confirm the Resource Adequacy Benefits provided to Project Participants for each Showing Month.

(e) Resource Adequacy Benefits are delivered and received when the CIRA Tool shows that the Supply Plans have been accepted by the CAISO. If CAISO rejects either the Supply Plans or Project Participants' Resource Adequacy Plans with respect to any part of the Resource Adequacy Benefits in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plans or Resource Adequacy Plans for validation before the applicable Notification Deadline for the relevant Showing Month.

(f) If Seller operates the Facility as a dispatchable resource, Seller shall undertake commercially reasonable efforts, subject to Section 3.12, to maximize the quantity of

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Effective Flexible Capacity provided to the Project Participants from the Facility. At least ninety (90) days before the annual FCR Showings filing deadline, Seller shall provide Buyer with written Notice of the quantity of Effective Flexible Capacity the Facility is expected to provide for the following calendar year. No later than the Notification Deadline for each Showing Month of the Delivery Term, Seller shall notify Buyer of the quantity of Effective Flexible Capacity that the Project Participants are permitted to include in the FCR Showings.

(g) If Seller anticipates that it will have an RA Shortfall Month, Seller may, provide Replacement RA in the amount of (i) the Guaranteed Net Qualifying Capacity with respect to such Showing Month, minus (ii) the expected Net Qualifying Capacity that is able to be included in the Supply Plans for Project Participants for such Showing Month plus any Deemed Delivered RA; *provided*, that any Replacement RA is communicated by Seller to Buyer in the form of Exhibit M by Seller to Buyer no later than the Notification Deadline.

(h) Notwithstanding anything to the contrary in this Agreement, Seller shall be permitted to reduce deliveries of Capacity Attributes and Resource Adequacy Benefits during any Force Majeure Event that results in Seller's inability, despite the use of commercially reasonable efforts, to deliver Delivered Energy to the Delivery Point.

3.8 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Month, Seller shall pay to Buyer as liquidated damages the RA Deficiency Amount, as set forth in Section 3.8(b), and/or provide Replacement RA, as set forth in Section 3.7(g), in each case, as the sole remedy for Capacity Attributes that Seller fails to convey to the Project Participants from the Facility.

(b) RA Deficiency Amount Calculation. For each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Deficiency Amount**") equal to the product of (i) the difference, expressed in kW, of the then applicable Guaranteed Net Qualifying Capacity, minus the then-applicable Net Qualifying Capacity included in the Supply Plans for such Showing Month for the Project Participants, which shall be deemed to be zero (0) MW if the Net Qualifying Capacity has not been published by or otherwise established with the CAISO by the Notification Deadline for such RA Shortfall Month, plus any Replacement RA that was able to be included in the Supply Plan for such Showing Month for the Project Participants and any Deemed Delivered RA, multiplied by (ii) [redacted]

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

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Verification, which deadline will be extended on a day-for-day basis if there is a delay in CEC Certification and Verification and that delay is caused by any reason other than an act or omission of Seller. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

3.10 **[Reserved]**.

3.11 **California RPS Standard Terms and Conditions**.

(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 ("ERR") 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].

(b) The term "commercially reasonable efforts" as used in this Section 3.11 means efforts consistent with and subject to Section 3.12. The term "Project" as used in Section 3.11(a) means the Facility.

(c) 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].

(d) Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. [STC REC-2].

(e) The term "the contract" as used in Section 3.11(d) means this Agreement.

3.12 **Compliance Expenditure Cap**.

(a) The Parties acknowledge that an essential purpose of this Agreement is to provide renewable generation and capacity that meets the requirements of the California Renewables Portfolio Standard and that Governmental Authorities, including the CEC, CPUC, CAISO and WREGIS, may undertake actions to implement changes in Law. Seller agrees to use commercially reasonable efforts subject to the provisions of this Section 3.12 to cooperate with respect to any future changes to this Agreement needed to satisfy requirements of Governmental Authorities associated with changes in Law to maximize benefits to Buyer, including: (i) the

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modification of the description of Green Attributes and/or Capacity Attributes as may be required, including updating the Agreement to reflect any mandatory contractual language required by Governmental Authorities; (ii) submission of any reports, data, or other information required by Governmental Authorities; or (iii) all other actions that may be required to ensure that this Agreement or the Facility is eligible as an ERR and for other benefits under the California Renewables Portfolio Standard; *provided*, Seller shall have no obligation to modify this Agreement, or take other actions not required under this Agreement, if such modifications or actions would materially adversely affect, or could reasonably be expected to have or result in a material adverse effect on, any of Seller's rights, benefits, risks and/or obligations under this Agreement.

(b) If a change in Laws occurring after the Effective Date has increased Seller's known or reasonably expected costs to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product pursuant to Sections 3.7(b) and (c), 3.8, 3.9, 3.11, 4.8 and 13.1(h) (any action required to be taken by Seller to comply with such change in Law, a "**Compliance Action**"), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped [redacted] in aggregate over the Contract Term (the "**Compliance Expenditure Cap**").

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

(d) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs (including lost production, if any), the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer fails to timely respond to any such Notice, it will be deemed to have waived Seller's obligations to take such Compliance Actions. For the avoidance of doubt, Seller is not obligated to take any Compliance Actions during the pendency of Buyer's sixty (60) day evaluation period.

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

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**.

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

(b) Green Attributes. All Green Attributes associated with the Delivered Energy are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, Seller has not sold such Green Attributes to any other person or entity, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

4.2 **Title and Risk of Loss**.

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

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

4.3 **Forecasting**. Unless the Parties mutually agree to modified forecasting requirements, Seller shall provide the forecasts described below at its sole expense and in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are accurate and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practices.

(a) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the beginning of each calendar year for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of each month's average-day expected Delivered Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Energy and Available Generating Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and Buyer's SC (if applicable) a non-binding forecast of the hourly expected Delivered

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Energy and Available Generating Capacity for each day of the following month in a form substantially similar to the table found in Exhibit F-2 ("**Monthly Delivery Forecast**").

(c) Day-Ahead Forecast. By 5:30 a.m. PPT on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of (i) Available Generating Capacity, (ii) hourly expected Delivered Energy, in each case, for each hour of the immediately succeeding day ("**Day-Ahead Forecast**"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's best estimate of (i) the Available Generating Capacity and (ii) the hourly expected Delivered Energy.

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

(e) CAISO Tariff Requirements. To the extent such obligations are applicable to the Facility, Seller will comply with all applicable obligations for Variable Energy Resources under the CAISO Tariff and the Eligible Intermittent Resource Protocol, including providing appropriate operational data and meteorological data.

4.4 **Dispatch Down/Curtailment**. Seller agrees to reduce the amount of Delivered Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order, provided that Seller is not required to reduce such amount to the extent such Curtailment Order or notice is inconsistent with the limitations of the Facility.

4.5 **[Reserved]**

4.6 **Reduction in Delivery Obligation**. For the avoidance of doubt, and in no way limiting Section 3.8 or Exhibit G:

(a) Planned Outages. Subject to providing Buyer one-hundred twenty (120) days prior Notice, Seller shall schedule all Planned Outages within the time-period determined by the CAISO for the Facility as a Resource Adequacy Resource that is subject to the Availability Standards, to qualify for an "Approved Maintenance Outage" under the CAISO Tariff. Seller shall

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reimburse Buyer for any cost Project Participants incur to provide substitute Capacity Attributes, as required by the CAISO, during any Planned Outages (including the cost of procuring replacement Capacity Attributes for a full calendar month during any month in which a Planned Outage is planned or scheduled). Notwithstanding the above, no Planned Outages of the Facility shall be scheduled or planned from each June 1 through October 31 during the Delivery Term, unless approved by Buyer in writing in its sole discretion.

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

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

(d) Force Majeure Event. Seller shall be permitted to reduce deliveries of Product including Capacity Attributes as set forth in Section 3.7(h) during any Force Majeure Event, so long as Seller complies with the applicable requirements of Article 10.

(e) Health and Safety. Seller shall be permitted to reduce deliveries of Product other than Capacity Attributes as necessary to maintain health and safety pursuant to Section 6.2.

4.7 **Guaranteed Energy Production**. During each Performance Measurement Period, Seller shall deliver to Buyer an amount of Adjusted Energy Production for the Performance Measurement Period, in MWh equal to no less than the Guaranteed Energy Production. If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer liquidated damages calculated in accordance with Exhibit G.

4.8 **WREGIS**. Seller shall, subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Project Participants for their sole benefit. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Project Participants and Project Participants shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 3.11(c) provided that Seller fulfills its obligations under Sections 4.8(a) through (f) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using "**Forward Certificate Transfers**" (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Project Participants ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account,

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paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Project Participants' WREGIS Accounts.

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

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the Facility's metered data. Subject to Section 3.12, Seller shall comply with any requirements of the CPUC, CEC, WREGIS and/or California Air Resources Board applicable to entities delivering RPS-eligible energy into the CAISO market with respect to documenting and reporting e-tags, including, as applicable, any requirements to match e-tags to WREGIS Certificate creation. Seller agrees to provide Buyer any such information as may be reasonably required by Buyer to comply with any requirements to match e-tags to WREGIS Certificate creation, including the CPUC's *PCC Classification Review Process Handbook* and any additional requirements.

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

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Project Participants for a calendar month as compared to the Delivered Energy except with respect to fractional amounts that are carried forward as otherwise provided in Section 4.8(b) for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused, or the result of any action or inaction by Seller, then the amount of Delivered Energy in the Deficient Month shall be reduced by the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer's payment to Seller under Article 8 and damages, if any, under Exhibit G for the applicable Contract Year; *provided*, *however*, that such adjustment shall not apply to the extent that Seller resolves the WREGIS Certificate Deficit within ninety (90) days after the Deficient Month. Without limiting Seller's obligations under this Section 4.8, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

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4.9 **Interconnection Capacity**. Seller shall be responsible for all costs of interconnecting the Facility to the Interconnection Point. Seller shall have and maintain interconnection capacity available or allocable to the Facility that is no less than the Interconnection Capacity Limit throughout the Delivery Term.

4.10 **Green-E Certification**. Upon request of Buyer, Seller shall submit, a Green-e® Energy Tracking Attestation Form ("**Attestation**") for Product delivered under this Agreement to the Center for Resource Solutions ("**CRS**") at https://www.tfaforms.com/4652008 or its successor. The Attestation shall be submitted in accordance with the requirements of CRS and shall be submitted within thirty (30) days of Buyer's request or the last day of the month in which the applicable Delivered Energy was generated, whichever is later.

ARTICLE 5
TAXES

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

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

ARTICLE 6
MAINTENANCE OF THE FACILITY

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

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

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

6.3 **Shared Facilities**. The Parties acknowledge and agree that the Facility is a phased portion of geothermal resource, and as a result, certain of the Shared Facilities and Interconnection Facilities, Seller's rights and obligations under the Interconnection Agreement and Seller's rights and obligations under transmission service agreements with Transmission Provider may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Shared Facilities, Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements; *provided* that such Shared Facilities Agreements shall (i) permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including providing interconnection capacity for the Facility in an amount not less than the Interconnection Capacity Limit, (ii) provide for separate metering and a separate CAISO Resource ID for the Generating Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource IDs; and (iv) provide that any curtailment of the full capacity of Shared Facilities that is ordered by Transmission Provider that Seller and its Affiliates have discretion to allocate across generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities. Seller shall not, and shall not permit any Affiliate to, allocate to other parties a share of the total interconnection capacity under the Interconnection Agreement in excess of an amount equal to the total interconnection capacity under the Interconnection Agreement minus the Interconnection Capacity Limit.

ARTICLE 7
METERING

7.1 **Metering**. Seller shall measure the amount of Delivered Energy using the Facility Meter. All meters will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained as Seller's cost. Subject to meeting any applicable CAISO requirements, the Facility Meter shall be programmed to adjust for Electrical Losses and Station Use in accordance with CAISO's rules for Pseudo-Tie Resources, and in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. Metering will be consistent with the Metering Diagram to be set forth as Exhibit P, an updated version of which shall be provided by Seller to Buyer at least thirty (30) days prior to Commercial Operation. Each meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Seller's Scheduling Coordinator, shall cooperate to allow both Parties to

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retrieve the meter reads from the CAISO Operational Meter Analysis and Reporting (OMAR) web or directly from the CAISO meter(s) at the Facility.

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

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer within ten (10) days after the end of the prior monthly delivery period. Each invoice shall (a) include records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Delivered Energy, Replacement RA, the calculation of Deemed Delivered Energy, Lost Output, and Adjusted Energy Production; (b) include the LMP prices at the Settlement Point for each Settlement Period, the Contract Price applicable to such Product deliveries, and Seller's calculation of the Monthly Product Payment due from Buyer, calculated in accordance with Exhibit C, and including invoices or settlement data from the CAISO, necessary to verify the accuracy of such Monthly Product Payment; and (c) be in a format reasonably specified by Buyer, covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices. The invoice shall be delivered by electronic mail in accordance with Exhibit N.

8.2 **Payment**. Buyer shall make payment to Seller of Monthly Product Payments for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts within thirty (30) days after Buyer's receipt of Seller's invoice; *provided* if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on the 3-Month prime rate (or any equivalent successor rate accepted by a majority of major financial institutions) published on the date of the invoice in The Wall Street

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Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least five (5) years or as otherwise required by Law. Upon ten (10) Business Days' Notice to the other Party, either Party shall be granted access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds ten thousand dollars ($10,000).

8.4 **Invoice Adjustments**. Invoice adjustments shall be made if (a) there have been good faith inaccuracies in invoicing or payment that are not otherwise disputed under Section 8.5, (b) an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or (c) there have been meter inaccuracies; provided, however, that there shall be no adjustments to prior invoices based upon meter inaccuracies except to the extent that such meter adjustments are accepted by CAISO for revenue purposes. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due. Unless otherwise agreed by the Parties, no adjustment of invoices shall be permitted after twenty-four (24) months from the date of the invoice.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve- (12-) month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

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

8.7 **Seller's CP Security**. To secure its obligations under this Agreement, Seller shall deliver the CP Security to Buyer within thirty (30) days of the Effective Date. Seller shall maintain the CP Security in full force and effect; *provided*, Seller will have no obligation to replenish the CP Security in the event Buyer collects or draws down any portion of the CP Security for any reason permitted under this Agreement. Except to the extent Seller elects to apply the CP Security to the Development Security, upon the earlier of (i) Seller's delivery of the Development Security, or (ii) sixty (60) days after termination of this Agreement, Buyer shall return the CP Security to Seller, less the amounts drawn in accordance with this Agreement. Seller may at its option exchange one permitted form of CP Security for another permitted form of Development Security.

8.8 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within thirty (30) days of the CP Satisfaction Date. Seller shall maintain the Development Security in full force and effect; provided Seller will have no obligation to replenish the Development Security in the event Buyer collects or draws down any portion of the Development Security for any reason permitted under this Agreement. Except to the extent Seller elects to apply the Development Security to the Performance Security, upon the earlier of (i) Seller's delivery of the Performance Security, or (ii) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. Seller may at its option exchange one permitted form of Development Security for another permitted form of Development Security.

8.9 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within five (5) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of Seller then due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. Seller may at its option exchange one permitted form of Performance Security for another permitted form of Performance Security.

8.10 **First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest ("**Security Interest**") in,

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and lien on (and right to net against), and assignment of the CP Security, Development Security, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7, 8.8 and 8.9 and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer's Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence and continuation of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the CP Security, Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.10):

(a) Exercise any of its rights and remedies with respect to the CP Security, Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as CP Security, Development Security or Performance Security; and

(c) Liquidate all CP Security, Development Security or Performance Security (as applicable) then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

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

8.11 **Buyer Credit Arrangements**.

(a) To secure its obligations under this Agreement, Buyer shall deliver to Seller within one hundred twenty (120) days after the Effective Date, Buyer Liability Pass Through Agreements from the Project Participants with Liability Shares as set forth on Exhibit S. Seller shall countersign each Buyer Liability Pass Through Agreement within ten (10) days of receipt of Buyer's delivery of each such Buyer Liability Pass Through Agreement executed by Buyer and applicable Project Participant; provided that no delay in countersigning any such Buyer Liability Pass Through Agreement shall affect Seller's, Buyer's or the Project Participant's rights or obligations thereunder once executed. Buyer shall maintain such Buyer Liability Pass Through Agreements in full force and effect until both of the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Buyer due and payable under this Agreement are paid in full (whether directly or indirectly such as through set-off or netting). Buyer may propose amendments to Exhibit S, including with respect to the identity of Project Participants and the amount of each Project Participant's Liability Share. Seller shall have thirty (30) days to evaluate any such proposed amendments to Exhibit S in its sole but good faith discretion and no such proposed amendment will be effective without the prior written consent of

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Seller. If Seller consents to such proposed amendments to Exhibit S, Buyer shall have thirty (30) days to provide Seller with replacement Buyer Liability Pass Through Agreements with Liability Shares executed by Buyer and the applicable Project Participants that incorporate the Liability Shares set forth in the amended Exhibit S. Seller shall use good faith efforts to countersign each such Buyer Liability Pass Through Agreement executed by Buyer and the applicable Project Participant within ten (10) Business Days after Buyer's delivery of such Buyer Liability Pass Through Agreements to Seller; *provided* that no delay in countersigning any such Buyer Liability Pass Through Agreement shall affect Seller's, Buyer's or the Project Participant's rights or obligations thereunder once executed; and further provided that until the modified Buyer Liability Pass Through Agreements with Liability Shares set forth in amended Exhibit S have been executed by Seller and all applicable Project Participants, the prior agreements will remain in effect.

(b) Within sixty (60) days following a Step-Up Event, (A) Buyer shall provide Seller with replacement Buyer Liability Pass Through Agreements from all Compliant Project Participants executed by Buyer and the applicable Compliant Project Participants that reflect each Compliant Project Participant's Revised Liability Share following such Step-Up Event, and, (B) Exhibit S will be amended to reflect the Compliant Project Participants' Revised Liability Shares following such Step-Up Event. Seller shall use good faith efforts to countersign each such Buyer Liability Pass Through Agreement executed by Buyer and the applicable Compliant Project Participant within ten (10) Business Days after Buyer's delivery of such Buyer Liability Pass Through Agreements to Seller; *provided* that that no delay in countersigning any such Buyer Liability Pass Through Agreement shall affect Seller's, Buyer's or the Project Participant's rights or obligations thereunder once executed; and further provided that until the modified Buyer Liability Pass Through Agreements with Liability Shares set forth in amended Exhibit S have been executed by Seller and all applicable Project Participants, the prior agreements will remain in effect. Buyer will enforce the provisions of the Project Participation Agreement relating to nonperformance and payment defaults by Project Participants, including the use of the "Step-Up Allocation" provisions to cure a Project Participant Payment Default, and will give Seller written notice within three (3) Business Days after the occurrence of any of the following: (i) any Project Participant Payment Default by any Project Participant under the Project Participation Agreement, including copies of any notices given to the Defaulted Project Participant, (ii) the cure of any Project Participant Payment Default by a Defaulted Project Participant, (iii) any actions taken to enforce remedies with respect to a Project Participant Payment Default, (iv) the termination of any Project Participant's interest under the Project Participation Agreement, and (v) the reallocation of any terminated Project Participant's rights under the Project Participation Agreement, including the revised "Entitlement Shares" of each remaining Project Participant under the Project Participation Agreement.

ARTICLE 9
NOTICES

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

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9.2 **Acceptable Means of Delivering Notice**. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means), at the time indicated by the time stamp upon delivery and, if after 5:00 p.m. PPT, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, invoices sent pursuant to Section 8.1 and Notices of outages or other scheduling or dispatch information or requests may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

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

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic (excluding impacts of the disease designated COVID-19 or the related virus designated SARS-CoV-2 impacts actually known by the Party claiming the Force Majeure Event as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

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

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Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Order, except to the extent the Curtailment Order is caused by a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **Termination Following Force Majeure Event**. If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(c), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of Seller to achieve the Guaranteed Construction Start Date or the Guaranteed Commercial Operation Date beyond the extensions provided in Exhibit B, or (b) limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(ii) or (iv) and receive a Damage Payment upon exercise of Buyer's default right pursuant to Section 11.2.

10.3 **Notice for Force Majeure**. Within five (5) Business Days of knowledge of the commencement of Force Majeure Event, the claiming Party shall provide the other Party with oral notice of the event of Force Majeure, and within two (2) weeks of knowledge of the commencement of a Force Majeure Event the claiming Party shall provide the other Party with notice in the form of a letter describing in detail the occurrence giving rise to the Force Majeure Event, including the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance. Failure to provide timely notice constitutes a waiver of the Force Majeure Event only for the time-period prior to the provision of timely notice. Upon written request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that each day of the claimed delay was the result of a Force Majeure Event and did not result from Seller's actions or failure to exercise due diligence or take reasonable actions. The claiming party shall promptly notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure Event.

10.4 **No Liability If a Force Majeure Event Occurs**. Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to

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demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of Seller to achieve the Guaranteed Construction Start Date or the Guaranteed Commercial Operation Date beyond the extensions provided in Section 4 of Exhibit B or limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer's rights pursuant to Section 11.2.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default, the occurrence of any of the following:

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

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

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1) and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) days period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.2 or 14.3, as appropriate; or

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

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

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(i) if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated by the Facility except as expressly permitted hereunder;

(ii) the failure by Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B;

(iii) if not remedied within ten (10) days after Notice thereof, the failure by Seller to deliver a Remedial Action Plan on the timeframe set forth under Section 2.4;

(iv) the failure by Seller to achieve the Construction Start Date on or before the Guaranteed Construction Start Date, as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B;

(v) Seller sells, assigns, or otherwise transfers, or commits to sell, assign, or otherwise transfer, the Product, or any portion thereof, during the Delivery Term to any party other than Buyer except as expressly permitted under this Agreement;

(vi) if, in any consecutive six (6) month period after the Commercial Operation Date, the Adjusted Energy Production amount for such period is not at least ten percent (10%) of the Expected Energy amount for such period, and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one-hundred eighty (180) days ("**Cure Plan**"); *provided* that if the cause of any such shortfall is a failure of the Facility's main power transformer, and such failure was not caused by Seller and could not have been avoided through the exercise of Prudent Operating Practice, then the Cure Plan may be extended for an additional period of time not to exceed three hundred sixty-five (365) days and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(vii) if, in any Contract Year, beginning with the second (2nd) Contract Year, the Adjusted Energy Production amount for such Contract Year is not at least sixty-five percent (65%) of the Expected Energy amount for such Contract Year; *provided* that if the cause of any such shortfall is a failure of the Facility's main power transformer, and such failure was not caused by Seller and could not have been avoided through the exercise of Prudent Operating Practice, then the energy not generated and delivered during such failure will be treated as Lost Output solely for purposes of this subsection, for a cumulative period not to exceed three hundred sixty-five (365) days during such Contract Year;

(viii) if, in any Performance Measurement Period beginning with the second (2nd) Performance Measurement Period, the Adjusted Energy Production amount is not at

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least eighty percent (80%) of the aggregate Expected Energy amount for such Performance Measurement Period; *provided* that if the cause of any such shortfall is a failure of the Facility's main power transformer, and such failure was not caused by Seller and could not have been avoided through the exercise of Prudent Operating Practice, then the energy not generated and delivered during such failure will be treated as Lost Output solely for purposes of this subsection, for a cumulative period not to exceed three hundred sixty-five (365) days during such Performance Measurement Period;

(ix) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7, 8.8 or 8.9 within five (5) Business Days after Notice, including the failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against either for any reason other than to satisfy a Damage Payment or a Termination Payment;

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

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least BBB by S&P or Baa2 by Moody's;

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

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

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

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

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

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

(c) with respect to Buyer as the Defaulting Party, the occurrence of any of the following:

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(i) Buyer fails to deliver executed revised Buyer Liability Pass Through Agreements from all Compliant Project Participants for their respective Revised Liability Shares that total one hundred percent (100%) within sixty (60) days following a Step-Up Event;

(ii) following Project Participant Approval, Buyer fails to maintain Buyer Liability Pass Through Agreements from Project Participants with Liability Shares that total one hundred percent (100%), and such failure is not remedied within thirty (30) days after Notice thereof;

(iii) the breach of or default under any Buyer Liability Pass Through Agreement by the Project Participant party thereto; *provided*, Buyer shall have thirty (30) days after Notice thereof to cure any such breach or default by such Project Participant; or

(iv) the termination or expiration of the Project Participation Agreement.

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

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

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) subject to Section 12.3, the Damage Payment (in the case of an Event of Default by Seller occurring before the Commercial Operation Date, including an Event of Default under Section 11.1(b)(ii)), or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by either Party);

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

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Termination Payment**. The Termination Payment ("**Termination Payment**") for a Terminated Transaction shall be the aggregate of all Settlement Amounts plus any or all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without

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limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (b) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

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

11.5 **Disputes With Respect to Termination Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with Article 15.

11.6 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If this Agreement is terminated by Buyer prior to the Commercial Operation Date due to Seller's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following the Early Termination Date due to Seller's Event of Default, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (including price unless the Seller Event of Default is pursuant to Sections 11.1(b)(ii) or (iv) and Seller has demonstrated to Buyer's reasonable satisfaction that such delays did not result from Seller's actions or failure to take commercially reasonable actions, then excluding price) and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof.

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

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

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

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

11.9 **Pass Through of Buyer Liability**. Notwithstanding any other provision of this Agreement, if Buyer fails to make when due any payment required pursuant to this Agreement, and such failure is not remedied within ten (10) Business Days after Notice thereof, Seller may, without waiving any of its rights with respect to Buyer except as expressly provided herein, pursue remedies under any or all of the Buyer Liability Pass Through Agreements as provided therein. Seller hereby waives the right to recover directly from Buyer any Termination Payment owed by Buyer that is not paid by Buyer pursuant to Sections 11.3 and 11.4, but the foregoing waiver does not apply to any other right or remedy of Seller under this Agreement, including the right to recover accrued Monthly Product Payments, other amounts payable or reimbursable under this Agreement or any other amounts incurred or accrued prior to termination of this Agreement, and the right to terminate the Agreement as the result of an Event of Default by Buyer.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT (A) PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) PART OF A THIRD PARTY INDEMNITY CLAIM UNDER ARTICLE 16, (C) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (D) ARISING FROM FRAUD OR INTENTIONAL MISREPRESENTATION, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR

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ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, AND EXHIBIT G, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

12.3 **Limitation on Pre-COD Liability.** Notwithstanding anything in this Agreement to the contrary, unless and until the Facility has achieved Commercial Operation, Seller's aggregate liability under this Agreement for any and all reasons, including liabilities for payment of Daily Delay Damages, Commercial Operation Delay Damages and the Damage Payment, shall not exceed [redacted]. For avoidance of doubt, this Section 12.3 shall not be applicable once the Facility has achieved Commercial Operation.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a Nevada limited liability business, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct

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business in the State of California and each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility will be located in the State of Nevada.

(f) Seller shall maintain Site Control throughout the Contract Term.

(g) Seller will be responsible for obtaining all permits necessary to construct and operate the Facility and Seller will be the applicant on any CEQA documents, if applicable.

(h) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement, subject to Section 3.12, that the Facility is eligible to qualify as a Firm Clean Resource.

(i) Except as set forth in Exhibit A, Seller shall maintain Firm Transmission rights sufficient to deliver 13 MW to the Delivery Point throughout the Delivery Term.

(j) Seller shall comply with all CAISO Tariff requirements applicable to Pseudo-Tie Resources, including Appendix N to the Tariff, throughout the Delivery Term.

(k) As of the Effective Date, Seller represents and warrants to Buyer that it has not received notice from or been advised by any existing or potential supplier or service provider for the Facility that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

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13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority validly existing and in good standing under the laws of the State of California, and is qualified to conduct business pursuant to its duly authorized Joint Powers Agreement. All Persons making up the governing body of Buyer are appointed in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim and affirmatively waives immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court (provided that such court is located within a venue permitted in Law and under the Agreement), (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment; provided, however that nothing in this Agreement shall waive the obligations or rights set forth in the California Tort Claims Act (Government Code Section 810 et seq.)

13.3 **General Covenants**. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and to be qualified to conduct business in California and each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

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(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 **Seller's Covenants**. Seller covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) Compliance with Laws. To the extent applicable to Seller or the Facility, Seller shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation those related to employment discrimination and prevailing wage, non-discrimination and non-preference; conflict of interest; environmentally preferable procurement; single serving bottled water; gifts; and disqualification of former employees. Seller shall not discriminate against any employee or applicant for employment on the basis of the fact or perception of that person's race, color, religion, ancestry, national origin, age, sex (including pregnancy, childbirth or related medical conditions), legally protected medical condition, family care status, veteran status, sexual orientation, gender identity, transgender status, domestic partner status, marital status, physical or mental disability, or AIDS/HIV status.

(b) Workforce Development. Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and orders and decrees of any courts or administrative bodies or tribunals, including, without limitation, employment discrimination laws and prevailing wage laws. In addition, Seller shall (i) ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to construction of the Facility are paid wages not less than the rate of such wages then prevailing in the region in which the Facility is located, as determined by the Nevada Labor Commissioner in the manner provided in Nevada Revised Statutes Section 338.030 (as may be amended from time to time), and are paid wages in compliance with Nevada Revised Statutes Section 338.020 (as may be amended from time to time) despite the Facility not constituting a public work under Nevada law, and permit no less than annual auditing by Buyer to verify such compliance ("**Prevailing Wage Requirement**"), or (ii) ensure that any construction work contracted by Seller in furtherance of this Agreement shall be conducted using a community workforce agreement, work site or project labor agreement, collective bargaining agreement, or other similar agreement related to construction of the Facility ("**Project Labor Agreement**"). The Facility may be eligible for a State of Nevada Renewable Energy Tax Abatement ("**RETA**") agreement pursuant to Nevada Revised Statutes 701A.300-.390, inclusive, and Nevada Administrative Code Sections 701A.500-660, inclusive (the "**RETA Regulations**"). In lieu of complying with the Prevailing Wage Requirement, should Seller apply for and receive a RETA agreement, Seller may instead opt to comply with the requirements of the RETA Regulations, including the requirements of having a construction workforce comprised of no less than fifty percent (50%) Nevada residents, paying the construction workforce no less than one hundred seventy-five percent (175%) of the statewide average annual wage (as that phrase is defined in the RETA Regulations), and providing a health insurance plan satisfying the applicable requirements of the RETA Regulations. If Seller does not execute a Project Labor Agreement for the construction of the Facility, at the time of Commercial

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Operation, Seller must certify that it has either complied with the Prevailing Wage Requirement or the RETA Regulations, and be able to demonstrate, upon Buyer's request, compliance with this requirement via a certified payroll system and such other documentation reasonably requested by Buyer, including pursuant to an audit.

(c) Prohibition Against Forced Labor. Seller represents and warrants that it has not and will not knowingly utilize equipment or resources for the construction, operation or maintenance of the Facility that rely on work or services exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily ("**Forced Labor**"). Seller shall comprehensively implement due diligence procedures for its and its Affiliate's suppliers, subcontractors and other participants in its supply chains, to comply with this prohibition on the use of Forced Labor. Seller shall notify Buyer as soon as it becomes aware of any breach, or potential breach, of its obligations under this Section 13.5. Consistent with the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020, equipment or resources sourced from the Xinjiang region of China are presumed to involve Forced Labor.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Buyer will have no obligation to provide any consent, or enter into any agreement, that materially and adversely affects any of Buyer's rights, benefits, risks or obligations under this Agreement, or to modify the Agreement, except as set forth below. The assigning Party shall be responsible for the other Party's reasonable third-party costs, including reasonable attorneys' fees, associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by the assigning Party.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**"), which shall be substantially in the form of Exhibit Q. Seller shall pay Buyer's reasonable expenses, including attorneys' fees, incurred to provide consents, estoppels, or other required documentation in connection with Seller's financing of the Facility. Buyer shall have no obligation to provide any consent, or enter into any agreement, that materially and adversely affects any of Buyer's rights, benefits, risks or obligations under this Agreement, or to modify this Agreement.

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14.3 **Permitted Assignment by Seller**.

(a) Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (i) an Affiliate of Seller or (ii) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law) if, and only if (A) the assignee is a Permitted Transferee; (B) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and (C) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee. Notwithstanding the foregoing, any assignment by Seller or its successors or assigns under this Section 14.3(a) shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

(b) Buyer may, without the prior written consent of Seller, transfer or assign this Agreement to any member of Buyer that (A) has a Credit Rating of at least BBB- from S&P or Baa3 from Moody's, and (B) is a load serving entity; *provided*, Buyer shall give Seller Notice at least fifteen (15) Business Days before the date of such proposed assignment and provide to Seller a written agreement, reasonably acceptable to Seller, signed by the Person to which Buyer wishes to assign its interests that provides that such Person will assume all of Buyer's obligations and liabilities under this Agreement upon such transfer or assignment. Notwithstanding the foregoing, any assignment by Buyer or its successors or assigns under this Section 14.3(b) shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Seller.

14.4 **Buyer Financing Assignment**. Buyer may assign this Agreement to a financing entity that will pre-pay all of Buyer's payment obligations under this Agreement with Seller's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned; *provided* that Seller reasonably determines that the terms and conditions of such pre-payment arrangements are satisfactory to Seller and its Lenders and do not adversely affect Seller or its arrangements with Lenders in any material respect.

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law; Venue**.

(a) 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].

(b) For avoidance of doubt, although "agreement" is not capitalized in Section 15.1(a), the parties intend for "agreement" to mean this Agreement, and for "party" and "parties" to refer to the Party and Parties as set forth in the preamble to this Agreement.

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(c) The Parties agree that any suit, action or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be brought in the federal or state courts located in the State of California in a location to be mutually chosen by Buyer and Seller, or in the absence of mutual agreement, the County of San Francisco.

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, the Parties shall submit the dispute to mediation prior to seeking any and all remedies available to it at Law in or equity.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnity**.

(a) Each Party (the "**Indemnifying Party**") agrees to defend, indemnifyand hold harmless the other Party and its directors, officers, agents, attorneys, employees and representatives (each an "**Indemnified Party**" and collectively, the "**Indemnified Group**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses, including reasonable attorneys' and expert witness fees, for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees or agents (collectively, "**Indemnifiable Losses**").

(b) Nothing in this Section shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts, or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligations to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Notice of Claim**. Subject to the terms of this Agreement and upon obtaining knowledge of an Indemnifiable Loss for which it is entitled to indemnity under this Article 16, the Indemnified Party will promptly Notify the Indemnifying Party in writing of any damage, claim,loss, liability or expense which Indemnified Party has determined has given or could give rise toan Indemnifiable Loss under Section 16.1 ("**Claim**"). The Notice is referred to as a "**Notice of Claim**". A Notice of Claim will specify, in reasonable detail, the facts known to Indemnified Party regarding the Indemnifiable Loss.

16.3 **Failure to Provide Notice**. A failure to give timely Notice or to include any specified information in any Notice as provided in this Section 16.3 will not affect the rights

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or obligations of any Party hereunder except and only to the extent that, as a result of such failure, any Party which was entitled to receive such Notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise materially damaged as a direct result of such failure and, provided further, Indemnifying Party is not obligated to indemnify any member of the Indemnified Group for the increased amount of any Indemnifiable Loss which would otherwise have been payable to the extent that the increase resulted from the failure todeliver timely a Notice of Claim.

16.4 **Defense of Claims**. If, within ten (10) Business Days after giving a Notice of Claim regarding a Claim to Indemnifying Party pursuant to Section 16.2, Indemnified Party receives Notice from Indemnifying Party that Indemnifying Party has elected to assume the defense of such Claim, Indemnifying Party will not be liable for any legal expenses subsequently incurred by Indemnified Party in connection with the defense thereof; provided, however, that if Indemnifying Party fails to take reasonable steps necessary to defend diligently such Claim within ten (10) Business Days after receiving Notice from Indemnifying Party that Indemnifying Party believes Indemnifying Party has failed to take such steps, or if Indemnifying Party has not undertaken fully to indemnify Indemnified Party in respect of all Indemnifiable Losses relating to the matter, Indemnified Party may assume its own defense, and Indemnifying Party will be liable for all reasonable costs or expenses, including attorneys' fees, paid or incurred in connection therewith. Without the prior written consent of Indemnified Party, Indemnifying Party will not enter into any settlement of any Claim which would lead to liability or create any financial or other obligation on the part of Indemnified Party for which Indemnified Party is not entitled to indemnification hereunder; provided, however, that Indemnifying Party may accept any settlement without the consent of Indemnified Party if such settlement provides a full release to Indemnified Party and no requirement that Indemnified Party acknowledge fault or culpability. If a firm offer is made to settle a Claim without leading to liability or the creation of a financial or other obligation on the part of Indemnified Party for which Indemnified Party is not entitled to indemnification hereunder and Indemnifying Party desires to accept and agrees to such offer, Indemnifying Party will give Notice to Indemnified Party to that effect. If Indemnified Party fails to consent to such firm offer within ten (10) calendar days after its receipt of such Notice, Indemnified Party may continue to contest or defend such Claim and, in such event, the maximum liability of Indemnifying Party to such Claim will be the amount of such settlement offer, plus reasonable costs and expenses paid or incurred by Indemnified Party up to the date of such Notice.

16.5 **Subrogation of Rights**. Upon making any indemnity payment, Indemnifying Party will, to the extent of such indemnity payment, be subrogated to all rights of Indemnified Party against any third party in respect of the Indemnifiable Loss to which the indemnity payment relates; provided that until Indemnified Party recovers full payment of its Indemnifiable Loss, any and all claims of Indemnifying Party against any such third party on account of said indemnity payment are hereby made expressly subordinated and subjected in right of payment to Indemnified Party's rights against such third party. Without limiting the generality or effect of any other provision hereof, Buyer and Seller shall execute upon request all instruments reasonably necessary to evidence and perfect the above-described subrogation and subordination rights.

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16.6 **Rights and Remedies are Cumulative**. Except for express remedies already provided in this Agreement, the rights and remedies of a Party pursuant to this Article 16 are cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

ARTICLE 17
INSURANCE

17.1 **Insurance**.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of one million dollars ($1,000,000) per occurrence, and an annual aggregate of not less than two million dollars ($2,000,000), endorsed to provide contractual liability in said amount and including Buyer as an additional insured; and (ii) umbrella or excess liability insurance policy with a limit of liability of five million dollars ($5,000,000). If commercially available, defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Seller, if it has employees, shall maintain Employers' Liability insurance with a limit of one million dollars ($1,000,000) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the one million dollar ($1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Nevada Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with a combined single limit of one million dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods, and naming Seller (and Lender if any) as the loss payee.

(f) Contractor's Pollution Liability. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, Pollution Legal Liability Insurance in the amount of two million dollars ($2,000,000) per occurrence and in the aggregate, naming Seller (and Lender if any) as additional named insured.

(g) Umbrella Liability Insurance. Seller may choose any combination of primary, excess or umbrella liability policies to meet the insurance requirements under Sections 17.1(a), (b) and (d) above.

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(h) Subcontractor Insurance. Seller shall require all of its subcontractors to carry: (i) commercial general liability insurance with a limit of one million dollars ($1,000,000); (ii) workers' compensation insurance coverage in accordance with applicable requirements of Law; (iii) employer's liability insurance with a limit of one million dollars ($1,000,000) for all coverages; and (iv) business auto insurance for bodily injury and property damage with a combined single limit of one million dollars ($1,000,000) per occurrence. All subcontractors shall include Seller as an additional insured to insurance carried pursuant to clauses (h)(i) and (h)(iv). All subcontractors shall provide a primary and non-contributory endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(h).

(i) Property Insurance. On and after the Commercial Operation Date, Seller shall maintain or cause to be maintained insurance against loss or damage from all causes under standard "all risk" property insurance coverage in amounts that are equal to the actual replacement value of the Facility; *provided*, however, with respect to property insurance for natural catastrophes, Seller shall maintain limits equivalent to a probable maximum loss amount determined by a firm with experience providing such determinations. Such insurance shall include business interruption coverage in an amount equal to twelve (12) months of expected revenue from this Agreement.

(j) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter (except insurance required in 17.1(e), 17.1(f), 17.1(h) and 17.1(i)), Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Regarding insurance required in Sections 17.1(e) and 17.1(f), prior to the Construction Start Date, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Regarding insurance required in Section 17.1(i), within ten (10) days after placement of such insurance and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days' prior Notice by Seller in the event of any cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Buyer. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

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18.2 **Duty to Maintain Confidentiality**. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the "**Receiving Party**") if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce this Agreement.; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. If the Receiving Party becomes legally compelled by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any Law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule) to disclose any Confidential Information of the disclosing Party (the "**Disclosing Party**"), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party is not required to defend against such request and shall be permitted to disclose such Confidential Information of the Disclosing Party, with no liability for any damages that arise from such disclosure. Each Party hereto acknowledges and agrees that information and documentation provided in connection with this Agreement may be subject to the California Records Act (Government Code Section 6250 et seq.).

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Disclosure to Lenders, Etc.**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s) and potential Lender(s)), so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound or is otherwise restricted by confidentiality provisions no less stringent than those in this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement. A Party's consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior

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agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under Law.

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19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as set forth in Section 11.9 and any Buyer Liability Pass Through Agreements issued by one or more Project Participants pursuant to Section 8.11, Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement, and Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

FISH LAKE GEOTHERMAL LLC, a Nevada limited liability company

By: _____
Name: _____
Title: _____

CALIFORNIA COMMUNITY POWER, a California joint powers authority

By: _____
Name: _____
Title: _____

Approved as to form:

By: _____
Name: _____
Title: _____

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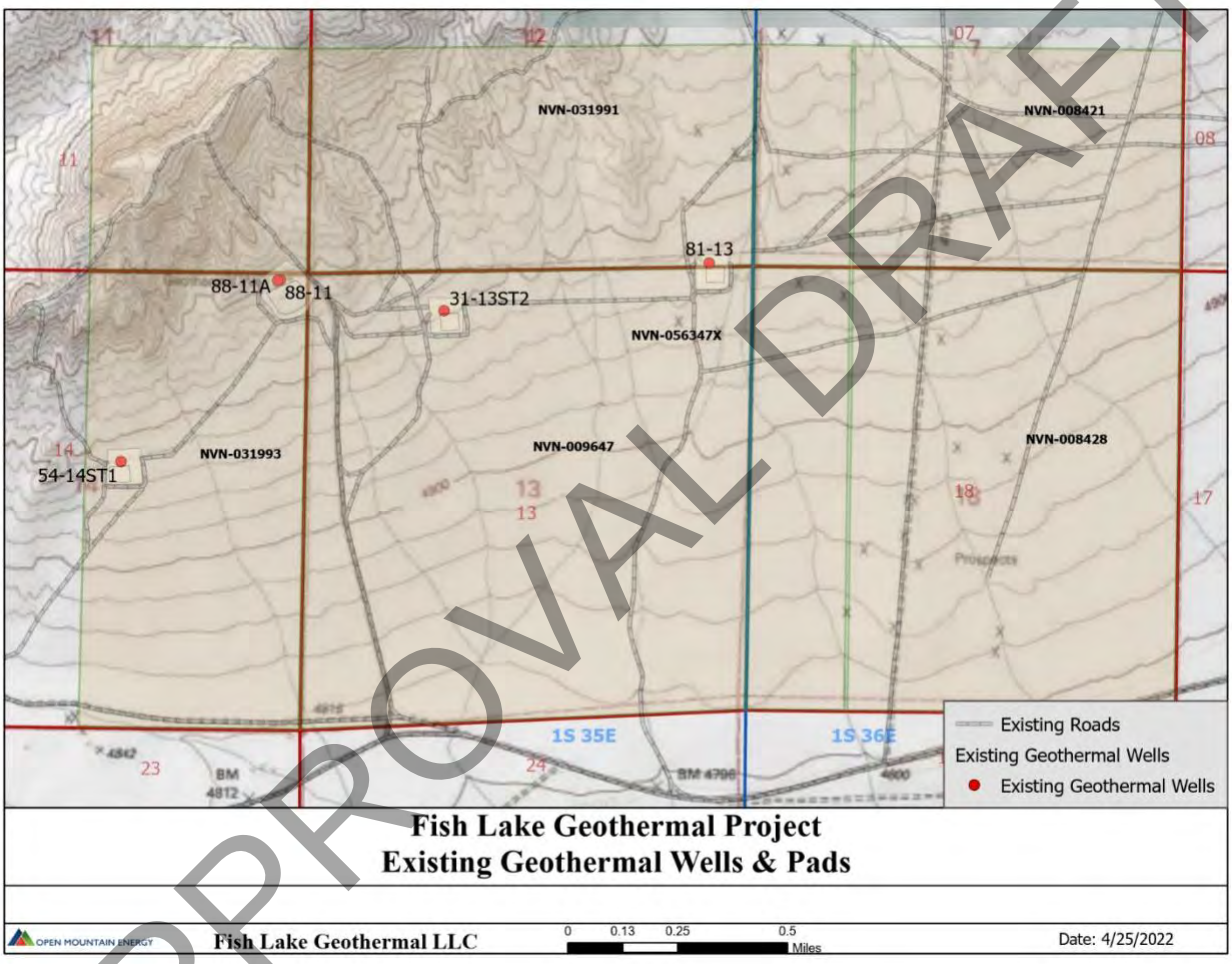
EXHIBIT A

FACILITY DESCRIPTION

Site Name: Fish Lake Geothermal Project

Site includes all or some of the following APNs: BLM: 007-021-10

Site location: T1S, R35E, Sections 11, 12, 13, 14 & T1S R36E, Sections 07 and 18



City: 18 miles north of Dyer, Nevada

County: Esmeralda

Zip Code: 89010

Latitude and Longitude:
37°51'39.33"N
118° 2'2.69"W

Facility Description: A 13 MW geothermal power plant

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Interconnection Point: The Facility shall interconnect to the NV Energy Silver Peak Substation.

Delivery Point: [redacted], which is an Intertie (as defined in the CAISO Tariff); provided that if, pursuant to the provisions of Section 3.7(c), Project Participants are able to obtain Import Capability at [redacted] necessary to import the Guaranteed Net Qualifying Capacity from the Facility into the CAISO, then the Delivery Point will be [redacted] and the Contract Price will be reduced to $[redacted]

[redacted]

Settlement Point: TH_NP15_GEN-APND (or any successor aggregated pricing node for NP-15)

Facility Meter: See Exhibit P

Facility Metering Points: See Exhibit P

Transmission Provider: NV Energy

Additional Information:

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EXHIBIT B

MAJOR PROJECT DEVELOPMENT MILESTONES AND COMMERCIAL OPERATION

1. **Construction Start**.

   a. "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for the construction of the Facility, and once Seller has engaged all contractors, and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration, and has executed an engineering, procurement, and construction contract and issued thereunder a final notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**." Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

   b. In addition to extensions pursuant to a Development Cure Period, Seller may extend the Guaranteed Construction Start Date for all purposes hereunder, including Section 11.1(b)(iv), by paying Daily Delay Damages in advance to Buyer for each day Seller desires to extend the Guaranteed Construction Start Date, not to exceed a total of ninety (90) days of extensions by such payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current (including any previous extensions) Guaranteed Construction Start Date, Seller may provide notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date. For the avoidance of doubt, Seller is not obligated to extend the Guaranteed Construction Start Date by payment of Daily Delay Damages and Buyer will have no right to draw on the Development Security if Seller elects not to pay Daily Delay Damages. If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages, Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b).

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when (i) Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**"), (ii) Seller has notified Buyer in writing that it has provided the required documentation to Buyer and met the conditions for achieving Commercial Operation, and (iii) Buyer has acknowledged to Seller in writing that Buyer agrees that Commercial Operation has been achieved. Seller shall notify Buyer in writing when Seller believes that it has provided

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the required documentation to Buyer and met the conditions for achieving COD. Buyer shall have five (5) Business Days to approve or reject in writing Seller's request for COD. The "**Commercial Operation Date**" shall be the later of (x) one hundred twenty (120) days before the Expected Commercial Operation Date, or (y) the date on which Commercial Operation is achieved.

a. Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date. If Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer.

b. In addition to extensions pursuant to a Development Cure Period, Seller may extend the Guaranteed Commercial Operation Date for all purposes hereunder, including Section 11.1(b)(ii), by paying Commercial Operation Delay Damages to Buyer in advance for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of sixty (60) days of extensions by such payment of Commercial Operation Delay Damages. On or before the date that is ten (10) days prior to the then-current (including any previous extensions) Guaranteed Commercial Operation Date, Seller may provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date. For the avoidance of doubt, Seller is not obligated to extend the Guaranteed Commercial Operation Date by payment of Commercial Operation Delay Damages and Buyer will have no right to draw on the Development Security if Seller elects not to pay Commercial Operation Delay Damages. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended by the payment of Commercial Operation Delay Damages, Buyer shall refund to Seller the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date times the Commercial Operation Delay Damages, not to exceed the total amount of Commercial Operation Delay Damages paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Construction Start and/or Commercial Operation**. If the Facility has not achieved Construction Start on or before the Guaranteed Construction Start Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(iv) and 11.2. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, both be automatically extended on a day-for-day basis (the

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"**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines:

a. a Force Majeure Event occurs; or

b. the Interconnection Facilities or Network Upgrades or any other upgrades or interconnection facilities required under the Interconnection Agreement with NV Energy are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date despite the exercise of diligent and commercially reasonable efforts by Seller; or

c. Seller has not acquired all material permits, consents, licenses, approvals, or authorizations from any Governmental Authority required for Seller to own, construct, interconnect, operate or maintain the Facility, and to permit Seller and Facility to make available and sell Product by the Guaranteed Commercial Operation Date, despite the exercise of best efforts by Seller; or

d. Buyer has not made all necessary arrangements to receive the Delivered Energy at the Delivery Point by the Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred twenty (120) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days. Upon request from Buyer, Seller shall provide documentation reasonably demonstrating that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed Capacity**. If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) of the Guaranteed Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Capacity is equal to no less than the Guaranteed Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to [redacted] for each MW that the Guaranteed Capacity exceeds the Installed Capacity, and the Expected Energy shall be reduced to an amount equal to the product of (a) the amount of Expected Energy in effect prior to such adjustment, multiplied by (b) the ratio of the Installed Capacity as of such date to the Guaranteed Capacity.

6. [Reserved].

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EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) [Reserved].

(b) Delivered Energy. For each MWh of Delivered Energy in each Settlement Period, Buyer shall pay Seller the difference of: (i) the Contract Price; minus (ii) the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Period; *provided*, *however*, that (A) if the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Period is less than the Negative LMP Strike Price, then such Day-Ahead Market LMP value will be deemed to be the Negative LMP Strike Price for purposes of this Exhibit C, and (B) if the result of the difference of (i) minus (ii) above results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller's monthly invoice). Seller, through its Scheduling Coordinator, shall receive (and, except as otherwise provided in subpart (B) above, is entitled to retain) payment for Delivery Energy from CAISO for such delivery based on the applicable Energy price, as published by CAISO. For the avoidance of doubt, Buyer is purchasing a bundled product and Seller's receipt of payment directly via CAISO settlements is for the Parties' mutual convenience.

(c) Deemed Delivered Energy. For each Settlement Period, Buyer shall pay Seller the Contract Price for each MWh of Deemed Delivered Energy above the Curtailment Cap. There shall be no payment for (i) Deemed Delivered Energy amounts below the Curtailment Cap, or (ii) Deemed Delivered Energy amounts accrued during a Market Curtailment Period for energy that the Facility was forecasted to generate in the Day-Ahead Forecast provided under Section 4.3(c) if the Day-Ahead Market LMP corresponding to such Day-Ahead Forecast was greater than the Negative LMP Strike Price.

(d) Excess Contract Year Deliveries. If, at any point in any Contract Year, the amount of Delivered Energy plus the amount of Deemed Delivered Energy for such Contract Year exceeds [redacted] of the Expected Energy for such Contract Year, the Contract Price applicable to such Delivered Energy and Deemed Delivered Energy, notwithstanding anything to the contrary in this Agreement, shall be [redacted] of the Contract Price. If, at any point in any Contract Year, the amount of Delivered Energy plus the amount of Deemed Delivered Energy for such Contract Year exceeds [redacted] of the Expected Energy for such Contract Year, the Contract Price applicable to such Delivered Energy and Deemed Delivered Energy, notwithstanding anything to the contrary in this Agreement, shall be zero dollars per MWh ($0/MWh).

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

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(f) Curtailment Payments. Seller shall receive no compensation from Buyer for (i) Delivered Energy or Deemed Delivered Energy during any Curtailment Period and (ii) Deemed Delivered Energy in amounts below the Curtailment Cap. Buyer shall pay for Deemed Delivered Energy above the Curtailment Cap as provided above.

(g) Test Energy. Test Energy is compensated at the Test Energy Rate in accordance with Section 3.6.

(h) Tax Credits. The Parties agree that the neither the Contract Price nor the Test Energy Rate are subject to adjustment or amendment if Seller fails to receive any Tax Credits; if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part; or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including thoseobligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Delivered Energy and Product, shall be effective regardless of whether the sale of Delivered Energy is eligible for, or receives Tax Credits during the Contract Term.

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EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt of Test Energy and the Product at the Delivery Point, and bid the Delivered Energy into the Day-Ahead Market and the Real-Time Market consistent with Prudent Operating Practice. Each Party shall perform all scheduling and transmission activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement. Seller (as the Facility's SC) shall ensure that all Delivered Energy is electronically tagged (E-tagged) in accordance with Generally Accepted Utility Practice.

(b) CAISO Costs and Revenues. As Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO costs, including without limitation, all penalties, Imbalance Energy charges, and other charges, and shall be entitled to all CAISO revenues, including without limitation, credits, Imbalance Energy payments, and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product scheduled or delivered from the Facility. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be Seller's responsibility.

(c) CAISO Settlements. Seller (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility.

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EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any material planned changes to the Facility or the Site.

5. Gantt chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.

9. List of issues that are likely to potentially affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. A detailed description of all actions taken by Seller to comply with Prevailing Wage Requirement and Project Labor Agreement requirements of this Agreement.

12. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.

14. Workforce Development reporting (if applicable). Format to be provided by Buyer.

15. Any other documentation reasonably requested by Buyer.

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EXHIBIT F-1

AVERAGE EXPECTED ENERGY

[Average Expected Energy, MWh Per Hour]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
FEB																								
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OCT																								
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DEC																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

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EXHIBIT F-2

AVAILABLE CAPACITY

[Available Generating Capacity, MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

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EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

[(A – B) * (C – D)]

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the lesser of (x) $50.00/MWh and (y) the market value of Replacement Green Attributes based on the average of at least two broker quotes obtained by Buyer from nationally recognized brokers for the purchase of Replacement Green Attributes, or if such quotes are not reasonably available to Buyer, as reasonably determined by Buyer.

D = the Contract Price, in $/MWh

No payment shall be due if the calculation of (A - B) or (C - D) yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after a Contract Year which ends each Performance Measurement Period, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period.

As used herein:

"**Adjusted Energy Production**" shall mean the sum of the following: Delivered Energy + Deemed Delivered Energy + Lost Output.

APPROVAL DRAFT

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by [*LICENSED PROFESSIONAL ENGINEER*] ("**Engineer**") to California Community Power, a California joint powers authority **(**"**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated [*DATE*] ("**Agreement**") by and between [*SELLER*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [*DATE*], Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Guaranteed Capacity.

3. Seller has commissioned all equipment in accordance with its respective manufacturer's specifications.

4. The Facility's testing included a performance test demonstrating peak electrical output of no less than ninety-five percent (95%) of the Guaranteed Capacity at the Delivery Point, as adjusted for ambient conditions on the date of the Facility testing.

5. Authorization to parallel the Facility was obtained from the Transmission Provider on___[DATE]____.

6. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation _____[DATE]_____.

7. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on _____[DATE]_____.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Printed Name: _____

Title: _____

APPROVAL DRAFT

EXHIBIT I

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by [*LICENSED PROFESSIONAL ENGINEER*] ("**Engineer**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated [*DATE*] ("**Agreement**") by and between [*SELLER*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

(a) The performance test for the Facility demonstrated peak electrical output of __ MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test ("**Installed Capacity**").

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Printed Name: _____

Title: _____

APPROVAL DRAFT

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated [*DATE*] ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on _____ (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:
_____.

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as this _____ day of _____, 20__.

[SELLER ENTITY]

By: _____

Printed Name: _____

Title: _____

APPROVAL DRAFT

EXHIBIT K

FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]

Date:
Bank Ref.:
Amount: US$[XXXXXXXX]
Expiry Date:

Beneficiary:

[Buyer]

Attn:

[Address]

Ladies and Gentlemen:

By the order of _____ ("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of California Community Power, a California joint powers authority ("Beneficiary"), for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100), pursuant to that certain Renewable Power Purchase Agreement dated as of _____ and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall renew annually until terminated in accordance with the terms hereof (the "Expiration Date").

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before the Expiration Date of a dated statement purportedly signed by your duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein, referencing our Letter of Credit No. [XXXXXXX] ("Drawing Certificate").

The Drawing Certificate may be presented by (a) physical delivery, (b) as a PDF attachment to an e-mail to [*bank email address*] or (c) facsimile to [bank fax number [XXX-XXX-XXXX]] confirmed by [e-mail to [*bank email address*]]. Transmittal by facsimile or email shall be deemed delivered when received.

The original of this Letter of Credit (and all amendments, if any) is not required to be presented in connection with any presentment of a Drawing Certificate by Beneficiary hereunder in order to receive payment.

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We hereby agree with Beneficiary that all documents presented under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation to Issuer on or before the Expiration Date. All payments made under this Letter of Credit shall be made with Issuer's own immediately available funds by means of wire transfer in immediately available United States dollars to Beneficiary's account as indicated by Beneficiary in its Drawing Certificate or in a communication accompanying its Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance.

This Letter of Credit may only be terminated upon one hundred twenty (120) days' prior written notice from Issuer to Beneficiary by registered mail or overnight courier service that Issuer elects not to extend this Letter of Credit, in which case it will expire on the date specified in such notice. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. In the event of an act of God, riot, civil commotion, insurrection, war or any other cause beyond Issuer's control (as defined in Article 36 of the UCP) that interrupts Issuer's business and causes the place for presentation of the Letter of Credit to be closed for business on the last day for presentation, the Expiration Date of the Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: _____. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

_____
[Insert officer name]
[Insert officer title]

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(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of California Community Power, a California joint powers authority, [address], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").

2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred or other occasion provided for in the Agreement where Beneficiary is authorized to draw on the letter of credit has occurred.

OR

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of California Community Power and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to California Community Power by wire transfer in immediately available funds to the following account:

[Specify account information]

California Community Power

_____
Name and Title of Authorized Representative

Date_____

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EXHIBIT L

FORM OF BUYER LIABILITY PASS THROUGH AGREMENT

This Buyer Liability Pass Through Agreement (this "**BLPTA**") is entered into as of [_____], 20__ (the "**BLPTA Effective Date**") by and between [_____], a [_____] (together with its successors and permitted assigns "**Project Participant**"), California Community Power, a California joint powers authority ("**CC Power**"), and [_____], a [_____] (together with its successors and permitted assigns "**Seller**"). Seller, CC Power, and Project Participant are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**."

RECITALS

WHEREAS, CC Power and Seller have entered into that certain Renewable Power Purchase Agreement (as amended, restated or otherwise modified from time to time, the "**PPA**") dated as of [_____], 20__;

WHEREAS, Project Participant is entering into this BLPTA to secure, in part, California Community Power's obligations under the PPA;

WHEREAS, Project Participant is named as a Project Participant under the PPA and will derive substantial direct and indirect benefits from the execution and delivery of the PPA;

WHEREAS, Seller and CC Power will derive substantial and direct benefits from the execution and delivery of this BLPTA; and

WHEREAS, initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

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

AGREEMENT

1. Project Participant Covenants. For value received, Project Participant does hereby unconditionally, absolutely, and irrevocably guarantee, as obligor and not as a surety, to Seller the complete and prompt payment of [X%] (the "**Liability Share**"), as the same may be adjusted pursuant to Section 4, [Note: Insert percentage from Exhibit S] of all obligations and liabilities for payment now or hereafter owing from CC Power to Seller under the PPA, including liabilities for Monthly Product Payments, any Termination Payment, and any other damage payments or reimbursement amounts (each such obligation or liability of CC Power under the PPA, a "**Guaranteed Amount**"). Any payment made directly from CC Power to Seller under the PPA shall reduce Project Participant's liability hereunder by reducing the total amount that is used to calculate the Guaranteed Amount pursuant to the preceding sentence. This BLPTA is an irrevocable, absolute, unconditional, and continuing guarantee of the punctual payment and performance, and not of collection, of Project Participant's Liability Share of the Guaranteed Amount. In the event CC Power shall fail to duly, completely, or punctually pay any amount owed

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by Buyer pursuant to the terms and conditions of the PPA, and such failure is not remedied within ten (10) Business Days after Notice thereof pursuant to Sections 11.1 or 11.4, as applicable, Project Participant shall promptly pay Project Participant's Liability Share of the Guaranteed Amount, as required herein.

2. **Seller Waiver**. In consideration of the foregoing, Seller unconditionally waives all right to recover directly from CC Power any Termination Payment that is not paid by CC Power pursuant to Sections 11.3 and 11.4 of the PPA, but the foregoing waiver does not apply to any other right or remedy of Seller under the PPA, including the right to recover accrued Monthly Product Payments, other amounts payable or reimbursable under the PPA or any other amounts incurred or accrued prior to termination of the PPA and the right to terminate the PPA as the result of an Event of Default by Buyer.

3. **Demand Notice**. For avoidance of doubt, Seller may demand payment from Project Participant for purposes of this BLPTA only when and if a payment is not duly, completely, or punctually paid by CC Power pursuant to the terms and conditions of the PPA and such failure is not remedied by CC Power within ten (10) Business Days after Notice thereof is issued pursuant to Sections 11.1 or 11.4, as applicable. If CC Power fails to pay any amount when due pursuant to the PPA, and such failure is not remedied by CC Power within ten (10) Business Days after Notice thereof, then Seller may exercise its rights under this BLPTA and make a payment demand upon Project Participant to pay Project Participant's Liability Share of the unpaid Guaranteed Amount (a "**Payment Demand**"). A Payment Demand shall be in writing and shall reasonably specify (a) what amount CC Power has failed to pay, (b) an explanation of why such payment is due and owing, (c) a calculation of the Guaranteed Amount due from Project Participant, and (d) a specific statement that Seller is requesting that Project Participant pay its Guaranteed Liability Share of the unpaid Guaranteed Amount under this BLPTA. Project Participant shall, within fifteen (15) Business Days following its receipt of the Payment Demand, pay to Seller Project Participant's Liability Share of the unpaid Guaranteed Amount.

4. **Step-Up Events**. Within sixty (60) days after the occurrence of a Step-Up Event, Project Participant and CC Power will tender to Seller a duly executed and binding replacement Buyer Liability Pass Through Agreement in the same form as this Agreement, but for a Liability Share equal to the Project Participant's Revised Liability Share. Upon receipt of such executed replacement Buyer Liability Pass Through Agreement, Seller will cancel this Buyer Liability Pass Through Agreement, effective upon the effectiveness of the replacement Buyer Liability Pass Through Agreement. For the avoidance of doubt, the cancellation of an existing Buyer Liability Pass Through Agreement shall not be effective unless and until the replacement Buyer Liability Pass Through Agreement has become effective and binding. Following delivery of such replacement Buyer Liability Pass Through Agreement and cancellation of this Buyer Liability Pass Through Agreement, Exhibit S to the PPA will be deemed amended to reflect the Project Participant's Revised Liability Share; *provided* that the Project Participant's Revised Liability Share shall not exceed one hundred twenty-five percent (125%) of the Project Participant's Initial Liability Share.

5. **Scope and Duration of BLPTA**. The obligations under this BLPTA are independent of the obligations of CC Power under the PPA, and an action may be brought to enforce this BLPTA whether or not action is brought against CC Power under the PPA. This

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BLPTA shall continue in full force and effect from the BLPTA Effective Date until both of the following have occurred: (a) the Delivery Term of the PPA has expired or terminated early, and (b) either (i) all payment and indemnity obligations of CC Power due and payable under the PPA are paid in full (whether directly or indirectly such as through set-off or netting) or have otherwise expired or (ii) Project Participant has paid the maximum Guaranteed Amount (i.e. based on its maximum Revised Liability Share as provided in Section 4) in full. This BLPTA shall also continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Amount by CC Power is rescinded or must otherwise be returned by Seller upon the insolvency, bankruptcy or reorganization of CC Power or similar proceeding, all as though such payment had not been made, and Project Participant's Liability Share of such Guaranteed Amount shall be subject to payment following a Payment Demand issued pursuant to this BLPTA. Without limiting the generality of the foregoing, and to the extent that the Project Participant has not paid its maximum Guaranteed Amount in full, the obligations of the Project Participant hereunder shall not be released, discharged, or otherwise affected, and this BLPTA shall not be invalidated or impaired or otherwise affected for the following reasons:

a) The extension of time for the payment of, or any waiver of, any Guaranteed Amount; or

b) Any amendment, modification or other alteration of the PPA; or

c) Any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount; or

d) Any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting CC Power, or any Project Participant, including but not limited to any rejection or other discharge of CC Power's obligations under the PPA, or such Project Participant's obligations hereunder, imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding; or

e) Any reorganization of CC Power or Project Participant, or any merger or consolidation of CC Power or Project Participant into or with any other Person, or the sale of all or substantially all of the assets of CC Power or Project Participants; or

f) The receipt, release, modification or waiver of, or failure to pursue or seek relief under or with respect to, the PPA, any other BLPTA, guaranty, collateral, pledge or security device whatsoever; or

g) CC Power's, or any Project Participant's inability to pay any Guaranteed Amount or perform its obligations under the PPA or hereunder as the case may be; or

h) Any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, by either CC Power or any Project Participant, including, without limitation, statute of frauds and accord and satisfaction; *provided* that Project Participant reserves the right to assert for itself any defenses, setoffs or counterclaims that CC

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Power is or may be entitled to assert against Seller under the terms of the PPA (but not otherwise), including with respect to disputes regarding the calculation of a Guaranteed Amount.

6. Waivers by Project Participant. Project Participant hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraphs 2 and 3, (a) notice of acceptance, presentment, demand, or protest, notice of any of the events described in Paragraph 5, or any other notice or demand of any kind with respect to the Guaranteed Amounts and this BLPTA, (b) any requirement that Seller pursue or exhaust any right, power or remedy or proceed against California Community Power under the PPA or otherwise or against any other Person, including any obligation to pursue any other BLPTAs, or to marshal assets, (c) any defense based on any of the matters described in Paragraph 4, (d) all rights of subrogation or other rights to pursue CC Power for payments made under this BLPTA until all amounts owing under the PPA have been paid in full, and (e) any duty of Seller to disclose any information or other matters relating to the business, operations or finances or other condition of CC Power, any Project Participant, or any other Person who has provided a BLPTA or other security or guaranty with respect to the PPA now or hereafter known to Seller. Project Participant further acknowledges and agrees that it is and will be bound by actions taken and elections made by CC Power under the PPA and waives any defense based on lack of notice or consent, or CC Power's authority or lack thereof or the validity, regularity or advisability of the actions taken or elections made.

7. Project Participant Representations and Warranties and Covenants. Project Participant hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Project Participant's organizational documents, any applicable Law or any contractual provisions binding on or affecting Project Participant, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Project Participant, threatened, against or affecting Project Participant or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Project Participant to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of the Project Participant), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Project Participant. Project Participant warrants and covenants that with respect to its contractual obligations under this BLPTA, it will not claim and affirmatively waives immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court (provided that such court is located within a venue permitted in Law and under the Agreement), (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment; provided, however that nothing in this Agreement shall waive the obligations or rights set forth in the California Tort Claims Act (Government Code Section 810 et seq.); *provided*, this waiver shall not apply to the City of San José acting in its capacity as a Governmental Authority and not solely as the administrator of San José Clean Energy.

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8. **Seller Representations and Warranties**. Seller hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Seller's organizational documents, any applicable Law or any contractual provisions binding on or affecting Seller, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of Seller, threatened, against or affecting Seller or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Seller to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of Seller), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Seller.

9. **California Community Power Representations and Warranties**. California Community Power hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene California Community Power's organizational documents, any applicable Law or any contractual provisions binding on or affecting California Community Power, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the California Community Power, threatened, against or affecting California Community Power or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of California Community Power to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of California Community Power), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by California Community Power.

10. **Notices**. Notices under this BLPTA shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four (4) Business Days after mailing if sent by certified, first-class mail, return receipt requested. Any Party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 10.

If delivered to Seller, to it at:

[____]
Attn: [____]
Fax: [____]

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If delivered to Project Participant, to it at:

[_____]
Attn: [_____]
Fax: [_____]

If delivered to CC Power, to it at:

[_____]
Attn: [_____]
Fax: [_____]

11. **Governing Law and Forum Selection**. This BLPTA shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its affiliates or designees) with respect to or arising out of this BLPTA shall be brought in the federal courts of the United States or the courts of the State of California sitting in the County of _____.

12. **Miscellaneous**. This BLPTA shall be binding upon the Parties and their respective successors and assigns and shall inure to the benefit of the Parties and their successors and permitted assigns. No provision of this BLPTA may be amended or waived except by a written instrument executed by Seller, CC Power, and Project Participant. No provision of this BLPTA confers, nor is any provision intended to confer, upon any third party (other than the Parties' successors and permitted assigns) any benefit or right enforceable at the option of that third party. This BLPTA embodies the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this BLPTA is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the Parties hereto, and (ii) such determination shall not affect any other provision of this BLPTA and all other provisions shall remain in full force and effect. This BLPTA may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This BLPTA may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

13. **Assignment**. Except as provided below in this Paragraph 13, no Party may assign this BLPTA or its rights or obligations under this BLPTA, without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Seller may, without the prior written consent of Project Participant and CC Power, transfer or assign this BLPTA to any Person to whom Seller may assign its rights or obligations under the PPA, including assignments for financing purposes, including a Portfolio Financing; *provided*, Seller use reasonable efforts to give Project Participant and CC Power Notice at least fifteen (15) Business Days before the date of such proposed assignment and, except in the case of a collateral assignment or other assignment for financing purposes, provide Project Participant and CC Power a written agreement signed by the Person to which Seller wishes to assign its interests that provides that

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such Person will fully assume all of Seller's obligations and liabilities under this BLPTA, including obligations and liabilities that arose prior to the date of transfer or assignment, upon such transfer or assignment. Project Participant may not, without the prior written consent of Seller and CC Power, transfer or assign this BLPTA to any member of CC Power or any other load serving entity; provided that such consent shall not be unreasonably withheld, conditioned or delayed; provided further that it shall not be considered unreasonable for Seller to withhold consent if a proposed transfer or assignment would result in a reduction in the overall credit profile of the Project Participants.

14. No Recourse to Members of Project Participant. Project Participant is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its joint powers agreement and is a public entity separate from its constituent members. Project Participant shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA. Seller and CC Power shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Project Participant's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

15. No Recourse to Members of CC Power. CC Power is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as expressly set forth in the PPA and this BLPTA, CC Power shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA, and as such, Seller and Project Participant shall have no rights and shall not make any claims, take any actions or assert any remedies against any of CC Power's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

16. CleanPowerSF as Project Participant. Paragraph 14 shall not apply with respect to CleanPowerSF as a Project Participant, if CleanPowerSF is a Project Participant, but the following shall apply:

a) Designated Fund. CleanPowerSF payment obligations under this BLPTA are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. CleanPowerSF's payment obligations under this BLPTA are not a charge upon the revenues or general fund of the San Francisco Public Utility Commission ("**SFPUC**") or the City and County of San Francisco or upon any non- CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco.

b) Controller Certification. CleanPowerSF's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of CleanPowerSF are not authorized to request, and CleanPowerSF is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of CleanPowerSF are not authorized to offer or promise, nor is CleanPowerSF required

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to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

c) Biennial Budget Process. For each City and County of San Francisco biennial budget cycle during the term of this BLPTA, CleanPowerSF agrees to take all necessary action to include the maximum amount of its annual payment obligations under this BLPTA in its budget submitted to the City and County of San Francisco's Board of Supervisors for each year of that budget cycle.

d) Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligations under this BLPTA, and must at all times materially comply with such applicable laws as they may be amended from time to time.

e) Prohibition on Political Activity with City Funds. In performing any services required under this BLPTA, Seller shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this BLPTA from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

f) Non-discrimination in Contracts. Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

g) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Seller does not as of the date of this BLPTA, and will not during the term of this BLPTA, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

h) Submitting False Claims. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (1) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (3) conspires to defraud the City by getting a false claim allowed or paid by the City; (4) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (5) is a beneficiary of an inadvertent submission of a false claim to the

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City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

i) Consideration of Salary History. Seller shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Seller is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this BLPTA or in furtherance of this BLPTA, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property.

j) Consideration of Criminal History in Hiring and Employment Decisions. Seller agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to Seller's operations to the extent those operations are in furtherance of the performance of this BLPTA, shall apply only to applicants and employees who would be or are performing work in furtherance of this BLPTA, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

k) Conflict of Interest. By executing this BLPTA, Seller certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this BLPTA.

l) Campaign Contributions. By executing this BLPTA, Seller acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors; Seller's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Seller. Seller shall inform the relevant persons of the limitation on contributions imposed by Section 1.126.

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m) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride principles.

n) Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the Environment Code is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, Seller shall not provide any items to the City in performance of this BLPTA which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of Seller to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

o) Effect on Payment Obligations. The Parties agree that, although breach of an obligation set forth in Sections 16(d) through 16(n) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, and no breach of or default by Seller under Sections 16(d) through 16(n) will relieve Project Participant of its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

17. City of San José (San José Clean Energy) as Project Participant. Paragraph 14 shall not apply with respect to the City of San José as a Project Participant, if the City of San José, as administrator of San José Clean Energy ("**SJCE**") is a Project Participant, but the following shall apply:

a) Designated Fund. The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of the Agreement; *provided*, *however*, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et. seq.*) ("**Designated Fund**") for payment of its obligations under this BLPTA. Subject to the requirements and limitations of applicable law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the SJCE's obligations, SJCE agrees to establish rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this BLPTA.

b) Limited Obligations. SJCE's payment obligations under this BLPTA are special limited obligations of the SJCE payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

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c) Nondiscrimination/Non-Preference. In performing its obligations under this BLPTA, Seller shall not, and shall not cause or allow its subcontractors to, discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. Seller will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Seller from providing a reasonable accommodation to a person with a disability; (ii) the City's Compliance Officer may require Seller to file, and cause any Seller's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City's Compliance Officer designates. They shall contain such information, data and/or records as the City's Compliance Officer determines is needed to show compliance with this provision.

d) Conflict of Interest. Seller represents that it is familiar with the local and state conflict of interest laws and agrees to comply with those laws in performing this BLPTA. Seller certifies that, as of the Effective Date, it was unaware of any facts constituting a conflict of interest or creating an appearance of a conflict of interest. Seller shall avoid all conflicts of interest or appearances of conflicts of interest in performing this BLPTA. Seller has the obligation of determining if the manner in which it performs any part of this BLPTA results in a conflict of interest or an appearance of a conflict of interest and shall immediately notify SJCE in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest. Seller's violation of this subsection (ii) is a material breach.

e) Environmentally Preferable Procurement Policy. Seller shall perform its obligations under this BLPTA in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 13.1(g) be a material breach of this BLPTA or otherwise give rise to an Event of Default or entitle SJCE to terminate this BLPTA.

f) Gifts Prohibited. Seller represents that it is familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. Seller shall not offer any City of San José officer or designated employee any gift prohibited by Chapter 12.08. Seller's violation of this subsection (iv) is a material breach.

g) Disqualification of Former Employees. Seller represents that it is familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San José connected with his/her former duties or official responsibilities. Seller shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

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h) Effect on Payment Obligations. The Parties agree that, although breach of an obligation set forth in Sections 17(d) through 17(g) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, and no breach of or default by Seller under Sections 17(c) through 17(h) will relieve Project Participant of its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

IN WITNESS WHEREOF, the Parties have caused this BLPTA to be duly executed and delivered by their duly authorized representatives on the date first above written.

[**PROJECT PARTICIPANT**]:

By:_____

Printed Name:_____

Title:_____

CALIFORNIA COMMUNITY POWER, a California joint powers authority:

By:_____

Printed Name:_____

Title:_____

[**SELLER**]:

By:_____

Printed Name:_____

Title:_____

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EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [SELLER ENTITY] ("**Seller**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.8(b) of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information:[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Dispatchable (yes or no)	
Point of Interconnection with CAISO Controlled Grid (substation or transmission line)	
Path 26 (North or South)	
LCR Area (if any)	
Flexible Capacity (MW) (if any)	
Flexible Capacity category	
Slice of Day category (if applicable)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit CAISO EFC (MW)	Unit Contract Quantity (MW)
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			

1 To be repeated for each unit if more than one.

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[SELLER ENTITY]

By: _____

Printed Name: _____

Title: _____

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EXHIBIT N

NOTICES

Fish Lake Geothermal LLC, a Nevada Limited Liability Company ("Seller")	**California Community Power, a California joint powers authority** ("Buyer")
All Notices: Street: 3451 N. Triumph Blvd., Suite 201 City: Lehi, UT 84043 Attn: Brady Olson Phone: 385-352-8858 Email: brady@openmountainenergy.com	**All Notices:** Street: 70 Garden Court, Suite 300 City: Monterey, CA 93940 Attn: Tim Haines Phone: 916-207-4078 Email: timhaines@powergridsymmetry.com
Scheduling: Attn: TBD Phone: TBD Email: TBD	**Scheduling:** Attn: TBD Phone: TBD Email: TBD
Confirmations: Attn: TBD Phone: TBD Email: TBD	**Confirmations:** Attn: TBD Phone: TBD Email: TBD
Invoices: Attn: Accounting Phone: 385-352-8858 E-mail: accounting@openmountainenergy.com	**Invoices:** Attn: TBD Phone: TBD E-mail: TBD
Payments: Attn: Accounting Phone: 385-352-8858 E-mail: accounting@openmountainenergy.com	**Payments:** Attn: TBD Phone: TBD E-mail: TBD
Wire Transfer: BNK: [redacted] ABA: [redacted] ACCT: [redacted]	**Wire Transfer:** BNK: TBD ABA: TBD ACCT: TBD
Reference Numbers: Duns: Federal Tax ID Number: 85-4266767	**Reference Numbers:** Duns: Federal Tax ID Number:

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EXHIBIT O

OPERATIONAL CHARACTERISTICS

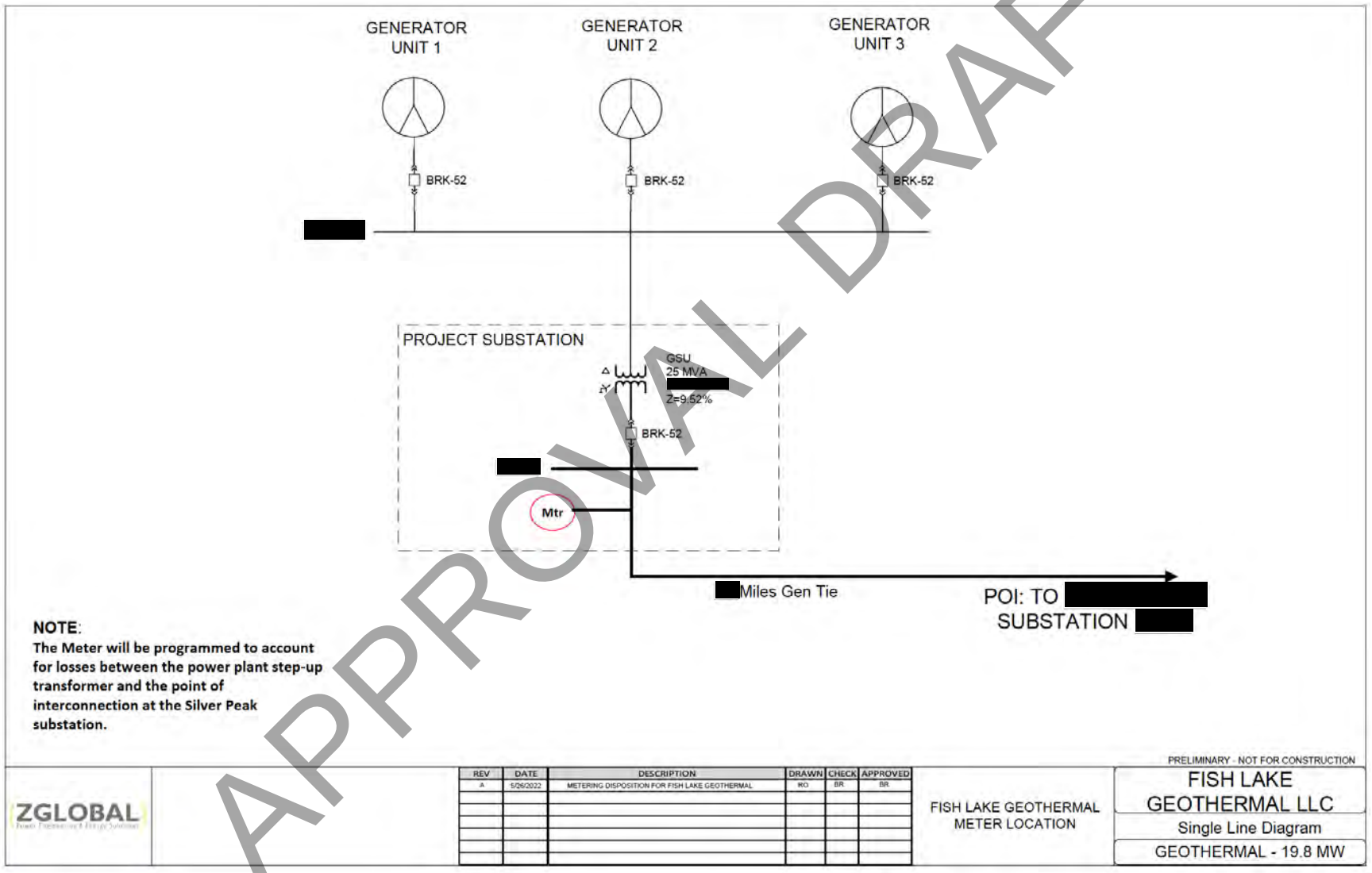
Each calendar month of the Delivery Term, Seller shall maintain minimum Adjusted Energy Production ("AEP") during the hours of 4-9 p.m. PPT (HE17-HE21) in a quantity no less the following:

Month of Delivery Term	Minimum AEP during HE17-HE21 (in MWh)
JAN	[redacted]
FEB	[redacted]
MAR	[redacted]
APR	[redacted]
MAY	[redacted]
JUN	[redacted]
JUL	[redacted]
AUG	[redacted]
SEP	[redacted]
OCT	[redacted]
NOV	[redacted]
DEC	[redacted]

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EXHIBIT P

METERING DIAGRAM



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EXHIBIT Q

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This Consent to Collateral Assignment (this "Consent") is entered into among (i) California Community Power, a California joint powers authority ("CCP"), (ii) *[Name of Seller]*, a *[Legal Status of Seller]* (the "Project Company"), and (iii) *[Name of Collateral Agent]*, a *[Legal Status of Collateral Agent]*, as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the "Secured Parties", and, such agent, together with its successors in such capacity, the "Collateral Agent"). CCP, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a "Party" and jointly as the "Parties". Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the PPA (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

A. Project Company and CCP have entered into that certain Renewable Power Purchase Agreement, dated as of *[Date]* *[List all amendments as contemplated by Section 3.4]* ("PPA"), pursuant to which Project Company will develop, construct, commission, test and operate the geothermal energy facility (the "Project") and sell the Product to CCP, and CCP will purchase the Product from Project Company;

B. As collateral for Project Company's obligations under the PPA, Project Company has agreed to provide to CCP certain collateral, which may include Performance Security and Development Security and other collateral described in the PPA (collectively, the "PPA Collateral");

C. Project Company has entered into that certain *[Insert description of financing arrangements with Lender]*, dated as of *[Date]*, among Project Company, the Lenders party thereto and the Collateral Agent (the "Financing Agreement"), pursuant to which, among other things, the Lenders have extended commitments to make loans to Project Company;

D. As collateral security for Project Company's obligations under the Financing Agreement and related agreements (collectively, the "Financing Documents"), Project Company has, among other things, assigned all of its right, title and interest in, to and under the PPA and Project Company's owners have pledged their ownership interest in Project Company (collectively, the "Assigned Interest") to the Collateral Agent pursuant to the Financing Documents; and

E. It is a requirement under the Financing Agreement and the PPA that CCP and the other Parties hereto shall have executed and delivered this Consent.

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AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

CCP hereby acknowledges:

(a) Notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) The right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rights of Project Company permitted under the PPA (subject to CCP's rights and defenses under the PPA and the terms of this Consent) and accepts any such exercise; *provided*, insofar as the Collateral Agent exercises any such rights under the PPA or makes any claims with respect to payments or other obligations under the PPA, the terms and conditions of the PPA applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that CCP is authorized to act in accordance with Collateral Agent's instructions, and that CCP shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

If Project Company defaults in the performance of any of its obligations under the PPA, or upon the occurrence or non-occurrence of any event or condition under the PPA which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable CCP to terminate or suspend its performance under the PPA (a "PPA Default"), CCP will not terminate or suspend its performance under the PPA until it first gives written notice of such PPA Default to Collateral Agent and affords Collateral Agent the right to cure such PPA Default within the applicable cure period under the PPA, which cure period shall run concurrently with that afforded Project Company under the PPA. In addition, if Collateral Agent gives CCP written notice prior to the expiration of the applicable cure period under the PPA of Collateral Agent's intention to cure such PPA Default (which notice shall include a reasonable description of the time during which it anticipates to cure such PPA Default) and is diligently proceeding to cure such PPA Default, notwithstanding the applicable cure period under the PPA, Collateral Agent shall have a period of sixty (60) days (or, if such PPA Default is for failure by the Project Company to pay an amount to CCP which is due and payable under the PPA other than to provide PPA Collateral, thirty (30) days, or, if such PPA Default is for failure by Project Company to provide

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PPA Collateral, ten (10) Business Days) from the later to occur of (i) Collateral Agent's receipt of the notice of such PPA Default from CCP and (ii) the expiration of the cure periods available to the Project Company in the PPA to cure such PPA Default; *provided*, that (a) if possession of the Project is necessary to cure any such non-monetary PPA Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days from the later to occur of (i) Collateral Agent's receipt of the notice of the PPA Default and (ii) the expiration of the cure periods available to the Project Company in the PPA and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days from the later to occur of (i) Collateral Agent's receipt of the notice of the PPA Default and (ii) the expiration of the cure periods available to the Project Company in the PPA, to complete such proceedings and cure such PPA Default, and (b) if Collateral Agent is prohibited from curing any such PPA Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a PPA Default shall be extended for the period of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide CCP with reports concerning the status of efforts to cure a PPA Default upon CCP's reasonable request.

1.4 Substitute Owner.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a "Financing Document Default Notice") CCP that an event of default has occurred and is continuing under the Financing Documents (a "Financing Document Event of Default") then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the "Substitute Owner") under the PPA, and, subject to Sections 1.7(b) and 1.7(c) below, CCP and Substitute Owner will recognize each other as counterparties under the PPA and will continue to perform their respective obligations (including those obligations accruing to CCP and the Project Company prior to the existence of the Substitute Owner) under the PPA in favor of each other in accordance with the terms thereof; *provided*, before CCP is required to recognize the Substitute Owner, the Substitute Owner must (i) be the Collateral Agent or a permitted assignee under the PPA or (ii) have financial qualifications and operating experience of *[TBD]* (a "Permitted Transferee"). For purposes of the foregoing, CCP shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the PPA is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) certify the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the PPA is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Project (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) ("Replacement Owner"), CCP shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the PPA remaining to be performed having terms substantially the same as the

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terms of the PPA with respect to the remaining Term ("Replacement PPA"); *provided*, before CCP is required to enter into a Replacement PPA, the Replacement Owner shall satisfy the requirements of a Permitted Transferee. For purposes of the foregoing, CCP is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) certify the same. Notwithstanding the execution and delivery of a Replacement PPA, to the extent CCP is, or was otherwise prior to its termination as described in this Section 1.5, entitled under the PPA (subject to Section 1.3 hereof), CCP may suspend performance of its obligations under such Replacement PPA, unless and until all PPA Defaults of Project Company under the PPA or Replacement PPA have been cured (subject to Section 1.3 hereof).

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Project and the PPA and a Replacement PPA to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Project is transferred; *provided*, the proposed transferee shall be a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing all of the obligations of Project Company, Substitute Owner or Replacement Owner under the PPA or Replacement PPA, as applicable, including posting and collateral assignment of the PPA Collateral. Upon such assignment and the cure of any outstanding PPA Default except for any such defaults that are both personal to the transferor and not curable by the transferee, and payment of all other amounts due and payable to CCP in respect of the PPA or such Replacement PPA, the transferor shall be released from any further liability under the PPA or Replacement PPA, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the PPA, including posting and collateral assignment of the PPA Collateral; *provided*, the obligations of such Substitute Owner shall be no more than those of Project Company under the PPA.

(c) No Liability.

CCP acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the PPA as a result of this Consent (except to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the PPA, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing

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Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement PPA, Collateral Agent shall not have any personal liability to CCP under the PPA or Replacement PPA and the sole recourse of CCP in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Project; *provided*, such limited recourse shall not limit CCP's right to seek equitable or injunctive relief against Collateral Agent, or CCP's rights with respect to any offset rights expressly allowed under the PPA, a Replacement PPA or the PPA Collateral.

1.8 Delivery of Notices.

CCP shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by CCP to Project Company pursuant to the PPA relating to (a) a PPA Default by Project Company under the PPA, (b) any claim regarding Force Majeure by CCP under the PPA, (c) any notice of dispute under the PPA, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy CCP's obligation to give Collateral Agent a notice of PPA Default under Section 1.3. Collateral Agent shall deliver to CCP, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to any indebtedness of Project Company being declared immediately due and payable under the Financing Documents.

1.9 Confirmations.

CCP will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the PPA (including the performance of same by Project Company); *provided*, such confirmation may be limited to matters of which CCP is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of CCP under the PPA as between CCP and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.5, 1.8, 1.9, 1.11 and 2.1, unless and until CCP receives a Financing Document Default Notice, CCP shall deal exclusively with Project Company in connection with the performance of CCP's obligations under the PPA. From and after such time as CCP receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement PPA is entered into or the PPA is transferred to a Person to whom the Project is transferred pursuant to Section 1.6, CCP shall, until Collateral Agent confirms to CCP in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of CCP's obligations under the PPA, and CCP may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

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1.11 No Amendments.

To the extent permitted by Laws, CCP agrees that it will not, without the Project Company obtaining prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the PPA (b) terminate or suspend its performance under the PPA (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the PPA by Project Company.

SECTION 2. PAYMENTS UNDER THE PPA

2.1 Payments.

Unless and until CCP receives written notice to the contrary from Collateral Agent, CCP will make all payments to be made by it to Project Company under or by reason of the PPA directly to Project Company at the following account: [_____] or, to such other Person or at such other address or account as Collateral Agent may from time to time specify in writing to CCP. CCP, Project Company, and Collateral Agent acknowledge that CCP will be deemed to be in compliance with the payment terms of the PPA to the extent that CCP makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by CCP under the PPA shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the PPA.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF CCP

CCP makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

CCP is a joint powers authority and community choice aggregator duly organized and validly existing under the laws of the State of California, and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. CCP has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by CCP of this Consent and the PPA have been duly authorized by all necessary corporate or other action on the part of CCP and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of CCP which, if not obtained, will prevent CCP from performing its obligations

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hereunder or under the PPA except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the PPA is in full force and effect, have been duly executed and delivered on behalf of CCP by the appropriate officers of CCP, and constitutes the legal, valid and binding obligation of CCP, enforceable against CCP in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) neither CCP nor, to CCP's actual knowledge, Project Company, is in default of any of its obligations under the PPA; (b) CCP and, to CCP's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to CCP's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CCP or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

CCP has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the PPA.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and CCP:

4.1 Organization.

Project Company is a *[Legal Status of Seller]* duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the PPA to the Collateral

APPROVAL DRAFT

Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, CCP, is in default of any of its obligations thereunder; (b) Project Company and, to Project Company's actual knowledge, CCP, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CCP or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the PPA.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of CCP and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent.

5.2 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

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SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the PPA (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to CCP or Project Company, in accordance with *[Notice Section of the PPA]* of the PPA, (b) if to Collateral Agent, to *[Collateral Agent Name]*, *[Collateral Agent Address]*, Attn: *[Collateral Agent Contact Information]*, Telephone: *[___]*, Fax: *[___]*, and (c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the PPA. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.

APPROVAL DRAFT

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may be (a) terminated, amended, supplemented or modified, except by an instrument in writing signed by CCP, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until CCP has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the PPA or any Replacement PPA, its obligations under such PPA or Replacement PPA have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assigns permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

CCP hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

APPROVAL DRAFT

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

APPROVAL DRAFT

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

[NAME OF PROJECT COMPANY], *[Legal Status of Project Company]*.		CALIFORNIA COMMUNITY POWER, a California joint powers authority.
By: _____ *[Name]* *[Title]* Date: _____		**By:** _____ *[Name]* *[Title]* Date: _____
[NAME OF COLLATERAL AGENT], *[Legal Status of Collateral Agent]*. By: _____ *[Name]* *[Title]* Date: _____		

APPROVAL DRAFT

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

APPROVAL DRAFT

EXHIBIT R

[RESERVED]

APPROVAL DRAFT

EXHIBIT S

PROJECT PARTICIPANTS AND LIABILITY SHARES

Project Participant	Liability Share
Central Coast Community Energy	18.6%
CleanPowerSF	14.5%
Peninsula Clean Energy	17.8%
Redwood Coast Energy Authority	2.8%
City of San José, as administrator of San José Clean Energy	17.4%
Silicon Valley Clean Energy	14.0%
Sonoma Clean Power Authority	11.7%
Valley Clean Energy	3.2%

APPROVAL DRAFT

PENINSULA CLEAN ENERGY AUTHORITY
Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: KJ Janowski, Director of Marketing and Community Relations

SUBJECT: Summary of Findings from Annual Awareness/Perception Research

BACKGROUND:

Peninsula Clean Energy fielded a research study in May 2022 and final results were received in July 2022. The impetus for the research was to gain insights that will improve both the development of community programs and the messaging that calls residents to action.

The specific objectives of the research were to assess awareness and perception of San Mateo County and Los Banos residents regarding:

- Peninsula Clean Energy brand, including variances between San Mateo County and Los Banos residents
- Establish benchmark metrics for residents of Los Banos
- Benefits, obstacles to adoption, and purchase interest in electric vehicles (EVs)

This memo provides a summary of key findings and implications.

DISCUSSION:

Approach

The research study was designed and conducted by Hiner & Partners, Inc. A letter invitation from the County of San Mateo Office of Sustainability (OOS) was mailed to a random sample of 27,000 San Mateo County residents. A similar letter invitation from the City of Los Banos was mailed to a random sample of 14,092 Los Banos customers. This sample included customers and non-customers of Peninsula Clean Energy. The letter, printed in English and Spanish, invited recipients to respond to a self-administered online survey offered in English and Spanish. (Only 6 respondents chose to take the survey in Spanish, 3 in San Mateo County and 3 in Los Banos.) Letter recipients were offered an incentive for two winners of $500 and 20 prizes of $100 each. The response rate to the invitation was 7.2% (7.3% response in San Mateo County and 7.1% in Los Banos). Participants were offered the opportunity to complete the

survey over the phone and 2 of them chose to do so. The online survey took an average of 24 minutes to complete. Surveys were completed between May 6 and May 30, 2022.

The final sample was normalized to better reflect the population characteristics of the two geographies (San Mateo County and Los Banos). Non-customers were sampled down to reflect their proportion in the general population. Weights were applied to reflect census demographics for each geography's ethnicity proportions and the sample was randomly reduced to achieve the known proportion of EVs in San Mateo County (11%) and in Los Banos (3%) based on California Department of Motor Vehicles registration data. This resulted in a final, normalized sample size of **2,264**. The margin of error for the (unweighted) San Mateo sample of 1,972 at the 95% confidence level is +/- 2.2% and for the (unweighted) Los Banos sample of 1,004 at the 95% confidence level is +/- 3.1%. Up arrows in green and down arrows in red indicate statistically significant differences between data points.

Throughout this report, the sample size for each chart is indicated by "N=." For example, N=500 would indicate that 500 respondents answered a particular question. Where samples for each geography are noted, they are in the format of "San Mateo County sample / Los Banos sample."

San Mateo County Participant Profile
The normalized participant profiles generally align with Census data for San Mateo County.

	Survey Sample – San Mateo County			
Self Identified Race	**2020**	**2021**	**2022**	**Census****
White	37%	37%	37%	39%
Asian / Pacific Islander	30%	29%	29%	31%
Hispanic	24%	25%	25%	24%
Other	9%	9%	8%	6%

Age	**2020**	**2021**	**2022**	**Census***
18 – 34	19%	17%	15%	83.4%
35 – 44	19%	26%	20%	
45 – 54	21%	19%	20%	
55 – 64	21%	17%	20%	
65+	19%	21%	24%	16.6%

Income	2020	2021	2022	Income	Census*
Less than $50K	13%	13%	9%	Below $128,091	50%
$50K to less than $100K	20%	19%	18%		
$100K to less than $150K	17%	15%	28%		
$150K to less than $250K	20%	21%	26%	Above $128,091	50%
$250K+	18%	17%	22%		

* Source: US Census Bureau

A substantial number of apartment and condo dwellers responded to the survey.

	Survey Sample – San Mateo County		
Dwelling Type	2020	2021	2022
Detached Single Family Home	54%	57%	61%
Unit in a Larger Building (Duplex, Apt, Condo)	41%	40%	34%
Accessory Dwelling (Granny flat, in-law unit)	1%	1%	1%
Other	2%	1%	2%

Los Banos Participant Profile
The normalized participant profile generally aligns with the Census data for Los Banos.

	Survey Sample – Los Banos	
Self Identified Race	2022	Census**
White	18%	20%
Asian / Pacific Islander	2%	3%
Hispanic	70%	71%
Other	9%	6%

Age	2022	Census*
18 – 34	19%	89.7%
35 – 44	26%	
45 – 54	36%	
55 – 64	18%	
65+	17%	10.3%

Home Ownership	2022	Census*
Owner	67%	57.3%
Renter	31%	42.7%

Home Ownership	2022	Census*
Owner	67%	57.3%
Renter	31%	42.7%

* Source: US Census Bureau

The vast majority of Los Banos participants were dwellers in single family homes, reflecting the preponderance of dwelling types in that jurisdiction.

Dwelling Type	2022 Los Banos
Detached Single Family Home	84%
Unit in a Larger Building (Duplex, Apt, Condo)	7%
Accessory Dwelling (Granny flat, in-law unit)	1%
Other	2%

Brand Awareness and Perception

41% of **San Mateo County** respondents were aware that Peninsula Clean Energy is an energy provider from whom they can purchase electricity for their home. This “total awareness” (aided plus unaided) represented a statistically significant increase from the 31% captured in the 2021 survey. Unaided awareness (Peninsula Clean Energy listed by respondent, without prompting, as an energy provider) was 14%, a slight but statistically insignificant increase from the 2021 survey.

Of the **San Mateo County** respondents who are aware of Peninsula Clean Energy, 54% had a favorable perception (and 38% were not sure). This compares favorably to the 49% favorability rating for PG&E among those who are aware of PG&E. Respondents who are 55 and older, White, homeowners living in single family dwellings are more likely than other groups to be aware of Peninsula Clean Energy and to have a more favorable view.

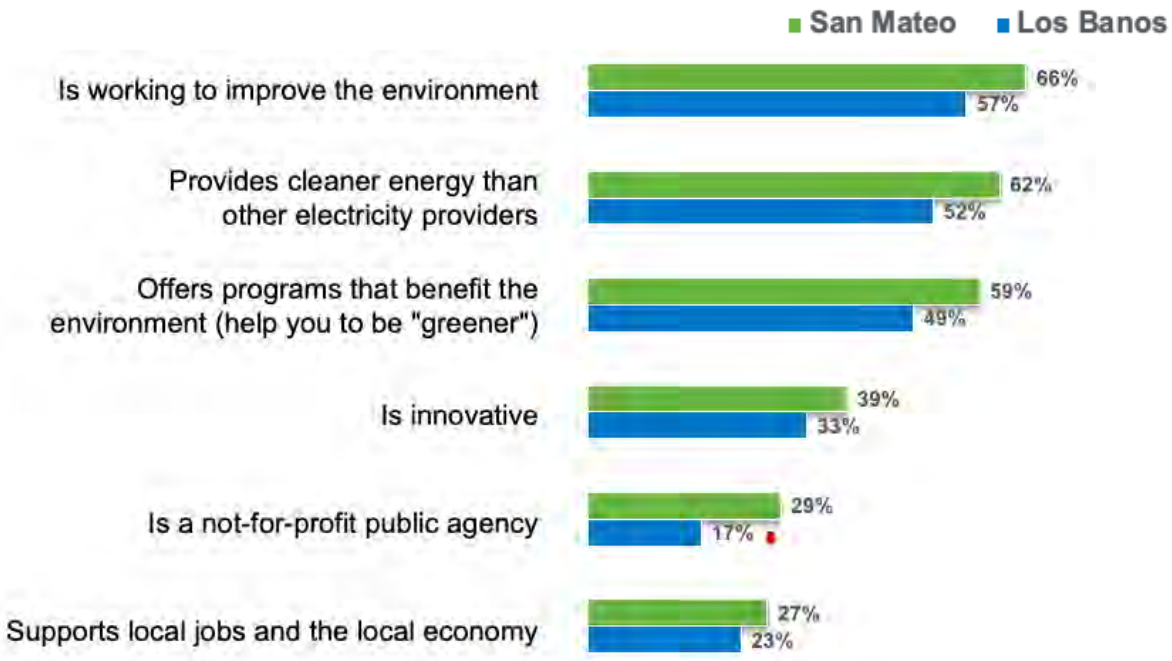
14% of **Los Banos** respondents were aware that Peninsula Clean Energy is an energy provider from whom they can purchase electricity for their home. Unaided awareness was measured at 6%, which compares favorably to the unaided awareness in San Mateo County in 2017, which was measured at 3% at that point in time.

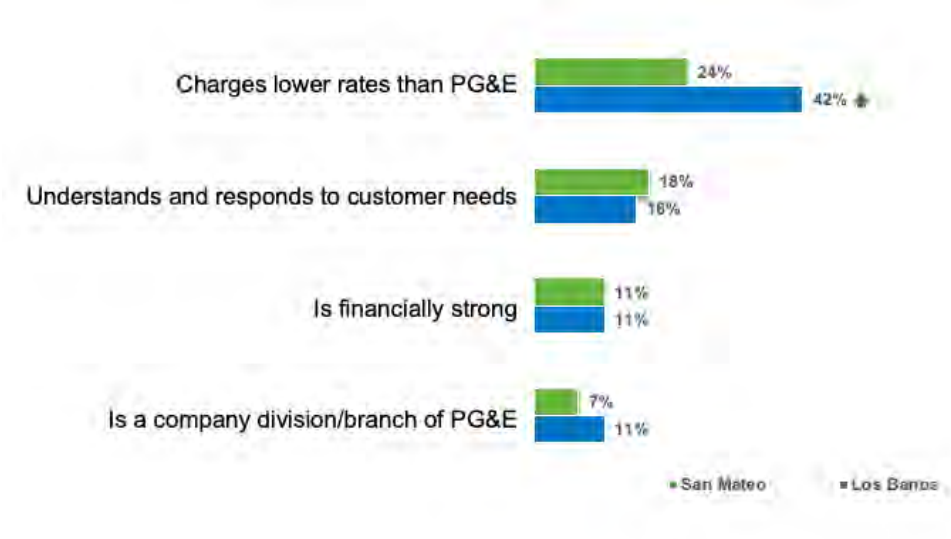
Of the **Los Banos** respondents who are aware of Peninsula Clean Energy, 30% had a favorable perception (and 57% were not sure). Los Banos residents have a more favorable perception of PG&E (66% favorable) than is the case for **San Mateo County** residents. This is likely a reflection of a lack of familiarity.

The messages Peninsula Clean Energy intends to convey to residents are registering among those who are aware of the agency. The graphs below compare the ratings of San Mateo County residents with those of Los Banos residents. Performance in San Mateo County has remained consistent with the previous two annual surveys. Note that the arrows indicate significant differences between San Mateo County and Los Banos at the 95% confidence level. Perceptions of Los Banos residents align with those of San Mateo County residents except regarding the “non-profit agency” and “charges lower rates than PG&E.” The latter perception reflects our emphasis on this message in our Los Banos enrollment communications.

Question: For each statement, please indicate if you think it is true or false about Peninsula Clean Energy.

Base: Aware of Peninsula Clean Energy, N = 535 / 121





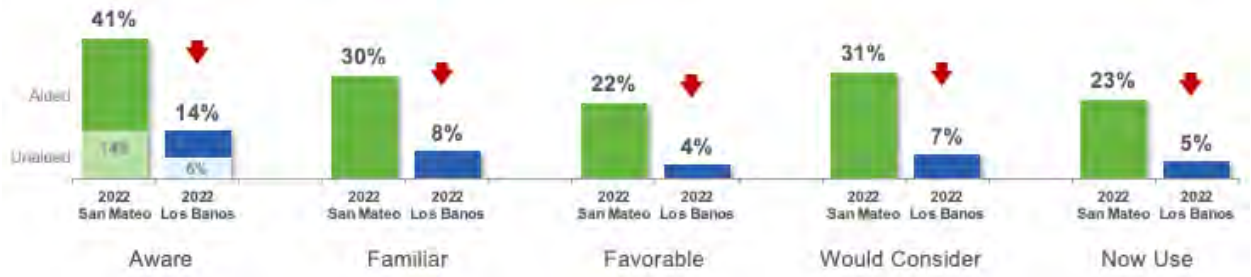
Note that a substantial portion of respondents are “not sure” about these attributes.

Persuasion Monitor™
The concept of Persuasion Monitor deconstructs the stages of persuasion to look at where improvements are needed. These are a type of “funnel metrics” in which each subsequent stage of the funnel is dependent on the preceding stage. So, customers typically become aware before they are familiar and usually register favorability after familiarity, etc.

Looking at the differences between each stage of these metrics helps identify where our messaging and marketing is on track and can indicate where improvements could be made. So, for example, a large cliff dropping off from awareness to familiarity would indicate that our messages are not resonating with the residents. Similarly, a large dropoff between familiar and favorable, would indicate that customers may not trust or believe the claims we are making or are judging us unfavorably. Peninsula Clean Energy’s persuasion metrics do not exhibit such dramatic declines from stage to stage. This would indicate that our messaging is on track but that our reach is not broad enough or frequent enough to generate the awareness that we are seeking (strategic target of 60% by 2025).

Persuasion monitor questions 1-6 covering awareness, rankings of familiarity, favorability, consideration and whether currently using.

Base: Total Sample (N = 1326 / 938)



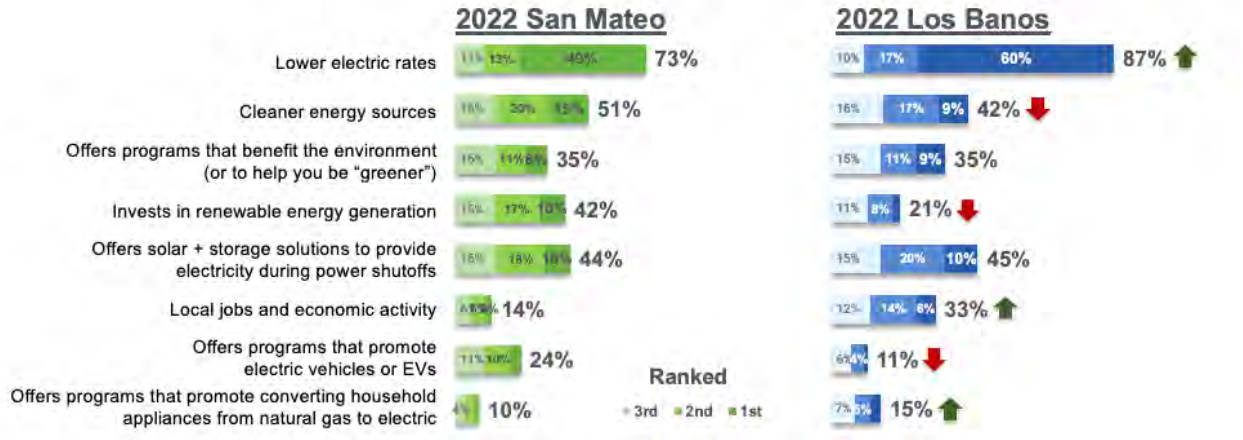
Arrows indicate statistically significant difference between San Mateo County and Los Banos at the 95% confidence level.

Resident Priorities

When asked about the top three advantages of importance for an electricity provider, nearly half of **San Mateo County** respondents and 60% of **Los Banos** respondents choose “lower electric rates” as the top priority. In San Mateo County, the rank order of priorities is quite similar to previous years with one exception. The importance of “programs that promote electric vehicles” was chosen as 1, 2 or 3 in importance by 24% of respondents compared to 14% and 17% in 2020 and 2021, respectively. A substantial portion of respondents from both geographies rate “offers solar + storage solutions to provide electricity during power shutoffs” in the top 3 important priorities.

Question: If a provider of electricity to your home could offer all the advantages listed below, which three would be most important to you?

Base: Total Sample, N = 1326 / 938



Arrows indicate statistically significant difference between San Mateo County and Los Banos at the 95% confidence level.

Electric Vehicle Awareness and Perceptions

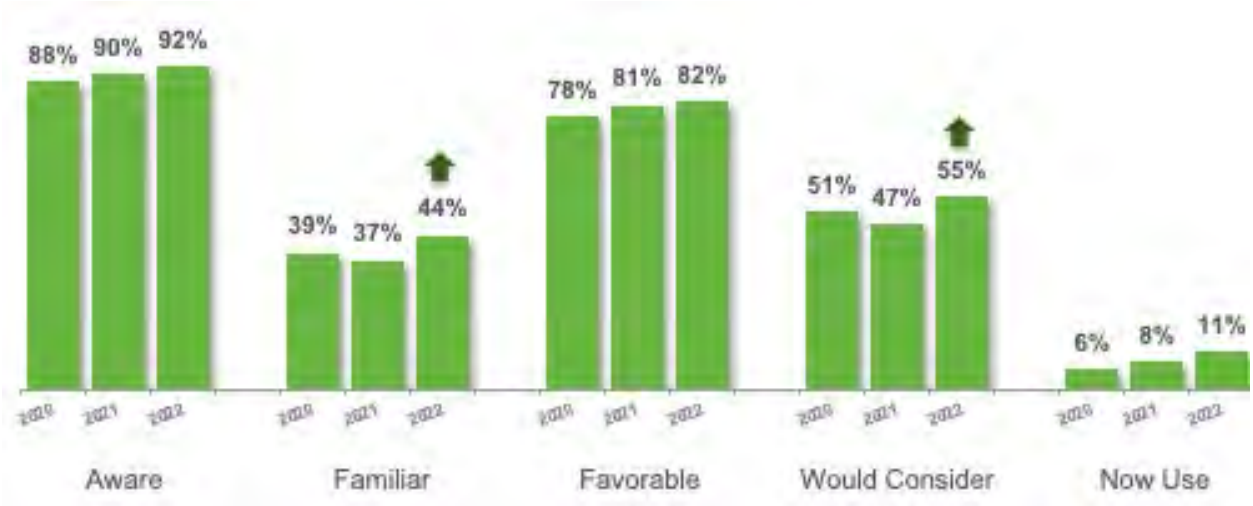
In **San Mateo County** the persuasion monitor for electric vehicle (EV) adoption shows strong momentum, with significant increases in favorability and consideration. This mirrors the increase in the priority rating for “programs that promote EVs” noted above. Low familiarity alongside the high awareness indicates a need for more substance in communications, such as range/price/operating cost details to overcome barriers.

[memo continues on next page]

EV Persuasion Monitor – San Mateo County

Questions: Before seeing this list, which of the electric vehicle types listed below had you heard of, as being available today in San Mateo county? and *How familiar would you say you are with the various types of electric vehicles that are available now?* and *What is your opinion of electric vehicles?* and *Which of the following types of vehicles are currently owned/leased by members of your household, including yourself? Please check all that apply.*

Base: Total Sample 2020/2021/2022 (N = 1777 / 509 / 1326)

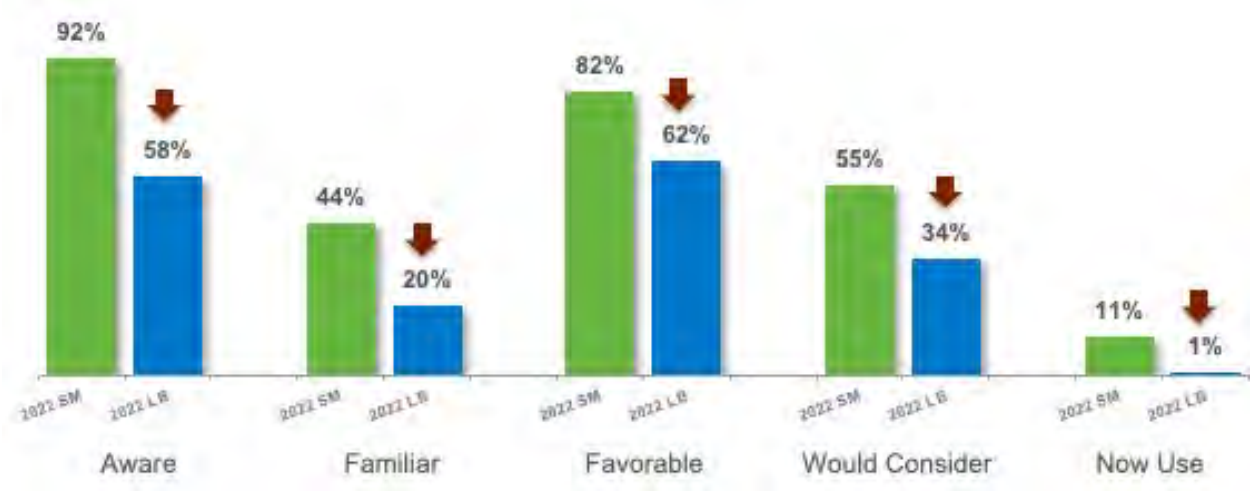


Arrows indicate statistically significant difference between 2022 and 2021 data at the 95% confidence level.

Among **Los Banos** respondents, the EV persuasion metrics are lower across the board but still exhibit the same dropoff from awareness to familiarity as is the case in **San Mateo County**. This implies that more substance in communications is needed as well as methods to improve awareness of the benefits of EVs. (Arrows indicate a significant difference between San Mateo County and Los Banos at the 95% confidence level.)

EV Persuasion Monitor – San Mateo County vs. Los Banos

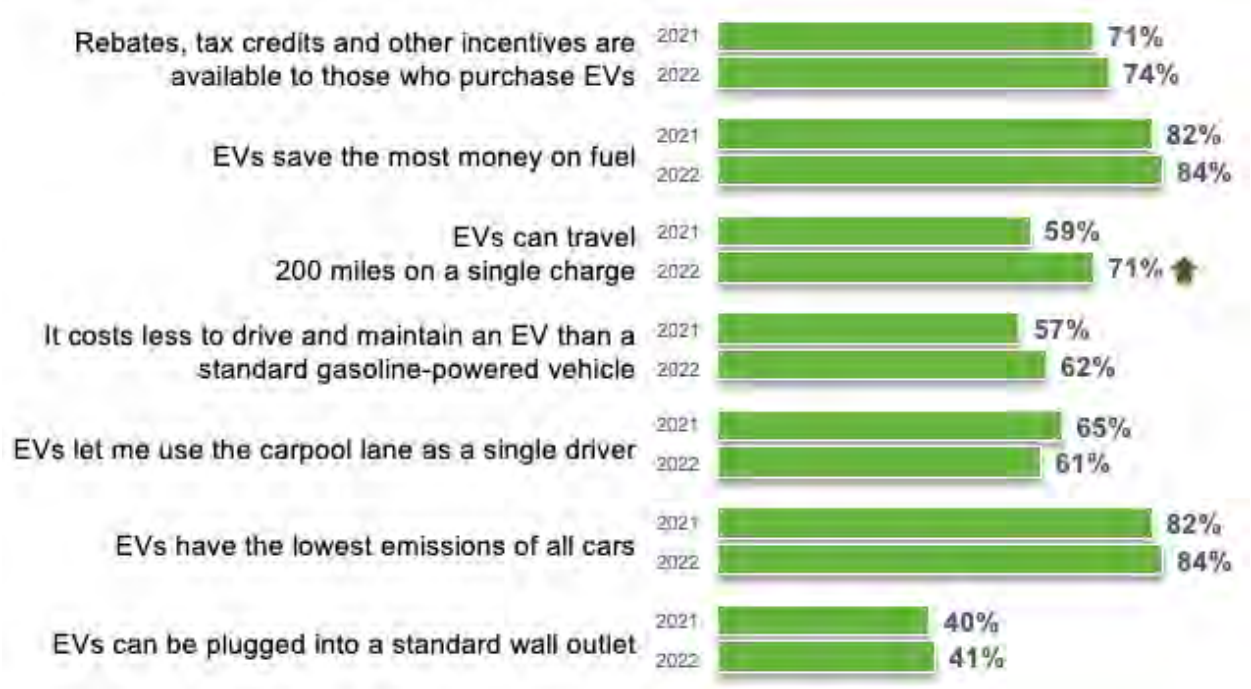
Base: Total Sample: (N = 1326 / 938)



Arrows indicate statistically significant difference between San Mateo County and Los Banos at the 95% confidence level.

Among **San Mateo County** respondents, high percentages agree with most factual statements about EVs at similar levels as in the 2021 survey. Awareness of the 200+ mile range is most improved.

Question: Please indicate your agreement with the following statements about plug-in electric vehicles.
Base: Total San Mateo County Sample (N = 1326)



Arrows indicate statistically significant difference between 2022 and 2021 data at the 95% confidence level.

EV Purchase Motivations and Barriers, Purchase Interest
The leading factors stimulating interest in EVs is cost of operation and the price of the vehicle. The primary barrier is affordability, followed by lack of convenient charging stations and range concerns. **San Mateo County** respondents show increased interest in purchasing EVs, with 57% of new vehicle purchasers indicating a high probability of purchasing an EV when they next buy a new vehicle compared with 49% in the 2021 survey.

Place to Charge an EV
Across all **San Mateo County** respondents, 69% claim they have a place to plug in, compared to 56% in the 2021 survey. This incidence is higher among higher income groups and those who live in a single-family dwelling. About half report that there is a public charging station convenient to their home or work, a significant increase over the 37% who reported this last year.

Implications for Marketing and Messaging
Our overall brand messaging is on track as indicated by high favorability among those who are aware, and the fact that residents attribute to the brand the attributes that Peninsula Clean Energy intends to convey. While total awareness has increased compared to the 2021 survey, there is still a long way to go to reach our target 60% awareness. This can be achieved by greater investment in broader and more frequent communication through owned, earned and paid media as well as outreach both directly to the community and through leveraging our community partner relationships.

In **San Mateo County**, persuasion metrics for EV adoption are strong and show momentum. There is lower awareness and familiarity among the **Los Banos** residents. In both geographies, there is a need for communications that provide information about range, cost and other motivators and barriers to adoption.

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: KJ Janowski, Director of Marketing and Community Relations

SUBJECT: Electrification Messaging Update on Research and Implications

BACKGROUND:
At the September 25, 2021 strategic retreat, the Peninsula Clean Energy Board of Directors received a staff presentation on the topic of "2045 Decarbonization and Peninsula Clean Energy Programs." At that meeting, the Board adopted a goal of 100% greenhouse gas free by 2035 and directed Peninsula Clean Energy staff to return with a plan for achieving that goal.

The staff presentation noted that, among the critical challenges in meeting that goal, were: "building public awareness and motivation" and "making it easy to take action." Following the retreat, the Peninsula Clean Energy Marketing team began developing a concept for a campaign that would inspire residents to electrify their transportation and their residences, encouraging them to consider the benefits of switching out of fossil fuels and into clean electricity for these purposes. The intention is that this messaging will overarch our customer communications and that individual programs also would be promoted within this overarching messaging.

In order to ensure that our messaging resonated with our customers, Marketing embarked on customer research to better understand the perceived benefits of electrification. This memo provides a summary of key findings and implications.

DISCUSSION:

Approach
Our market research approach consisted of two major parts: 1) in-depth, one-on-one interviews and 2) an online survey.

The purpose of the in-depth interviews was to articulate current appliance shopping criteria, translate potential building electrification messaging to consumer language, and gain reactions to an "all-electric" concept and preliminary taglines. Fifty-minute interviews were conducted over Zoom with 16 San Mateo County adult residents (11 homeowners, 5 renters) in January and February 2022. Respondents were recruited from all Peninsula Clean Energy customers but

were screened to include only individuals who had “some” or “a lot” of concern about climate change. Interviewees each received $150 as an incentive to participate.

The goals of the online survey (completed by 1,081 Peninsula Clean Energy customers residing in San Mateo County) were to identify and characterize segments with distinctive appliance selection criteria, select segments for marketing targets, inform the development of messaging for targeted segments and update the status of marketplace persuasion regarding building electrification. Emailed invitations were sent in March to a sample of 27,472 customers for whom email addresses were available. Responses were incentivized with a sweepstakes offering 2 winners of $500 and 10 winners of $100. A response rate of 3.9% yielded 1081 completed surveys.

Findings
From the in-depth interviews, some themes emerged which were further tested in the online survey. Interviewees generally did not understand that combusting methane gas in the home contributes to climate change. They believed that switching from methane gas appliances to electric ones requires a high out-of-pocket cost and large effort and involves processes that are not well understood. Perceptions of electric appliances, particularly electric stoves, are outdated. Concerns about reliability of electricity were expressed by some of the interviewees. From the interviews, a list of 32 appliance decision factors was generated which became an input to the online survey.

The online survey asked respondents to rate the appliance decision factors on an importance scale of 1 to 10 where 10 was extremely important. The factors were subsequently grouped into the following categories.

Climate Friendly
Reflect my concerns about climate change
Lower my household’s carbon footprint
Help me act to protect the environment for future generations
Have no emissions that contribute to climate change
Run on a renewable energy source
Do not emit any greenhouse gases
May cost more to buy and install but are better for the environment
Use no fossil fuels to operate

Health/Safety
Are safer/ no risk of explosions or leaks
Do not risk the release of unsafe emissions into my home
Are healthier / protects my home’s indoor air quality
Anticipate regulatory changes that may be required in the future

All-Electric, No Methane
Do not use natural gas (also known as methane gas) to operate
Preserve or move my home toward being an all-electric home

Pride/Unique
I would enjoy showing to my guests
I might be among the first to own/is a bit unique
Are recommended by my contractor

Costs Less

Have very low installation costs
Cost less to purchase
Cost less to run for a typical year
Come with a rebate offer
Use a lower cost power source
Don't require me to do much research to select

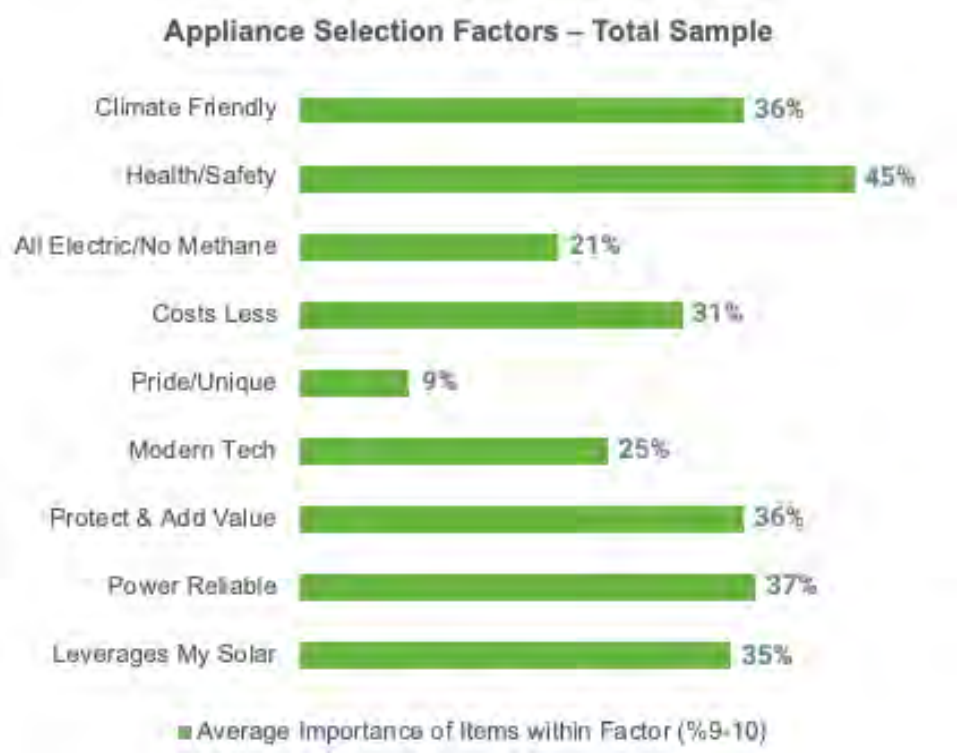
Modern Technology
Are technologically up to date
Can integrate with smart home systems
Look and feel modern

Protect and Add Value
May cost more to buy and install but would reduce costs in the long run
Protect the value of my home
Add to the value of my home in the long run

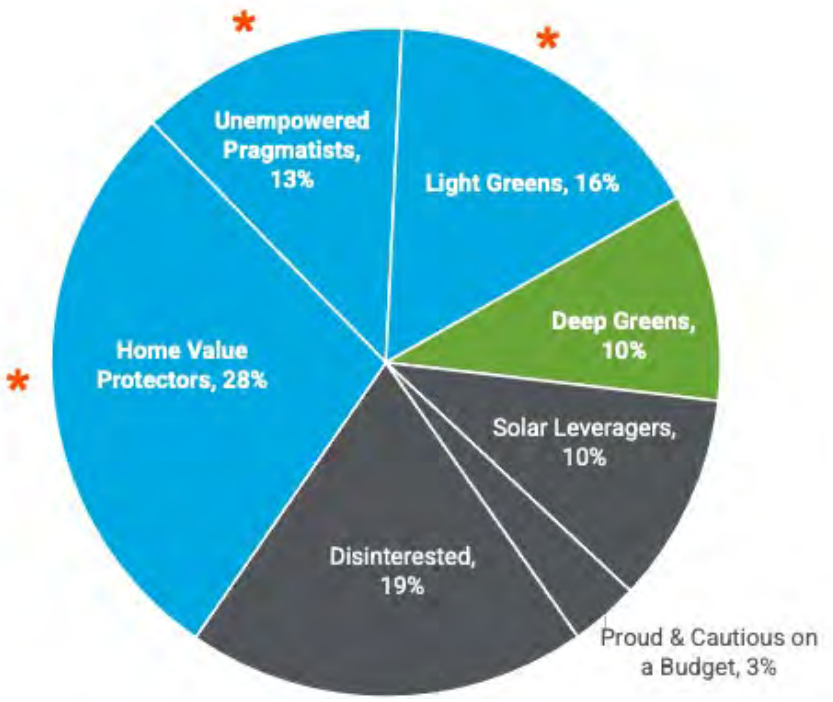
Power Reliable
Can continue to operate during a power outage
Lessen my home's load on the electricity grid

Leverages My Solar
Use the energy from solar panels I have now or may install

Across the entire sample, one group of factors stood out – health and safety. The chart below shows the percentage of respondents rating health and safety factors a 9 or 10 on the scale of 1 to 10 in importance. (N=1081).



Respondents were then sorted into segments, using a statistical technique known as “cluster analysis,” based on how they valued these different groups of decision factors. The chart below shows the segments that were identified and the estimated portion of our customers that fall into each segment. (N=1081) Each of these segments, by definition, has a slightly different ranking of decision factors. Our aim is to identify a few succinct benefits that would resonate with a significantly large portion of our customers. The primary segments depicted below in blue and marked with a red asterisk were chosen based, in part, on the understanding that they share a sufficient commonality of perceived benefits and attitudes and yet comprise nearly 60% of our total residents in San Mateo County.



The Deep Green segment is a small but important segment but the main message that persuades this group is a bit different from the messages that best address the three primary segments.

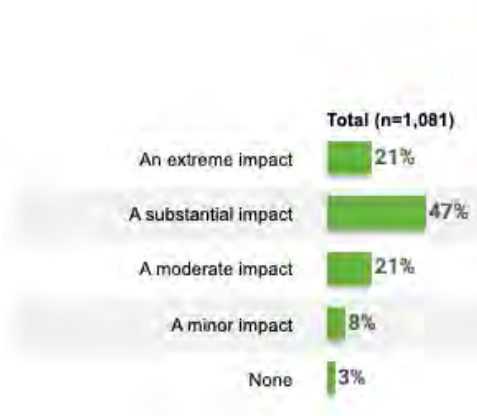
The table below shows a sample of some of the selection factors across the three and primary segments and the Deep Green segment. The percentages shown for each of the decision factors are the percentage of respondents in that segment who rated that factor as 9 or 10 on an importance scale of 1-10 (10=extremely important).

[memo continues on next page]

		Home Value Protectors	Unempowered Pragmatists	Light Greens	Deep Greens
	Share of Market	28%	13%	16%	10%
	Appliance selection factors	--------% rating top 2 on scale of 1-10--------			
Health/Safety	Are safer/ no risk of explosions or leaks	75%	69%	72%	72%
	Do not risk the release of unsafe emissions into my home	71%	62%	70%	82%
	Are healthier / protects my home's indoor air quality	67%	50%	67%	84%
Cost	Cost less to run for a typical year	63%	46%	56%	36%
	Protect the value of my home	60%	39%	48%	37%
	Use a lower cost power source	59%	47%	51%	35%
Protect / Add Value	Add to the value of my home in the long run	56%	28%	36%	31%
Climate	Help me act to protect the environment for future generations	51%	11%	53%	94%
	Have no emissions that contribute to climate change	51%	11%	46%	90%

The segments vary somewhat across environmental attitudes and perceptions as shown in the two tables below.

Question: Based on current trends, how much impact will climate change have on the everyday lifestyle of the next generation of San Mateo County residents? (N=1081)



	Home Value Protectors (n=329)	Unempowered Pragmatists (n=133)	Light Greens (n=162)	Deep Greens (n=105)
An extreme impact	22%	10%	28%	43%
A substantial impact	53%	34%	46%	44%
A moderate impact	19%	32%	18%	11%
A minor impact	6%	17%	7%	2%
None		8%		

Agree with…	Home Value Protectors (n=329)	Unempowered Pragmatists (n=133)	Light Greens (n=162)	Deep Greens (n=105)
The actions I take in my home can have a meaningful impact on climate change	60%	24%	56%	75%
I am willing to pay up to 10% more to purchase products that mitigate climate	44%	15%	51%	84%
I am willing to replace my vehicle and/or appliances before the end of their useful life to help mitigate my impacts on climate change	42%	10%	32%	67%
I am not willing to pay anything more to purchase products that mitigate climate change	11%	41%	10%	6%

Home Value Protectors
This segment values safety and indoor air quality, operating cost, protecting the value of the home and adding value to the home in the long run and in protecting the environment for future generations.

- 75% think climate will have a substantial or extreme impact
- 60% believe the actions they take in their home can have a meaningful impact
- 40+% willing to pay 10% more for climate-friendly products

Unempowered Pragmatists
This segment values safety and indoor air quality and operating cost.

- 25% think climate will little or no impact (although 44% think it will have a substantial or extreme impact)
- Only 24% believe the actions they take in their home can have a meaningful impact
- Very few (15%) are willing to pay 10% more for climate-friendly products

Light Greens
This segment values safety and indoor air quality, operating cost and protecting the environment for future generations.

- 74% think climate will have a substantial or extreme impact
- 56% believe the actions they take in their home can have a meaningful impact
- Half are willing to pay 10% more for climate-friendly products and one-third would replace products before end of life for the sake of the climate impact

Deep Greens
This segment values, first and foremost, protecting the environment for future generations and also values safety and indoor air quality.

- Nearly 90% think climate will have a substantial or extreme impact
- 75% believe the actions they take in their home can have a meaningful impact
- Over 80% willing to pay 10% more for climate-friendly products and two-thirds would replace products before end of life for the sake of the climate impact

[memo continues on next page]

There are some variations in demographics across these four segments with the most notable differences in the Deep Greens vs. the other segments.

	Home Value Protectors	Unempowered Pragmatists	Light Greens	Deep Greens
Rent	30%	20%	25%	15%
Own	70%	80%	75%	85%
Age	**(45.8)**	**(46.0)**	**(47.9)**	**(54.1)**
44 or less	32%	39%	25%	21%
45-64	38%	30%	40%	34%
65+	27%	28%	33%	42%
Income				
$75k or less	14%	12%	16%	10%
$75k to $150k	32%	22%	21%	18%
$150k+	37%	35%	42%	57%
Ethnicity				
White	42%	44%	54%	74%
Asian/Pac Islander	36%	26%	20%	8%
Prefer not to say	8%	18%	12%	4%

Implications for Message Development

We have an opportunity to emphasize health and safety considerations while educating our customers about the benefits of clean electricity over methane gas. This can open the door to providing further information about the environmental impacts of methane gas. The cost of electric alternatives, particularly the operating costs, is an issue which must be addressed. This can take the form of gas-vs.-electric comparisons for specific appliances, case studies or references to the significantly better efficiency of electric appliances and equipment. Messaging challenges include a generally low level of energy literacy, perceptions that gas appliances may cost less to operate, and the unfavorable perception of certain electric appliances (primarily stoves, where there is very low familiarity with newer technologies such as induction).

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: KJ Janowski, Director of Marketing and Community Relations &
Leslie Brown, Director of Account Services

SUBJECT: Update on Marketing, Outreach Activities, and Account Services

BACKGROUND

The Marketing, Community Relations, and Account Services Teams are responsible for enhancing Peninsula Clean Energy's brand reputation, educating and engaging customers, driving participation in programs, and ensuring customer satisfaction and retention. Tactics include community outreach, content creation and storytelling through owned (e.g. online, social media), earned (e.g. public relations), and paid media (advertising), school engagement programs, and customer care.

DISCUSSION

The following is an update of activities that are currently underway. See "Strategic Plan" section below for how these activities support Peninsula Clean Energy's strategic plan objectives.

Heat Pump Water Heater (HPWH) Incentive Program

Marketing is supporting the program goal to install 200 heat pump water heaters in the first two years. Marketing efforts have been measured based upon visits to our HPWH incentive pages. In the last 30 days, more than 1,300 users visited the page.

Electrification Messaging and Campaign Support of Decarbonization

Marketing is developing new messaging centered on encouraging electrification. Message testing research has been completed. Topline results of this research will be presented in the July 28 board meeting. Messaging is being developed for a campaign that is planned to start this summer. The campaign will support our organizational priority

to contribute to our community reaching a goal of 100% greenhouse gas-free for buildings and transportation by 2035.

Annual Awareness and Perception Monitoring
The results of our annual brand awareness and perception monitoring study are in. Brand awareness in our San Mateo County territory has shown an increase to 41% total awareness. Results also include brand awareness in Los Banos as well as awareness, perception and purchase interest in electric vehicles. Topline results of this research will be presented in the July 28 board meeting and summarized in a separate memo in this board packet.

Electric Vehicle (EV) Campaign
A search advertising campaign addressing barriers and benefits of electric vehicles has been underway since November 2021. Ad performance has continued to improve during this time. In June, the campaign achieved about 75,000 impressions and brought about 4,380 visits to our EV web pages. In July we transitioned to a narrower EV campaign targeted on the Used EV program and featuring our increased maximum rebate of $6,000. Results in July so far are showing an average cost-per-click of $0.88, far lower than industry averages (which are ~$3.50 across industries and $2.30-3.20 for automotive related paid search).

Los Banos Update
Our local Los Banos representative Sandra Benetti has been very active providing additional information and answering questions as Los Banos customers began receiving service from Peninsula Clean Energy. This includes tabling twice monthly on bill pay dates at Los Banos City Hall.

We are reaching out to additional community groups to arrange presentations. Sandra is also active in local social media forums addressing questions and providing correct information.

Peninsula Clean Energy ran an ad campaign in each of the two new newspapers now serving Los Banos, *Los Banos Enterprise* and *The Westside Express.* We will be working with both news outlets on future paid and earned media opportunities.

News & Media
Full coverage of Peninsula Clean Energy in the news can be found on our News & Media webpage and in the Q2 Media Relations Report included in this month's board documents.

ENROLLMENT UPDATE

ECO100 Statistics (since June report)

Total ECO100 accounts at end of June:	6,390
ECO100 accounts added in June:	53
ECO100 accounts dropped in June:	40

Total ECO100 accounts at the end of May: 6,377

Enrollment Statistics
Opt-outs during the month of June were 145, 90 more than the previous month of May (55). This includes 104 opt outs in our new service territory of Los Banos during the month of June and 41 from San Mateo County during this month. In July, there have been an additional 56 opt outs from Los Banos and 17 opt outs from San Mateo County as of July 10th, 2022. Total participation rate across all of San Mateo County as of July 10th was 96.88%.

In addition to the County of San Mateo, there are a total of 15 ECO100 cities. The ECO100 towns and cities as of June 10th, 2022, include: Atherton, Belmont, Brisbane, Burlingame, Colma, Foster City, Half Moon Bay, Hillsborough, Menlo Park, Millbrae, Portola Valley, Redwood City, San Carlos, San Mateo, and Woodside.

The opt-up rates below include municipal accounts, which may noticeably increase the rate in smaller jurisdictions.

Active Accounts as of July 10th							
TOT	RES Count	COM Count	Active Count	Eligible Count	Participation Percent	ECO100 Count	ECO100 Percent
ATHERTON INC	2405	224	2629	2722	97%	59	2%
BELMONT INC	10762	915	11677	12014	97%	193	2%
BRISBANE INC	1969	498	2467	2537	97%	88	4%
BURLINGAME INC	13331	1959	15290	15683	97%	349	2%
COLMA INC	580	289	869	885	98%	32	4%
DALY CITY INC	31020	1971	32991	34180	97%	108	0%
EAST PALO ALTO INC	7126	442	7568	7939	95%	26	0%
FOSTER CITY INC	13680	848	14528	14886	98%	334	2%
HALF MOON BAY INC	4194	632	4826	4978	97%	114	2%
HILLSBOROUGH INC	3809	139	3948	4059	97%	70	2%
LOS BANOS INC	14006	1394	12947	15330	84%	3	0%
MENLO PARK INC	13851	1681	15532	16006	97%	518	3%
MILLBRAE INC	8396	629	9025	9346	97%	111	1%
PACIFICA INC	14011	854	14865	15430	96%	176	1%
PORTOLA VALLEY INC	1465	129	1594	1700	94%	1496	94%
REDWOOD CITY INC	31421	3283	34704	35608	97%	716	2%
SAN BRUNO INC	14797	1065	15862	16547	96%	92	1%
SAN CARLOS INC	12222	2072	14294	14693	97%	332	2%
SAN MATEO INC	39781	3859	43640	44831	97%	686	2%
SO SAN FRANCISCO INC	21377	3087	24464	25445	96%	120	0%
UNINC SAN MATEO CO	20869	2989	23858	24660	97%	648	3%
WOODSIDE INC	2008	219	2227	2278	98%	64	3%

Table reflects data as of July 10th, 2022

In the above table, the participation rate for the City of Los Banos is at 84%. This number is artificially low due to us conducting a rolling enrollment for our NEM customers in Los Banos. Approximately 1446 Los Banos NEM customers have yet to be enrolled in Peninsula Clean Energy service. They will be enrolled monthly on their true-up month with PG&E from July through December. These accounts are included in the ”Eligible Count” column but are not currently active Peninsula Clean Energy customers, and are

therefore not included in the "Active Count" column. The opt-out rate from Los Banos customers who received enrollment notices is currently at 3.3%.

Los Banos Enrollment Notices
The first set of Los Banos enrollment notices was mailed to customers February 14th, 2022, and the second set of enrollment notices was mailed March 8th, 2022. Four sets of enrollment notices are required to be mailed to our future customers in the City of Los Banos; two must be sent pre-enrollment (60 days before and 30 days before), and the other two must be sent post-enrollment (30 days after and 60 days after). Peninsula Clean Energy staff created separate pre-enrollment notices for standard customers, NEM customers, and DAC-GT customers in the City of Los Banos. Our standard welcome postcard will be used as the two required post-enrollment notices.

STRATEGIC PLAN

This section describes how the above Marketing and Community Care activities and enrollment statistics relate to the overall goal and objectives laid out in the strategic plan. The table indicates which objectives and particular Key Tactics are supported by each of the Items/Projects discussed in this memo. The strategic goal for Marketing and Customer Care is: Develop a strong brand reputation that drives participation in Peninsula Clean Energy's programs and ensures customer satisfaction and retention.

Item/Project	**Objective A**: Elevate Peninsula Clean Energy's brand reputation as a trusted leader in the community and the industry	**Objective B**: Educate and engage stakeholders in order to gather input, inspire action and drive program participation	**Objective C**: Ensure high customer satisfaction and retention
HPWH Incentive		KT6: Promote programs and services, including community energy programs and premium energy services	
Electrification Messaging Project		KT5: Provide inspirational, informative content that spurs action to reduce emissions.	
Annual Awareness and Perception Monitoring	KT5: Identify and address gaps between perception		

	and desired brand identity		
EV Campaign		KT6 (see above)	
Building Electrification Awareness Program		KT6 (see above)	
E-bikes for Everyone		KT6 (see above)	
Los Banos Update	KT4: Engage community through participation in local events		
CAC Recruitment		KT4: Support the Citizens Advisory Committee	
News and Media Announcements	KT1: Position leadership as experts on CCAs and the industry KT2: Cultivate relationships with industry media and influencers KT3 (see above)		
ECO100 and Enrollment Statistics			Reports on main objective C

* “KT” refers to Key Tactic

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: KJ Janowski, Director, Director of Marketing and Community Relations
Darren Goode, Media Relations Consultant

SUBJECT: Second Quarter (Q2) 2022 Media Relations Summary

BACKGROUND

Media Relations, a specialization within the Marketing discipline, focuses on enhancing Peninsula Clean Energy's reputation and leadership position by garnering earned media attention. This is the second of a series of quarterly reports on media relations activities and coverage for 2022.

DISCUSSION

1. Spotlighting 24/7 Renewable Power

CEO Jan Pepper and other Peninsula Clean Energy senior staff have spotlighted and will be spotlighting efforts toward our sector-leading goal of providing 24/7 renewable power by 2025.

Jan joined the White House Council on Environmental Quality's Director of Clean Energy Tanuj Deora and Princeton University energy expert Jesse Jenkins in a panel focused on 24/7 carbon-free power hosted by the World Resources Institute.

Jan spoke about 24/7 renewables on a panel at the California Clean Energy Procurement Summit. Jan virtually presented and spoke on our 24/7 renewables white paper and strategy at the SOLAR 2022 conference. Jan also spoke at Silicon Valley Leadership Group's Energy & Sustainability Summit on June 16.

We have been selected to appear at the in-person Renewable Energy Markets 2022 gathering this September in Minneapolis. We also discussed and inquired about the 2022 California Climate and Energy Forum but ultimately decided it would not be a good fit to participate this year. We will continue to search and pursue other opportunities.

2. 5-Year Anniversary Resolution Announcement
We drafted a one-page resolution honoring the five-year anniversary of Peninsula Clean Energy first delivering power to all of San Mateo County. We are working with the offices of Senator Josh Becker and Assemblymember Kevin Mullin to announce. Representatives of Becker and Mullins gave remarks at the May Peninsula Clean Energy board meeting. We will make a bigger public announcement in July, including a photo opportunity with one or more state lawmakers, our CEO and our board of directors leadership.

3. Shawn Marshall Announcement
We announced Shawn Marshall as our first COO, with quotes from Shawn, Jan and Dave Pine in the press release. We also arranged an exclusive interview between Shawn and the San Mateo Daily Journal, who ran a subsequent positive article.

4. Rafael Spotlighted
Rafael was interviewed by Canary Media's Jeff St. John and featured in a story on our all-electric heat and hot-water system demonstration program with Harvest Thermal. Rafael also spoke with New Project Media about the RFP for distributed solar and solar + storage for public facilities.

5. Los Banos Outreach
The op-ed from Sandra Benetti that previously ran in the *Merced Sun-Star* and *Los Banos Enterprise* was published May 24 in the inaugural edition of the new Los Banos outlet *The Westside Express*. We have also updated our Los Banos media list and subscriptions and have discussed doing additional targeted outreach to those reporters about our new service there. That could include the issue of customer confusion over rising electricity bills and the additional Peninsula Clean Energy service charge on their bills, which has been the subject of increased Facebook and other social media chatter of late.

6. All-Electric Awards Announcement
We announced our 2022 All-Electric Leader award winners in a press release featuring Donna Colson and Rod Daus-Magbual and received strong social media interaction, including Assemblymember Phil Ting and other local leaders. We also received coverage in Patch.com.

7. Heber 2 Announcement
We contributed a quote from Jan in Ormat's press release announcing our deal with them to procure geothermal power from their Heber 2 facility. The deal was mentioned in a list of the "hottest trends in corporate renewable energy" by GreenBiz, and other coverage included The Desert Review, Renewables Now and APPA.

8. Lyft Ribbon-Cutting Event We are considering participating in an event that Lyft would spearhead in late summer or early fall allowing us to highlight our EV rider partnership with them. The event's primary focus would be on Proposition 30, which

provides funding for programs to reduce greenhouse gas emissions by increasing tax on personal income over $2 million.

9. More Media

Moody's revises Peninsula Clean Energy's outlook to positive, Moody's, June 27
Belmont passes stricter electricity codes, San Mateo Daily Journal, June 23
Senator Becker climate bills pass utilities committee, Sen. Becker Twitter, June 22
Josh Becker climate bills clear Senate, San Mateo Daily Journal, May 28
Civic Center remodel contract approved, Pacifica Tribune, May 3
Supervisor candidates detail their plans for the district, Half Moon Bay Review, April 5

STRATEGIC PLAN

This section describes how Media Relations activities relate to the overall goal and objectives laid out in the strategic plan. Media Relations The strategic goal for Marketing and Customer Care is: Develop a strong brand reputation that drives participation in Peninsula Clean Energy's programs and ensures customer satisfaction and retention. Media Relations' efforts relate specifically to Objectives A and B in the strategic plan.

Item/Project	**Objective A**: Elevate Peninsula Clean Energy's brand reputation as a trusted leader in the community and the industry	**Objective B**: Educate and engage stakeholders in order to gather input, inspire action and drive program participation
Items 1, 3, 4	KT1: Position leadership as experts on CCAs and the industry	
Items 3, 5	KT2: Cultivate relationships with industry media and influencers	
Items 1 thru 10	KT3: Tell the story of Peninsula Clean Energy through diverse channels	
Items 4, 7		KT5: Provide inspirational, informative content that spurs action to reduce emissions

* "KT" refers to Key Tactic

Item No. 17

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: July 8, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority (PCE) Board of Directors

FROM: Jeremy Waen, Director of Regulatory Policy
Doug Karpa, Senior Regulatory Analyst
Matthew Rutherford, Senior Regulatory Analyst

SUBJECT: Update Regarding Regulatory Policy Activities

SUMMARY

Over the last month the Regulatory Policy team continues to be busy. Jeremy has focused his time across supporting organizational needs. Doug has been particularly heavily focused on work to reform the California Public Utilities Commission's (CPUC) Resource Adequacy construct. Matthew has continued his work in supporting PCE's programmatic efforts through Transportation Electrification, Building Decarbonization, Resiliency, Supplier Diversity, and DAC-Green Tariff matters.

DEEPER DIVE

DAC-GT/CSGT Programs

On May 31, PG&E, SDG&E, and SCE each filed Applications for Program Review (AFRs) to propose revisions to their DAC-GT and CSGT programs ("Programs") as required by the Commission. Generally, the issues highlighted in the IOUs' AFRs are aligned with the concerns of the CCAs. In broad terms, the AFRs identify ways the Programs' designs could be modified to ensure that they more successfully lead to greater development of new solar resources in state-identified Disadvantaged Communities (DACs) as well as better deliver that solar energy and bill discounts to low-income customers that live within DACs. The AFRs suggests that giving administrators of these Programs more flexibility in how they enroll customers and expanding customer eligibility to allow a wider range of pollution-burdened and underserved customers to participate.

The CCAs that offer their own Programs filed a joint response to the AFRs on July 6. The CCAs generally agreed with many of the IOU suggestions to modify the program. However, the CCAs disagreed with a few suggestions that unprocured program capacity should remain with the IOUs and instead argued that it should be transferred to the CCAs to serve their own Programs. The CCAs also disagreed with recommendations that all Program Administrators should use the same branding to avoid customer confusion. The CCAs argued that it would be costly and administratively burdensome for the CCAs that have already launched their own Programs and marketing strategies. PCE also cited its experience transferring PG&E DAC-GT customers into PCE's DAC-GT program when it expanded its service area to Los Banos. PCE did not receive any customer inquiries from those DAC-GT customers, pointing to the success of the outreach and marketing which facilitated a smooth transition for those affected customers to ensure that they can continue to receive their Program bill credit. The IOUs are due to submit replies to stakeholder responses on July 18.

(Public Policy Objective A, Key Tactic 1, Key Tactic 2 and Key Tactic 3)

Integrated Resource Planning & Resource Adequacy

The resource adequacy proceeding is moving to a phase of development of the details of the 24-hour resource adequacy construct, including resource counting rules, compliance templates and CAISO processes. These working groups will work over the summer to develop methodologies for the 2024 test year.

The Integrated Resources Planning process has now moved forward into developing filings and new modeling for the 2022 cycle, including with new templates and requirements being released this month ahead of our filing this fall.

In a related effort, Doug and Matthew developed a comment letter jointly with several other CCAs to the California Air Resources Board (CARB) urging stricter carbon targets for the energy sector and criticizing the proposed heavy reliance on carbon sequestion, among other issues. The carbon targets of the Draft Scoping Plan are used to set the targets in the Integrated Resources Planning process, so high targets could undermine efforts to decarbonize the electricity sector. The joint letter also encouraged CARB to consider setting more aggressive targets for decarbonizing California's transportation and building sectors while also ensuring that communities which have been historically underserved or face higher pollution and energy cost burdens to participate in these technology transitions.

(Public Policy Objective A, Key Tactic 1, and Key Tactic 2; Public Policy Objective C, Key Tactic 3)

Stakeholder Outreach

Doug hosted the regular monthly call with staff from CCAs and environmental and environmental justice stakeholders on June 1, 2022, to discuss the Draft Scoping Plan for statewide decarbonization by 2045. Several significant concerns were discussed, including the exceptionally high proposed statewide greenhouse gas targets for the electricity sector for 2045 and the heavy reliance on direct air carbon dioxide capture to reduce statewide emissions.

(Public Policy Objective A, Key Tactic 2)

FISCAL IMPACT

Not applicable.

PENINSULA CLEAN ENERGY AUTHORITY
Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Marc Hershman, Director of Government Affairs

SUBJECT: Update on Peninsula Clean Energy's Legislative Activities

SACRAMENTO SUMMARY:

July marks the lull before the final legislative push of the year. The Assembly and Senate recessed for the summer on July 1 and will not reconvene until August 1. The month of August marks the final push before the 2021-22 Legislative Session adjourns for the year on August 31.

July 1 also marked the last day for bills to be heard in policy committees and the start of the 2022-23 fiscal year.

August 12 is the last day for bills to be heard in a fiscal committee.

Before the Legislature adjourned, they sent the governor a $300 billion fiscal 2022-23 budget package. This Budget Act was signed by the governor on June 30.

However, as we saw in 2021, supplemental budget bills and additional measures providing policy guidance to the budget act – known as trailer bills - will continue to be negotiated by the Legislature and the Administration well into the final days of the 2022 session.

Of particular interest to Peninsula Clean Energy are the items in the budget that will accelerate project build out of clean energy and storage projects by providing a new streamlined permitting option at the California Energy Commission for qualifying projects.

The governor submitted a number of controversial, last-minute additions to the budget including a Strategic Electricity Reliability Reserve, which includes existing generation capacity that was scheduled to retire, new generation, and new storage projects, as well as clean backup generation projects, diesel and natural gas backup generation projects

with emission controls and all required permits, and customer side load reduction capacity. Peninsula Clean Energy will be seeking clarification and possible modification of certain provisions in the bill through trailer bills.

Notably, there is $970 million in the budget for the Public Utilities Commission to provide residential solar and storage system incentives, with $670 million available for solar and storage systems for low-income households. And there is $250 million to leverage additional state financing tools dedicated to supporting the development of strategic clean energy projects, with the initial priority to support the development of new transmission to deliver to the CAISO system, clean, firm electricity from new resources located in the Salton Sea region.

In addition, there's $957.6 million for ratepayer assistance to pay past due IOU/CCA residential customer's electricity bills. Peninsula Clean Energy had sent a letter to the governor and legislative leaders in support of this funding.

LEGISLATIVE ADVOCACY AND OUTREACH:

A bill of great interest to Peninsula Clean Energy is **SB 1158 (Becker).** Similar in some respects to Senator Becker's **SB 67** from 2021, **SB 1158** would mandate the hourly reporting of GHG intensity of load serving entities like Peninsula Clean Energy. It would also require the LSE to report the GHG profile of its Resource Adequacy portfolios.

Peninsula Clean Energy supports **SB 1158** and the bill's goal of improving transparency of LSE progress in meeting its GHG reduction goals, noting that it reflects our organizations 24/7 goals. We have been working closely with Senator Becker to clarify and address some of the issues raised in the legislation.

Peninsula Clean Energy weighed in with support for **SB 1158** when it was heard and passed in the Senate Committee on Energy, Utilities and Communications. The bill was passed by the Senate Committee on Appropriations and by the full Senate. Peninsula Clean Energy provided lead testimony at hearings before the Assembly Committee on Utilities and Energy and again when the bill was heard by the Assembly Committee on Natural Resources. SB 1158 easily passed both committees and will next be heard in the Assembly Committee on Appropriations.

Peninsula Clean Energy and CalCCA had taken an oppose position on **SB 1393 (Archuleta)**. This bill would expand the California Energy Commission's review of new construction reach codes and require local jurisdictions to consider the CEC's guidance on building electrification when considering adopting ordinances that require electrification of existing buildings. The CEC would review the ordinance and determine whether the local government considered the CEC's published guidance in the adoption of the ordinance. If the CEC determined that the local jurisdiction did not consider the

CEC's guidance, they would be required to consider the guidance, make modifications deemed necessary by the local government and resubmit the ordinance to the CEC. **SB 1393** was passed in the Senate Committee on Energy, Utilities and Communications and by the Committee on Appropriations.

SB 1393 has been heavily amended so that there are no longer requirements that would hamper a local jurisdiction's ability to enact reach codes. **SB 1393** has passed the state Senate and is before the Assembly where it passed in the Assembly Committee on Utilities and Energy and the Assembly Committee on Local Government.

AB 1944 (Lee, Christina Garcia) would amend the Brown Act to specify that if a member of a legislative body elects to teleconference from a location that is not public, the address of that location need not be identified in the meeting notice and agenda, or be accessible to the public, when the legislative body has elected to allow members to participate via teleconferencing. Peninsula Clean Energy has submitted a letter of support for **AB 1944**. This bill was heard in May and passed in the Assembly Committee on Local Government and was subsequently passed off the floor of the Assembly. It is now before the state Senate for consideration.

SB 1020 (Laird) was passed in the Senate Committee on Energy in late April. It was referred to the Senate Committee on Appropriations where it was passed off the suspense file calendar and then passed off of the floor of the Senate. In late June **SB 1020** passed in the Assembly Committee on Utilities and Energy and the Assembly Committee on Natural Resources. It will next be heard before the Assembly Committee on Appropriations.

SB 1020 is being championed by the leadership of the state Senate as the Clean Energy, Jobs, and Affordability Act of 2022. Among the many provisions of the bill that address climate change issues, it would establish a new state agency regarding clean energy and provide funding, mostly from federal funds, for home infrastructure upgrades. Peninsula Clean Energy has taken a support, if amended position on **SB 1020**. We are seeking some clarification on some of the technical language in the bill and hoping to have the bill define certain programs to include CCAs.

PENINSULA CLEAN ENERGY
JPA Board Correspondence

DATE: July 14, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jan Pepper, Chief Executive Officer, Peninsula Clean Energy
Rafael Reyes, Director of Energy Programs

SUBJECT: Community Programs Report

SUMMARY

The following programs are in progress, and detailed information is provided below:

1. Building and EV Reach Codes
2. Buildings Programs
   - 2.1. Appliance Rebates
   - 2.2. Low-Income Home Upgrades & Electrification
   - 2.3. Building Pilots
3. Distributed Energy Programs
   - 3.1. Local Government Solar Project Development
   - 3.2. Power On Peninsula – Homeowner
4. Transportation Programs
   - 4.1. "EV Ready" Charging Incentive Program
   - 4.2. Used EV Rebate Program
   - 4.3. EV Ride & Drives/EV Rental Rebate
   - 4.4. E-Bikes for Everyone Rebate Program
   - 4.5. Municipal Fleets Program
   - 4.6. Transportation Pilots
5. 2035 Decarbonization Feasibility and Plan

DETAIL

1. Building and EV Reach Codes

Background: In 2018 the Board approved a building "reach code" initiative to support local governments in adopting enhancements to the building code for low-carbon and EV ready buildings. The initiative is a joint project with Silicon Valley Clean Energy (SVCE)

and East Bay Community Energy (EBCE). The program includes small grants to municipalities, technical assistance, and tools, including model codes developed with significant community input. The tools and model code language are available on the project website (www.BayAreaReachCodes.org).

In addition, in January 2020 the Board approved an extension of the reach code technical assistance plus additional elements – Education and training for developers and contractors, and consumer education program on the benefits of all-electric buildings. This technical assistance is publicly available at www.AllElectricDesign.org. In December 2020, the Board approved to extend the contract with TRC Engineers include technical assistance for developing policy for existing buildings. In February 2022 the Board extended the initiative for another two years.

Status:

- **Reach Codes:** ~~The City of Belmont has approved the first reading of reach codes and scheduled the second reading in June. In total 15 agencies have adopted some form of reach code in the service territory. Peninsula Clean Energy is providing support to numerous additional agencies who plan to pass Reach Codes in 2022.~~ Draft new and existing model codes are available. Multiple jurisdictions have requested model existing building reach codes. Stakeholder workshops were held on January 26, February 15, 16, 17, and most recently April 13 with approximately 250 attendees excluding program staff. The first drafts of the model codes were presented and initial feedback received.
- **Existing Building policy development**: Existing building model codes ~~are being developed with stakeholder feedback~~are posted online. During a poll at a City Staff workshop, 64% of respondents stated that they were interested in exploring an existing building reach code. ~~In addition,~~ SVCE and Joint Venture Silicon Valley are planning an existing building workshop/webinar likely in ~~August~~ September specifically for elected officials and have offered that elected officials in San Mateo County may also attend. City of San Mateo brought some existing building measuers to the Sustainability and Infrastructure Committee on July 13th.
- **Model Code Summary,** available at www.bayareareachcodes.com:
    - New construction building electrification codes require all-electric and include a menu of exceptions for cities to choose from
    - New construction EV codes are the same as last cycle for most building types, requiring more access than the state code. Multi-family buildings are required to provide at least one level 2 charging access point for every dwelling unit. 15% must be Level 2 charging stations. 85% can be low-power Level 2 EV ready.
    - Existing building model codes provide a full menu of options for cities to choose from, including: end of flow requirements, time-of-replacement mandates, time of sale disclosure requirements, and a requirement to upgrade existing EV-capable circuits to EV-ready by a time-certain deadline.

Strategic Plan:

Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings

- Key Tactic 3: Ensure nearly all new construction is all-electric and EV ready
- Key Tactic 4: Establish preference for all-electric building design and appliance replacement among consumers and building stakeholders

2. Buildings Programs

2.1. Appliance Rebates

Background: In May 2020, the Board approved a 4-year, $6.1 million for electrifying existing buildings. This included $2.8 million for implementing an appliance rebate program. Peninsula Clean Energy successfully launched the heat pump water heater rebates on January 01, 2021 for San Mateo County residents. Peninsula Clean Energy rebates are offered in partnership with BayREN's Home+ program. BayREN offers a rebate of $1,000 and Peninsula Clean Energy offers an additional rebate of $1,000 for methane gas to heat pump water heater (HPWH) or $500 for electric resistance to HPWH. Peninsula Clean Energy also offers a bonus rebate for low-income customers (CARE/FERA participants) of $1,000 and $1,500 for electrical panel updates of up to 100 Amp and $750 for up to 200 Amp that might be needed to accommodate the HPWH. In addition, Peninsula Clean Energy has offered a small refrigerator recycling program since April 2019.

Status: The HPWH rebate program was launched on January 01, 2021 and as of July 14~~une 7~~, 2022 has received 25836 applications. Overall, the Peninsula Clean Energy program has accounted for approximately 34% of the HPWHs installed across the 9-county Bay Area since 2019. Currently 7 San Mateo County contractors and 25 contractors outside the county are enrolled in the program. Peninsula Clean Energy has been promoting the incentive through digital ads, email outreach and other channels. ~~Volume on this program is being impacted by statewide HPWH supply shortages that staff is currently investigating.~~ The TECH program that hads been providing HPWH incentives throughout 2022 ~~has run~~ran out of funding in PG&E service territory as of May 12, 2022. TECH offered $1,100+ to Peninsula Clean Energy customers directly through their contractors, but those incentives will no longer be available in 2022. However, Peninsula Clean Energy and BayREN still offer incentives for customers installing HPWH for a total of $2,000. Additional incentives are available for income-qualified customers and electrical panel upgrades.

The refrigerator recycling program had low volume during the pandemic but is beginning to increase volume. Since inception in April 2019, the recycling program has recycled 36453 refrigerators and freezers resulting in 67346 MTCO2e in greenhouse gas reduction. Funds from the original contract were exhausted on May 10, 2022 but on June 2, 2022 staff executed a contract amendment to continue, and expand, the program with

an additional budget of $200,000 over three years (June 2022 – June 2025). The contract amendment includes adding more appliance types (air conditioning units, and allowing non-working units to be eligible) and allowing for bulk pickups from apartment complexes and waste distribution centers.

Strategic Plan:

Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings

- Key Tactic 4: Establish preference for all-electric building design and appliance replacement among consumers and building stakeholders

2.2. (Low-Income) Home Upgrade Program

Background: In May 2020, the Board approved $2 million for implementing a turn-key low-income home upgrade program to offer minor home repair, energy efficiency, and electrification measures to income-qualified homeowners at no cost to them. The measures implemented in each home will vary depending on the home's needs but will include at least one electrification measure such as installing a HPWH or replacing a gas stove with an electric induction stove. The contract with the administration and implementation firm, Richard Heath & Associates (RHA), was executed after being approved by the Board in the March 2021 meeting.

Status: The program was announced on September 28, 2021. The below table summarizes the program's status as of May 31, 2022.

Stage/category	#s as of May 31 2022
Leads	4441~~1~~
Reached	280~~29~~
Pre-assessments	209~~172~~
Enrolled	153~~22~~
Ineligible	112~~72~~
Installations in progress	45~~36~~
Fully complete	28~~17~~

The following table summarizes the number of electrification measures implemented on the fully complete homes.

Measure	Count
Heat pump water heater	10~~7~~
Induction cooktop/range	8~~3~~
Electric dryer	9~~2~~
Central or mini split eat pump (HVAC)	3~~1~~
Window or wall mounted heat pump (HVAC)	7~~4~~
Portable heat pump (HVAC)	6

Strategic Plan:
Goal 3 – Community Energy Programs

Objective B: Community Benefits: Deliver tangible benefits throughout our diverse communities

- Key Tactic 1: Invest in programs that benefit underserved communities
- Key Tactic 3: Support workforce development programs in the County

2.3. Building Pilots

Background: In May 2020, The Board approved $300,000 for piloting a new innovative technology from Harvest Thermal Inc., a Bay Area-based startup, that combines residential space and water heating into a unified heat pump electric system with a single water storage tank. Through this project, this technology will be installed in 3-5 homes within the San Mateo County to assess its performance and demonstrate its effectiveness for emission reductions.

Status: The home recruitment process began in late April 2021 and the project received 290 applications. Homes were selected based on technical criteria (home characteristics, energy usage patterns, and technical feasible of the upgrade within budget). The four pilot homes are located in Daly City, South San Francisco, Redwood City, and Menlo Park. As of May 13, 2022, the Daly City, South San Francisco, and Redwood City homes have had their system installed. The Menlo Park home ~~is still awaiting there~~received its city permit this month and installation is forthcoming.~~; Harvest and installation contractor have been in touch with the City's building department regarding the request~~. The consulting firm TRC has been contracted to provide independent measurement and verification services for the project and have begun collecting data on the homes installed. A final report is anticipated in the summer of 2023 after a year a data has been collected and analyzed. Lastly, the Technical Advisory Committee (TAC) ~~will have~~had its second meeting on June 2, 2022, following the first meeting on September 30, 2021. The objective of the TAC is to review and provided feedback on the project. TAC members include former building officials, former contractor, city commissioner, peer CCA program managers, CPUC staff, CAC member and Board member Jeff Aalfs. A small ribbon-cutting event was held at the Daly City home on June 4th with PCE staff in attendance. Additionally, Senator Josh Becker toured a Harvest Thermal home and Home Upgrade home on July 20th with PCE staff in attendance.

Strategic Plan:
Goal 3 – Community Energy Programs

Objective C: Innovation and Scale: Leverage leadership, innovation, and regulatory action for scaled impact

- Key Tactic 1: Identify, pilot, and develop innovative solutions for decarbonization

3. Distributed Energy Programs

Peninsula Clean Energy has Board-approved strategies for the promotion of 20 MW of new distributed energy resources in San Mateo County and is advancing distributed energy resources to provide resilience, lower decarbonization costs, provide load shaping to support our strategic goal for 24/7 renewables. The projects described below are efforts towards meeting both of these goals.

3.1. Local Government Solar Program

Background: The Local Government Solar program is aimed at aggregating local government facilities into a group procurement of solar and optionally storage systems. Peninsula Clean Energy provides no-cost site assessments and preliminary designs as well as manages the procurement process. Participating sites have systems installed as part of power purchase agreements directly with Peninsula Clean Energy. As part of the pilot phase, in October 2020, the Board approved a Solar Site Evaluation Services contract with McCalmont Engineering for Solar site evaluation and designs for County and municipal facilities identified as candidates for solar-only or solar + storage resilience projects. In March 2022, the board approved up to $8 million in capital for system installations to be repaid over 20 years and $600,000 for technical assistance on the second round of the aggregated solar program.

Status: We have developed a portfolio of 145 sites in 123 cities for a total portfolio size of approximately 2 MW of solar. Battery storage will be explored for 4 of the 154 sites. We have obtained city council commitments for the projects from all 12 cities. We are still hoping to include the San Bruno Aquatic Center in the aggregate procurement. ~~;~~ ~~however c~~City council approval is ~~still~~ pending.

We have launched a Request for Proposals for solar+storage at public facilities as part of this program. The deadline for interested bidders to submit their Statements of Interest was July 15, and the deadline for proposal submissions is August 1.

We ~~completed site visits and solar designs for fourteen (14) facilities across 13 agencies including in Los Banos. We began seeking commitments from cities and the County to participate in an aggregate procurement process from which we would offer a 20-year Power Purchase Agreement (PPA) for the solar installation at no upfront cost. The requested commitment is that if we can offer a PPA price that will result in net electric bill savings or deliver other identified community benefits, they will move forward to installation. We have now received commitments from 12 of 13 agencies, with an aggregate portfolio size of approximately 2 MW. We are continuing to work with a potential tax benefits partner that could capture the tax benefits of the solar projects and~~

~~share them with Peninsula Clean Energy, and by extension portfolio customers. Peninsula Clean Energy is unable to capture those benefits directly due to its tax-exempt status. We believe developing such a relationship and contracting structure could enable Peninsula Clean Energy to obtain the most competitive pricing on equipment and installation. Our fallback, if this pathway runs into insurmountable obstacles, is to seek a master PPA for the portfolio from an entity that can share tax benefits, similar to Peninsula Clean Energy's wholesale procurements.~~ are ready to move to a Request for Proposals (RFP) for vendors that can procure, install, and maintain equipment.

~~We are in final stages of city approval with only San Bruno pending. This is expected to be completed in June. Once complete, we will move to RFP for the full portfolio of sites.~~ We will be soliciting bids that could fit into two procurements models. In Model 1, Peninsula Clean Energy in partnership with a tax financing partner would purchase the systems from a contractor that would procure, install, and maintain equipment. In Model 2, Peninsula Clean Energy would secure a master PPA for the full portfolio with an entity that can provide both tax equity and installation. There are pros and cons to each model. We expect the RFP to provide the critical information necessary to inform final model selection, most crucially the relevant costs and the resulting PPA pricing that could be provided to customers.

3.2. Power On Peninsula – Homeowner

Background: Power on Peninsula – Homeowner is a solar+storage energy resiliency program run by Peninsula Clean Energy in partnership with Sunrun~~ and TerraVerde Energy~~. This program provides energy storage systems paired with solar power to single family and multifamily Peninsula Clean Energy customers. Customers who sign up for this program receive an incentive up to $5001~~,250~~. At Peninsula Clean Energy's direction, Sunrun will dispatch the stored energy during evening hours when renewable generation on the California grid is low. This will also help Peninsula Clean Energy to reduce its peak load and thereby reduce our resource adequacy requirements.

Status: The program has commenced dispatching customer batteries in the evening to help reduce Peninsula Clean Energy's net peak. Sunrun will continue to enroll new customers throughout 2022. The program is being impacted by supply chain issues including contractor, materials, and product supply and cost. However, program promotion has been ongoing. ~~The incentive for enrolling in the program is now $500.~~ Staff is working with a firm to provide labor compliance assistance and has begun developing the process for analyzing workforce data.

3.3. FLEXmarket

Background: In November 2021 the Board approved a program plan for the establishment of an innovative "virtual power plant" using what is known as FLEXmarket. FLEXmarket is a market-based program structure that provides incentives to program "aggregators" to implement programs for energy efficiency and load shaping. The novel elements of the structure include a "pay-for-performance" approach which only provides incentives on confirmed performance using meter data. This novel structure was innovated by MCE and also ~~has been adopted~~ is being implemented by East Bay Community Energy and Sonoma Clean Power. In addition, the program plan was developed for submission to the CPUC to allow Peninsula Clean Energy to run the program with fully reimbursed funding through the CPUC. Peninsula Clean Energy's billing data services provider Calpine has entered into a strategic partnership with the firm Recurve to provide FLEXmarket services through a streamlined structure.

Status: Peninsula Clean Energy's proposed FLEXmarket program was approved by the CPUC on May 5th~~.~~ and the Board approved the contract with Calpine to implement the program in June. Staff developed and submitted a Program Implementation Plan to the California Energy Data and Reporting System on July 5. ~~The next major step is the development of an Implementation Plan which defines the program in greater detail. Development of the Implementation Plan is in progress in collaboration with program partner Recurve. In addition, t~~The required contract between Peninsula Clean Energy and Calpine is ~~far along and currently under review~~ being finalized and the incentive design is in progress. It is anticipated that the program will begin recruiting implementers in the coming weeks and then move to launch.

Strategic Plan: The activities and programs described in the DER and Energy Resilience activities support the following objectives and key tactics in Peninsula Clean Energy's strategic plan:

- Distributed Energy Resources: Support strategic decarbonization and local power
  - Key Tactic 1: Create minimum of 20 MW of new local renewable power sources in PCE service territory by 2025
  - Key Tactic 2: Support distributed energy resources to lower costs, support reliability, and advance distributed and grid decarbonization
  - Key Tactic 3: Foster Resilience

4. Transportation Programs

4.1. Used EV Rebate Program

Background: Launched in March 2019, the Used EV Rebate Program (formerly referred to as "DriveForward Electric") provides an incentive up to $4,000 for the purchase of used plug-in hybrid electric vehicles (PHEVs) and full battery electric vehicles (BEVs) to income-qualified San Mateo County residents (those making 400% of the Federal Poverty Level or less). The incentives may be combined with other state-funded income-qualified EV incentive programs. In October 2020, the Board approved expanding the program to offer used EV incentives to all San Mateo County residents, while maintaining the

increased incentives for income-qualified residents. The program includes a $25,000 vehicle price cap and local dealership network with point-of-sale rebate. In February 2021, Peninsula Clean Energy executed a competitively bid contract with GRID Alternatives ("GRID") to administer the expanded program. The 'old' program incentivized 105 rebates from March 2019 through August 2021. In August 2021, the program was officially re-launched.

Status: Since the re-launch of the program, 8775 rebates have been provided under the new program and 200+ customers are actively in the pipeline (customers must apply prior to purchase). Because vehicle supplies are extremely tight due to global supply chain issues in the market currently and pricing is high, staff has made some temporary modifications to the program to adjust to market conditions. In 2021, average used vehicle prices were 30% higher than 2020, and 40-50% higher than pre-pandemic levels. In 2021, the average used vehicle price in the U.S. was $28,000.

As a result, staff made the following changes, which took effect March 17, 2022:

Current	Change
To be eligible for rebate, vehicle purchase price (before rebates) cannot exceed $25,000.	Increase price cap from $25,000 to $35,000
Current incentive levels are as follows: • All residents: $700 PHEV, $1,000 BEV • Income-qualifying residents • If they combine Peninsula Clean Energy incentive with other EV incentive programs: $1,700 PHEV, $2,000 BEV • If they do not combine Peninsula Clean Energy incentive with any other EV incentive program: $3,700 PHEV, $4,000 BEV	Increase incentive by $2,000 for income-qualifying residents. New incentive levels would be as follows: • All residents: $700 PHEV, $1,000 BEV • Income-qualifying residents • If they combine Peninsula Clean Energy incentive with other EV incentive programs: $2,700 PHEV, $4,000 BEV • If they do not combine Peninsula Clean Energy incentive with any other EV incentive program: $5,700 PHEV, $6,000 BEV

Staff will assess changes in September/October and determine whether to keep them or adjust them again. Lastly, these changes will not require any new budget allocation to the program and uptake in the program has been slower than expected and thus there are enough funds in the existing budget to support these changes.

Strategic Plan:

Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings

- Key Tactic 1: Drive personal electrified transportation to majority adoption

Objective B: Community Benefits: Deliver tangible benefits throughout our diverse communities

- Key Tactic 1: Invest in programs that benefit underserved communities

4.2. "EV Ready" Charging Incentive Program

Background: In December 2018 the Board approved $16 million over four years for EV charging infrastructure incentives ($12 million), technical assistance ($2 million), workforce development ($1 million), and administrative costs ($1 million). Subsequent to authorization of funding, Peninsula Clean Energy successfully applied to the California Energy Commission (CEC) for the CEC to invest an additional $12 million in San Mateo County for EV charging infrastructure. Of Peninsula Clean Energy's $12 million in incentives, $8 million is administered through the CEC's California Electric Vehicle Incentive Project (CALeVIP) and $4 million under a dedicated, complementary Peninsula Clean Energy incentive fund. The dedicated Peninsula Clean Energy incentives address Level 1 charging, assigned parking in multi-family dwellings, affordable housing new construction, public agency new construction, and charging for resiliency purposes.

Status: The program is being significantly impacted by supply chain issues including contractor scheduling materials, and product supply and cost. This is resulting in installation delays. Staff is engaging directly with participating contractors to understand installation delay issues and IBEW 617 to explore solutions. Staff hosted multiple program webinars in early June to recruit additional contractors. Staff haves ~~begun engagement~~ met with IBEW 684 (Merced County) to develop relationships with contractors to serve Los Banos projects and to provide additional support in San Mateo County. Peninsula Clean Energy's technical assistance and outreach is ongoing. Current outreach is focused on small to medium apartments in San Mateo County (~3,000 buildings). In addition, ~~T~~the Center for Sustainable Energy (CSE), which manages the CALeVIP component of the program for the CEC and Peninsula Clean Energy has had ongoing and serious delays in the program, greatly hampering the ability to install charging stations. Staff are assessing options to expedite charging installation.

~~Twenty L2 ports were installed via CALeVIP at an apartment in Belmont.~~ Summary of program metrics is outlined in the table below:

	Sites/ Applications	Ports	Incentive Amount
# of sites in Technical Assistance	136~~33~~	939~~895~~	-
# of site evaluations approved by PCE ~~delivered~~	94 ~~88~~	199784 ~~7~~	-
# of funding applications received in Peninsula Clean Energy incentive program	364	48~~765~~	$1,226~~130~~,500
# of funding applications approved in Peninsula Clean Energy incentive program	20~~1~~	382~~91~~	$832~~40~~,500

# of CALeVIP applications approved in Year 1*	~~69~~86	1,057 ~~1,014~~	~~$14,868,500~~
# of CALeVIP applications anticipated in Year 2 & Year 3	~~56~~	~~752~~	~~$3,666,500~~0
Total # of ports installed	11	254	$701,000

*Includes DCFC and L2 ports: 306~~298~~ DCFC, 751~~18~~ L2 ports

Strategic Plan:

Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings

- Key Tactic 1: Drive personal electrified transportation to majority adoption
- Key Tactic 5: Support local government initiatives to advance decarbonization

Objective B: Community Benefits: Deliver tangible benefits throughout our diverse communities

- Key Tactic 3: Support workforce development programs in the County

4.3. EV Ride & Drives / EV Rental Rebate

Background: In February 2019, the Board approved continuation of the EV Ride & Drive program over three years (2019-2021) following a 2018 pilot. It provides for community and corporate events in which community members can test drive a range of EVs. The program generated 19 events and 3,033 experiences since inception in 2018. Event surveys indicate that the ride and drive was the first EV experience for 64% of participants and 87% report an improved opinion of EVs. Trailing surveys 6 months or more after events have yielded a 33% response rate and 17% of respondents indicate they acquired an EV after the event. Due to the COVID-19 pandemic, ride & drive events have been paused. As a result, staff developed a suite of virtual EV engagement pilot programs that replaced the in-person ride & drive events. Staff evaluated these pilots in January 2021 and phased out some due to low uptake and to prioritize limited funding for the most successful programs – Virtual EV Forums & EV Rental Rebate. The Virtual EV Forums in partnership with large San Mateo County employers continued through the end of FY20-21. Four EV Forums were held. The EV Rental Rebate is all that currently remains.

Status: The EV Rental Rebate, which offers a rebate up to $200 on the rental of an EV, has issued 174 rebates as of May 31, 2022. Staff sent surveys to participants 6 months after the rental and of 34 respondents, 8 of them (8%) have purchased an EV since the rental. Most of the FY21-22 EV Ride & Drive/Engagement budget will be dedicated to the EV Rental Rebate. Staff has considered re-starting ride & drive events again this year, however the vehicle supply shortage also means dealership do not have cars available for ride & drive events and thus it is not feasible to re-start the program again at this time. This program is being wound down due to low utilization at this time.

Strategic Plan:
Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings
- Key Tactic 1: Drive personal electrified transportation towards majority adoption

4.4. E-Bikes for Everyone Rebate Program

Background: The Board initially approved the income-qualified E-Bikes Rebate program in July 2020 with a budget of $300,000 and approved an increase of an additional $300,000 in December 2022, bringing the total program budget to $600,000. The first phase of the program launched in May 2021 and sold out immediately and provided 276 rebates. The second phase ~~will occur in spring 2022~~is currently underway and will provide approximately 320 rebates. The program is available to residents with low to moderate incomes. Silicon Valley Bicycle Coalition is under contract to Peninsula Clean Energy as an outreach and promotional partner and local bike shops are under contract to provide the rebate as a point-of-sale discount to customers. Enrolled bike shops include Summit Bicycles, Mike's Bikes, Sports Basement, Chain Reaction, Woodside Bike Shop, and E-Bix Annex.

Status: The second round of the program ~~will open for applications on May 16 with a lottery occurring in early June to award rebates~~is currently underway. 150+ e-bikes have already been purchased. The new round utilizes more targeted outreach with community partners and a lottery method for awarding incentives rather than the first-come, first-served method used in the previous round. Staff are requesting $150,000 to provide rebates to the 150 customers on the waiting list at this Board meeting.

Strategic Plan:
Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation, and initiate the transition to clean energy buildings
- Key Tactic 1: Drive personal electrified transportation to majority adoption

Objective B: Community Benefits: Deliver tangible benefits throughout our diverse communities
- Key Tactic 1: Invest in programs that benefit underserved communities

4.5. Municipal Fleet Program

Background: The Board approved the Municipal Fleet Program in November 2020. This program will run for three years with a total budget of $900,000 and is comprised of three components to help local agencies begin their fleet electrification efforts: hands-on technical assistance and resources, gap funding, and a vehicle to building resiliency

demonstration that will assess the costs and benefits of utilizing fleet EVs as backup power resources for agencies in grid failures and other emergencies.

Status: Staff have selected a consulting team and ~~expects the contract to be brought to th~~is bringing the contract to this~~e~~ Board ~~shortly~~ meeting for approval and ~~for~~ expects the program to become available in fall ~~by mid~~ 2022. A workshop will be held in the fall to promote the program and recruit local agency fleet managers.

Strategic Plan:

Goal 3 – Community Energy Programs

Objective A: Decarbonization Programs: Develop market momentum for electric transportation and initiate the transition to clean energy buildings

- Key Tactic 2: Bolster electrification of fleets and shared transportation
- Key Tactic 5: Support local government initiatives to advance decarbonization

Objective C: Innovation and Scale: Leverage leadership, innovation, and regulatory action for scaled impact

- Key Tactic 1: Identify, pilot, and develop innovative solutions for decarbonization

4.6. Transportation Pilots

Ride-Hail Electrification Pilot

Background: This pilot, approved by the Board in March 2020, is Peninsula Clean Energy's first program for the electrification of new mobility options. The project partners with Lyft and FlexDrive, its rental-car partner, to test strategies that encourage the adoption of all-electric vehicles in ride-hailing applications with up to 100 EVs. Because ride-hail vehicles drive much higher than average miles per year, each vehicle in this electrification pilot is expected to save over 2,000 gallons of gas and 20 tons of greenhouse gas emissions per year.

Status: The 100 EV fleet has been put into service by Lyft. 133 unique drivers have already rented them, with each rental averaging over a month. 700,000+ all electric miles have been driven so far with an average of 120 miles/day per vehicle, comparable to gas counterparts. Vehicles include a customer-facing placard that informs riders about the pilot and directs them to the PCE website for more information. ~~PCE staff are finalizing specific data transfer logistics to evaluate performance.~~

EV Managed Charging Pilot

Background: Peninsula Clean Energy aims to facilitate EV charging that avoids expensive and polluting evening hours through "managed charging" systems. This work is in the second phase of a pilot. In 2020, Peninsula Clean Energy ran a proof-of-concept pilot for EV managed charging with startup FlexCharging to test timing of EV charging through vehicle-based telematics. This was a limited pilot with approximately 10 vehicles.

The system utilizes existing Connected Car Apps and allows Peninsula Clean Energy to manage EV charging via algorithms as a non-hardware-based approach to shift more charging to occur during off-peak hours. The pilot is moving to Phase 2 intended for a larger set of 1,000 to 2,000 vehicles. In October of 2021, the Board approved a contract up to $220,000 with the University of California, Davis' Davis Energy Economics Program (DEEP) to develop and advise on an incentive structure experiment that will be used to inform the Peninsula Clean Energy managed charging program design. This collaboration has been ongoing.

Status: Staff released an RFP for the telematics-based platform for the Phase 2 pilot and are currently finalizing contract negotiations. The contract for the recommended winner will be brought to the Board for approval shortly. A Technical Advisory Committee, consisting of staff from CEC, CPUC, CCAs, and NGOs, is also informing the pilot and held its first meeting mid-February. The pilot is temporarily delayed to allow staff to focus on near-term priorities, though the contract is expected to be brought to the Board in the fall with a launch in early 2023.

Strategic Plan:

Goal 3 – Community Energy Programs

Community Benefits: Deliver tangible benefits throughout our diverse communities
Key Tactic 1: Invest in programs that benefit underserved communities

Innovation and Scale: Leverage leadership, innovation and regulatory action for scaled impact

Key Tactic 1. Identify, pilot, and develop innovative solutions for decarbonization
Pilot and scale EV load shaping programs to ensure that 50% of energy for EV charging takes places in non-peak hours

5. 2035 Decarbonization Feasibility and Plan

Background: In September 2021 the Board adopted a resolution accelerating its goal of reaching carbon neutrality from 2045 to 2035 as follows "Direct Peninsula Clean Energy to adopt a goal of 100% greenhouse gas free by 2035 and direct staff to return with a plan for achieving that goal." A Board sub-committee was established including Chair DeGolia and directors Pine, Aalfs, Nash, Parmer-Lohan to oversee the project. The schedule is as follows:

Q1: Schedule, scope, market conditions analysis
Q2: Segments, costs, and finance options
Q3: PCE investment, finance, marketing, roadmap
Sept. Retreat: Present draft analysis & plan
Q4: Confirm and align budget forecast and finalize plan

The final deliverable is to be a slide deck for the retreat and potentially a white paper to follow. In addition, Peninsula Clean Energy's primary scope for decarbonization was approved:

- Transportation: private passenger vehicles, local government and local commercial fleets, ride-hailing, alternative mobility
- Buildings: single-family and small multi-family residential, office, small commercial

It is envisioned that Peninsula Clean Energy may engage beyond these segments on a limited basis.

Status: Development of the plan is ongoing. The first major deliverable "Market Conditions" analyzes the expected economic, technological and policy conditions anticipated from now through 2035 and includes a "business as usual" projection of decarbonization efforts which can be reasonably expected to occur without Peninsula Clean Energy intervention. This deliverable was presented to the Board sub-committee in April. The second major deliverable – "Segments and Costs" is nearly complete with a few data points still outstanding. We are beginning work on the "Financing Options" and Investment Plan components of the effort.

An Advisory Committee was formed including former CEC and CPUC commissioners, national lab directors, senior practitioners, and local government staff and met June 6th and is scheduled to meet again on July 19th. The session yielded substantive discussion including a number of key questions on rates, equity and other considerations. Advisory Committee participants were:

Jeff Aalfs	Board of Directors, Peninsula Clean Energy
Diane Bailey	Executive Director, Menlo Spark
Jeff Byron	Former CEC Commissioner
Andrea Chow	Sustainability Analyst, City of San Mateo
Pierre Del Forge	Clean Buildings Director, NRDC
Cisco Devries	CEO, OhmConnect
Adrienne Etherton	Sustainability Manager, City of Brisbane
Laura Feinstein	Sustainability Policy Director, SPUR
Zach Franklin	Chief Strategy Officer, GRID Alternatives
Matt Golden	CEO, Recurve
Ortensia Lopez	Executive Director, El Concilio
Loren McDonald	EV Industry Analyst, EVAdoption.com
Joshua Pierce	EVP, Richard Heath and Associates
Mary Anne Piette	Division Director, Lawrence Berkeley National Lab
James Russell	Energy Transition Director, CLEAResult
Nancy Ryan	Former CPUC Commissioner
Justin Zuganis	Director of Decarbonization, Silicon Valley Clean Energy

Strategic Plan:

Goal 3 – Community Energy Programs

Decarbonization Programs: Develop market momentum for electric transportation and initiate the transition to clean energy buildings

Innovation and Scale: Leverage leadership, innovation and regulatory action for scaled impact

Key Tactic 1. Identify, pilot, and develop innovative solutions for decarbonization
Develop strategy for supporting decarbonization by 2035 (updated 2022)

PENINSULA CLEAN ENERGY
JPA Board Correspondence

DATE: July 15, 2022
BOARD MEETING DATE: July 28, 2022
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jan Pepper, Chief Executive Officer

SUBJECT: Energy Supply Procurement Report – July 2022

BACKGROUND
This memo summarizes energy procurement agreements entered into by the Chief Executive Officer since the last regular Board meeting in June. This summary is provided to the Board for information purposes only.

DISCUSSION

Execution Month	Purpose	Counterparty	Term
May	Purchase of Resource Adequacy	City of Palo Alto	11 Months
June	Purchase of Resource Adequacy	Shell Energy North America (US), L.P.	9 Months
June	Purchase of Resource Adequacy	Shell Energy North America (US), L.P.	5 Months
June	Sale of Resource Adequacy	Shell Energy North America (US), L.P.	5 Months
July	Purchase of Resource Adequacy	California Choice Energy Authority	1 Month
June	Purchase of Energy Hedge	TransAlta Energy Marketing (U.S.) Inc.	3 Months
June	Purchase of Energy Hedge	Calpine Energy Services, L.P.	1 Year
June	Purchase of Energy Hedge	Morgan Stanley Capital Group Inc.	9 Months

In January 2020, the Board approved the following Policy Number 15 – Energy Supply Procurement Authority.

Policy: "Energy Procurement" shall mean all contracting for energy and energy-related products for PCE, including but not limited to products related to electricity, capacity, energy efficiency, distributed energy resources, demand response, and storage. In Energy Procurement, Peninsula Clean Energy Authority will procure according to the following guidelines:

1) **Short-Term Agreements:**
   a. Chief Executive Officer has authority to approve Energy Procurement contracts with terms of twelve (12) months or less, in addition to contracts for Resource Adequacy that meet the specifications in section (b) and in Table 1 below.
   b. Chief Executive Officer has authority to approve Energy Procurement contracts for Resource Adequacy that meet PCE's three (3) year forward capacity obligations measured in MW, which are set annually by the California Public Utilities Commission and the California Independent System Operator for compliance requirements.

   Table 1:

Product	**Year-Ahead Compliance Obligation**	**Term Limit**
Local Resource Adequacy	In years 1 & 2, must demonstrate capacity to meet 100% of monthly local obligation for years 1 and 2 and 50% of monthly local obligation for year 3 by November 31st of the prior year	Up to 36 months
System Resource Adequacy	In year 1, must demonstrate capacity to meet 90% of system obligation for summer months (May – September) by November 31st of the prior year	Up to 12 months
Flexible Resource Adequacy	In year 1, must demonstrate capacity to meet 90% of monthly flexible obligation by November 31st of the prior year	Up to 12 months

   c. Chief Financial Officer has authority to approve any contract for Resource Adequacy with a term of twelve (12) months or less if the CEO is unavailable and with prior written approval from the CEO.
   d. The CEO shall report all such agreements to the PCE board monthly.

2) **Medium-Term Agreements:** Chief Executive Officer, in consultation with the General Counsel, the Board Chair, and other members of the Board as CEO deems necessary, has the authority to approve Energy Procurement contracts with terms greater than twelve (12) months but not more than five (5) years, in addition to Resource Adequacy contracts as specified in Table 1 above. The CEO shall report all such agreements to the PCE board monthly.

3) **Intermediate and Long-Term Agreements:** Approval by the PCE Board is required before the CEO enters into Energy Procurement contracts with terms greater than five (5) years.

4) **Amendments to Agreements**: Chief Executive Officer, in consultation with the General Counsel and the Board Chair, or Board Vice Chair in the event that the Board Chair is

unavailable, has authority to execute amendments to Energy Procurement contracts that were previously approved by the Board.

STRATEGIC PLAN

The contracts executed in November support the Power Resources Objective A for Low Cost and Stable Power: Develop and implement power supply strategies to procure low-cost, reliable power.

PENINSULA CLEAN ENERGY

COMMONLY USED ACRONYMS AND KEY TERMS

AB xx – Assembly Bill xx
ALJ – Administrative Law Judge
AMP- Arrears Management Plans
AQM – Air Quality Management
BAAQMD – Bay Area Air Quality Management District
BLPTA – Buyer Liability Pass Through Agreement
CAC – Citizens Advisory Committee
CAISO – California Independent System Operator
CalCCA – California Community Choice Association
CAM – Cost Allocation Mechanism
CAP – Climate Action Plan
CAPP – California Arrearage Payment Program
CARB – California Air Resources Board, or California ARB
CARE- California Alternative Rates for Energy Program
CBA – California Balancing Authority
3CE- Central Coast Community Energy (Formerly Monterey Bay Community Power-MBCP)
CCA – Community Choice Aggregation (aka Community Choice Programs (CCP) or
CCE – Community Choice Energy (CCE)
CCP – Community Choice Programs
CEC – California Energy Commission
CPP- Critical Peak Pricing
CPSF – Clean Power San Francisco
CPUC – California Public Utility Commission (Regulator for state utilities) (Also PUC)
CSD – California Department of Community Services and Development
CSGT - Community Solar Green Tariff
DA – Direct Access
DAC-GT - Disadvantaged Communities Green Tariff
DER – Distributed Energy Resources
DG – Distributed Generation
DOE – Department of Energy
DR – Demand Response
DRP – Demand Response Provider
DRP/IDER – Distribution Resources Planning / Integrated Distributed Energy Resources
EBCE – East Bay Community Energy
ECOplus – PCE's default electricity product, 50% renewable and 50% carbon-free (in 2021)
ECO100 – PCE's 100% renewable energy product
EDR – Economic Development Rate
EE – Energy Efficiency
EEI – Edison Electric Institute; Standard contract to procure energy & RA
EIR – Environmental Impact Report
ELCC – Effective Load Carrying Capability
ESP – Electric Service Provider

ESS – Energy Storage Systems
ESSA – Energy Storage Services Agreement
ERRA – Energy Resource Recovery Account
EV – Electric Vehicle
EVSE – Electric Vehicle Supply Equipment (Charging Station)
FERA- Family Electric Rate Assistance Program
FERC – Federal Energy Regulatory Commission
FFS – Franchise Fee Surcharge
GHG – Greenhouse gas
GHG-Free – Greenhouse gas free
GTSR – Green Tariff Shared Renewables
GWh – Gigawatt Hours (Energy) = 1000 MWh
IDER – Integrated Distributed Energy Resources
IOU – Investor-Owned Utility (e.g. PG&E, SCE, SDG&E)
IRP – Integrated Resource Plan
IVR – Interactive Voice Response
ITC – Investment Tax Credit (it's a solar tax credit)
JCC – Joint Cost Comparison
JPA – Joint Powers Authority
JRC – Joint Rate Comparison
JRM – Joint Rate Mailer
kW – kilowatt (Power)
kWh – Kilowatt-hour (Energy)
LDS – Long Duration Storage
LDES – Long Duration Energy Storage
LIHEAP- Low Income Home Energy Assistance Program
Load Shaping – changing when grid energy is used
LSE – Load Serving Entity
MCE – Marin Clean Energy
Methane Gas - formerly known as 'natural gas'
Microgrid – building or community energy system
MW – Megawatt (Power) = 1000 kW
MWh – Megawatt-hour (Energy) = 1000 kWh
MUD – Multi-unit Dwelling
NBCs – non-bypassable charges
NEM – Net Energy Metering
NERC – North American Electric Reliability Corporation
NDA – Non-Disclosure Agreement
NG – Natural Gas
OBF – On-bill Financing
OBR – On-bill Repayment
OES – Office of Emergency Services
OIR – Order Instituting Rulemaking
PACE – Property Assessed Clean Energy
PCC – Portfolio Content Category (aka "buckets") – categories for RPS compliance
PCC1 – Portfolio Content Category 1 REC (also called bucket 1 REC)
PCC2 – Portfolio Content Category 2 REC (also called bucket 2 REC)
PCC3 – Portfolio Content Category 3 REC (also called bucket 3 REC or unbundled REC)

PCE – Peninsula Clean Energy Authority
PCIA – Power Charge Indifference Adjustment
PCL – Power Content Label
PLA – Project Labor Agreement
POU – Publicly Owned Utility
PPA – Power Purchase Agreement
PPSA – Project Participation Share Agreement (CC Power)
PSPS – Public Safety Power Shutoff
PV – Photovoltaics (solar panels)
RA – Resource Adequacy
RE – Renewable Energy
REC – Renewable Energy Credit/Certificate
RICAPS - Regionally Integrated Climate Action Planning Suite
RPS – California Renewable Portfolio Standard
SB xx – Senate Bill xx
SCP – Sonoma Clean Power
SJCE – San Jose Clean Energy
SJVAPCD - San Joaquin Valley Air Pollution Control District
SMD – Share My Data, interval meter data
SQMD – Settlement Quality Meter Data
SVCE – Silicon Valley Clean Energy
TEF – Transportation Electrification Framework (CPUC Proceeding)
TNCs – Transportation Network Companies (ridesharing companies)
TOB – Tariff on Bill
TOU RATES – Time of Use Rates
VGI – Vehicle-Grid Integration
V2G – Vehicle-to-Grid
VPP – Virtual Power Plant
WECC – Western Energy Coordinating Council
WREGIS – Western Renewable Energy Generation Information System
WSPP – Western Systems Power Pool; standard contract to procure energy and RA