CLEAN ENERGY ALLIANCE

AMENDED AGENDA

Board of Directors Regular Meeting Agenda
November 20, 2025, 2:00 p.m.
Leucadia Wastewater District, Board Room
1960 La Costa Ave, Carlsbad, CA 92009

Members of the public can observe the livestream of the meeting via Zoom by clicking:

https://us06web.zoom.us/j/81376410530
or telephonically by dialing:
(253) 215-8782
Meeting ID: 813 7641 0530

Members of the public can provide public comment in writing or orally in person as follows:

Written Comments: If you are unable to participate in person and you wish to make a comment, you may submit written comments prior to and during the meeting via email to: clerk@thecleanenergyalliance.org. All written comments will be posted online and become part of the meeting record. To ensure announcement of receipt of your written comments during the meeting, please submit all written comments by 12:00 p.m. prior to the commencement of the meeting. Public comments received in writing will not be read aloud at the meeting.

Oral Comments: Members of the public can address the Board on items on the agenda at the time the item is being addressed or during Public Comments for topics that are not listed on the agenda. Speakers are limited to three (3) minutes each. In conformance with the Brown Act, no Board action can occur on items presented during Public Comment.

If you desire to speak during Public Comment, please fill out a speaker card and submit it to the Board Secretary. When you are called to speak, please come forward to the podium and state your name. To address the Board regarding an item on the agenda, please fill out a speaker card and submit it to the Board Secretary before the Board Chair announces the item.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

APPROVAL OF AGENDA

BOARD COMMENTS & ANNOUNCEMENTS

PUBLIC COMMENT

APPROVAL OF MINUTES
Minutes of the Regular Meeting held October 30, 2025
Minutes of the Special Meeting held on October 30, 2025

Presentations:

SDREN Update

Consent Calendar

Item 1: **Clean Energy Alliance Treasurer's Report for September 2025**

RECOMMENDATION:
Receive and file the Clean Energy Alliance Treasurer's Report for September 2025.

The agenda has been amended to include this item.

Item 2: **Amendment No. 1 to the March 6, 2025, Engagement Letter with Keyes & Fox for Legal Services**

RECOMMENDATION:
That the Clean Energy Alliance (CEA) Board of Directors (Board) adopt Resolution No. 2025-046 approving Amendment No. 1 to the Engagement Letter with Keyes & Fox (K&F) for Legal Services, increasing the total amount not to exceed from $100,000 to $200,000 over the engagement term from September 2024 to June 2026 and authorizing the Chief Executive Officer to sign such amendment.

Reports

Item 3: **Clean Energy Alliance Chief Executive Officer Operational and Administrative Report**

RECOMMENDATION:
Receive and file the report.

Public Hearings

Item 4: **Consider Adoption of Clean Energy Alliance (CEA) Resolution No. 2025-044 Setting Rates and Approving Agreements with Luminia BTM DevCo 1 LLC (Luminia) for CEA's Solar Plus Business Program**

RECOMMENDATION:
1) Conduct the Public Hearing: Open the Public Hearing, Receive Public Testimony, and Close the Public Hearing;
2) Adopt Resolution No. 2025-044 Setting Rates for Solar Plus Business; and
3) Approve Program Agreements with Luminia BTM DevCo 1 LLC and authorize the Chief Executive Officer to execute all documents subject to General and Special Counsel approval.

Item 5: **Consider Adopting Resolution No. 2025-045 Amending Clean Energy Alliance Rate Schedule to Update the Wholesale Market Access Tariff Rate Effective January 1, 2026**

RECOMMENDATION:

1) Conduct the Public Hearing: Open the Public Hearing, Receive Public Testimony, close the Public Hearing.
2) Approve Resolution No. 2025-045 Amending Clean Energy Alliance Rate Schedule to update the Wholesale Market Access Tariff Rate Effective January 1, 2026.

New Business

Item 6: **Regulatory Update**

RECOMMENDATION:
Receive the Regulatory update from Keyes and Fox.

Item 7: **Review Options for Customer Electricity Cost Rate Relief**

RECOMMENDATION:
That the Clean Energy Alliance (CEA) Board of Directors (Board) receive a report on CEA customer rate options and financial impacts resulting from San Diego Gas & Electric's (SDG&E's) 2026 Energy Resource Recovery Account (ERRA) Forecast for Power Charge Indifference Adjustments (PCIA) rates and provide direction to staff.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

NEXT MEETING: Regular Board Meeting January 29, 2026, Leucadia Wastewater District, 1960 La Costa Ave., Carlsbad, CA 92009.

If you are an individual with a disability and need a reasonable modification or accommodation pursuant to the Americans with Disabilities Act ("ADA"), please contact clerk@thecleanenergyalliance.org prior to the meeting for assistance.

Board of Directors Regular Meeting Agenda
October 30, 2025, 2:00 p.m.
Leucadia Wastewater District, Board Room
1960 La Costa Ave, Carlsbad, CA 92009

CALL TO ORDER: Chair Melendez called to order the Regular Meeting of the Clean Energy Alliance at 2:02 p.m.

ROLL CALL: Board Members: Spelich, Bhat-Patel, Figueroa, Nuñez, Becker, Melendez.
Absent: Vice Chair Garcia.
Vice Chair Garcia arrived at 2:07 p.m.

FLAG SALUTE: Chair Melendez led the flag salute.

BOARD COMMENTS & ANNOUNCEMENTS:
Chair Melendez announced that SDREN staff will not be presenting an update and that the Public Hearing that was advertised in the Union Tribune has been moved to the November 20, 2025 board meeting.

PUBLIC COMMENT:
Daniel Dominguez recommended that there be a program to allow people a grace period on their electric bill due to the suspension of SNAP Benefits.

APPROVAL OF MINUTES:
Minutes of the Regular Meeting held September 26, 2025

Motion by Board Member Bhat-Patel, seconded by Board Member Nuñez, to approve the minutes presented. Motion carried, 6/0/1(Absent – Garcia).

Consent Calendar

Item 1: **Clean Energy Alliance Treasurer's Report for July 2025**

RECOMMENDATION:
Receive and file the Clean Energy Alliance Treasurer's Report for July 2025.

Item 2: **Clean Energy Alliance Treasurer's Report for August 2025**

RECOMMENDATION:
Receive and file the Clean Energy Alliance Treasurer's Report for August 2025.

Motion by Board Member Bhat-Patel, seconded by Board Member Nuñez, to approve the Consent Calendar. Motion carried, 6/01/1 (Absent – Garcia)

Reports

Item 3: **Clean Energy Alliance Chief Executive Officer Operational and Administrative Report**

RECOMMENDATION:
Receive and file the report.

CEO Greg Wade presented the presentation and provided information on enrollment statistics, community events and CEA programs.

CEA Board received report.

New Business

Item 4: Regulatory Update

RECOMMENDATION:
Receive the Regulatory update from Keyes and Fox.

Keyes and Fox Partner Tim Lindl provided the update and responded to questions from the Board.

CEO Greg Wade responded to questions from the Board.

CEA Board received report.

Item 5: Receive Annual Audited Financial Report

RECOMMENDATION:
Receive and file Clean Energy Alliance Annual Audited Financial Report for the Fiscal Year Ended June 30, 2025.

Chief Financial Officer Andrew Stern presented the report. He was joined Kellin Gilber a Partner at Sorren, who provided an updated.

CEA Board received report.

Board Member Spelich left the meeting at 3:05 p.m.

Item 6: SDG&E's 2026 Energy Resource Recovery Account (ERRA) Forecast October Revisions & CEA Rate Impacts

RECOMMENDATION:
Receive the report on San Diego Gas & Electric's (SDG&E's) October Revisions to its 2026 Energy Resource Recovery Account (ERRA) Forecast for Power Charge Indifference Adjustments (PCIAs) and bundled generation rates.

CEO Greg Wade presented the report and responded to questions from the Board.

CEA Board received report and requested relief on SDG&E bills such as through the use of funds, rate decreases, bonuses or credits and directed staff to research options that would help reduce costs and lessen the financial burden on customers caused by SDG&E's Power Charge Indifference Adjustment rates.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS:
Vice Chair Garcia requested that CEA engage third parties or providers to present alternative clean energy options to the public.

NEXT MEETING: Regular Board Meeting January 29, 2026, Leucadia Wastewater District, 1960 La Costa Ave, Carlsbad, CA 92009.

ADJOURN: Chair Melendez adjourned the meeting into closed session at 3:37 p.m.

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Ana Marie Alarcon
Clerk to the Board/Executive Assistant

Clean Energy Alliance Board of Directors Special Meeting Agenda
October 30, 2025, 2:30 p.m.
Leucadia Wastewater District, Board Room
1960 La Costa Ave, Carlsbad, CA 92009

CALL TO ORDER: Chair Melendez called to order the Special Meeting of the Clean Energy Alliance at 3:36 p.m.

ROLL CALL: Board Member: Bhat-Patel, Figueroa, Nuñez, Becker, Vice Chair Garcia, Chair Melendez.
Absent: Board Member Spelich

PUBLIC COMMENT: None.

Closed Session

Item 1: **Public Employee Performance Evaluation Pursuant to Government Code Section 54957**
Title: Chief Executive Officer

RECESS TO CLOSED SESSION: 3:37 p.m.

RECONVENE TO OPEN SESSION: 4 p.m.

GENERAL COUNSEL ANNOUNCEMENT: No reportable action.

ADJOURNMENT: 4 p.m.

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Ana Marie Alarcon
Clerk to the Board

CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Andy Stern, Interim Chief Financial Officer/Treasurer

ITEM 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION:

Receive and File Clean Energy Alliance (CEA) Interim Treasurer's Report for September 2025.

BACKGROUND AND DISCUSSION:

This report provides the Board with the following financial information through September 30, 2025:

- Statement of Financial Position (Unaudited and preliminary) – Reports assets, liabilities, and financial position of the CEA as of September 30, 2025.
- Statement of Revenues, Expenses and Changes in Net Position (Unaudited and preliminary) for the period ended September 30, 2025.
- Budget to Actuals Comparison Schedule (Unaudited and preliminary) – Reports actual revenues and expenditures compared to the annual amended budget as of September 30, 2025.
- List of Payments Issued – Reports payments issued for September 2025.

As of September 31, 2025, liabilities represent invoices and estimated accruals for energy and services received but not yet paid.

FISCAL IMPACT:

As of September 30, 2025, reported Unrestricted Net Position was $60,340,027.

Submitted for Board consideration:

Gregory Wade
Chief Executive Officer

ATTACHMENTS:

A. Treasurer's Report for September 2025

CLEAN ENERGY ALLIANCE
STATEMENT OF NET POSITION
As of September 30, 2025

ASSETS	
Current assets	
Cash and cash equivalents	$ 15,483,025
Accounts receivable, net of allowance	49,415,664
Accrued revenue	31,626,200
Other receivables	344,339
Prepaid expenses	14,022,278
Deposits	1,296,500
Total current assets	112,188,006
Noncurrent assets	
Deposits	1,040,683
Total noncurrent assets	1,040,683
Total assets	113,228,689
LIABILITIES	
Current liabilities	
Accrued cost of electricity	40,218,481
Accounts payable	1,054,288
Other accrued liabilities	566,664
Security deposits - energy suppliers	797,750
Interest and financing cost payable	53,079
Total current liabilities	42,690,262
Noncurrent liabilities	
Security deposits - energy suppliers	6,198,400
Revolving line of credit	4,000,000
Total noncurrent liabilities	10,198,400
Total liabilities	52,888,662
NET POSITION	
Unrestricted	$ 60,340,027

These financial statements do not contain note disclosures, have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them.

CLEAN ENERGY ALLIANCE
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
Three Months Ended September 30, 2025

OPERATING REVENUES	
Electricity sales, net	$ 143,344,829
Miscellaneous income	543
Total operating revenues	143,345,372
OPERATING EXPENSES	
Cost of electricity	101,229,987
Contract services	1,747,232
Staff compensation	609,716
Other operating expenses	294,641
Total operating expenses	103,881,576
Operating income (loss)	39,463,796
NONOPERATING REVENUES (EXPENSES)	
Investment income	56,376
Interest expense	(559,256)
Nonoperating revenues (expenses), net	(502,880)
CHANGE IN NET POSITION	38,960,916
Net position at beginning of year	21,379,111
Net position at end of period	$ 60,340,027

These financial statements do not contain note disclosures, have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them.

BUDGET TO ACTUALS COMPARISON SCHEDULE

At its June 2025 board meeting, the CEA Board approved the Fiscal Year (FY) 2025/26 budget approving $346,904,000 in total operating expenses. For the year-to-date, $104,441,000 of operating expenses have been expended. Revenues from electricity sales for the year-to-date reached $143,345,000. Nonoperating activity was a net expense of $503,000. The overall change in net position for the year-to-date was an increase of $38,961,000.

The Budget to Actuals Comparison Schedules as of September 30, 2025, is shown below.

CLEAN ENERGY ALLIANCE
BUDGETARY COMPARISON SCHEDULE
Three Months Ended September 30, 2025

	Year-To-Date				Annual		
			Variance fav. (unfav.)				
	Actual	Budget	Amount	%	Annual Budget	Budget Less Actual YTD	Budget Remaining / Budget
Electricity Sales, net	$ 143,345,372	$ 148,344,298	$ (4,998,926)	-3%	383,146,909	239,801,537	63%
Operating Expenses							
Cost of Energy	101,229,987	104,327,336	3,097,349	3%	333,540,321	232,310,334	70%
Other Operating Expenses	2,651,588	3,358,069	706,481	21%	13,363,246	10,711,658	80%
Total Operating Expenses	103,881,575	107,685,405	3,803,830	4%	346,903,567	243,021,992	70%
Operating Income (Loss)	39,463,797	40,658,893	(1,195,096)	-3%	36,243,342	(3,220,455)	
Total Nonoperating Income/(Expense)	(502,880)	(190,541)	(312,339)	-164%	(380,692)	122,188	-32%
Change in Net Position	$ 38,960,917	$ 40,468,352	$ (1,507,435)		$ 35,862,650	$ (3,098,267)	

These financial statements do not contain note disclosures, have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them.

LIST OF PAYMENTS ISSUED

The report on the following page provides the details of payments issued by CEA for the month. All payments were within approved budget.

Date	Vendor	Memo/Description	Amount
09/02/2025	Pacific Gas & Electric	Vintagel 2025 - Renew able Energy Certificates	2,162,500.00
09/02/2025	PARTICIPATE ENERGY FUND LLC	July 2025 PPA Period 07042025 08032025	1,809.25
09/02/2025	SDG&E (Procurement)	Nov. 2025 - CEA RA Sale MCAM	607,368.80
09/02/2025	THE ENERGY AUTHORITY	July 2025 - CAISO Weekly Statement of Activity (08/08/25-08/14/25) Total	171,914.96
09/08/2025	Amy Williams	Expense Report 8/27/2025	29.06
09/08/2025	BRAUN BLAISING SMITH WYNNE	July 2025 - General Matters	1,766.15
09/08/2025	BRENTECH INCORPORATED	Surge Protector, 8 outlets, 2 USB-A & 1 USB-C, 2000Jrating	161.63
09/08/2025	BRENTECH INCORPORATED	19 VEEAM Microsoft 365 Backup Protection	190.00
09/08/2025	Evolution Affairs, LLC	August 2025 - Professional Services	618.75
09/08/2025	Local Energy Aggregation Netw ork	Gigaw att membership	15,000.00
09/08/2025	MCCAULEY, KAYLIN (contractor)	August 2025	680.00
09/08/2025	Neyenesch Printers	1,000 Business Cards -	987.39
09/08/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (08/15/25-08/20/25) Total C	62,239.39
09/08/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (08/15/25-08/20/25) Total	321,882.66
09/09/2025	USPS	First-Class Mail and First-Class Package Service	963.17
09/10/2025	ATRIA WORKSPACE (AVANTI)	October 2025 Rent	4,884.02
09/10/2025	EMPOWER (401a)	Employee Retirement -09/05/2025	10,932.29
09/10/2025	EMPOWER (457b)	Employee Retirement - 09/05/2025	6,288.55
09/10/2025	Neyenesch Printers	200 PeakSmart Flyer - ENG/SPAN	181.89
09/10/2025	PaulosAnalysis	September 2025 - Professional Services	1,500.00
09/10/2025	SDRMA	October 2025 Benefits Coverage	21,979.09
09/10/2025	The Bayshore Consulting Group, Inc	August 2025 - CEA Consulting	1,706.25
09/12/2025	Clean Pow er Alliance	Jan & Feb 2025 - PCC1	3,500,000.00
09/12/2025	ICAP ENERGY LLC	July 2025 - Broker Fees	60,000.00
09/12/2025	New Gen Strategies & Solutions	August 2025 -Project:	3,960.00
09/12/2025	Nixon Peabody LLP	August,2025.	8,817.50
09/13/2025	State Compensation Insurance Fund	Monthly - Worker's Comp	564.42
09/15/2025	Amy Williams	Expense Report 9/03/2025	26.07
09/15/2025	Keyes & Fox LLP	August 2025- Professional Services	35,490.68
09/15/2025	Pacific Energy Advisors, Inc	August 2025 - Technical Consulting	40,170.00
09/15/2025	Reynolds, Tiffany	Expense Report for September 04, 2025	180.25
09/15/2025	STERN, ANDREW	For the period from August 1, 2025 through August 31, 2025	13,900.00
09/15/2025	Summit Advocacy LLC	August 2025 Lobbying Consulting Services	7,000.00
09/15/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (08/21/25-08/27/25) Total C	101,367.82
09/15/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (08/21/25-08/27/25) Total	1,165,720.73
09/16/2025	CALPINE ENERGY SOLUTIONS (Data MGR)	July 2025 Services	294,885.15
09/18/2025	KARBONE INC.	REC transaction dated February 7, 2025	183,909.00
09/18/2025	THE ENERGY AUTHORITY	August 2025 - Resource Management Monthly Fees	20,991.53
09/19/2025	Amy Williams	Expense Report 9/03/2025	53.00
09/19/2025	Neyenesch Printers	2,597 Move Notice Mailing 8/27 and 9/3	401.37
09/19/2025	Northern California Pow er Agency	August 2025 - Resource Adequacy Capacity	129,600.00
09/22/2025	CALPINE ENERGY SERVICES L.P.	August 2025 - CAP-CAISO-LOCAL-SAN DIEGO	40,000.00
09/22/2025	DYNASTY POWER	August 2025 - Environmental Attribute	34,250.00
09/22/2025	EDF TRADING NORTH AMERICA	August 2025 - Capacity Purchase -	588,750.00
09/22/2025	ES 1A Group 2 Opco, LLC	August 2025 - Resource Adequacy	108,360.00
09/22/2025	JPMorgan	Principal Payment $13,000,000 on short term loan	13,000,000.00

09/22/2025	JPMorgan	Principal Payment $8,000,000 against credit line	8,000,000.00
09/22/2025	JPMorgan	Interest expense for 8/25/25-9/23/25	96,794.60
09/22/2025	LEAPFROG POWER, INC.	September 2025 - CEA RA	22,758.20
09/22/2025	Orange County Power Authority	Sell - System Flex - August 2025	1,000,000.00
09/22/2025	SDG&E (Procurement)	08/25 CEA - PCIA VA revenues	4,429,916.92
09/22/2025	SEMPRA	August 2025 - Capacity Purchases	912,500.00
09/22/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (08/28/25-09/4/25) Total CH	122,660.91
09/22/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (08/28/25-09/4/25) Total	1,179,283.49
09/23/2025	Citadel energy marketing llc	August 2025 - CAISO DA SP-15	240,014.40
09/23/2025	DYNASTY POWER	August 2025 - Environmental Attribute	2,024,457.00
09/23/2025	Maher Accountancy	September services	13,000.00
09/23/2025	Reynolds, Tiffany	Expense Report for September 17, 2025	325.00
09/23/2025	USPS	First-Class Mail and First-Class Package Service	1,130.78
09/23/2025	Villaseñor, Karen	Sep 8, 2025 to Sep 8, 2025	75.04
09/24/2025	BRENTECH INCORPORATED	1 Owl Bar Video Conferencing 4K Video Conferencing Bar with Active & More$	5,624.39
09/24/2025	BURKE, WILLIAMS & SORENSEN, LLP	July 2025 - Legal services	12,614.80
09/25/2025	EMPOWER (401a)	Employee Retirement -09/20/2025	10,932.29
09/25/2025	EMPOWER (457b)	Employee Retirement - 09/20/2025	5,782.30
09/25/2025	Hall Energy Law PC	July 2025 - Fees for Professional Services	16,445.00
09/25/2025	Powerex	September 2025 transactions	61,687.50
09/25/2025	Resi Station LLC (Renew Home)	August 2025 - Proxy Demand Response	37,264.50
09/26/2025	BURKE, WILLIAMS & SORENSEN, LLP	August 2025 - Legal services	6,664.20
09/29/2025	THE ENERGY AUTHORITY	August 2025 - CAISO Weekly Statement of Activity (09/05/25-09/11/25) Total C	79,510.15
09/29/2025	THE ENERGY AUTHORITY	September 2025 - CAISO Weekly Statement of Activity (09/05/25-09/11/25) Tot	488,026.99
09/29/2025	Tripepi, Smith & Associates, Inc.	September 2025 - Retainer Communications and Marketing Services	15,026.00
09/30/2025	Alcaraz,Sophia	ER Sep 18, 2025	987.00
09/30/2025	JPMorgan	Interest expense for 8/25/25-9/23/25	27,967.96
09/30/2025	Neyenesch Printers	3,036 Move Notice Mailing 9/9 and 9/16	394.45
09/30/2025	River City Bank CC	August 2025 CC Statement	11,786.72
Multiple	Multiple Customers	NEM Cash Out	326,367.73
		Total from Operating Account	**41,883,979.14**

09/23/2025	MORGAN STANLEY CAPITAL GROUP, INC.	August 2025 - Capacity	5,105,939.46
09/23/2025	NRG	Jul-25	3,522,587.47
09/23/2025	Shell Oil North America	July 2025 - Power	4,504,798.00
09/23/2025	Tecolote Wind LLC	August 2025 - Resource Adequacy Benefits	78,500.00
		Total from Lockbox Account	**13,211,824.93**

CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Gregory Wade, Chief Executive Officer

ITEM 2: Amendment No. 1 to the March 6, 2025, Engagement Letter with Keyes & Fox for Legal Services

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RECOMMENDATION:

That the Clean Energy Alliance (CEA) Board of Directors (Board) adopt Resolution No. 2025-046 approving Amendment No. 1 to the Engagement Letter with Keyes & Fox (K&F) for Legal Services, increasing the total amount not to exceed from $100,000 to $200,000 over the engagement term from September 2024 to June 2026 and authorizing the Chief Executive Officer to sign such amendment.

BACKGROUND AND DISCUSSION:

Clean Energy Alliance (CEA) has been engaged with Keyes & Fox (K&F) since 2022 to provide regulatory legal support from which CEA has greatly benefitted under separate not to exceed engagements. As a continuation of these important services, CEA and K&F's negotiated transaction legal services via an Engagement Letter dated March 6, 2025, initially structured with a not-to-exceed amount of $100,000. Although CEA did not expect these immediate and limited transaction services needs to exceed $50,000, this Engagement Letter was inadvertently not reported as a contract between $50,000 and $100,000 during a subsequent Board Meeting's Chief Executive Officer (CEO) Administrative Report.

Since execution of the Engagement Letter, the transaction legal services required by CEA expanded well beyond the capacity of CEA's other transactional counsel (Hall Energy Law) as did the number of agreements and transactions. As such, CEA has needed the support of K&F's transaction legal services for numerous agreements including review of Power Purchase Agreements and Energy Storage Services Agreements, which have been approved by the Board and executed, as well as other items currently under negotiation as well as the Solar Plus Business agreements which are being considered by the Board this month. K&F transaction counsel has been meeting expectations as it provides these transaction legal services and has now reached its not-to-exceed amount of $100,000. Therefore, staff recommends amending the current K&F agreement to increase the not-to-exceed amount from $100,000 to $200,000 for these transaction legal services through June 2026. Staff is also providing retroactive notification to the Board of the original Engagement Letter for these inital services.

FISCAL IMPACT:

Funds for energy transactions services are included in the adopted budget.

Submitted for Board consideration:

_____
Gregory Wade
Chief Executive Office

ATTACHMENTS:

A. Resolution No. 2025-046, approving Amendment No. 1 to the Engagement Letter with Keyes & Fox (K&F) for Legal Services
B. Amendment No. 1 to the Engagement Letter with Keyes & Fox (K&F) for Legal Services
C. March 6, 2025 Engagement Letter with K & F

Attachment A

CLEAN ENERGY ALLIANCE
RESOLUTION NO. 2025-046

A RESOLUTION OF THE BOARD OF DIRECTORS OF CLEAN ENERGY ALLIANCE APPROVING AMENDMENT NO. 1 TO KEYES & FOX ENGAGEMENT LETTER

WHEREAS, Clean Energy Alliance (CEA) is a Joint Powers Authority, formed in November 2019, whose members cities include Carlsbad, Del Mar, Escondido, Oceanside, San Marcos, Solana Beach and Vista; and

WHEREAS, as a load serving entity with a load that has grown from its conception in 2019 to its current service area in 2025, CEA requires energy transactions attorney services; and

WHEREAS, the CEA Chief Executive Office (CEO) entered into an Engagement Letter Agreement with Keyes & Fox for Legal Services associated with transaction attorney services in March 2025, initially expected not to exceed $50,000 per year in costs; and

WHEREAS, CEA's need for energy transactions attorney services from Keyes & Fox has grown across both programmatic and power supply agreements and desires to increase the total not-to-exceed amount from one hundred thousand dollars ($100,000) to two hundred thousand dollars ($200,000) for these transaction legal services through June 2026.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Clean Energy Alliance, as follows:

Section 1. The Board of Directors of Clean Energy Alliance hereby approves Amendment No. 1 to the professional legal services agreement with Engagement Letter Agreement with Keyes & Fox for Legal Services, increasing the total not to exceed amount to two hundred thousand dollars ($200,000) though June 2026.

Section 2. The Board of Directors of Clean Energy Alliance hereby authorizes and directs the CEO to execute such Amendment No. 1 in a form substantially similar to that presented to the Board on November 20, 2025.

Section 3. This Resolution shall take effect immediately upon approval.

The foregoing Resolution was passed and adopted this 20th day of November, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Katie Melendez, Board Chair

ATTEST:

_____
Ana Marie Alarcon, Clerk to the Board

FIRST AMENDMENT TO AGREEMENT WITH KEYES & FOX

WHEREAS, the CLEAN ENERGY ALLIANCE, an independent public agency ("Authority"), and KEYES & FOX entered into that certain agreement entitled ENGAGEMENT LETTER BETWEEN KEYES & FOX LLP AND CLEAN ENERGY ALLIANCE, effective on March 6, 2025, hereinafter referred to as "Original Agreement"; and

WHEREAS, Authority and KEYES & FOX have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. "Professional Fees" Section of Original Agreement shall be amended to read as follows:

"Unless otherwise agreed to in writing, CEA will not be obligated for fees in excess of ~~one~~ two hundred thousand dollars ~~($100,000)~~($200,000)."

2. This Amendment shall be effective on 11/01/2025.

3. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.

4. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates set forth besides their signatures below.

CONSULTANT NAME
KEYES & FOX

By: _____
Name: Tim Lindl
Title: Partner
Date: _____

CLEAN ENERGY ALLIANT
A Joint Powers Authority

By: _____
Name: Gregory Wade
Title: Chief Executive Officer
Date: _____

KEYES&FOX LLP

March 6, 2025

Greg Wade
Chief Executive Officer
Clean Energy Alliance
5857 Owens Ave, Suite 2023
Carlsbad, CA 92008

RE: Engagement Letter Between Keyes & Fox LLP and Clean Energy Alliance ("CEA")

Keyes & Fox LLP ("K&F") is delighted that CEA has decided to engage K&F to act as its attorney in negotiating and drafting power purchase and energy storage agreements, other procurement-related contracts, and any other matters K&F and CEA both mutually agree to undertake for the period of September 1, 2024, through June 30, 2026, with the option to renew this agreement upon mutual consent through May of 2028 ("Legal Services").

This letter describes the basis of the attorney-client relationship between K&F and CEA with respect to the Legal Services, and an explanation of how K&F will bill for those services. This letter also describes the risks to and responsibilities of CEA for matters where CEA will be jointly represented along with other CCAs ("Joint Representation").

1. **Scope of Engagement**

Pursuant to this Engagement Letter, K&F shall provide CEA with the Legal Services identified above. K&F will do its utmost to represent CEA effectively, provide Legal Services in an efficient manner, and respond promptly to CEA's inquiries.

We have run a conflicts check as it relates to the proposed Legal Services, and we have not found any direct conflicts with undertaking them. If a conflict arises that may impact our ability to provide CEA with effective representation, we will promptly bring that conflict to CEA's attention. If CEA becomes concerned about any relationship we might have with particular companies, organizations or individuals, please bring those concerns to our attention.

K&F will coordinate projects with Dan Peckham, as the designated representative of CEA, or with whomever Mr. Peckham may specifically delegate that authority. We understand that Mr. Peckham has the authority to make decisions on behalf of CEA in connection with the Legal Services proposed, and we are relying on that understanding.

2. **Confidentiality of Communications and Work Product.**

Generally, it is in CEA's interest to preserve confidentiality of all communications with K&F. If CEA discloses any of our communications, it jeopardizes the privileged nature of the

communications, so we believe it is advisable that CEA take care not to disclose privileged information to third parties.

Through this Engagement Letter, CEA authorizes K&F to engage in confidential communications with EQ Research LLC to obtain support with respect to the Legal Services. K&F understands it is the intent of CEA that all communications and work product that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege and/or attorney work product privilege.

3. Fees, Costs, and Invoicing

By signing this Joint Representation Agreement, CEA agrees to pay K&F for time and out-of-pocket expenses according to the terms set forth below.

a. Professional Fees

K&F will keep an hourly total of time spent on the Legal Services matters. Work will be performed at hourly rates according to the rates set forth in Attachment A to this Engagement Letter, which is incorporated by reference herein. It is K&F's policy to adjust hourly rates for all attorneys and staff at the beginning of the calendar year. Historically, rate increases have been between 5-8% per year. Rates quoted in Attachment A are 2025 rates. Our firm's practice is to charge for travel time, as discussed in Attachment A.

Theresa Cho will be the lead K&F attorneys providing the Legal Services to CEA. Ms. Cho may utilize services of other K&F attorneys and support staff in connection with this matter. By executing this Engagement Letter, you consent to Ms. Cho serving as lead attorney in providing Legal Services and to her assignment, as necessary, of work on this matter to the attorneys, support staff or EQ employees listed in Attachment A.

Unless otherwise agreed to in writing, CEA will not be obligated for fees in excess of one hundred thousand dollars ($100,000). If the option to extend is elected, budgets for any extension will be determined at that time. Agreements to exceed the fees and expenses stated herein may occur via electronic mail.

b. Expenses

Expenses may be incurred in performing the Legal Services. K&F will bill for all costs, disbursements, and expenses in addition to our hourly fees. Costs and expenses include costs for travel including mileage and parking, and similar expenses. Expenses shall be billed at actual cost.

c. Invoices and payments

K&F will invoice CEA on or around the 10th of each month for Legal Services provided during the prior calendar month. Fees for Legal Services will be earned as of the time of invoicing. Invoices shall list the matter worked on and provide information on the dates of service, time involved, attorney responsible, and activity undertaken. CEA shall be responsible for payment of the total amount of its invoice. Invoices are due and payable within thirty (30)

calendar days. Any unpaid amounts after thirty days will accrue interest at a rate of nine percent (9%) per annum.

4. Termination of K&F's Representation

Either K&F or CEA may terminate K&F's representation of CEA at any time and for any reason. At the time K&F's representation of CEA concludes, all unpaid fees and costs for K&F's Legal Services become due and payable. If at that time CEA does not request the return of files related to the Legal Services, K&F will retain such files for a period of three years, after which K&F may have the files destroyed.

5. Miscellaneous

This letter is the entire agreement between CEA and K&F concerning the provision of the Legal Services. This Engagement Letter and the scope of Legal Services provided under it may be amended from time to time by mutual agreement. California law will govern this agreement and any subsequent amendments.

6. Conclusion

If the terms of K&F's representation as explained in this Engagement Letter are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions.

We look forward to our representation of CEA.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP

CEA hereby authorizes K&F to represent its interests with respect to the Legal Services. CEA acknowledges, by signing this letter, that it has had the opportunity to consult with other counsel about the consequences of this engagement and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Engagement Letter. This Engagement Letter shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until CEA has returned a signed copy of this letter.

I have read the foregoing Engagement Letter, understand it and agree to it on behalf of CEA.

By:_____

Gregory Wade

Title: Chief Executive Officer

Date: __April 3, 2025_____

<u>Attachment A</u>: Keyes & Fox LLP 2025 Hourly Rate Sheet

<u>åAttorneys</u>

Kevin Fox	$640
Sheridan Pauker	$505
Theresa Cho	$615
Alexandra Haggarty	$400

<u>EQ Research, LLC Analysts and Experts (Non-Keyes & Fox LLP Personnel)</u>

Miriam Makhyoun	$260
Justin Barnes	$240
Jason Hoyle	$190
Riana Ackley	$150
Heather DePouw	$150
Alicia Zaloga	$160
Corey Cochran	$120
Rob Campbell	$120

Travel Policy: Unless special arrangements are made, travel time is billed at the full hourly rate. Every effort will made to work productively on the Joint Clients matters during travel. If work is performed for another client during travel, the Joint Clients will not be billed for that time. All reasonable travel expenses are billable – hotel, airfare, car rental, meals, taxi, public transit, etc.

Work Policy: Reasonable time for filing and service is billed at regular billable rates.

Miscellaneous Expenses Policy: Expenses for postage, photocopying, printing, faxing and other minor expenses directly related to a matter are billable at cost to the Joint Clients.

CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Greg Wade, Chief Executive Officer

ITEM 3: Clean Energy Alliance Chief Executive Officer Operational and Administrative Report

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RECOMMENDATION:

Receive and File the Chief Executive Officer (CEO) Operational and Administrative Report.

BACKGROUND AND DISCUSSION:

This report provides an update to the Clean Energy Alliance (CEA) Board regarding operational and administrative activity.

OPERATIONAL UPDATE

CEA in the Community

To provide opportunities for the customers and communities we serve to meet with CEA staff and have their questions answered, staff continues to attend many in-person community events, organize and hold community workshops and give presentations. CEA has been busy with many of these scheduled outreach efforts. Recent events and presentations that CEA participated in:

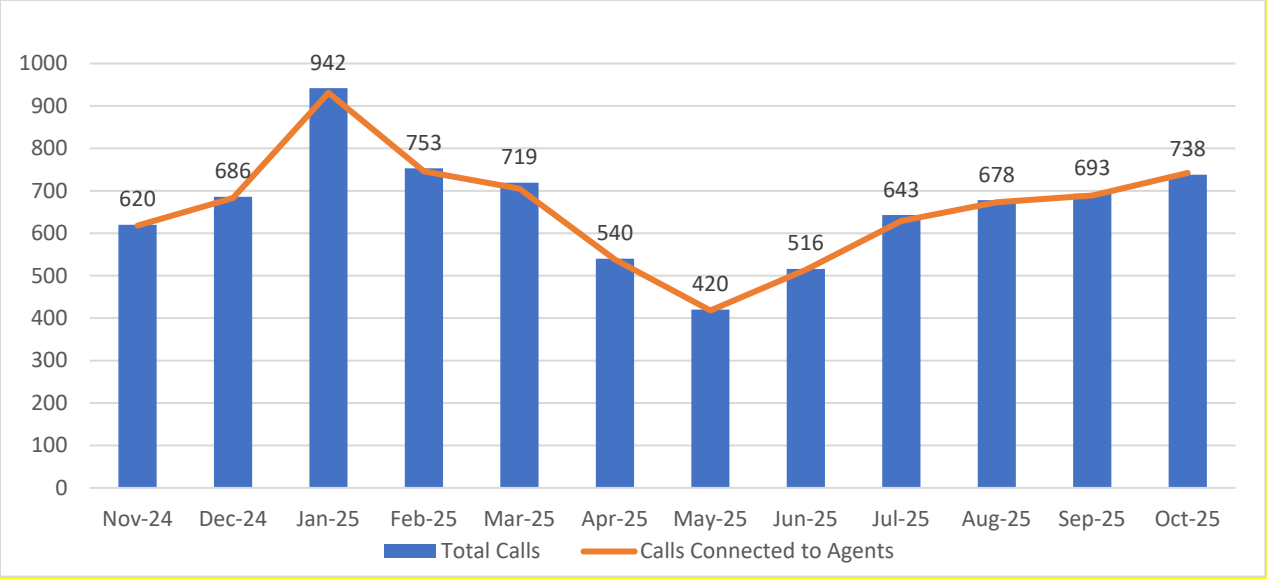
DATE	DESCRIPTION	CITY
November 2, 2025	Carlsbad Village Street Faire	Carlsbad
November 5, 2025	Community Energy Planning Workshop	Oceanside
November 6, 2025	Community Energy Planning Workshop	Solana Beach
November 6, 2025	State of the Cleantech Industry in SD Panel	San Diego
November 7, 2025	17th Annual Lesley K. McAllister Climate & Law Symposium	San Diego
November 12, 2025	Solana Beach Climate & Resiliency Commission Presentation	Solana Beach
November 13, 2025	North County Climate Change Alliance Presentation	Online

Upcoming events in which CEA will be participating include:

DATE	DESCRIPTION	CITY
December 12, 2025	Winterfaith Holiday Sponsor a Family	Escondido

Call Center Activity and Participation Statistics

The following chart reflects customer activity through October 31, 2025.



Call volumes to CEA's Call Center increased 6% from September 2025 to October 2025. The most common call topics for all customers (commercial and residential) were related to Billing inquiries, General Information, and Opt-Out Inquiry.

The total number of calls received, response times, and call duration through October 31, 2025, were as follows:

Call Center Monthly Summary – October 2025					
Stats by Month	**Sept**	**Aug**	**July**	**June**	**Total**
Total Calls	738	693	678	643	32,143
Total Calls Connected to Agents	742	689	673	629	31,503
Average Seconds to Answer	0:00:08	0:00:14	0:00:15	0:00:08	
Average Call Duration	0:10:19	0:09:33	0:10:25	0:10:21	

The following table reflects enrollments in CEA's power supply products by City. As of October 31, 2025, CEA has a total of 255,627 enrolled customer accounts as follows:

Member City	Eligible Accounts	Clean Impact – 50% Renewable	Clean Impact Plus - 75% Carbon Free	Green Impact – 100% Renewable	Participation Rate
Carlsbad	55,211	152	49,380	662	91%
Del Mar	3,023	6	2,762	71	94%
Escondido	57,300	160	53,409	72	94%
Oceanside	74,397	206	68,993	104	93%
San Marcos	37,863	119	34,950	77	93%
Solana Beach	7,788	12	6,928	158	91%
Vista	39,565	82	36,993	329	95%
TOTAL	**275,147**	**737**	**253,417**	**1,473**	**93%**

Solar Plus and Battery Bonus Update

As of November 4, 2025, Solar Plus has 24 active applicants and seven operational participants, or participants who have completed installation and received Permission to Operate for their solar and battery systems. Battery Bonus currently has no active applicants or operational participants. Solar Plus Connect and Battery Bonus Connect have 34 and 60 active applicants, respectively.

The table below includes a breakdown of active and completed projects by program and member city. Active projects include any applicants currently in the pipeline and completed projects include any applicants with projects that are complete and have received Permission to Operate.

Member City	Solar Plus		Solar Plus Connect		Battery Bonus		Battery Bonus Connect	
Status	Active	Complete	Active	Complete	Active	Complete	Active	Complete
Carlsbad	5	1	3	0	0	0	10	0
Del Mar	0	0	1	0	0	0	1	0
Escondido	7	3	13	0	0	0	13	0
Oceanside	4	1	6	0	0	0	15	0
San Marcos	4	1	3	0	0	0	8	0
Solana Beach	2	0	1	0	0	0	1	0
Vista	2	1	7	0	0	0	12	0
TOTAL	**24**	**7**	**34**	**0**	**0**	**0**	**60**	**0**

Solar Plus Connect currently has a total of $1,053,458 in SGIP funding, either approved or submitted for approval. Battery Bonus Connect currently has a total of $1,236,721 in SGIP funding either approved or submitted for approval. A breakdown of SGIP funding by member cities is included below.

Available funding through the Self-Generation Incentive Program (SGIP) for Solar Plus Connect and Battery Bonus Connect is limited and currently only open for waitlist applications.

Member City	Solar Plus Connect	Battery Bonus Connect
Carlsbad	$91,080	$198,000
Del Mar	$30,360	$19,800
Escondido	$408,480	$257,400
Oceanside	$188,520	$308,467
San Marcos	$90,685	$158,400
Solana Beach	$29,485	$19,800
Vista	$214,848	$274,854
TOTAL	**$1,053,458**	**$1,236,721**

PeakSmart Savers Update

As of November 4, 2025, the PeakSmart Savers program has 26 active participants. During the week of November 3, CEA mailed postcards to current customers formerly enrolled in SDGE's equivalent program to promote PeakSmart Savers.

CEA declared a PeakSmart Event Day on October 29, the fourth event day since the program's launch in June 2025. The other three events were declared on August 7, September 16 and September 23. On PeakSmart Days, participants pay a $1.10 adder per kWh during on-peak hours (4 p.m. to 9 p.m.). This adder incentivizes participants to reduce energy use during periods of high demand. Participants receive multiple notifications informing them when a PeakSmart Day is declared. On non-PeakSmart Days, participants benefit from discounted on-peak and off-peak rates (up to a 30% discount).

Member City	PeakSmart Savers Participants
Carlsbad	7
Del Mar	1
Escondido	6
Oceanside	4
San Marcos	0
Solana Beach	0
Vista	8
TOTAL	**26**

San Diego Regional Energy Academy

CEA proudly sponsored and participated in the fall 2025 cohort of the Regional Energy Academy, a four-day comprehensive training program designed to guide community leaders through the complex energy landscape in the San Diego region. The fall session ran from Sept. 18 to Oct. 16.

Launched in 2024 by the Energy Policy Initiatives Center (EPIC) and the San Diego Regional Climate Collaborative (SDRCC), the Academy was developed as a collaborative effort with San Diego Community Power (SDCP) and San Diego Gas & Electric (SDG&E). CEA contributed a sponsorship of $5,000 for the fall 2025 and spring 2026 cohorts.

The Academy's comprehensive curriculum includes four in-person sessions with classroom-style lectures, expert panels, and field visits to key energy-related sites across San Diego. Each year, the program selects one representative per participating organization. Participation in the Academy is free of charge, with

lunch and transportation for field trips provided. Beyond the educational opportunity, the Academy offers a space for connection and dialogue among regional leaders across various organizations.

Programs Analyst Karen Villaseñor represented CEA in the fall 2025 cohort, joining Regulatory Analyst Emily Fabick as an alumna of the program.

Oversight Committee (ROC)

The next quarterly Risk Oversight Committee (ROC) meeting is scheduled for December 4, 2025.

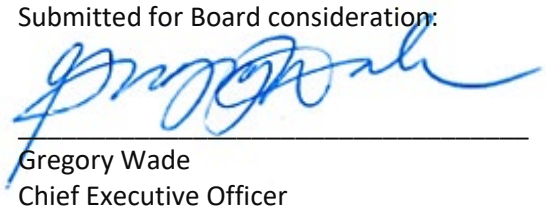
Risk Contracts $50,000 - $100,000 entered into by Chief Executive Officer

VENDOR	DESCRIPTION	AMOUNT
None.		

FISCAL IMPACT:

There is no fiscal impact with this action.

Submitted for Board consideration:



Gregory Wade
Chief Executive Officer

ATTACHMENTS: None.

CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Gregory Wade, Chief Executive Officer

ITEM 4: Consider Adoption of Clean Energy Alliance (CEA) Resolution No. 2025-044 Setting Rates and Approving Agreements with Luminia BTM DevCo 1 LLC for CEA's Solar Plus Business Program

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RECOMMENDATION:

That the Clean Energy Alliance (CEA) Board of Directors (Board):

1) Conduct the Public Hearing: Open the Public Hearing, Receive Public Testimony, and Close the Public Hearing;
2) Adopt Resolution No. 2025-044 Setting Rates for Solar Plus Business; and
3) Approve Program Agreements with Luminia BTM DevCo 1 LLC (Luminia) and authorize the Chief Executive Officer (CEO) to execute all documents subject to General and Special Counsel approval.

BACKGROUND:

CEA's Solar Plus and Solar Plus Connect programs provide solar and battery systems for residential customers in the CEA territory. CEA's Battery Bonus and Battery Bonus Connect programs provide batteries for residential customers with existing solar systems. Commercial and Industrial (C&I) customers in the CEA territory could also benefit from access to solar and battery systems or, if they have existing solar panels, could benefit from the addition of batteries.

To meet the needs of CEA's C&I customers, on March 17, 2025, CEA issued a Request for Proposals (RFP) for Behind the Meter (BTM) Commercial service providers. CEA received proposals from five (5) interested parties.

DISCUSSION:

Proposed New Solar Plus Business Program and Rates

With the approval of Solar Plus Business Program by the Board, CEA would be able to offer blended per kWh rates for solar and battery storage as well as per kWh rates for local storage for C&I customers. This structure is aligned with industry standards making it easier for customers to compare pricing when considering a solar and battery storage system, adding local storage to an existing solar system or adding a local storage only system.

The proposed Solar Plus Business rates for solar plus battery systems range from $0.25/kWh to $0.50/kWh. Individual project rates are based on the Baseline Project cost adjusted for project variables. For solar plus storage projects, the following factors can change system cost and performance relative to the base case, which in turn affects the offered rate: rooftop vs carport; roof condition and usable area; installation complexity; shading and solar irradiance; trenching and cable routing distances; distance to the point of interconnection (POI); utility service upgrades and switchgear capacity; battery size and indoor vs outdoor placement; fire suppression and code compliance; local codes, inspections, and prevailing wage; seismic, wind, or flood conditions and any hazardous materials; site access, staging space, work hours, and tenant coordination; equipment availability, tariffs, material costs; and site lease payments.

The proposed Solar Plus Business rates for local storage range from $5.00/kWh to $15.00/kWh of Installed Capacity per Month. As with the solar plus storage rates, local storage only rates are based on the Baseline Project cost adjusted for project variables. For storage only projects, the following factors can change system cost and performance relative to the base case, which in turn affects the offered rate: battery size and indoor vs outdoor placement; installation complexity; fire suppression and code compliance; distance to point of interconnection (POI); utility service upgrades and switchgear capacity; trenching and cable routing; local codes, inspections, and prevailing wage; seismic, wind, or flood conditions and any hazardous materials; site access, staging space, work hours, and tenant coordination; equipment availability, tariffs, material costs; and site lease payments.

The Solar Plus Business Program will be open to CEA commercial, industrial, multifamily dwellings, and municipal customers. The installed systems will provide:

- Clean, reliable energy
- Solar plus battery systems installation with replacement and warranty for 25 years with a 1% escalator
- Battery only systems installation with replacement and warranty for 10 years with a 0% escalator
- Energy cost savings due to avoided transmission and delivery charges when using solar energy and energy from the battery storage system

In summary, approval of this item will:

- Authorize CEA's CEO to execute the Agreements in a form substantially similar to those presented to the Board on November 20, 2025, to execute such other documents in forms acceptable to General and Special Counsel, and to take such other and further actions as may be necessary and proper to expand the Solar Plus Business Program to Commercial and Industrial customers.
- Authorize implementation of the Solar Plus Business Program, expanding CEA's customer offerings to include BTM solar and battery storage solutions for commercial, industrial, multifamily, and municipal customers.
- Set rates for commercial solar plus storage, storage addition to existing solar, or standalone solar systems.

FISCAL IMPACT:

The intent of this program is to have no financial impact to CEA by structuring each customer agreement so that the customer pays for the full system costs. However, there are three potential financial risks to CEA:

1. There is a possibility that a tenant could vacate a site and elect to not make payments. CEA has negotiated detailed contract terms with Luminia that mitigate most of this risk.
2. There is a possibility that a customer does not pay its bill. This risk is inherent in all of CEA's business and is mitigated by CEA's Bad Debt Reserve policies and procedures.
3. It is anticipated there will be small administrative fees for billing support and implementation, the exact amount is yet to be determined and is expected to be similar to the existing rates for CEA's Solar Plus residential program.

CEA's staff believes that the risks are relatively low and manageable in the context of the approved CEA budget and subject to agreements prepared for this program.

Submitted for Board consideration:

_____
Gregory Wade
Chief Executive Officer

ATTACHMENTS:

A. Rate Public Hearing Notice
B. Resolution No. 2025-044
C. Luminia-CEA Business Program Professional Services Agreement (PSA)
D. Luminia CEA Business Program Solar Power Purchase Agreement (PPA)
E. Luminia CEA Business Energy Storage Services Agreement (ESSA)
F. Rate Commitment Letter – Initial
G. Rate Commitment Letter – New Tenant

CLEAN ENERGY ALLIANCE

PUBLIC HEARING NOTICE
CLEAN ENERGY ALLIANCE

The Board of Directors of Clean Energy Alliance will conduct a public hearing to consider adopting a resolution adding new Clean Energy Alliance rates for its Commercial and Industrial (C&I) Behind the Meter (BTM) Program, effective November 20, 2025. As proposed, the new rates will allow customers to receive commercial solar and battery systems, and vary depending upon system configuration. The exact proposed rates are available on Clean Energy Alliance's website at TheCleanEnergyAlliance.org/billing-rates/.

DATE OF HEARING:	Thursday, November 20, 2025
TIME OF HEARING:	2:00 p.m. or as soon thereafter as the matter may be heard
PLACE OF HEARING:	Leucadia Wastewater District, Boardroom 1960 La Costa Avenue Carlsbad, CA 92009

All interested persons are invited to attend the meeting and comment on adopting a Resolution Amending Rates for Clean Energy Alliance. Members of the public unable to attend the public hearing may submit their comments and recommendations in writing to Clean Energy Alliance, via email to clerk@thecleanenergyalliance.org, which must be received no later than 12 p.m. on Thursday, November 20, 2025 to ensure consideration by the Board.

Ana Alarcon

Dated: November 3, 2025

Ana Marie Alarcon, CMC
Clerk to the Board

Published: Friday, November 7, 2025 San Diego Union Tribune
Friday, November 14, 2025

Posted: Friday, November 7, 2025 Leucadia Wastewater District, Boardroom

Clean Energy Alliance Solar Plus Business Program - Large Project Rate Sheet

Large Solar Plus Storage Projects - Greater than or equal to 250 kW-dc Solar Capacity	
Baseline Project System Size*	500 kW-dc Solar, 1,000 kWh Storage
Baseline Project Solar Production*	1,650 kWh/kW-dc
Rate Term	25 Years
Rate Escalator	1% per Year
Rate Table	
Blended Customer Rate ($/kWh)	**Blended Solar Plus Storage Build Cost ($/W-dc Solar)**
$0.25	$1.69 to $1.89 below Baseline build cost
$0.26	$1.48 to $1.68 below Baseline build cost
$0.27	$1.27 to $1.47 below Baseline build cost
$0.28	$1.06 to $1.26 below Baseline build cost
$0.29	$0.85 to $1.05 below Baseline build cost
$0.30	$0.64 to $0.84 below Baseline build cost
$0.31	$0.43 to $0.63 below Baseline build cost
$0.32	$0.22 to $0.42 below Baseline build cost
$0.33	**$0.00 to $0.21 below Baseline build cost***
$0.34	$0.01 to $0.21 above Baseline build cost
$0.35	$0.22 to $0.42 above Baseline build cost
$0.36	$0.43 to $0.63 above Baseline build cost
$0.37	$0.64 to $0.84 above Baseline build cost
$0.38	$0.85 to $1.05 above Baseline build cost
$0.39	$1.06 to $1.26 above Baseline build cost
$0.40	$1.27 to $1.47 above Baseline build cost
$0.41	$1.48 to $1.68 above Baseline build cost
$0.42	$1.69 to $1.89 above Baseline build cost
$0.43	$1.90 to $2.10 above Baseline build cost
$0.44	$2.11 to $2.31 above Baseline build cost
$0.45	$2.32 to $2.52 above Baseline build cost
$0.46	$2.53 to $2.73 above Baseline build cost
$0.47	$2.74 to $2.94 above Baseline build cost
$0.48	$2.95 to $3.15 above Baseline build cost
$0.49	$3.16 to $3.36 above Baseline build cost
$0.50	$3.37 to $3.57 above Baseline build cost

*The installed systems are optimized to meet customer needs, with a blended rate ranging from $0.25 to $0.50 per kilowatt-hour depending on system configuration.

Baseline Project: 500 kW-dc roof-mounted Photovoltaic Solar System (PV) paired with a 1,000 kWh Battery Energy Storage System (BESS). Typical 1–2-story commercial building. Interconnected behind the customer utility meter on the same parcel. Point of Interconnection (POI) is in the electrical room or at an external service panel. Solar and storage systems are <200 ft from the POI. Expected PV yield is 1,650 kWh/kW-dc. Tier-1 equipment. $3.61/W-dc blended solar plus storage build cost.

Variables: The following factors can change system cost and performance relative to the base case, which in turn affects the offered rate: rooftop vs carport; roof condition and usable area; installation complexity; shading and solar irradiance; trenching and cable routing distances; distance to POI; utility service upgrades and switchgear capacity; battery size and indoor vs outdoor placement; solar system size; fire suppression and code compliance; local codes, inspections, and prevailing wage; seismic, wind, or flood conditions and any hazardous materials; site access, staging space, work hours, and tenant coordination; equipment availability, tariffs, and material costs; site lease payments.

Clean Energy Alliance Solar Plus Business Program - Large Project Rate Sheet

Large Storage Only Projects - Greater than or equal to 1,000 kWh Energy Storage Capacity	
Baseline Project System Size*	2,000 kWh Energy Storage
Rate Term	10 Years
Rate Escalator	0% per Year
Rate Table	
Customer Energy Storage Payment ($/kWh of Installed Capacity per Month)	**Energy Storage Build Cost ($/kWh Energy Capacity)**
$5.00	$283.00 to $329.00 below Baseline build cost
$6.00	$236.00 to $282.00 below Baseline build cost
$7.00	$189.00 to $235.00 below Baseline build cost
$8.00	$142.00 to $188.00 below Baseline build cost
$9.00	$95.00 to $141.00 below Baseline build cost
$10.00	$48.00 to $94.00 below Baseline build cost
$11.00	**$0.00 to $47.00 below Baseline build cost***
$12.00	$1.00 to $47.00 above Baseline build cost
$13.00	$48.00 to $94.00 above Baseline build cost
$14.00	$95.00 to $141.00 above Baseline build cost
$15.00	$142.00 to $188.00 above Baseline build cost

*The installed systems are optimized to meet customer needs, with an ESS Payment ranging from $5.00 to $15.00 per kilowatt-hour of installed energy capacity per month.

Baseline Project: 2,000 kWh Battery Energy Storage System (BESS). Interconnected behind the customer utility meter on the same parcel. Point of Interconnection (POI) is in the electrical room or at an external service panel. The system is <200 ft from the POI. Tier-1 equipment. $718/kWh energy storage build cost.

Variables: The following factors can change system cost and performance relative to the base case, which in turn affects the offered rate: battery size and indoor vs outdoor placement; installation complexity; fire suppression and code compliance; distance to POI; utility service upgrades and switchgear capacity; trenching and cable routing; local codes, inspections, and prevailing wage; seismic, wind, or flood conditions and any hazardous materials; site access, staging space, work hours, and tenant coordination; equipment availability, tariffs, and material costs; site lease payments.

Clean Energy Alliance Solar Plus Business Program - Small Project Rate Sheet

Small Solar Plus Storage Projects - Less than 250 kW-dc Solar Capacity	
Baseline Project System Size*	100 kW-dc Solar, 200 kWh Storage
Baseline Project Solar Production*	1,650 kWh/kW-dc
Rate Term	25 Years
Rate Escalator	1% per Year
Rate Table	
Blended Customer Rate ($/kWh)	**Blended Solar Plus Storage Build Cost ($/W-dc Solar)**
$0.25	$2.53 to $2.73 below Baseline build cost
$0.26	$2.32 to $2.52 below Baseline build cost
$0.27	$2.11 to $2.31 below Baseline build cost
$0.28	$1.90 to $2.10 below Baseline build cost
$0.29	$1.69 to $1.89 below Baseline build cost
$0.30	$1.48 to $1.68 below Baseline build cost
$0.31	$1.27 to $1.47 below Baseline build cost
$0.32	$1.06 to $1.26 below Baseline build cost
$0.33	$0.85 to $1.05 below Baseline build cost
$0.34	$0.64 to $0.84 below Baseline build cost
$0.35	$0.43 to $0.63 below Baseline build cost
$0.36	$0.22 to $0.42 below Baseline build cost
$0.37	**$0.00 to $0.21 below Baseline build cost***
$0.38	$0.01 to $0.21 above Baseline build cost
$0.39	$0.22 to $0.42 above Baseline build cost
$0.40	$0.43 to $0.63 above Baseline build cost
$0.41	$0.64 to $0.84 above Baseline build cost
$0.42	$0.85 to $1.05 above Baseline build cost
$0.43	$1.06 to $1.26 above Baseline build cost
$0.44	$1.27 to $1.47 above Baseline build cost
$0.45	$1.48 to $1.68 above Baseline build cost
$0.46	$1.69 to $1.89 above Baseline build cost
$0.47	$1.90 to $2.10 above Baseline build cost
$0.48	$2.11 to $2.31 above Baseline build cost
$0.49	$2.32 to $2.52 above Baseline build cost
$0.50	$2.53 to $2.73 above Baseline build cost

*The installed systems are optimized to meet customer needs, with a blended rate ranging from $0.25 to $0.50 per kilowatt-hour depending on system configuration.

Baseline Project: 100 kW-dc roof-mounted Photovoltaic Solar System (PV) paired with a 200 kWh Battery Energy Storage System (BESS). Typical 1–2-story commercial building. Interconnected behind the customer utility meter on the same parcel. Point of Interconnection (POI) is in the electrical room or at an external service panel. Solar and storage systems are <200 ft from the POI. Expected PV yield is 1,650 kWh/kW-dc. Tier-1 equipment. $4.56/W-dc blended solar plus storage build cost.

Variables: The following factors can change system cost and performance relative to the base case, which in turn affects the offered rate: rooftop vs carport; roof condition and usable area; installation complexity; shading and solar irradiance; trenching and cable routing distances; distance to POI; utility service upgrades and switchgear capacity; battery size and indoor vs outdoor placement; solar system size; fire suppression and code compliance; local codes, inspections, and prevailing wage; seismic, wind, or flood conditions and any hazardous materials; site access, staging space, work hours, and tenant coordination; equipment availability, tariffs, and material costs; site lease payments.

Clean Energy Alliance Solar Plus Business Program - Small Project Rate Sheet

Small Storage Only Projects - Less than 1,000 kWh Energy Storage Capacity	
Baseline Project System Size*	500 kWh Energy Storage
Rate Term	10 Years
Rate Escalator	0% per Year
Rate Table	
Customer Energy Storage Payment ($/kWh of Installed Capacity per Month)	**Energy Storage Build Cost ($/kWh Energy Capacity)**
$5.00	$330.00 to $376.00 below Baseline build cost
$6.00	$283.00 to $329.00 below Baseline build cost
$7.00	$236.00 to $282.00 below Baseline build cost
$8.00	$189.00 to $235.00 below Baseline build cost
$9.00	$142.00 to $188.00 below Baseline build cost
$10.00	$95.00 to $141.00 below Baseline build cost
$11.00	$48.00 to $94.00 below Baseline build cost
$12.00	**$0.00 to $47.00 below Baseline build cost***
$13.00	$1.00 to $47.00 above Baseline build cost
$14.00	$48.00 to $94.00 above Baseline build cost
$15.00	$95.00 to $141.00 above Baseline build cost

*The installed systems are optimized to meet customer needs, with an ESS Payment ranging from $5.00 to $15.00 per kilowatt-hour of installed energy capacity per month.

Baseline Project: 500 kWh Battery Energy Storage System (BESS). Interconnected behind the customer utility meter on the same parcel. Point of Interconnection (POI) is in the electrical room or at an external service panel. The system is <200 ft from the POI. Tier-1 equipment. $847/kWh energy storage build cost.

Variables: The following factors can change system cost and performance relative to the base case, which in turn affects the offered rate: battery size and indoor vs outdoor placement; installation complexity; fire suppression and code compliance; distance to POI; utility service upgrades and switchgear capacity; trenching and cable routing; local codes, inspections, and prevailing wage; seismic, wind, or flood conditions and any hazardous materials; site access, staging space, work hours, and tenant coordination; equipment availability, tariffs, and material costs; site lease payments.

CLEAN ENERGY ALLIANCE
RESOLUTION NO. 2025-044

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CLEAN ENERGY ALLIANCE APPROVING THE DISTRIBUTED MICROGRIDS COMMERCIAL & INDUSTRIAL PROGRAM AGREEMENTS WITH LUMINIA BTM DEVCO 1 LLC FOR THE SOLAR PLUS BUSINESS PROGRAM AND AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE THE AGREEMENTS

WHEREAS, the Clean Energy Alliance (CEA) is a joint powers agency, formed in November 2019, under the Joint Exercise of Power Act, California Government Code Section 6500 *et seq*.; and

WHEREAS, Section 4.6 of the Joint Powers Authority (JPA) Agreement establishes the specific responsibility of the CEA Board of Directors to adopt retail rates for power; and

WHEREAS, on October 26, 2023, the Board adopted Resolution No. 2023-009 setting rates and approving agreements for the CEA Solar Plus Residential Distributed Microgrids Program making Solar and Battery Storage Systems available to CEA customers; and

WHEREAS, on November 21, 2024, the Board conducted a Public Hearing and approved Resolution No. 2024-021 setting new rates for Solar Plus and Solar Plus Connect that contemplated allowing local installers (Channel Partners) to participate in the Solar Plus Program.

WHEREAS, on January 30, 2025, the Board adopted Resolution No. 2025-001 approving the Distributed Microgrids Framework Program Agreement, including its schedule and attachments, with Participate Energy (the "Agreement") for the expansion of the Solar Plus Program to allow additional Installers, also known as Channel Partners

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Clean Energy Alliance, as follows:

Section 1. The Board of Directors of Clean Energy Alliance hereby approves the Distributed Microgrids Professional Services Agreement, including its schedule and attachments, the Power Purchase Agreement, including its schedule and attachments, with Luminia BTM DevCo 1 LLC for the expansion of the Solar Plus Program to provide Distributed Microgrids to Commercial and Industrial CEA customers, as presented to the Board on November 20, 2025.

Section 2. CEA's Chief Executive Officer is hereby authorized and directed to execute the Agreements in a form substantially similar to those presented to the Board on November 20, 2025 and to executed such other documents in forms acceptable to General and Special Counsel and take such other and further actions as may be necessary and proper to expand the Solar Plus Program to Commercial and Industrial customers, and accomplish the purposes of this Resolution.

Section 3. The Board of Directors of CEA hereby approves the addition of CEA Rates detailed in Attachment A.

Section 4. Rates are to be effective November 21, 2025.

Section 5. This Resolution shall take effect immediately upon approval.

The foregoing Resolution was passed and adopted this 20th day of November, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Katie Melendez, Chair

ATTEST:

_____
Ana Marie Alarcon, Clerk to the Board

CEA DRAFT 10.14.25

AGREEMENT BETWEEN THE CLEAN ENERGY ALLIANCE AND [LUMINIA ENTITY], FOR SOLAR PLUS BUSINESS - COMMERCIAL BEHIND THE METER DISTRIBUTED ENERGY PROGRAM SERVICES

THIS AGREEMENT, is entered into this Click here to enter DAY. of ENTER MONTH., ENTER YEAR., by and between CLEAN ENERGY ALLIANCE, an independent joint powers authority ("Authority"), and Luminia BTM DevCo 1 LLC, a California limited liability company ("Consultant") (collectively referred to as the "Parties" or individually as a "Party"), with respect to the following essential facts:

RECITALS:

A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Sections 6500 *et seq.*) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein and is duly authorized and registered to do business in the State of California.

C. Authority and Consultant desire to enter into this Agreement for Solar Plus Business - Commercial Behind The Meter Distributed Energy Program ("Program") services.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM

The term of this Agreement shall commence on Click here to enter beginning of term., and shall terminate on the fourth anniversary of the date of this Agreement ("Term"), unless terminated earlier pursuant to Section 19 hereof or extended upon the written mutual agreement of the Parties.

2. SERVICES TO BE PERFORMED

Consultant shall perform the Services defined and set forth in Exhibit "A" pursuant to the schedule of performance set forth in Exhibit "B," both of which are attached hereto and incorporated herein fully by this reference. In the event that greater than 10 MW (nameplate solar AC) of solar and energy storage systems are added to the Program in any calendar quarter of the term of this Agreement, or greater than 10 MW (nameplate AC storage capacity) of standalone energy storage systems, the Parties agree to meet and confer and use commercially reasonable efforts to coordinate the installation and permission to operate timing for such respective systems with the goal of minimizing any interference with the Authority's other wholesale power delivery obligations. For clarity, the 10 MW quarterly limit for standalone energy storage systems is separate from and in addition to the 10 MW quarterly limit applicable to solar-plus-storage systems described above. Parties agree to work together to develop program guidelines and update them, as necessary, throughout the Term to enhance the Program's effectiveness and stakeholder value.

3. **COMPENSATION TO CONSULTANT**

Consultant acknowledges that it will not earn separate compensation for its Services under this Agreement, and that the compensation that Consultant (or its affiliates) will receive under that certain Master Power Purchase and Sale Agreement in substantially the form attached hereto as Exhibit "D" (the "Master PPA") and that certain Master Energy Storage Service Agreement in substantially the form attached hereto as Exhibit "E" (the "Master ESSA") constitutes sufficient consideration for the Services to be provided pursuant to this Agreement.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all Services required by this Agreement in a manner commensurate with or exceeding the prevailing standards for a commercial and industrial, behind the meter distributed energy program consultant in California and agrees that all Services shall be performed by qualified and experienced personnel in conformity with the applicable requirements of federal, state and local laws in effect at the time that the Services are being performed.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant as an independent contractor and in pursuit of Consultant's independent calling, except to the extent that they are limited by statute, rule or regulation or the express terms of this Agreement. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of the Services required by this Agreement, Authority only being concerned with the finished results of the work being performed. No civil service status or other right of employment will be acquired by virtue of Consultant's Services. None of the benefits provided by Authority to its employees, including but not limited to, employer-paid payroll taxes, Social Security, retirement benefits, health benefits, unemployment insurance, workers' compensation plans, vacation and sick leave, nor any other benefits are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant. It is the intent of the Parties that neither Consultant nor its officers, employees or agents are to be considered employees of Authority, whether "common law" or otherwise, and Consultant shall indemnify, defend and hold Authority harmless from any such obligations related to its officers, employees and agents.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Sections 6500 *et seq*.) pursuant to a Joint Powers Agreement dated November 4, 2019, as amended from time to time, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not

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make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee or contractor, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital or veteran status, medical condition, pregnancy, sex, age, sexual orientation, genetic information, gender expression, or any other protected class. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, military or veteran status, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. General Indemnification. Each Party (the "Indemnifying Party") shall, to the fullest extent allowed by law indemnify, defend, and hold harmless the other Party, its members, and their respective officers, officials, agents, employees and volunteers (collectively "Indemnitees") from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, demands, damages, judgments, liens, levies, costs, expenses, and losses arising out of or related to a material breach of this Agreement by the Indemnifying Party or the negligence or willful misconduct of the Indemnifying Party or its employees, officers, officials, agents or independent contractors in the performance of or failure to perform this Agreement, except where caused by the negligence or willful misconduct of any of the Indemnitees. Such costs and expenses shall include reasonable attorneys' fees of counsel of the Indemnitees' choice, expert fees and all other costs and fees of litigation.

B. Employee Benefits Eligibility Indemnification. In the event that Consultant's employee, subcontractor, independent contractor or other person providing the Services under this Agreement on Consultant's behalf (collectively, "Consultant's Personnel") claims or is determined by a court of competent jurisdiction or administrative agency to be eligible for enrollment in or entitled to any benefits of the Authority or its constituent members, Consultant shall indemnify, defend, and hold harmless Authority or its constituent members for the payment of any employer and employee contributions for such benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions that would otherwise be the responsibility of the Authority or its constituent members. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant's Personnel providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation and benefit including, but not limited to, eligibility to enroll in any benefit program as an employee of Authority or its constituent members and entitlement to any contributions to be paid by Authority or its constituent members for employer contributions and/or employee contributions for any employee benefits.

C. Indemnification for Employee Payments. Consultant agrees to defend and indemnify

the Authority and its constituent members for any obligation, claim, suit or demand for tax, retirement contribution including any contribution to any retirement system, social security, salary or wages, overtime payment, or workers' compensation payment which the Authority or its constituent members may be required to make for work done under this Agreement.

D. The acceptance of the Services provided by this Agreement by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section 9 shall not be limited by any provision of insurance coverage that the Consultant may have in effect or be required to obtain and maintain during the term of this Agreement. The provisions of this Section 9 are continuing obligations and survive the completion of the Services or termination of this Agreement.

10. **INSURANCE**:

A. General Requirements. On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "C," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: General Counsel. Ten (10) days advance written notice for cancellation due to non-payment of premium shall be provided by the insurer to the Authority in the same manner." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates. All endorsements shall be on forms approved by Authority. Consultant shall provide certified copies of required insurance policies, which shall include the declaration pages, a schedule of forms listing all policy endorsements, and all policy forms, upon Authority's request.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the Services of Consultant herein, a waiver of any right to subrogation that any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Primary and Non-contributory. The commercial general liability, including any excess or umbrella policies being used to meet the required limits of insurance, and automobile liability policies shall contain, or be endorsed to contain, a provision that such policies are primary and non-contributory to any insurance that may be carried by the Authority or its members, as reflected in an endorsement at least as broad as CG 20 01 04 13, which shall be submitted to the Authority. Any insurance or self-insurance maintained by the Authority, its members or their respective officers, officials, agents, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

D. Failure to secure or maintain insurance. If Consultant at any time during the Term

hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

E. Additional Insured. Authority, its members, and their respective officers, officials, agents, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

F. Self-Insured Retentions. Any self-insured retentions are the responsibility of the Consultant and must be declared to and approved by Authority. At the option of Authority, either (1) the insurer shall reduce or eliminate such self-insured retentions with respect to the Authority, its members, and their respective officers, officials, agents, employees and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to Authority guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

G. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

H. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

I. Special Risks or Circumstances. Authority reserves the right to modify these requirements, including limits, based on the nature of risk, prior experience, insurer, coverage, or other special circumstances.

11. CONFLICT OF INTEREST

Consultant represents and warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it will be required to fill out a conflict of interest form under Authority's Conflict of Interest Code.

12. PROHIBITION AGAINST TRANSFERS

Consultant shall not assign, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority, which consent shall not be unreasonably withheld, delayed, or conditioned; provided that, Consultant may, without Authority's prior written consent, (i) assign, hypothecate, or transfer this Agreement or the accounts, revenues, or proceeds hereof in connection with any financing or other

financial arrangements, (ii) transfer or assign this Agreement to an affiliate of Consultant, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of Consultant. Any attempt to assign, hypothecate, or transfer this Agreement in violation of this Section 12 shall be null and void, and any assignee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. Written notice of any assignment shall be promptly furnished to Authority by Consultant.

Except for assignments permitted under this Section 12, the sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or managing member or joint venturer or syndicate member or cotenant, if Consultant is a partnership or limited liability company or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation or partnership or limited liability company or other entity.

13. **SUBCONTRACTOR APPROVAL**

A. In the event that Consultant determines subcontractors are needed for the performance of this Agreement, Consultant shall obtain written approval of the subcontractor(s) from Authority prior to the employment or engagement of any kind whatsoever with the subcontractor.

B. In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or Services subcontracted hereunder shall be subject to each provision of this Agreement.

C. If Consultant subcontracts for any of the work to be performed under this Agreement, Consultant shall be as fully responsible to the Authority for the acts and omissions of Consultant's subcontractors and for the persons either directly or indirectly employed by the subcontractors, as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in this Agreement shall create any contractual relationship between any subcontractors of Consultant and the Authority or its members. In any dispute between the Consultant and its subcontractor, neither the Authority nor any of its members shall be made a party to any judicial or administrative proceeding to resolve the dispute unless required by applicable law. The Consultant agrees to defend, hold harmless and indemnify the Indemnitees as described in Section 9 of this Agreement, should any of the Indemnitees be made a party to any judicial or administrative proceeding to resolve any such dispute, but only to the extent such proceeding arose from Consultant's breach of this Agreement or the negligence or willful misconduct in the performance of or failure to perform this Agreement.

D. Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the indemnity and insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide

proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, drawing, specification, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant as it relates solely to the Consultant's Services required under this Agreement, shall be the exclusive property of Authority and is hereby assigned to the Authority. For clarity, Consultant shall not be required to provide any proprietary pricing information, commercial terms, equipment and installer costs, or other confidential business information in any Report. Consultant shall not copyright any Report prepared as part of the Services required by this Agreement, except as may be requested on Authority's behalf. Consultant expressly waives and disclaims, any copyright in, and the right to reproduce all Reports, except upon the Authority's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. Consultant shall, upon request of Authority, execute any further document(s) necessary to further effectuate this waiver and disclaimer. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to Authority pursuant to this Agreement.

B. Consultant shall, at such time and in such form as Authority may require, furnish reports concerning the status of the Services required under this Agreement.

C. All Reports also shall be provided in electronic format.

D. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement that has not been publicly released shall be made available to any individual or organization by Consultant without prior written approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that directly relate to the performance of Services under this Agreement, in sufficient detail to permit an evaluation of the Services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts and copies therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities directly related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all Services required under this Agreement.

16. **SUPPLIER DIVERSITY**

General Order 156 (GO 156) is a California Public Utilities Commission ruling that requires utility entities to procure at least 21.5% of their contracts with majority women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises' ("WMDVLGBTBEs") in all categories. Qualified businesses become GO 156 certified through the CPUC and are then added to the GO 156 Clearinghouse database.

The CPUC Clearinghouse can be found here: www.thesupplierclearinghouse.com. While Authority is not legally required to comply with GO 156, Authority's policies and commitment to diversity are consistent with the principles of GO 156, and Authority has an Inclusive and

Sustainable Workforce Policy, which can be found at https://thecleanenergyalliance.org/key-documents.

Authority will provide a link to a survey annually to each of its contract vendors, which may ask for disclosure of (a) their GO 156 certification status, (b) their efforts to work with diverse business enterprises, including those owned or operated by women ("WBE"), minorities ("MBE"), disabled veterans ("DVBE"), and lesbian, gay, bisexual, or transgender people ("LGBTBE"); and (c) other information regarding inclusivity in their workforce or related to Authority's goals as stated in Authority's Inclusive and Sustainable Workforce Policy. Authority will use the information obtained solely to help evaluate how well it is conforming to its own policies and goals. Pursuant to California Proposition 209, Authority does not discriminate against nor grant preferential treatment based on race, sex, color, ethnicity, or national origin.

17. **CONFIDENTIALITY AND SECURITY**

A. Confidential Information. Each Party shall maintain in confidence and not disclose to any third party nor use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by or provided by the other Party, including confidential information regarding Authority's customers and employees, except as may be required by law.

B. Security.

1. Implementation. Each Party shall implement commercially reasonable administrative, technical and physical safeguards designed to: (a) ensure the security and confidentiality of data and information provided by the other Party or used in connection with performance under this Agreement, including data or information about third parties ("Confidential Data"); (b) protect against any anticipated threats or hazards to the security or integrity of Confidential Data; and (c) protect against unauthorized access to or use of Confidential Data. Each Party shall review and test such safeguards on no less than an annual basis.

2. Network. If either Party makes Confidential Data accessible through the Internet or other networked environment, such Party shall be solely responsible for all aspects of Internet use, and shall maintain, in connection with the operation or use of Confidential Data, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.

3. Personal Data. If Consultant processes or otherwise has access to any personal data or personal information on Authority's behalf when performing Consultant's Services and obligations under this Agreement, then: (a) Authority shall be the data controller (where "data controller" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and Consultant shall be a data processor (where "data processor" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own); (b) Authority shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to Consultant so that Consultant may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Authority's behalf in order for Consultant to provide the Services and perform its other obligations under this Agreement; (c) Consultant shall process the personal data and personal information only

in accordance with any lawful and reasonable instructions given by Authority from time to time and in accordance with the terms of this Agreement; and (d) each Party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the Parties will cooperate to document these measures taken.

4. Information Security. Each Party represents and warrants that its collection, access, use, storage, disposal and disclosure of Confidential Data accessed and/or collected from the other Party does and will comply with all applicable federal and state privacy and data protection laws. In the event of any security breach, the Party experiencing the breach shall: (a) Provide the other Party with the name and contact information for an employee who shall serve as the other Party's primary security contact and shall be available to assist the other Party twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a security breach; and (b) Notify the other Party of a security breach as soon as practicable, but no later than twenty-four (24) hours after the Party experiencing the security breach becomes aware of it. Immediately following the Party experiencing the security breach notification to the other Party of a security breach, the Parties shall coordinate with each other to investigate the security breach. The Party experiencing the security breach agrees to fully cooperate with the other Party in its handling of the matter. The Party experiencing the security breach shall use best efforts to immediately remedy any security breach and prevent any further security breach at its own expense in accordance with applicable privacy rights, laws, regulations and standards. Where Consultant is the Party experiencing the security breach, Consultant agrees to provide, at its expense, up to one year of credit monitoring services to third parties impacted by any data breach involving the loss of personally identifiable information.

C. Notice and Remedy of Breaches. Each Party shall promptly give notice to the other of any actual or suspected breach by it of any of the provisions of this Section 17 of this Agreement, whether or not intentional, and the breaching Party shall, at its expense, take all steps reasonably requested by the other Party to prevent or remedy the breach.

D. Enforcement. Each Party acknowledges that any breach of any of the provisions of this Section 17 of this Agreement may result in irreparable injury to the other for which money damages would not adequately compensate. If there is a breach, then the injured Party shall be entitled, in addition to all other rights and remedies which it may have, to have a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all persons involved from continuing the breach.

18. NOTICES

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
Clean Energy Alliance
Chief Executive Officer
5857 Owens Ave, 3rd Floor
Carlsbad, CA 92008

TO CONSULTANT:
Luminia BTM DevCo 1 LLC
Attn: Alan Whiting, CFO
12707 High Bluff Drive, Ste 115
San Diego, CA 92310

19. **TERMINATION**

A. In the event Consultant materially fails or refuses to perform its obligations required under this Agreement, Authority may terminate this Agreement by giving written notice of default to Consultant. If Consultant fails to cure the default within the time specified in such notice (which shall be not less than 60 days) and according to the requirements set forth in the written notice of default, and in addition to any other remedy available to Authority by law, Authority may terminate this Agreement by giving Consultant written notice of termination, which shall be effective immediately. Upon termination, Consultant shall promptly discontinue performance and within ten (10) business days: (1) assemble all documents owned by Authority and in Consultant's possession, and deliver said documents to Authority; and (2) place all work in progress in a safe and protected condition. For the avoidance of doubt, the termination of this Agreement shall have no effect upon and shall not effect a termination of the Master PPA, the Master ESSA, or any other agreement between or among the Parties or their affiliates.

B. Upon termination, Consultant shall immediately deliver to Authority any and all Reports, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such Reports are the property of Authority pursuant to Section 14 hereof.

C. The following sections shall survive termination or expiration of this Agreement: Section 9 (Indemnification), Section 17 (Confidentiality and Security), and Section 19 (Termination).

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws, now existing or hereafter amended or enacted.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of California. This Agreement and obligations of the Parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought related to this Agreement shall be filed with the Superior

Court of the County of San Diego, State of California. Consultant hereby waives any and all objections to personal jurisdiction and venue in said forum.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, lithographs, posters or cards of any kind pertaining to the Services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein; provided that the Master PPA and the Master ESSA shall not be merged herein and shall remain separate definitive agreements between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **DRAFTING AMBIGUITIES**

The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into this Agreement shall be deemed to be incorporated herein, and this Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, this Agreement shall be amended to make such insertion on application by either Party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of this Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

28. **CONSEQUENTIAL DAMAGES**

Neither Party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

DRAFT

29. **SEVERABILITY**

In the event that any part of this Agreement is found to be illegal or unenforceable under the law as it is now or hereafter in effect, either Party will be excused from performance of such portion or portions of this Agreement that is found to be illegal or unenforceable without affecting the remaining provisions of this Agreement.

30. **COUNTERPARTS/ELECTRONIC SIGNATURES**

This Agreement may be executed electronically and in any number of counterparts, which together shall constitute one and the same agreement. A true and correct electronic copy of this Agreement may be used for all purposes as an original.

29. **SIGNATORY AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed as of the date set forth above.

Luminia BTM DevCo 1 LLC

By: _____
Name: David Field
Title: Chief Executive Officer
CLEAN ENERGY ALLIANCE
A Joint Powers Authority

By: _____
Name: Gregory Wade
Title: Chief Executive Officer

DRAFT

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

Consultant shall perform the following services (collectively, "Services") for the Authority:

Consultant shall provide turnkey program administration, project development, and portfolio management services for the Authority's Solar Plus Business Program. The Program involves deploying solar-plus-battery systems, batteries paired to existing solar systems, and standalone battery systems on commercial, industrial, and municipal properties within the Authority's service territory. Consultant's role includes customer engagement and marketing, technical review and design, installation and construction management, project financing and ownership, operations and maintenance, and program reporting. Consultant will serve as the Program Administrator, ensuring that projects are delivered using qualified local installation partners, prevailing wage labor, and tier 1 equipment, while providing Authority with transparency, project level and portfolio-wide reporting.

Consultant, as Program Administrator will provide the following services in support of the development, implementation, and long-term success of the Program:

Governance & Oversight

- Provide day-to-day Program management and turnkey execution.

Program Administration

- Serve as the primary point of contact for all Program activities.
- Develop and maintain Program guidelines, processes, and supporting documentation.
- Coordinate with stakeholders, including property owners, utilities, regulators, and financing partners.
- Manage the customer journey from inquiry through operation.
- Track and manage overall Program performance against goals and milestones.

Marketing and Public Relations ("PR")

- Subject to Authority's approval Consultant will:
    - Develop all Program marketing and PR materials.
    - Create educational materials, including training materials for Authority staff, materials for community engagement events and stakeholders.
    - Promote the Program to local media outlets, community groups and business associations.

Community Engagement

- Implement omni-channel outreach and marketing campaigns using online, installer, and direct outreach channels.
- Support outreach to property owners, tenants, and local communities regarding Program benefits.

- Use best efforts to engage with G.O. 156 qualified vendors, local labor, minority-owned and veteran-owned contractors as installation partners.
- Promote workforce development through training and onboarding programs.

Project Origination and Development

- Identify, screen, and qualify customer candidate sites for solar + storage and standalone storage deployment.
- Analyze customer electric consumption data to verify system size.
- Generate customer proposals.
- Conduct feasibility studies, including technical, financial modeling, underwriting and regulatory assessments.
- Secure executed customer agreements (i.e. site lease agreement).

Design, Engineering and Development

- Oversee and validate preliminary and final system designs, including solar photovoltaic (PV), storage, and microgrid components.
- Ensure all designs comply with Program specifications and applicable codes, standards, and utility requirements.
- Coordinate with licensed engineers, architects, and contractors as required.
- Oversee interconnection applications and approvals with the utility and all required building permits and approvals.

Construction and Implementation Oversight

- Manage procurement, contracting with licensed installer, and construction of all Program projects.
- Ensure prevailing wage, local labor and code compliance.
- Oversee construction schedules, budgets, and quality control.
- Coordinate with utilities, inspectors, and authorities having jurisdiction (AHJs) to achieve permission to operate (PTO).

Financing and Contracting

- Structure and execute master Power Purchase Agreement (PPA) and ESSA and project level exhibits.
- Secure and manage financing for project development, construction, and operations.
- Administer incentive applications and compliance reporting for state or federal programs.

Operations and Maintenance (O&M), and Asset Management

- Provide ongoing asset management, monitoring, and reporting data for all deployed systems and aggregated portfolio data.
- Ensure systems perform to contracted output and efficiency standards.
- Coordinate preventative and corrective maintenance with qualified service providers.
- Maintain roof reserve for system removal and reinstallation.

Billing

- Submit PPA & ESSA invoices to Authority.
- Provide project production data necessary for Authority customer billing.

Program Reporting and Compliance

- Prepare and deliver periodic Program status reports, including adoption and key milestones, along with financial and operational performance metrics.
  - Generate annual customer savings reports
  - Sales and marketing pipeline reports
  - Development pipeline reports
  - Portfolio status reports
- Report on job creation, local vendor participation, and community benefits attributable to the Program.
- Maintain compliance with all applicable laws, regulations, and Program requirements.
- Provide audit support and documentation as requested by Authority.

Exhibit B
Schedule of Performance

Consultant shall diligently and timely perform the services under this Agreement to Authority's satisfaction according to the following timetable, which may be revised by Authority from time to time:

Task	Due Date
Program Design Finalization	Dec 15, 2025
Program Tech & Marking Integration	Feb. 15, 2026
Soft Launch	March 15, 2026
Full Launch	May 1, 2026

Exhibit C
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority and its members and their respective officials, officers, employees, agents and volunteers named as additional insured.

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE**:

(1) **Workers' Compensation**:
Statutory coverage as required by the State of California and providing, at minimum, $1,000,000.00 employers' liability coverage.

(2) **Liability**:
Commercial general liability ("CGL") coverage with minimum limits of $2,000,000 per occurrence and $4,000,000 aggregate for bodily injury and property damage, including ongoing and completed operations. ISO occurrence Form CG 0001 or equivalent is required. If limits apply separately to this Agreement (CG 25 03 or 25 04), the general aggregate limit shall not apply. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy. If Consultant or subcontractor maintains higher limits than the limits shown above, Authority shall be entitled to coverage for the higher limits maintained by the Consultant and their subcontractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Authority. Any excess or umbrella policies being used to meet the required limits of insurance will be evaluated separately and must meet the same qualifications as Consultant's primary policy.

(3) **Automotive**:
Commercial Automobile Liability Insurance for all of Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit no less than $1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

(4) **Professional Liability**
Professional liability insurance that includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least $1,000,000 per claim and $2,000,000 annual aggregate. Consultant shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the services; and (2)

the policy will be maintained in force for a period of three years after substantial completion of the services or termination of this Agreement, whichever occurs last. Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase Authority's exposure to loss. All defense costs shall be outside the limits of the policy. If Consultant maintains higher limits than the limits shown above, Authority shall be entitled to coverage for the higher limits maintained by Consultant. Any available proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Authority.

(5) **Cyber Liability**

Cyber Liability with a limit of $2,000,000 per occurrence or claim and $4,000,000 annual aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as are undertaken by Consultant in this Agreement and shall include claims involving infringement of intellectual property, infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of Confidential Data and/or private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs, regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to such obligations. All defense costs shall be outside the limits of the policy.

Exhibit D
Master Power Purchase and Sale Agreement (PPA)

Exhibit E
Master Energy Storage Service Agreement (ESSA)

COMMERCIAL SOLAR GENERATION AND BATTERY STORAGE PROGRAM

MASTER POWER PURCHASE AND SALE AGREEMENT

BETWEEN

CLEAN ENERGY ALLIANCE, A CALIFORNIA JOINT POWERS AUTHORITY

AND

Luminia BTM DevCo 1 LLC

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COMMERCIAL SOLAR GENERATION AND BATTERY STORAGE PROGRAM

MASTER POWER PURCHASE AND SALE AGREEMENT

This Commercial Solar Generation and Battery Storage Program Master Power Purchase and Sale Agreement (this "**Agreement**") is made and effective as of [___], 2025 (the "**Effective Date**"), by and between Luminia BTM DevCo 1 LLC ("**Seller**") and Clean Energy Alliance, a California joint powers authority ("**Buyer**"). Seller and Buyer are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." Unless the context otherwise specifies or requires, capitalized terms in this Agreement have the meanings set forth in Article 1.

RECITALS

WHEREAS, Buyer intends to offer a Commercial Behind-the-Meter Distributed Energy Program and associated tariff to non-residential customers whereby solar and battery energy storage systems will be located at customer sites ("**Program**");

WHEREAS, Seller desires to develop, design, construct, finance, own and operate one or more commercial, industrial and other non-residential solar and battery energy storage systems to be located at various sites within Buyer's service territory, each as more fully described on each System Addendum executed by the Parties (each a "**System**" and collectively the **"Systems"**);

WHEREAS, Seller desires to sell to Buyer, and Buyer is willing to purchase from Seller the Product generated by the Systems pursuant to the terms and conditions of this Agreement; and

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:

[redacted]

"**Acceptance Date**" means, with respect to a System, the date on which Seller receives the countersigned System Addendum from Buyer pursuant to Section 2.1 hereto with respect to such System.

[redacted]

"**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 any exhibits, schedules and any written supplements hereto, any designated collateral, credit support or similar arrangement between the Parties.

"**Ancillary Services**" means all ancillary services, products and other attributes, if any, associated with the installed capacity of the System as of the Commercial Operation Date, including spinning reserve, non-spinning reserve, regulation up, regulation down, and voltage support as each is defined in the CAISO Tariff, and any other ancillary services added to the Agreement; *provided,* Ancillary Services does not include black start service.

[redacted]

"**Bankrupt**" or "**Bankruptcy**" means with respect to any Person, such Person 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.

"**Bankruptcy Code**" means the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*), as amended, and any successor statute.

"**BESS**" means the battery energy storage system components included within, or interconnected with, a System.

"**BESS Delivery Point**" means with respect to a BESS the point where such BESS' AC output electrically interconnects with the Customer's electric infrastructure.

"**Billing Period**" has the meaning set forth in Section 4.8(a).

"**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).

"**Buyer**" means Clean Energy Alliance, a California joint powers authority.

[redacted]

[redacted]

"Buyer's Indemnified Parties" means Buyer's directors, officers, employees and agents.

"Buyer's Service Territory" means the service territory of Buyer.

"**Buyer's WREGIS Account**" has the meaning set forth in Section 5.6(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 of the applicable System, that the CEC has pre-certified) that such System 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.

[redacted]

[redacted]

"**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, in calculating ownership percentages for all purposes of the foregoing:

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

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

"**Charging Energy**" means the Energy delivered to a BESS by Buyer pursuant to a Charging Notice. All Charging Energy shall be used solely to charge the applicable BESS.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer directing a BESS to charge at a specific kW rate for a specified period of time or to a specified Stored Energy Level; provided, any such operating instruction shall be in accordance with the Operating Restrictions of such BESS set forth in the applicable System Addendum (if any) and such Charging Notice shall be consistent with this Agreement, the Program Guidelines and the Operating Restrictions set forth in the relevant System Addendum, if any.

"**Code**" means the U.S. Internal Revenue Code, as amended.

"**Commercial Operation**" means, with respect to the applicable System, the condition existing when (i) all conditions to operate such System, including without limitation all applicable regulatory authorizations, approvals and permits for the operation of such System have been

obtained, satisfied and complied with, and are in full force and effect, in order to produce, sell and transmit Energy.

"Commercial Operation Date" means the first date of Commercial Operation of the applicable System after completion of such System as confirmed in writing by the System installer.

"**Compliance Actions**" has the meaning set forth in Section 4.7(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 4.7(a).

"**Confidential Information**" has the meaning set forth in Section 20.1.

"**Construction Start Date**" means the date that construction of the applicable System begins at the applicable Site.

"**Collateral Assignment Agreement**" has the meaning set forth in Section 15.2.

"**Contract Price**" has the meaning set forth in Section 4.3.

"**Contract Term**" has the meaning set forth in Section 3.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year for each System shall commence on the Commercial Operation Date for such System and each subsequent Contract Year shall commence on the anniversary of such Commercial Operation Date.

"Customer" means the property owner of the property where a System is located.

[redacted]

"**COVID-19**" means the epidemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

"**Credit Rating**" means, with respect to any Person, the rating then assigned to such Person's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such Person does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such Person 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.

[redacted]

"**Defaulting Party**" has the meaning set forth in Section 12.1(a).

"**Deficient Month**" has the meaning set forth in Section 5.6(f).

"**Delivered Energy**" means with respect to a System, all Energy produced from such PV System as measured in kWh at the System Delivery Point. In each case, any Energy discharged from the BESS or imported from the grid is excluded from Delivered Energy. For the avoidance of doubt, payments under this Agreement are based solely on the PV System-generated AC kilowatt-hours recorded at the Delivery Point and Deemed Delivered Energy. No adjustments shall be made for energy losses due to storage round-trip efficiency or other downstream consumption.

"**Delivery Point**" means the point at which the alternating current ("**AC**") output from the PV System is measured after DC-to-AC conversion and prior to any interconnection with the BESS or site load. For AC-coupled Systems, the Delivery Point is located at the aggregated AC output conductors of the photovoltaic ("**PV")** inverters, upstream of any connection to the BESS. For direct current ("**DC**")-coupled or hybrid systems, the Delivery Point is defined by the inverter's PV-only AC generation register or a dedicated PV production meter that records only the AC energy generated by the PV System. In each case, any energy discharged from the BESS or imported from the grid is excluded.

"**Discharging Energy**" means the Energy that is delivered from a BESS to the applicable Customer at the BESS Delivery Point.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer directing a BESS to discharge Discharging Energy at a specific kW rate for a specified period of time or to a specified Stored Energy Level; *provided*, any such operating instruction or updates shall be consistent with this Agreement, the Program Guidelines and the Operating Restrictions set forth in the relevant System Addendum, if any.

"**Disclosing Party**" has the meaning set forth in Section 20.2.

"**Early Termination Date**" has the meaning set forth in Section 12.2.

"**Effective Capacity**" means, at the applicable time, the maximum dependable operating capacity of the applicable BESS to discharge Energy, measured in kilowatts (kW) AC at the BESS Delivery Point. Effective Capacity is determined based on the BESS's installed nameplate capacity, adjusted for degradation in accordance with the manufacturer's published degradation curve.

"**Effective Date**" has the meaning set forth on the Preamble.

"**Eligible Renewable Energy Resource**" or "**ERR**" 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.

"**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 metered electrical energy, measured in kWh, which is generated by the System.

"**Energy Management System**" or "**EMS**" means the energy management system for a System.

"**Energy Rate**" has the meaning set forth in Section 4.3(a).

"**Environmental Costs**" has the meaning set forth in Section 18.1(b). .

"**Event of Default**" has the meaning set forth in Section 12.1.

[redacted]

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Force Majeure Event**" has the meaning set forth in Section 11.1.

"**Future Environmental Attributes**" shall mean, with respect to a System, any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by such System.

[redacted]

"**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; *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 a System, 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[1]; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green tags ("**Green Tag**s") are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the System, (ii) production tax credits associated with the construction or operation of the applicable System and other financial incentives in the form of credits, reductions, or allowances associated with such System 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 applicable System for compliance with local, state, or federal operating and/or air quality permits.

"**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 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.

[redacted]

"**Hazardous Substance**" means, collectively, (a) any chemical, material or substance that is listed or regulated under applicable Laws as a "hazardous" or "toxic" substance or waste, or as a "contaminant" or "pollutant" or words of similar import, (b) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, and transformers or other equipment that contain polychlorinated biphenyls, and (c) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Laws.

[redacted]

"**Indemnifiable Loss(es)**" has the meaning set forth in Section 18.1.

[1]Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

"**Indemnified Party**" has the meaning set forth in Section 18.1.

"**Indemnifying Party**" has the meaning set forth in Section 18.1.

"**Initial Operating Instructions**" has the meaning set forth in Section 5.4.

"**Interest Rate**" has the meaning set forth in Section 9.2.

"**Investment Grade Credit Rating**" means a Credit Rating of BBB- or higher by S&P or Baa3 or higher by Moody's.

"**kW**" means kilowatts measured in alternating current.

"**kWh**" means kilowatt-hour.

"**Law**" means any applicable law, statute, regulation, 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 or long-term debt or equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of a System, whether that financing or refinancing takes the form of private debt, 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 investor directly or indirectly providing financing or refinancing for such System or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to such System.

"**Limited Assignee**" has the meaning set forth in Section 15.4.

[redacted]

"**Lost Output**" means Energy in the amount Seller could reasonably have delivered to Buyer at the Delivery Point for the applicable System but was prevented from delivering to Buyer at such Delivery Point during Force Majeure Events or System emergencies.

"**Marketable Emission Trading Credits**" means emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code 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)).

"**Monthly Capacity Availability**" has the meaning set forth in Exhibit D.

"**Moody's**" means Moody's Investors Service, Inc.

"**Non-Defaulting Party**" has the meaning set forth in Section 12.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered in accordance with Section 10.2.

"**Operating Restrictions**" means the Operating Restrictions (if any) listed in the applicable System Addendum.

"**Party**" has the meaning set forth in the Preamble.

"**Permitted Transferee**" means:

"**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.

"**Pre-Existing Condition**" has the meaning set forth in Section 18.1.

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

"Pre-Construction Expenses" means expenses incurred by Seller or its contractors prior to construction of a System to prepare such System site for System integration, which may include, without limitation removal of copper or other materials from roof; upgrade roof structure; removal of existing solar PV; removal or relocation of AC unit; removal or repair of existing generator; removal of existing battery backup; removal or relocation of existing solar thermal; removal or relocation of rooftop vents; removal of trees or obstructions and tree trimming; cleaning of roof surface; repair of electrical code violation; removal or relocation of shelving; or master-panel upgrade (MPU).

"**Product**" means, with reference to a System, all electric energy produced by such System throughout the System Delivery Term; all Green Attributes including PCC1 Renewable Energy Credits; the Effective Capacity, all Ancillary Services, if any; and all Resource Adequacy Benefits, if any; generated by, associated with or attributable to such System throughout the System Delivery Term.

"**Program**" has the meaning set forth in the Recitals.

"**Program Guidelines**" means the Buyer's Commercial Behind-the-Meter Distributed Energy Program guidelines published

"**Prudent Operating Practice**" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric power industry for facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition. Prudent Operating Practice is not necessarily defined as the optimal

standard practice method or act to the exclusion of others, but rather refer to a range of actions reasonable under the circumstances.

"**PV System**" means the solar photovoltaic generation system components included with the applicable System, as distinguished from the BESS included within or interconnected with such System.

"**Receiving Party**" has the meaning set forth in Section 20.2.

"**Renewable Energy Credit(s)**" 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 with respect to a System: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of Product from the System (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 ownership or operation of such System; and (c) any other form of incentive relating in any way to the System that are not a Green Attribute or a Future Environmental Attribute.

"**Resource Adequacy Benefits**" means the rights and privileges attached to a System, if any, that satisfy any entity's resource adequacy obligations, as those obligations are set forth in CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031 and any subsequent CPUC ruling or decision and shall include any local, zonal or otherwise locational attributes associated with such System.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global, Inc.) or its successor.

"**Seller**" has the meaning set forth in the preamble.

"**Seller Related Parties**" has the meaning set forth in Section 18.1(a).

"**Seller's WREGIS Account**" has the meaning set forth in Section 5.6(b).

[redacted]

"**Site**" means the applicable real property on which a System is installed.

"**Site Lease**" has the meaning set forth in Section 3.4.

"**Stored Energy Level**" means, at a particular time, the amount of Energy in the applicable BESS available to be discharged as Discharging Energy, expressed in kWh.

"**Supply Chain Event**" means any delay or failure in Seller's performance of its obligations hereunder arising out of any of the following, notwithstanding the foreseeability or anticipation thereof at any time: (X) changes in Export and Import Costs or international trade restraints, or (Y) any Import Restriction Action.

"**System(s)**" has the meaning set forth in the Recitals hereto.

"**System Addendum**" or "**System Addenda**" means a System Addendum in the form attached hereto as Exhibit A.

"**System Delivery Term**" has the meaning set forth in Exhibit A.

"**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 generally accepted accounting principles.

"**Tariff**" has the meaning set forth in ARTICLE 16.

"**Tax(es)**" 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.

"**Terminated Transaction**" has the meaning set forth in Section 12.2.

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

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

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 5.6(f).

"**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 October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

[redacted]

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

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

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

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

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified, and in the event of a conflict, the provisions of the main body of this Agreement shall prevail over the provisions of any attachment or annex;

(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 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
COMMERCIAL OPERATION

2.1 System Addenda.

(a) The Parties shall agree on a schedule of regular meetings to review the queue of Systems proposed to be added to the Program and this Agreement ("**Proposed System**"), construction schedules for Proposed Systems subject to an executed System Addendum, and any other Program implementation issues. Seller shall identify Proposed Systems to Buyer no later than six (6) months (or such shorter as may be reasonable under the circumstances) prior to the projected commercial operation date of each Proposed System. Buyer may reasonably reject or request changes to any Proposed System. The Parties shall use commercially reasonable efforts to attempt to resolve Buyer's concerns, and Buyer shall not be obligated to accept a Proposed System if its reasonable concerns are not adequately addressed within forty-five (45) days of Buyer's initial rejection.

(b) From time to time, Seller may propose that Buyer include a System under the terms and conditions of this Agreement by submitting a completed and signed System Addendum to Buyer. Within seven (7) days of receipt of a proposed System Addendum signed by Seller, Buyer will accept and countersign such proposed System Addendum and upon delivery of such countersigned System Addendum by Buyer, the System described therein shall be deemed a "System" subject to this Agreement. Buyer shall be under no obligation to accept or countersign a System Addendum if (i) any information required thereon is missing or incomplete, (ii) the System set forth in an Addendum materially deviates from the specifications of the Proposed System discussed by the Parties in the meetings set forth in Section 2.1(a), or (iii) the System or System Addendum is not consistent with the Program Guidelines. Unless otherwise agreed in writing by Buyer, Buyer shall be under no obligation to accept any System Addendum from and after four (4) years from the Effective Date (the "**Submission Deadline**").

2.2 Commercial Operation. Seller shall provide Notice to Buyer of the expected Commercial Operation Date for an applicable System within ten (10) Business Days prior to the

date the applicable System will achieve Commercial Operation. Buyer shall have no obligation to purchase any Energy generated by a System until all of the following have occurred:

(a) Seller has delivered to Buyer confirmation by the System installer either in hardcopy or electronic form that such System has been completed, interconnected, and is fully operational and attesting to the installed capacity of the PV System and the BESS;

(b) All applicable regulatory authorizations, approvals and permits for operation of the System have been obtained and shall be in full force and effect;

(c) Seller reasonably expects to receive final CEC Certification and Verification for the PV System 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 completed 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, qualified reporting entity service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system; and

(e) Insurance requirements for the System have been met, with evidence provided in writing to Buyer, in accordance with Section 17.1; and

(f) The Meter Owner has enrolled in the Program.

ARTICLE 3
TERM

3.1 **Contract Term**. The term of this Agreement (**"Contract Term")** consists of the System Delivery Term of all Systems included herein, and shall commence on the Effective Date and shall remain in full force and effect until the end of the System Delivery Term of the last System accepted by Buyer hereunder.

3.2 **Survival of Contract Provisions**. 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 20 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

3.3 **Pre-Construction Start-Date Termination**. If at any time after the Effective Date and before the Construction Start Date, any change in Law occurs regarding the development, construction or operation of renewables and/or energy storage projects that prohibits Seller from developing, constructing or operating a System, or if Seller determines for any reason that the applicable System is not or will not be economically viable from Seller's perspective, Seller in its

sole discretion may elect to terminate the applicable System Addendum unless Seller has waived this termination right in writing. If Seller elects to terminate, such termination shall be effective upon delivery of Notice to Buyer. Neither Party shall have any obligation or liability to the other by reason of such termination.

[redacted]

ARTICLE 4
PURCHASE AND SALE

4.1 **Sale of Product**. Subject to Seller's document deliveries to Buyer under Section 2.2 above and the terms and conditions of this Agreement, during the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller at the applicable Energy Rate, all of the Product produced by a System delivered to the applicable System Delivery Point. At its sole discretion, Buyer may re-sell or use for another purpose all or a portion of the Product. Buyer will have exclusive rights to offer, bid, or otherwise submit the Product from each System for resale in the market, and retain and receive any and all related revenues. Buyer has no obligation to purchase from Seller any Product from any System that is not or cannot be delivered to the System Delivery Point as a result of any circumstance, including, an outage of the System, a Force Majeure Event affecting Buyer's ability to receive the Product (but not its ability to transmit the Product from the System Delivery Point).

4.2 **Sale of Green Attributes**. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all of the Green Attributes, attributable to the Energy produced by all Systems covered under the terms of this Agreement.

4.3 **Compensation**. The contract price payable by Buyer to Seller hereunder (the "**Contract Price**") shall equal the Energy Rate multiplied by the Solar Generation for each Billing Period during the System Delivery Term of each System Addendum.

(a) Buyer shall pay Seller a blended solar-and-storage rate per kWh of Solar Generation, as specified in the applicable System Addendum (the "**Energy Rate**"). The Energy Rate shall increase each subsequent Contract Year during the System Delivery Term by the Annual Escalator set forth in the applicable System Addendum.

[redacted]

[redacted]

4.4 Ownership of Renewable Energy Credits. Buyer shall have all right, title and interest in and to all Renewable Energy Credits. If any Renewable Energy Credits, or values representing the same, are initially credited or paid to Seller, Seller shall cause such Renewable Energy Credits or values relating to same to be assigned or transferred to Buyer without delay.

4.5 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. 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 such Future Environmental Attributes. Seller shall have no obligation to alter any System unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 4.5(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, as set forth above; provided, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

4.6 California Renewables Portfolio Standard.

(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 REC-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 4.6(c) means this Agreement. For clarity, if Seller is unable to deliver RECs to Buyer under applicable Laws despite Seller's commercially reasonable efforts to perform under this Agreement; failure to deliver RECs shall not, by itself, be an Event of Default.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

ARTICLE 5
OBLIGATIONS AND DELIVERIES

5.1 Delivery.

(a) Energy. Subject to the terms and conditions of this Agreement, Seller shall make available and Buyer shall accept all Delivered Energy on an as-generated, instantaneous basis at the applicable System Delivery Point. Notwithstanding anything to the contrary in this Agreement (including with respect to any Force Majeure Event), Buyer shall be responsible for all

charges, penalties, ratcheted demand or similar charges, and any transmission related charges, including imbalance penalties or congestion charges associated with Delivered Energy from and after the applicable System Delivery Point.

(b) Green Attributes. Seller represents and warrants that Seller holds the rights to all Green Attributes from each System, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from each System.

5.2 Title and Risk of Loss.

(a) Energy. Title to and risk of loss related to the Delivered Energy generated by each System shall pass and transfer from Seller to Buyer at the applicable Delivery Point.

(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.

[redacted]

5.4 Energy Management.

[redacted]

(b) Charging Generally. Upon receipt of a valid Charging Notice, Seller shall take all action necessary to deliver the Charging Energy to the applicable BESS from the applicable PV System. Seller shall maintain, repair or replace equipment in Seller's possession or control used to deliver the Charging Energy from the applicable PV System to the applicable BESS. Except as otherwise expressly set forth in this Agreement, Buyer shall be responsible for paying all costs and charges of delivering the Charging Energy to each Delivery Point. For clarity, Seller has no obligation to procure grid Energy to charge any BESS unless expressly authorized in writing by Buyer and agreed by Seller, and any such grid Energy charging shall be at Buyer's cost and risk (including any regulatory or Tax impact).

(c) Charging Notices. During the applicable System Delivery Term, Buyer shall have the right to charge each BESS within the limits of the manufacturer's warranty, seven (7) days per week and twenty-four (24) hours per day (including holidays), by providing Charging Notices to Seller electronically; *provided*, Buyer's right to issue Charging Notices is subject to the requirements and limitations set forth in this Agreement and the Program Guidelines, including the applicable Operating Restrictions. Each Charging Notice issued in accordance with this Agreement will be effective unless and until such Charging Notice is modified with an updated Charging Notice. Seller shall comply with all Charging Notices, subject to the requirements and limitations set forth in this Agreement, and Seller may curtail, delay, or refuse to implement any Charging Notice to the extent necessary to comply with applicable Law. In such case, Seller shall notify Buyer promptly and, where practicable, propose a commercially reasonable alternative schedule.

(d) No Unauthorized Charging. Seller shall not charge any BESS during the applicable System Delivery Term other than consistent with the Program Guidelines, or pursuant to a valid Charging Notice, or pursuant to a notice from the CAISO or any other Governmental Authority; provided, that Seller may perform commissioning, diagnostic testing, warranty-required balancing or calibration cycling, and actions reasonably necessary to preserve System safety or integrity, in each case consistent with the Operating Restrictions and the manufacturer's instructions and with five (5) Business Days' prior notice to Buyer.

(e) Discharging Notices. During the Delivery Term, Buyer shall have the right to discharge each BESS within the limits of the manufacturer's warranty, by providing Discharging Notices to Seller electronically, subject to the requirements and limitations set forth in this Agreement and the Program Guidelines, including the Operating Restrictions. Seller shall comply with all Discharging Notices, subject to the requirements and limitations set forth in this Agreement. Each Discharging Notice issued in accordance with this Agreement will be effective unless and until Buyer modifies such Discharging Notice by providing Seller with an updated Discharging Notice. Seller may curtail, delay, or refuse to implement any Discharging Notice to the extent necessary to comply with applicable Law with prompt notice to Buyer and, where practicable, a commercially reasonable alternative.

(f) No Unauthorized Discharging. Seller shall not discharge any BESS during the applicable System Delivery Term other than consistent with the Program Guidelines, or pursuant to a valid Discharging Notice or pursuant to a notice from CAISO or any other Governmental Authority; provided, that Seller may discharge to the extent reasonably necessary to preserve System safety or integrity or to comply with the Operating Restrictions, the manufacturer's warranty, Prudent Operating Practice, or applicable Law, with five (5) Business Days' prior notice to Buyer.

5.5 Storage Availability. [redacted]

5.6 WREGIS.

(a) Seller shall, at its sole expense, subject to Section 4.7, 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 Energy generated by each PV System are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner (to the extent within Seller's control, acknowledging the prevailing WREGIS issuance lag time) to Buyer for Buyer's sole benefit. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall maintain an active WREGIS account and timely accept transfers. Seller shall not be responsible for delays or failures attributable to WREGIS, the CEC, the applicable utility or CAISO, or Buyer, and Buyer shall be given sole title to all such WREGIS Certificates.

(b) Prior to the Commercial Operation Date, Seller shall register each System 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 associated with each System using "Recurring Certificate Transfers" (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to Buyer's WREGIS account ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering each System with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account. Buyer shall be responsible for its own WREGIS account fees and shall timely accept transfers. Buyer shall provide, upon reasonable request, all attestations and other information reasonably required by WREGIS or the CEC to support issuance and transfer.

(c) Seller shall cause Recurring Certificate Transfers to occur 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, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate. Such fractional carryforward and issuance timing shall not, in itself, constitute a WREGIS Certificate Deficit under Section 5.6(f).

(d) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with Delivered Energy, for such calendar month as evidenced by the applicable System's metered data, recognizing the prevailing issuance lag described in Section 5.6(a) and the fractional MWh carryforward described in Section 5.6(c).

(e) Due to the ninety (90) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment, Buyer shall make an invoice payment for a given month in accordance with Section 9.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 5.6. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 9.2.

(f) 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 for the same calendar month ("**Deficient Month**") caused solely by an error or omission of Seller. If any WREGIS Certificate Deficit is caused 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 9 for the applicable month 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 5.6, 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.

(g) If (i) WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 5.6 after the Effective Date, or (ii) the CEC modifies its RPS Eligibility Guidebook, the Parties promptly shall modify this Section 5.6 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 maximum quantity of WREGIS Certificates that can be transferred to Buyer from each System in the same calendar month.

5.7 **Energy Management System**. Seller shall provide to Buyer a real-time data feed from the EMS for each System. During each System Delivery Term, Seller shall provide monthly reports to Buyer for each System including the charging and discharging capacity and availability of the BESS and maintenance outages scheduled for the following six (6) month period. Upon execution of this Agreement, the Parties shall cooperate to agree upon the type and format of the information to be provided in the monthly reports.

5.8 Each Party covenants that it will provide Notice to the other Party within two (2) Business Days upon becoming aware of any Meter Owner ceasing to be subject to the Tariff or delivering notice to such Party that it is electing to cease being subject to the Tariff.

5.9 **Commercial Operation Capacity Test**. Prior to each Commercial Operation Date, and upon no less than ten (10) Business Days' prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Capacity Test with respect to the applicable System. Such Commercial Operation Capacity Test shall establish the Installed Capacity of the applicable BESS.

ARTICLE 6
TAXES

6.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to each System or on or with respect to the sale and making available Product to Buyer that are imposed on Product prior to the applicable System Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and from the applicable System Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees).

Notwithstanding the foregoing, each Party shall be responsible for its own Taxes calculated based on the income or profits generated in connection with the purchase and sale of the Product hereunder. 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 Energy hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes from which Buyer claims it is exempt.

6.2 **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 therefore 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 7
MAINTENANCE OF SYSTEM

7.1 **Maintenance of System**.

(a) Seller shall comply with Law and Prudent Operating Practice and be solely responsible for the operation, inspection, maintenance and repair of the Systems covered under this Agreement, the generation and sale of Product, the protection of the Site and persons from damage or injury due to Seller's installation and operation of the applicable System, and the disposal and recycling of any equipment associated with each System, including solar panels in accordance with applicable Law and Prudent Operating Practice. Seller shall maintain and deliver maintenance and repair records for each System to Buyer upon request. Seller shall promptly make all necessary repairs to each System, and any portion thereof, and take all actions necessary in order to provide the Product to Buyer in accordance with the terms of this Agreement.

(b) Seller shall maintain a daily operations log for each System which shall include but not be limited to information on Energy consumption and efficiency (if applicable), availability, outages, changes in operating status, inspections and any other significant events related to the operation of the applicable System. Information maintained pursuant to this Section 7.1(b) shall be provided to Buyer within fifteen (15) days of Buyer's request.

(c) Seller shall maintain and make available to Buyer records, including logbooks, demonstrating that each System is operated in accordance with Prudent Operating Practices. Seller shall comply with all reporting requirements and permit on-site audits, investigations, tests and inspections permitted or required under any Prudent Operating Practice.

7.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of each System and the protection of the Site and persons from damage or injury due to Seller's installation and

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

ARTICLE 8
METERING

8.1 **Metering**. Seller shall measure the amount of Energy produced by each System using a commercially available, revenue-grade metering system. Each such meter shall be installed and maintained at Seller's cost. Each such 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 that 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.

8.2 **Meter Verification**. If Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the System's meter. The test shall be conducted by an independent third-party qualified to conduct such test. Buyer shall be notified seven (7) days in advance of such test and have a right to be present during such test. 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 for the applicable System shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period; *provided*, such period may not exceed twelve (12) months.

ARTICLE 9
INVOICING AND PAYMENT; CREDIT

9.1 **Invoicing**. Seller shall make good faith efforts to deliver an invoice to Buyer for the Contract Price due for each System then covered under this Agreement no later than fifteen (15) Business Days after the end of the prior monthly Billing Period. Each invoice shall contain records of metered data sufficient to document and verify Seller's calculation of the Contract Price for the applicable month, including the amount of Delivered Energy and Deemed Delivered Energy.

9.2 **Payment**. Buyer shall make payment to Seller for the Contract Price due and payable 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 receipt of the invoice. If such due date falls on a weekend or Federal Reserve Bank holiday in California, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an

annual interest rate equal to ten percent (10%) of the total amount due ("**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.

9.3 Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon 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.

9.4 Payment Adjustments; Billing Errors. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 9.5, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 9.2, accruing from the date the adjusted amount was due.

9.5 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 upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 9.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

9.6 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, including any related damages, 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.

ARTICLE 10
NOTICES

10.1 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 Exhibit B or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

10.2 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, facsimile, or other electronic means) and if concurrently with the transmittal of such electronic communication the sending Party provides a copy of such electronic Notice by hand delivery or express courier, at the time indicated by the time stamp upon delivery, 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, 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 11
FORCE MAJEURE

11.1 Definition.

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

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes,

tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic (including but not limited to the COVID-19 epidemic); pandemics; 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.

[redacted] ent failure except if such equipment failure is caused by a serial defect or Force Majeure Event.

11.2 **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. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

11.3 **Notice**. Within seven (7) Business Days of the claiming Party's awareness of the impact of a Force Majeure Event, the claiming Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the Force Majeure Event, the claiming Party shall provide the other Party with Notice describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim, including Seller's then-current understanding of the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance. Failure to provide timely Notice as described in the preceding sentence constitutes a waiver of a Force Majeure Event. 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 provide Notice to the other Party 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 Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event.

11.4 **Termination Following Force Majeure Event**. If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be unable to perform its obligations hereunder in whole or in any material respect with respect to an affected System, 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 the affected System Addendum upon Notice to the other Party. Upon any such termination, neither Party shall have any further liability to the other Party with respect to such System except as set forth in Section 3.2.

ARTICLE 12
DEFAULTS; REMEDIES; TERMINATION

12.1 **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:

[redacted]

12.2 Remedies; Declaration of Early Termination Date.

12.3 <u>Termination Payment</u>.

12.4 Notice of Payment of Termination Payment.

12.5 Disputes With Respect to Termination Payment.

12.6 Rights And Remedies Are Cumulative. Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 12 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

12.7 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.

[redacted]

ARTICLE 13
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

13.1 **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) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

13.2 **Waiver and Exclusion of Other Damages**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX CREDITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF TAX CREDITS, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 4.7, 5.5, 12.3, 12.4 AND EXHIBITS D AND E, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 14
REPRESENTATIONS AND WARRANTIES; AUTHORITY

14.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct 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.

14.2 Buyer's Representations and Warranties. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court (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 (California Government Code Section 810 et seq.).

14.3 **Mutual 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;

(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.

14.4 **Seller Covenants**. Seller covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) Seller shall use commercially reasonable efforts to ensure that its employees performing construction services at the Sites are paid wages consistent with any applicable California prevailing wage requirements. For contractors and subcontractors, that will perform construction work or provide services at any Site related to construction of the Systems. Seller shall include in its subcontracts a provision encouraging compliance with any such applicable requirements but shall not be responsible for independent contractors' or subcontractors' wage determinations or compliance. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by California labor laws that are not expressly applicable to the work performed under this Agreement.

(b) Seller will endeavor to engage local labor, minority-owned and veteran-owned contractors in the construction, operation and maintenance of Systems.

Supplier Diversity. Seller acknowledges that Buyer will, from time to time, request voluntary disclosure of Seller's certification status with the CPUC Supplier Clearinghouse, and voluntary disclosure regarding Seller's efforts to work with diverse business enterprises, including women, minority, disabled veteran, and lesbian, gay, bisexual, transgender and/or persons with disabilities business enterprises.

ARTICLE 15
ASSIGNMENT

15.1 **General Prohibition on Assignments**. Except as provided below in this Article 15, neither Party may assign this Agreement or its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be

unreasonably withheld, conditioned or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent and will not be subject to Section 15.2 or Section 15.3 if the assignee or transferee is a Permitted Transferee. 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 pay the other Party's reasonable expenses associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by the assigning Party, including without limitation reasonable attorneys' fees.

15.2 **Collateral Assignment**. Subject to the provisions of this Section 15.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of one or more Systems. In connection with any financing or refinancing of one or more Systems by Seller, upon request of 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**"). Each Collateral Assignment Agreement must be in form and substance agreed to by Buyer, Seller and the applicable Lender, such agreement not to be unreasonably withheld. Buyer will not be subject to obligations under more than one Collateral Assignment Agreement at any time. The Collateral Assignment Agreement must include, among others, the following provisions unless otherwise agreed to by Buyer, Seller and the applicable Lender:

(a) Buyer shall give Notice of an Event of Default by Seller to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, before exercising its right to terminate this Agreement as a result of such Event of Default; provided that such notice shall be provided to Lender at the time such notice is provided to Seller and the cure period of Lender shall not commence until Lender has received notice of such Event of Default;

(b) Lender will have the right to cure an Event of Default on behalf of Seller if Lender sends a written notice to Buyer before the later of (i) the expiration of any cure period, and (ii) five (5) Business Days after Lender's receipt of notice of such Event of Default from Buyer, indicating Lender's intention to cure. Lender must remedy or cure such Event of Default within the cure period under this Agreement and any additional cure periods agreed in the Collateral Assignment Agreement up to a maximum of ninety (90) days (or, in the event of a bankruptcy of Seller or any foreclosure or similar proceeding if required by Lender to cure any Event of Default, an additional reasonable period of time to complete such proceedings and effect such cure not to exceed one hundred eighty (180) days without the written consent of Buyer, which consent shall not be unreasonably withheld), provided that if Lender is prohibited by any court order or bankruptcy or insolvency proceedings from curing the Event of Default or from commencing or prosecuting foreclosure proceedings, the foregoing time periods shall be extended by the period of such prohibition

(c) Following an Event of Default by Seller under this Agreement, Buyer may require Seller (or Lender, if Lender has provided the notice set forth in subsection (b) above) to provide to Buyer a report concerning:

(i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;

(ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Buyer may reasonably require related to the development, implementation and timetable of the cure plan. Seller or Lender must provide the report to Buyer within ten (10) Business Days after Notice from Buyer requesting the report. Buyer will have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;

(d) Lender will have the right to consent before any termination of this Agreement which does not arise out of an Event of Default;

(e) Lender will receive prior Notice of and the right to approve material amendments to this Agreement, which approval will not be unreasonably withheld, delayed or conditioned;

(f) If Lender, directly or indirectly, takes possession of, or title to one or more Systems (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must assume all of Seller's obligations arising under this Agreement and all related agreements with respect to such System(s), including the applicable System Addendum(s) (subject to such limits on liability as are mutually agreed to by Seller, Buyer, and Lender as set forth in the Collateral Assignment Agreement); provided, before such assumption, if Buyer advises Lender that Buyer will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Event of Default, then Lender at its option, and in its sole discretion, may elect to either:

(i) Cause such Event of Default to be cured, or

(ii) Not assume this Agreement;

(g) If Lender elects to transfer this Agreement, then Lender must cause the transferee to assume all of Seller's obligations arising under this Agreement arising after the date of such assumption as a condition of the sale or transfer. Such sale or transfer may be made only to an entity that meets the definition of Permitted Transferee;

(h) Subject to Lender's cure of any Events of Defaults under the Agreement in accordance with Section 14.2(c), if (i) this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith, Lender shall have the right to elect within thirty (30) days after such rejection or termination, to cause Buyer to enter into a replacement agreement with Seller having the same terms as this Agreement for the remaining Term thereof, or (ii) if Lender or its designee, directly or indirectly, takes possession of, or title to, a System (including

possession by a receiver or title by foreclosure or deed in lieu of foreclosure) after any such rejection or termination of this Agreement, promptly after Buyer's written request, Lender must itself or must cause its designee to promptly enter into a new agreement with Buyer having the same terms as this Agreement for the remaining Term thereof, provided that in the event a designee of Lender, directly or indirectly, takes possession of, or title to, such System (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), such designee shall be approved by Buyer, not to be unreasonably withheld; and

(i) The Parties shall negotiate any Collateral Assignment Agreement in good faith, including variations to the provisions set forth in this Section 15.2, and to the extent the Collateral Assignment Agreement executed by Buyer and Lender varies from such provisions, the terms of such Collateral Assignment Agreement shall be controlling. In addition, Buyer shall cooperate with Seller or any Lender to execute or arrange for delivery of estoppels reasonably requested by Seller or Lender.

15.3 <u>Permitted Assignment by Seller</u>.

(a) Except as may be precluded by, or would cause Buyer to be in violation of the Political Reform Act (California Government Code Section 81000 et seq.) or the regulations thereto, California Section 1090, or any other conflict of interest Law, Seller may, without the prior written consent of Buyer, transfer or assign this Agreement directly or indirectly to an Affiliate of Seller if, and only if:

(i) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(ii) Seller has provided Buyer a written agreement signed by the Affiliate to which Seller wishes to assign its interests that provides that such Affiliate will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment.

(b) Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to any Person succeeding to all, or substantially all, of the assets of Seller (whether voluntary or by operation of law), if, and only if:

(i) The assignee is a Permitted Transferee;

(ii) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(iii) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

(c) Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 15.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and confirmed by Buyer.

15.4 Permitted Assignment by Buyer. Buyer may make a limited assignment, including in connection with a municipal prepayment transaction, to an entity with an Investment Grade Credit Rating ("**Limited Assignee**") of Buyer's right to receive Product and Buyer's obligation to make payments to Seller, subject to execution of an assignment agreement between and among Seller, Buyer, and Limited Assignee upon terms and conditions mutually agreed, including that the limited assignment shall be expressly subject to Limited Assignee's timely payment of amounts due under this Agreement. Buyer may make such assignment by delivering Notice upon Seller not less than thirty (30) days prior to such proposed assignment. Subject to the foregoing, Seller agrees to (i) comply with Limited Assignee's reasonable requests for know-your-customer and similar account opening information and documentation with respect to Seller, including but not limited to information related to forecasted generation, credit rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies, and (ii) promptly execute such assignment agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Limited Assignee and Buyer.

ARTICLE 16
METER OWNER PARTICIPATION

The Parties acknowledge and agree that in connection with this Agreement and the Program, Buyer will provide a disclosure to each of its customers of record at each Site (each a "**Meter Owner**") or otherwise enter into a disclosure agreement requiring each Meter Owner to be subject to Buyer's contemplated Program tariff (the "**Tariff**") for the duration of the Contract Term of this Agreement. Seller shall include in each Site Lease a covenant requiring the applicable Customer and any lessee of the applicable Site (to the extent within the Customer's control with respect to future leases) to elect to be subject to the Tariff for the duration of the applicable System Addendum.

ARTICLE 17
DISPUTE RESOLUTION

17.1 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 17.1(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.

(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 of the State of California sitting in the County of San Diego.

17.2 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 them at Law in or equity. The Parties will cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party. If the mediation is unsuccessful, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

17.3 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 18
INDEMNIFICATION

18.1 Indemnification.

(a) Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, attorneys, employees, representatives, and agents (collectively, the "Indemnified Party") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees and expert fees), howsoever described (collectively, "**Indemnifiable Losses**"), (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by gross negligence, willful misconduct, or breach of this Agreement by the Indemnifying Party. In no case shall Seller by liable to indemnify any Indemnified Party for any Indemnifiable Losses to the extent the collection of such Indemnifiable Losses when combined with applicable GEP Damages under Section 5.3 would result in a double recovery for Buyer.

(b) Seller shall indemnify, defend, and hold harmless Buyer's Indemnified Parties from and against any third-party claims, demands, fines, penalties, and reasonable, documented out-of-pocket losses, costs and expenses (collectively, "**Environmental Costs**") to the extent arising out of or resulting from: (i) Seller's violation of Applicable Environmental Laws in connection with the design, installation, operation, maintenance, removal, storage, transportation or disposal of any System; or (ii) the release, discharge, emission, spill or disposal of Hazardous Substances first introduced to a Site by Seller or Seller's contractors or subcontractors (together, "**Seller Related Parties**") during the Contract Term, in each case except to the extent caused by the negligence or willful misconduct of any Buyer Indemnified Party. Seller shall have no indemnity obligation under this Section 18.1(b) with respect to: (A) any Pre-Existing

Conditions at a Site or Hazardous Substances migrating onto a Site from offsite sources outside of the control of the Seller Related Parties; (B) acts or omissions of Buyer or its contractors (other than Seller Related Parties), including Buyer-directed operation inconsistent with the Operating Restrictions or Manufacturer's instructions; (C) releases caused by the applicable Utility, interconnecting utility facilities; or (D) storage, transportation or disposal activities not arranged by or under the direction and control of Seller Related Parties. [redacted] "**Pre-Existing Conditions**" means the presence of Hazardous Substances or environmental conditions at a Site that existed prior to the commencement of any Seller Related Party's work on such Site, including any contamination, release, discharge, emission, spill, or disposal of Hazardous Substances not caused by any Seller Related Parties.

(c) Nothing in this Section 18.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts, or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligations to pay claims consistent with the provisions of a valid insurance policy.

18.2 Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 18 may apply, the Indemnified Party shall provide Notice to the Indemnifying Party of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 18, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 18, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 19
INSURANCE

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term

[redacted]

ARTICLE 20
CONFIDENTIAL INFORMATION

20.1 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; (iv) information that the recipient independently developed without a violation of this Agreement; and (v) information that is determined by Buyer to be subject to the California Public Records Act.

20.2 Duty to Maintain Confidentiality.

(a) The Party receiving Confidential Information (the "Receiving Party") from the disclosing Party (the "Disclosing Party") shall not disclose Confidential Information to a third party (other than the Receiving Party's members, employees, lenders or investors, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to (a) comply with any applicable Law, regulation, any exchange, control area or independent system operator rule, an order of a court; or regulatory requirement applicable to the Receiving Party, or (b) in order to enforce this Agreement; provided, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this

confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 20.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

(b) The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (California Government Code Section 7920 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

20.3 Requested Confidential Information. Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), Buyer shall promptly notify Seller in writing via email that such request has been made. Seller shall be responsible for taking whatever legal steps are necessary to prevent release of the requested Confidential Information to the third party of Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("Buyer's Indemnified Parties"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

20.4 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.

20.5 Further Permitted Disclosure. Notwithstanding anything to the contrary in this Article 20, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are no less stringent than those in this Article 20 to the same extent as if it were a Party. Seller shall provide Notice to Buyer of any

disclosure of Confidential Information pursuant to this Section 20.5, including the identity of the party receiving such Confidential Information.

20.6 **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 press release. A Party's consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 21
MISCELLANEOUS

21.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

21.2 **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.

21.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

21.4 **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 any System or any business related to any System. 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.

21.5 **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.

21.6 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.

21.7 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.

21.8 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.

21.9 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

21.10 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 (California Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

21.11 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.

21.12 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 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.

21.13 Change in Electric Market Design. If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 17. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

SELLER	**BUYER**
Luminia BTM DevCo 1 LLC	Clean Energy Alliance, a California joint powers authority
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A

SYSTEM ADDENDUM

Date: [_____]

This System Addendum forms a part of the Commercial Solar Generation and Battery Storage Program Master Power Purchase and Sale Agreement (the "**Agreement**") between Clean Energy Alliance, a California joint powers authority ("**Buyer**"), and Luminia BTM DevCo 1 LLC ("**Seller**"), dated [Effective Date]. Upon execution by both Parties, the solar system described below shall be included as a "System" subject to the Agreement.

System Name or ID:

System Site Address or Location:

Meter Owner Utility Meter Account Number:

System Size:

Solar (kW DC):

Energy Storage Nameplate Capacity (kW):

Energy Storage Nameplate Energy (kWh):

Estimated Commercial Operation Date:

Estimated First Year Annual Solar Production (kWh):

Energy Rate for the first year of the System Delivery Term:

Annual Escalator:

BESS Remaining Energy Curve:

Operating Restrictions (if any):

"**System Delivery Term**" means the period of [_____] Contract Years beginning on the Commercial Operation Date and ending on the [____] anniversary of the applicable Commercial Operation Date, unless this System Addendum is terminated earlier or extended in accordance with the terms and conditions of the Agreement. In the event of an extension of the applicable Site Lease beyond [___] years, the System Delivery Term shall be extended to be co-terminus with such Site Lease, as extended.

Expected Energy

Contract Year	Expected Energy (kWh)
1	[XX]
2	[XX]
3	[XX]
4	[XX]
5	[XX]
6	[XX]
7	[XX]
8	[XX]
9	[XX]
10	[XX]
11	[XX]
12	[XX]
13	[XX]
14	[XX]
15	[XX]
16	[XX]
17	[XX]
18	[XX]
19	[XX]
20	[XX]
21	[XX]
22	[XX]
23	[XX]
24	[XX]
25	[XX]

IN WITNESS WHEREOF, the Parties have executed this System Addendum as of the date first written above.

SELLER:	BUYER:
[_____ LLC] By: _____ Name: Title:	Clean Energy Alliance By: _____ Name: Title:

EXHIBIT B

NOTICES

Luminia BTM DevCo 1 LLC ("Seller")	**CLEAN ENERGY ALLIANCE** ("Buyer")
All Notices: Street: [redacted]	**All Notices:** Clean Energy Alliance [redacted]
Reference Numbers: [redacted]	**Reference Numbers:** [redacted]
Invoices: [redacted]	**Invoices:** [redacted]
Scheduling: [redacted]	**Scheduling:** [redacted]
Confirmations: [redacted]	**Confirmations:** [redacted]
Payments: [redacted]	**Payments:** [redacted]
Wire Transfer: [redacted]	**Wire Transfer:** [redacted]
With additional Notices of an Event of Default to: [redacted]	**With additional Notices of an Event of Default to:** [redacted]

Luminia BTM DevCo 1 LLC ("Seller")	**CLEAN ENERGY ALLIANCE** ("Buyer")
Emergency Contact: [redacted]	**Emergency Contact:** [redacted]

EXHIBIT C

[redacted]

EXHIBIT D

[redacted]

[redacted]

[redacted]

EXHIBIT E

[redacted]

[redacted]

[redacted]

[redacted]

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COMMERCIAL BEHIND-THE-METER DISTRIBUTED ENERGY PROGRAM

MASTER ENERGY STORAGE SERVICE AGREEMENT

BETWEEN

CLEAN ENERGY ALLIANCE, A CALIFORNIA JOINT POWERS AUTHORITY

AND

Luminia BTM DevCo 1 LLC

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COMMERCIAL BEHIND-THE-METER DISTRIBUTED ENERGY PROGRAM

MASTER ENERGY STORAGE SERVICE AGREEMENT

This Commercial Behind-The-Meter Distributed Energy Program Master Energy Storage Service Agreement (this "**Agreement**") is made and effective as of [___], 2025 (the "**Effective Date**"), by and between Luminia BTM DevCo 1 LLC ("**Seller**") and Clean Energy Alliance, a California joint powers authority ("**Buyer**"). Seller and Buyer are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." Capitalized terms in this Agreement have the meanings set forth in Article 1.

RECITALS

WHEREAS, Buyer intends to offer a Commercial Behind-the-Meter Distributed Energy Program and associated tariff to non-residential customers whereby solar and battery energy storage systems will be located at customer sites ("**Program**");

WHEREAS, Seller desires to develop, design, construct, finance, own and operate one or more commercial, industrial and other non-residential energy storage systems to be located at various sites within Buyer's service territory, each as more fully described on each System Addendum executed by the Parties (each a **"System"** and collectively, the **"Systems"**);

WHEREAS, Seller desires to sell to Buyer, and Buyer is willing to purchase from Seller the Product generated by the Systems pursuant to the terms and conditions of this Agreement; and

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:

"**Acceptance Date**" means, with respect to a System, the date on which Seller receives the countersigned System Addendum from Buyer pursuant to Section 2.1 hereto with respect to such System.

"**Accepted Compliance Costs**" has the meaning set forth in Section 4.7(c).

"**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 any exhibits, schedules and any written supplements hereto, any designated collateral, credit support or similar arrangement between the Parties.

"**Ancillary Services**" means all ancillary services, products and other attributes, if any, associated with the installed capacity of the System as of the Commercial Operation Date, including spinning reserve, non-spinning reserve, regulation up, regulation down, and voltage support as each is defined in the CAISO Tariff, and any other ancillary services added to the Agreement; *provided,* Ancillary Services does not include black start service.

"**Availability Adjustment**" (or "**AA**") is calculated in accordance with Exhibit D.

"**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.

"**Bankruptcy Code**" means the United States Bankruptcy Code (11 U.S.C. §101 *et seq*.), as amended, and any successor statute.

"**Billing Period**" has the meaning set forth in Section 4.8(a).

"**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).

"**Buyer**" means Clean Energy Alliance, a California joint powers authority.

"Buyer's Indemnified Parties" means Buyer's directors, officers, employees and agents.

"Buyer's Service Territory" means the service territory of Buyer.

"**CAISO**" means the California Independent System Operator or any successor entity.

[redacted]

[redacted]

"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, in calculating ownership percentages for all purposes of the foregoing:

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

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

"**Charging Energy**" means the Energy delivered to a System by Buyer pursuant to a Charging Notice, as measured pursuant to Section 8.1. All Charging Energy shall be used solely to charge the applicable System.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer directing a System to charge at a specific kW rate for a specified period of time or to a specified Stored Energy Level; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions of such System set forth in the applicable System Addendum (if any) and such Charging Notice shall be consistent with this Agreement, the Program Guidelines and the Operating Restrictions set forth in the relevant System Addendum, if any.

"**Code**" means the U.S. Internal Revenue Code, as amended.

"Commercial Operation" means, with respect to the applicable System, the condition existing when (i) all conditions to operate such System, including without limitation all applicable regulatory authorizations, approvals and permits for the operation of such System have been obtained, satisfied and complied with, and are in full force and effect, (ii) such System has scheduled and completed a Commercial Operation Capacity Test, and (iii) such System is capable of receiving, storing, and delivering Energy.

"Commercial Operation Date" means the first date of Commercial Operation of the applicable System after completion of such System as confirmed in writing by the System installer.

"**Compliance Actions**" has the meaning set forth in Section 4.7(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 4.7(a).

"**Confidential Information**" has the meaning set forth in Section 20.1.

"**Construction Start Date**" means the date that construction of the applicable System begins at the applicable Site.

"**Collateral Assignment Agreement**" has the meaning set forth in Section 15.2.

"**Contract Price**" has the meaning set forth in Section 4.3.

"**Contract Term**" has the meaning set forth in Section 3.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year for each System shall commence on the Commercial Operation Date for such System and each subsequent Contract Year shall commence on the anniversary of such Commercial Operation Date.

"Customer" means the property owner of the property where a System is located.

[redacted]

"**COVID-19**" means the epidemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

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

"**Defaulting Party**" has the meaning set forth in Section 12.1(a).

"**Delivery Point**" means with respect to a System the point where such System's AC output electrically interconnects with the Customer's electric infrastructure.

"**Discharging Energy**" means the Energy that is delivered from a System to the applicable Meter Owner at the Delivery Point as measured pursuant to Section 8.1.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer directing a System to discharge Discharging Energy at a specific kW rate for a specified period of time or to a specified Stored Energy Level; *provided*, any such operating instruction or updates shall be in accordance with this Agreement, the Program Guidelines and the Operating Restrictions set forth in the relevant System Addendum, if any.

"**Disclosing Party**" has the meaning set forth in Section 20.2.

"**Distribution Provider**" means San Diego Gas & Electric ("SDG&E").

"**Early Termination Date**" has the meaning set forth in Section 12.2.

"**Effective Capacity**" means, at the applicable time, the maximum dependable operating capacity of the applicable System to discharge Energy, measured in kilowatts (kW) AC at the Delivery Point. Effective Capacity is determined based on the System's installed nameplate capacity, adjusted for degradation in accordance with the manufacturer's published degradation curve.

"**Effective Date**" has the meaning set forth on the Preamble.

"**Energy Management System**" or "**EMS**" means a System's energy management system or similar control system.

"**Energy**" means, as applicable to System operations, metered electrical energy, measured in kWh.

"**Environmental Costs**" has the meaning set forth in Section 18.1.

"**Event of Default**" has the meaning set forth in Section 12.1.

"**Excused Event**" has the meaning set forth in Exhibit C.

[redacted]

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Force Majeure Event**" has the meaning set forth in Section 11.1.

[redacted]

[redacted]

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

"**Hazardous Substance**" means, collectively, (a) any chemical, material or substance that is listed or regulated under applicable Laws as a "hazardous" or "toxic" substance or waste, or as a "contaminant" or "pollutant" or words of similar import, (b) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, and transformers or other equipment that contain polychlorinated biphenyls, and (c) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Laws.

"**Imbalance Reserves**" has the meaning set forth in the CAISO Tariff.

"**Import Restriction Action**" means any import or customs-related action by a Governmental Authority that, directly or indirectly, delays the delivery of major equipment procured by Seller to be used in a System and which cannot be avoided despite the exercise of commercially reasonable efforts by Seller to avoid such delay, including, without limitation, a U.S. Customs and Border Protection withhold release order, issuance of a CF28 or CF29 instrument or seizure or enforcement action.

"**Indemnifiable Loss(es)**" has the meaning set forth in Section 18.1.

"**Indemnified Party**" has the meaning set forth in Section 18.1.

"**Indemnifying Party**" has the meaning set forth in Section 18.1.

"Initial Operating Instructions" has the meaning set forth in Section 5.3(a).

"**Installed Capacity**" means, with respect to a System, such System's demonstrated peak electrical output measured in kW AC at the System Delivery Point.

"**Interest Rate**" has the meaning set forth in Section 9.2.

"**Investment Grade Credit Rating**" means a Credit Rating of BBB- or higher by S&P or Baa3 or higher by Moody's.

"**kW**" means kilowatts measured in alternating current.

"**kWh**" means kilowatt-hour.

"**Law**" means any applicable law, statute, regulation, 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 or long-term debt or equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of a System, whether that financing or refinancing takes the form of private debt, 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 investor directly or indirectly providing financing or refinancing for such System or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to a System.

"**Limited Assignee**" has the meaning set forth in Section 15.4.

[redacted]

"**Meter Owner**" has the meaning set forth in Article 16.

"**Monthly System Charge**" means the amount to be charged to Buyer each month commencing on the Commercial Operation Date and throughout the System Delivery Term as compensation for the Product from each System, calculated as Monthly System Rate (as set forth in the applicable System Addendum) multiplied by the System Nameplate Energy (as set forth in the applicable System Addendum).

"**Moody's**" means Moody's Investors Service, Inc.

"**Non-Defaulting Party**" has the meaning set forth in Section 12.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered in accordance with Section 10.2.

"**Operating Restrictions**" means those restrictions, rules, requirements, and procedures for a System as set forth in the applicable System Addendum (if any).

"**Party**" has the meaning set forth in the Preamble.

"**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.

"Pre-Construction Expenses" means expenses incurred by Seller or its contractors prior to construction of a System to prepare such System site for System integration, which may include, without limitation removal of copper or other materials from Site; upgrades to Site surface areas or concrete foundations; removal or relocation of AC unit; removal or repair of existing generator; removal of existing battery backup; removal or relocation of existing equipment; removal of landscaping, trees or obstructions and tree trimming; cleaning of Site surface; repair of electrical code violation; removal or relocation of shelving; or electrical service or master-panel upgrade (MPU).

"**Pre-Existing Condition**" has the meaning set forth in Section 18.1.

"**Product**" means, subject to the Operating Restrictions of a System, if any, all Discharging Energy delivered by such System throughout the System Delivery Term; the Installed Capacity and the Effective Capacity; Ancillary Services, if any; Imbalance Reserves, if any; all Resource Adequacy Benefits, if any; and any other existing products and products that may be developed or evolved from time to time during the Contract Term as such System is configured on the Commercial Operation Date and at no additional cost to Seller; generated by, associated with or attributable to such System throughout the System Delivery Term.

"**Program**" has the meaning set forth in the Recitals.

"**Program Guidelines**" means the Buyer's Commercial Behind-the-Meter Distributed Energy Program guidelines published [redacted]

"**Program Tariff**" means the Buyer's Commercial Behind-the-Meter Distributed Energy Program tariff.

Proposed System" has the meaning set forth in Section 2.1.

"**Prudent Operating Practice**" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric power industry for facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition. Prudent Operating Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of actions reasonable under the circumstances.

"**PV System**" means the solar photovoltaic generation system interconnected with a System.

"**Receiving Party**" has the meaning set forth in Section 20.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to a System, if any, that satisfy any entity's resource adequacy obligations, as those obligations are set forth in CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031 and any subsequent CPUC ruling or decision and shall include any local, zonal or otherwise locational attributes associated with such System.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global, Inc.) or its successor.

"**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.

"**Seller**" has the meaning set forth in the preamble.

"**Seller Related Parties**" has the meaning set forth in Section 18.1(a).

[redacted]

"**Site**" means the real property on which the applicable System is or will be located, as further described in Exhibit A.

"**Site Lease**" has the meaning set forth in Section 3.4.

Stored Energy Level" means, at a particular time, the amount of electric Energy in the applicable System available to be discharged as Discharging Energy, expressed in kWh.

[redacted]

"**System(s)**" has the meaning set forth in the Recitals hereto.

"**System Delivery Term**" has the meaning set forth in Exhibit A.

"**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 generally accepted accounting principles.

"**Taxe(s)**" 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.

"**Termination Payment**" has the meaning set forth in Section 12.3.

"**Terminated Transaction**" has the meaning set forth in Section 12.2.

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

[redacted]

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

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

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

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

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified, and in the event of a conflict, the provisions of the main body of this Agreement shall prevail over the provisions of any attachment or annex;

(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 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
SYSTEMS, COMMERCIAL OPERATION, FORECASTING

2.1 **System Addenda**.

(a) The Parties shall agree on a schedule of regular meetings to review the pipeline of Systems proposed to be added to the Program and this Agreement ("**Proposed System**"), construction schedules for Proposed Systems subject to an executed System Addendum, and any other Program implementation issues. Seller shall identify Proposed Systems to Buyer no later than six (6) months (or such shorter as may be reasonable under the circumstances) prior to the projected commercial operation date of each Proposed System. Buyer may reasonably reject or request changes to any Proposed System. The Parties shall use commercially reasonable efforts to attempt to resolve Buyer's concerns, and Buyer shall not be obligated to accept a Proposed System if its reasonable concerns are not adequately addressed within forty-five (45) days of Buyer's initial rejection.

(b) From time to time, Seller may propose that Buyer include a System under the terms and conditions of this Agreement by submitting a completed and signed System Addendum to Buyer. Within seven (7) days of receipt of a proposed System Addendum signed by Seller, Buyer will accept and countersign such proposed System Addendum and upon delivery of such countersigned System Addendum by Buyer, the System described therein shall be deemed a "System" subject to this Agreement. Buyer shall be under no obligation to accept or countersign a System Addendum if (i) any information required thereon is missing or incomplete, (ii) the Proposed System materially deviates from the specifications of the Proposed System discussed by the Parties in the meetings set forth in Section 2.1(a), or (iii) the System or System Addendum is not consistent with the Program Guidelines. Unless otherwise agreed in writing by Buyer, Buyer shall be under no obligation to accept any System Addendum from and after four (4) years from the Effective Date (the "**Submission Deadline**").

2.2 **Commercial Operation**. Seller shall provide Notice to Buyer of the expected commercial operation date for an applicable System within ten (10) Business Days prior to the

date the applicable System will achieve Commercial Operation. Buyer shall have no obligation to pay the Monthly System Charge for the applicable System until all of the following have occurred:

(a) Seller has delivered to Buyer confirmation by the System installer either in hardcopy or electronic form that such System has been completed, interconnected, and is fully operational and attesting to the installed capacity of the System;

(b) All applicable regulatory authorizations, approvals and permits for operation of the System have been obtained and shall be in full force and effect;

(c) Insurance requirements for the System have been met, with evidence provided in writing to Buyer, in accordance with Section 19.1; and

(f) The Meter Owner has enrolled in the Program.

ARTICLE 3
TERM

3.1 **Contract Term**. The term of this Agreement (**"Contract Term")** consists of the System Delivery Term of all Systems included herein, and shall commence on the Effective Date and shall remain in full force and effect until the end of the System Delivery Term of the last System accepted by Buyer hereunder.

3.2 **Survival of Contract Provisions**. 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 20 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

[redacted]

[redacted]

[redacted]

ARTICLE 4
PURCHASE AND SALE

4.1 **Sale of Product**. Subject to Seller's document deliveries to Buyer under Section 2.2 above and the terms and conditions of this Agreement, during each System Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller at the applicable Monthly System Charge, all of the Product produced by such System delivered to the System Delivery Point. At its sole discretion, Buyer may re-sell or use for another purpose all or a portion of the Product. Buyer will have exclusive rights to offer, bid, or otherwise submit the Product from each System for resale in the market, and retain and receive any and all related revenues. Buyer has no obligation to purchase from Seller any Product from any System that is not or cannot be delivered to the Delivery Point as a result of any circumstance, including, an outage of such System, a Force Majeure Event affecting Buyer's ability to receive the Product (but not its ability to transmit the Product from the Delivery Point), except if a failed delivery is the result of a Buyer event of default. In no event shall Seller have the right to procure any element of the Product for sale or delivery to Buyer from sources other than the Systems covered under the terms of this Agreement.

4.2 **[Reserved]**.

4.3 **Compensation**. The contract price payable by Buyer to Seller hereunder (the "**Contract Price**") shall be the Monthly System Charge as set forth in each System Addendum. The Monthly System Charge shall remain constant through the term of the applicable System Addendum.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

ARTICLE 5
OBLIGATIONS AND DELIVERIES

5.1 **Delivery**. Subject to the terms and conditions of this Agreement, Seller shall make available and Buyer shall accept all Delivered Energy on an as-delivered, instantaneous basis at the applicable Delivery Point. Notwithstanding anything to the contrary in this Agreement

(including with respect to any Force Majeure Event), [redacted] Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Charging Energy to the applicable Delivery Point (including the cost of Charging Energy itself) and delivery of Discharging Energy at and after the applicable Delivery Point, including without limitation transmission and distribution costs and transmission and distribution line losses and imbalance charges.

5.2 **Title and Risk of Loss**. Title to and risk of loss related to the Discharging Energy by each System shall pass and transfer from Seller to Buyer at the applicable Delivery Point.

5.3 **Commercial Operation Capacity Test.** Prior to each Commercial Operation Date, and upon no less than ten (10) Business Days' prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Capacity Test with respect to the applicable System. Such Commercial Operation Capacity Test shall establish the Installed Capacity of the applicable System.

5.4 **Energy Management**.

(a) Initial Operating Instructions. Unless otherwise specified in the System Addendum, each System shall be operated in accordance with the operating instructions specifying the hours of charging and discharging and other operating parameters set forth in the Program Guidelines ("**Initial Operating Instructions**"). At any time during the applicable System Delivery Term, Buyer may issue Charging Notices and Discharging Notices for such System. Any new Charging Notices and Discharging Notices shall replace and supersede the Initial Operating Instructions or any existing Charging Notices and Discharging Notices, as applicable. The charging and discharging hours and other operating parameters contained in such Charging and Discharging Notices shall be consistent with this Agreement, the Program Guidelines, the applicable System Addendum, applicable Law and otherwise at Buyer's sole discretion.

(b) Charging Generally. Upon receipt of a valid Charging Notice, Seller shall take all action necessary to deliver the Charging Energy to the applicable System from the applicable PV System. Seller shall maintain, repair or replace equipment in Seller's possession or control used to deliver the Charging Energy from the applicable PV System to the applicable System. Except as otherwise expressly set forth in this Agreement, Buyer shall be responsible for paying all costs and charges of delivering the Charging Energy to each Delivery Point. For clarity, Seller has no obligation to procure grid Energy to charge any System unless expressly authorized in writing by Buyer and agreed by Seller, and any such grid Energy charging shall be at Buyer's cost and risk (including any regulatory or Tax impact).

(c) Charging Notices. During the applicable System Delivery Term, Buyer shall have the right to charge each System within the limits of the manufacturer's warranty, seven (7) days per week and twenty-four (24) hours per day (including holidays), by providing Charging Notices to Seller electronically; *provided*, Buyer's right to issue Charging Notices is subject to the requirements and limitations set forth in this Agreement and the Program Guidelines, including the applicable Operating Restrictions. Each Charging Notice issued in accordance with this

Agreement will be effective unless and until such Charging Notice is modified with an updated Charging Notice. Seller shall comply with all Charging Notices, subject to the requirements and limitations set forth in this Agreement, and Seller may curtail, delay, or refuse to implement any Charging Notice to the extent necessary to comply with applicable Law. In such case, Seller shall notify Buyer promptly and, where practicable, propose a commercially reasonable alternative schedule.

(d) No Unauthorized Charging. Seller shall not charge any System during the applicable System Delivery Term other than consistent with the Program Guidelines, or pursuant to a valid Charging Notice, or pursuant to a notice from the CAISO or any other Governmental Authority; provided, that Seller may perform commissioning, diagnostic testing, warranty-required balancing or calibration cycling, and actions reasonably necessary to preserve System safety or integrity, in each case consistent with the Operating Restrictions and the manufacturer's instructions and with five (5) Business Days' prior notice to Buyer.

(e) Discharging Notices. During the Delivery Term, Buyer shall have the right to discharge each System within the limits of the manufacturer's warranty, by providing Discharging Notices to Seller electronically, subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Seller shall comply with all Discharging Notices, subject to the requirements and limitations set forth in this Agreement. Each Discharging Notice issued in accordance with this Agreement will be effective unless and until Buyer modifies such Discharging Notice by providing Seller with an updated Discharging Notice. Seller may curtail, delay, or refuse to implement any Discharging Notice to the extent necessary to comply with applicable Law with prompt notice to Buyer and, where practicable, a commercially reasonable alternative.

(f) No Unauthorized Discharging. Seller shall not discharge any System during the applicable System Delivery Term other than consistent with the Program Guidelines, or pursuant to a valid Discharging Notice or pursuant to a notice from CAISO or any other Governmental Authority; provided, that Seller may discharge to the extent reasonably necessary to preserve System safety or integrity or to comply with the Operating Restrictions, the manufacturer's warranty, Prudent Operating Practice, or applicable Law, with five (5) Business Days' prior notice to Buyer.

[redacted]

5.6 Energy Management System. Seller shall provide to Buyer a real-time data feed from the EMS for each System. During each System Delivery Term, Seller shall provide monthly reports to Buyer for each System including the charging and discharging capacity and availability of the System and maintenance outages scheduled for the following six (6) month period. Upon execution of this Agreement, the Parties shall cooperate to agree upon the type and format of the information to be provided in the monthly reports.

5.6 Meter Owner Disenrollment. Each Party covenants that it will provide Notice to the other Party within two (2) Business Days upon becoming aware of any Meter Owner ceasing to be subject to the Program Tariff or delivering notice to such Party that it is electing to cease being subject to the Program Tariff.

ARTICLE 6
TAXES

6.1 Allocation of Taxes and Charges. Seller shall pay or cause to be paid all Taxes on or with respect to each System or on or with respect to the sale and making available Product to Buyer, that are imposed on Product prior to the applicable Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and from the applicable Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). Notwithstanding the foregoing, each Party shall be responsible for its own Taxes calculated based on the income or profits generated in connection with the purchase and sale of the Product hereunder. 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 Energy hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes from which Buyer claims it is exempt.

6.2 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 therefore 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 7
MAINTENANCE OF SYSTEMS

7.1 Maintenance of Systems.

(a) Seller shall comply with Law and Prudent Operating Practice and be solely responsible for the operation, inspection, maintenance and repair of the Systems covered under this Agreement, the generation and sale of Product, the protection of the Site and persons from damage or injury due to Seller's installation and operation of the application System, and the disposal and recycling of any equipment associated with each System, including solar panels in accordance with applicable Law and Prudent Operating Practice. Seller shall maintain and deliver maintenance and repair records for each System to Buyer upon request. Seller shall promptly make

all necessary repairs to each System, and any portion thereof, and take all actions necessary in order to provide the Product to Buyer in accordance with the terms of this Agreement.

(b) Seller shall maintain a daily operations log for each System which shall include but not be limited to information on Energy consumption and efficiency (if applicable), availability, outages, changes in operating status, inspections and any other significant events related to the operation of the applicable System. Information maintained pursuant to this Section 7.1(b) shall be provided to Buyer within fifteen (15) days of Buyer's request.

(c) Seller shall maintain and make available to Buyer records, including logbooks, demonstrating that each System is operated in accordance with Prudent Operating Practices. Seller shall comply with all reporting requirements and permit on-site audits, investigations, tests and inspections permitted or required under any Prudent Operating Practice.

7.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of each System and the protection of the Site and persons from damage or injury due to Seller's installation and operation of the application System. If Seller becomes aware of any circumstances relating to a System that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified on Exhibit B Notice of such condition. Such action may include disconnecting and removing all or a portion of such System or suspending the supply of Energy from such System to Buyer.

ARTICLE 8
METERING

8.1 **Metering**. Seller shall measure the amount of Charging Energy and Discharging Energy from each System using a commercially available, revenue-grade metering system. Such meter shall be installed and maintained at Seller's cost. 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 that 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.

8.2 **Meter Verification**. If Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the System's meter. The test shall be conducted by an independent third-party qualified to conduct such test. Buyer shall be notified seven (7) days in advance of such test and have a right to be present during such test. 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 for the applicable System shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period; *provided*, such period may not exceed twelve (12) months.

ARTICLE 9
INVOICING AND PAYMENT; CREDIT

9.1 **Invoicing**. Seller shall make good faith efforts to deliver an invoice to Buyer for the Contract Price due for each System then covered under this Agreement no later than fifteen (15) Business Days after the end of the prior monthly billing period.

9.2 **Payment**. Buyer shall make payment to Seller for the Monthly System Charge due and payable 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 receipt of the invoice. If such due date falls on a weekend or Federal Reserve holiday in California, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual interest rate equal to 10% of the total amount due ("**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.

9.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon ten (10) Business Days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement.

9.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 9.5, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 9.2, accruing from the date on which the adjusted amount was due.

9.5 **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 upon request or deducted by the Party receiving such overpayment

from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 9.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

9.6 **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, including any related damages, 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.

ARTICLE 10
NOTICES

10.1 **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 Exhibit B or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

10.2 **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 p.m. PPT, 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 11
FORCE MAJEURE

11.1 <u>Definition</u>.

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

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic (including but not limited to the COVID-19 epidemic); pandemics; 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.

[redacted]

[redacted]

[redacted]

11.3 **Notice**. Within seven (7) Business Days of the claiming Party's awareness of the impact of a Force Majeure Event, the claiming Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the Force Majeure Event, the claiming Party shall provide the other Party with Notice based on its then-current understanding and describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim, 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 as described in the preceding sentence constitutes a waiver of a Force Majeure Event. 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 provide Notice to the other Party 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 Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event.

11.4 **Termination Following Force Majeure Event**. If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be unable to perform its obligations hereunder in whole or in any material respect with respect to an affected System, 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 the affected System Addendum upon Notice to the other Party. Upon any such termination, neither Party shall have any further liability to the other Party with respect to such System, except as set forth in Section 3.2.

ARTICLE 12
DEFAULTS; REMEDIES; TERMINATION

12.1 **Events of Default**. An "Event of Default" shall mean,

[redacted]

12.3 Termination Payment.

[redacted]

12.4 **Notice of Payment of Termination Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date (or such longer additional period, not to exceed an additional sixty (60) days, if the Non-Defaulting Party is unable, despite using commercially reasonable efforts, to calculate the Termination Payment within such initial sixty (60)-day period despite exercising commercially reasonable efforts), Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the 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 Termination Payment shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

12.5 **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 17.

12.6 **Rights And Remedies Are Cumulative**. Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 12 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

12.7 **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.

[redacted]

ARTICLE 13
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

13.1 **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) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

13.2 **Waiver and Exclusion of Other Damages**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR

MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX CREDITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF TAX CREDITS, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 5.4, 12.2, 12.3, AND EXHIBITS C AND D, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 14
REPRESENTATIONS AND WARRANTIES; AUTHORITY

14.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct 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.

14.2 <u>Buyer's Representations and Warranties</u>. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court (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 (California Government Code Section 810 et seq.).

14.3 **Mutual 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;

(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.

14.4 **Seller Covenants**. Seller covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) Seller shall use commercially reasonable efforts to ensure that its employees performing construction services at the Sites are paid wages consistent with any applicable California prevailing wage requirements. For contractors and subcontractors, that will perform construction work or provide services at any Site related to construction of the Systems. Seller shall include in its subcontracts a provision encouraging compliance with any such applicable requirements but shall not be responsible for independent contractors' or subcontractors' wage determinations or compliance. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by California labor laws that are not expressly applicable to the work performed under this Agreement.

(b) Seller will endeavor to engage local labor, minority-owned and veteran-owned contractors in the construction, operation and maintenance of Systems.

14.5 **Supplier Diversity**. Seller acknowledges that Buyer will, from time to time, request voluntary disclosure of Seller's certification status with the CPUC Supplier Clearinghouse, and voluntary disclosure regarding Seller's efforts to work with diverse business enterprises, including women, minority, disabled veteran, and lesbian, gay, bisexual, transgender and/or persons with disabilities business enterprises.

ARTICLE 15
ASSIGNMENT

15.1 General Prohibition on Assignments. Except as provided below in this Article 15, neither Party may assign this Agreement or its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent and will not be subject to Section 15.2 or Section 15.3 if the assignee or transferee is a Permitted Transferee. 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 pay the other Party's reasonable expenses associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by the assigning Party, including without limitation reasonable attorneys' fees.

15.2 Collateral Assignment. Subject to the provisions of this Section 15.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of one or more Systems. In connection with any financing or refinancing of one or more Systems by Seller, upon request of 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**"). Each Collateral Assignment Agreement must be in form and substance agreed to by Buyer, Seller and the applicable Lender, such agreement not to be unreasonably withheld. Buyer will not be subject to obligations under more than one Collateral Assignment Agreement at any time. The Collateral Assignment Agreement must include, among others, the following provisions unless otherwise agreed to by Buyer, Seller and the applicable Lender:

(a) Buyer shall give Notice of an Event of Default by Seller to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, before exercising its right to terminate this Agreement as a result of such Event of Default; provided that such notice shall be provided to Lender at the time such notice is provided to Seller and the cure period of Lender shall not commence until Lender has received notice of such Event of Default;

(b) Lender will have the right to cure an Event of Default on behalf of Seller if Lender sends a written notice to Buyer before the later of (i) the expiration of any cure period, and (ii) five (5) Business Days after Lender's receipt of notice of such Event of Default from Buyer, indicating Lender's intention to cure. Lender must remedy or cure such Event of Default within the cure period under this Agreement and any additional cure periods agreed in the Collateral Assignment Agreement up to a maximum of ninety (90) days (or, in the event of a bankruptcy of Seller or any foreclosure or similar proceeding if required by Lender to cure any Event of Default, an additional reasonable period of time to complete such proceedings and effect such cure not to exceed one hundred eighty (180) days without the written consent of Buyer, which consent shall not be unreasonably withheld), provided that if Lender is prohibited by any court order or bankruptcy or insolvency proceedings from curing the Event of Default or from commencing or

prosecuting foreclosure proceedings, the foregoing time periods shall be extended by the period of such prohibition

(c) Following an Event of Default by Seller under this Agreement, Buyer may require Seller (or Lender, if Lender has provided the notice set forth in subsection (b) above) to provide to Buyer a report concerning:

(i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;

(ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Buyer may reasonably require related to the development, implementation and timetable of the cure plan. Seller or Lender must provide the report to Buyer within ten (10) Business Days after Notice from Buyer requesting the report. Buyer will have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;

(d) Lender will have the right to consent before any termination of this Agreement which does not arise out of an Event of Default;

(e) Lender will receive prior Notice of and the right to approve material amendments to this Agreement, which approval will not be unreasonably withheld, delayed or conditioned;

(f) If Lender, directly or indirectly, takes possession of, or title to one or more Systems (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must assume all of Seller's obligations arising under this Agreement and all related agreements with respect to such System(s), including the applicable System Addendum(s) (subject to such limits on liability as are mutually agreed to by Seller, Buyer, and Lender as set forth in the Collateral Assignment Agreement); provided, before such assumption, if Buyer advises Lender that Buyer will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Event of Default, then Lender at its option, and in its sole discretion, may elect to either:

(i) Cause such Event of Default to be cured, or

(ii) Not assume this Agreement;

(g) If Lender elects to transfer this Agreement, then Lender must cause the transferee to assume all of Seller's obligations arising under this Agreement arising after the date of such assumption as a condition of the sale or transfer. Such sale or transfer may be made only to an entity that meets the definition of Permitted Transferee;

(h) Subject to Lender's cure of any Events of Defaults under the Agreement in accordance with Section 14.2(c), if (i) this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith, Lender shall have the right to elect within thirty (30) days after such rejection or termination, to cause Buyer to enter into a replacement agreement with Seller having the same terms as this Agreement for the remaining Term thereof, or (ii) if Lender or its designee, directly or indirectly, takes possession of, or title to, a System (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) after any such rejection or termination of this Agreement, promptly after Buyer's written request, Lender must itself or must cause its designee to promptly enter into a new agreement with Buyer having the same terms as this Agreement for the remaining Term thereof, provided that in the event a designee of Lender, directly or indirectly, takes possession of, or title to, such System (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), such designee shall be approved by Buyer, not to be unreasonably withheld; and

(i) The Parties shall negotiate any Collateral Assignment Agreement in good faith, including variations to the provisions set forth in this Section 15.2, and to the extent the Collateral Assignment Agreement executed by Buyer and Lender varies from such provisions, the terms of such Collateral Assignment Agreement shall be controlling. In addition, Buyer shall cooperate with Seller or any Lender to execute or arrange for delivery of estoppels reasonably requested by Seller or Lender.

15.3 <u>Permitted Assignment by Seller</u>.

(a) Except as may be precluded by, or would cause Buyer to be in violation of the Political Reform Act (California Government Code Section 81000 et seq.) or the regulations thereto, California Section 1090, or any other conflict of interest Law, Seller may, without the prior written consent of Buyer, transfer or assign this Agreement directly or indirectly to an Affiliate of Seller if, and only if:

(i) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(ii) Seller has provided Buyer a written agreement signed by the Affiliate to which Seller wishes to assign its interests that provides that such Affiliate will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment.

(b) Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to any Person succeeding to all, or substantially all, of the assets of Seller (whether voluntary or by operation of law), if, and only if:

(i) The assignee is a Permitted Transferee;

(ii) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(iii) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of

Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

(c) Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 15.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and confirmed by Buyer.

15.4 Permitted Assignment by Buyer. Buyer may make a limited assignment, including in connection with a municipal prepayment transaction, to an entity with an Investment Grade Credit Rating ("**Limited Assignee**") of Buyer's right to receive Product and Buyer's obligation to make payments to Seller, subject to execution of an assignment agreement between and among Seller, Buyer, and Limited Assignee upon terms and conditions mutually agreed, including that the limited assignment shall be expressly subject to Limited Assignee's timely payment of amounts due under this Agreement. Buyer may make such assignment by delivering Notice upon not less than thirty (30) days prior to such proposed assignment. Subject to the foregoing, Seller agrees to (i) comply with Limited Assignee's reasonable requests for know-your-customer and similar account opening information and documentation with respect to Seller, including but not limited to information related to forecasted generation, credit rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies, and (ii) promptly execute such assignment agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Limited Assignee and Buyer.

ARTICLE 16
METER OWNER PARTICIPATION

The Parties acknowledge and agree that in connection with this Agreement and the Program contemplated herein, Buyer will provide a disclosure to each of its respective customers of record at each Site (each a "**Meter Owner**") or otherwise enter into a disclosure agreement requiring each Meter Owner to be subject to Buyer's contemplated Program Tariff for the duration of the Contract Term of this Agreement. Seller shall include in each Site Lease a covenant requiring the applicable Meter Owner and any lessee of the applicable Site (to the extent within the Meter Owner's control with respect to future leases) to elect to be subject to the Program Tariff for the duration of the applicable System Addendum.

ARTICLE 17
DISPUTE RESOLUTION

17.1 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.

(b) 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 of the State of California sitting in the County of San Diego.

17.2 **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 them at Law in or equity. The Parties will cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party. If the mediation is unsuccessful, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

17.3 **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 18
INDEMNIFICATION

18.1 **Indemnification**.

(a) Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, attorneys, employees, representatives, and agents (collectively, the "**Indemnified Party**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees and expert fees), howsoever described (collectively, "**Indemnifiable Losses**"), (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by gross negligence, willful misconduct, or breach of this Agreement by the Indemnifying Party.

(b) Seller shall indemnify, defend, and hold harmless Buyer's Indemnified Parties from and against any Environmental Costs to the extent arising out of or resulting from: (i) Seller's violation of applicable Laws in connection with the design, installation, operation, maintenance, removal, storage, transportation or disposal of any System; or (ii) the release, discharge, emission, spill or disposal of Hazardous Substances first introduced to a Site by Seller or Seller's contractors or subcontractors (together, "**Seller Related Parties**") during the Contract Term, in each case except to the extent caused by the negligence or willful misconduct of any Buyer Indemnified Party. Seller shall have no indemnity obligation under this Section 18.1(b) with respect to: (A) any Pre-Existing Conditions at a Site or Hazardous Substances migrating onto a

Site from offsite sources outside of the control of the Seller Related Parties; (B) acts or omissions of Buyer or its contractors (other than Seller Related Parties), including Buyer-directed operation inconsistent with the Operating Restrictions or Manufacturer's instructions; (C) releases caused by the applicable Utility, interconnecting utility facilities; or (D) storage, transportation or disposal activities not arranged by or under the direction and control of Seller Related Parties. [redacted] "**Pre-Existing Conditions**" means the presence of Hazardous Substances or environmental conditions at a Site that existed prior to the commencement of any Seller Related Party's work on such Site, including any contamination, release, discharge, emission, spill, or disposal of Hazardous Substances not caused by any Seller Related Parties.

(c) Nothing in this Section 18.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts, or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligations to pay claims consistent with the provisions of a valid insurance policy.

18.2 Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 18 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 18, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 18, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 19
INSURANCE

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

ARTICLE 20
CONFIDENTIAL INFORMATION

20.1 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; (iv) information that the recipient independently developed without a violation of this Agreement; and (v) information that is determined by Buyer to be subject to the California Public Records Act.

20.2 Duty to Maintain Confidentiality.

(a) The Party receiving Confidential Information (the "Receiving Party") from the disclosing Party (the "Disclosing Party") shall not disclose Confidential Information to a third party (other than the Receiving Party's members, employees, lenders or investors, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to (a) comply with any applicable Law, regulation, any exchange, control area or independent system operator rule, an order of a court; or regulatory requirement applicable to the Receiving Party, or (b) in order to enforce this Agreement; provided, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this

confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 20.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

(b) The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (California Government Code Section 7920 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

20.3 Requested Confidential Information. Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), Buyer shall promptly notify Seller in writing via email that such request has been made. Seller shall be responsible for taking whatever legal steps are necessary to prevent release of the requested Confidential Information to the third party of Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("Buyer's Indemnified Parties"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

20.4 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.

20.5 Further Permitted Disclosure. Notwithstanding anything to the contrary in this Article 20, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are no less stringent than those in this Article 20 to the same extent as if it were a Party. Seller shall provide written notice to Buyer of

any disclosure of Confidential Information pursuant to this Section 20.5, including the identity of the party receiving such Confidential Information.

20.6 **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 press release. A Party's consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 21
MISCELLANEOUS

21.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

21.2 **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.

21.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

21.4 **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 any System or any business related to any System. 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.

21.5 **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.

21.6 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.

21.7 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.

21.8 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.

21.9 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

21.10 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 (California Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

21.11 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.

21.12 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 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.

21.13 Change in Electric Market Design. If a change in the CAISO or SDG&E Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

SELLER	**BUYER**
Luminia BTM DevCo 1 LLC	Clean Energy Alliance, a California joint powers authority
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A
SYSTEM ADDENDUM

Date: [_____]

This System Addendum forms a part of the Commercial Behind-the-Meter Distributed Energy Program Master Energy Storage Service Agreement (the "Agreement") between Clean Energy Alliance, a California joint powers authority ("Buyer"), and Luminia BTM DevCo 1 LLC ("Seller"), dated [Effective Date]. Upon execution by both Parties, the energy storage system described below shall be included as a "System" subject to the Agreement.

System Name or ID:

System Site Address or Location:

Meter Owner Utility Meter Account Number:

System Nameplate Capacity (kWAC):

System Nameplate Energy (kWh):

Estimated Commercial Operation Date:

Monthly System Rate:

Monthly System Charge:

System Remaining Energy Curve:

Operating Restrictions (if any):

"System Delivery Term" means the period of [_____] Contract Years beginning on the Commercial Operation Date and ending on the [____] anniversary of the applicable Commercial Operation Date, unless this System Addendum is terminated earlier or extended in accordance with the terms and conditions of the Agreement. In the event of an extension of the applicable Site Lease for the property on which the System is installed beyond [___] years, the System Delivery Term shall be extended to be co-terminus with such Site Lease, as extended.

IN WITNESS WHEREOF, the Parties have executed this System Addendum as of the date first written above.

SELLER:	BUYER:
[_____ LLC]	Clean Energy Alliance
By: _____	By: _____
Name:	Name:
Title:	Title:

EXHIBIT B

NOTICES

Luminia BTM DevCo 1 LLC ("Seller")	**CLEAN ENERGY ALLIANCE** ("Buyer")
All Notices: [redacted]	**All Notices:** [redacted]
Reference Numbers: [redacted]	**Reference Numbers:** [redacted]
Invoices: [redacted]	**Invoices:** [redacted]
Scheduling: [redacted]	**Scheduling:** [redacted]
Confirmations: [redacted]	**Confirmations:** [redacted]
Payments: [redacted]	**Payments:** [redacted]
Wire Transfer: [redacted]	**Wire Transfer:** [redacted]
With additional Notices of an Event of Default to: Attn: [redacted]	**With additional Notices of an Event of Default to:** Attn: [redacted]

Luminia BTM DevCo 1 LLC (“Seller”)	**CLEAN ENERGY ALLIANCE** (“Buyer”)
Emergency Contact: Attn: [redacted]	**Emergency Contact:** Attn: [redacted]

EXHIBIT C

[redacted].

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

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EXHIBIT D

[redacted]

[redacted]

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[redacted]

[redacted]

[redacted]

[redacted]

SOLAR PLUS BUSINESS RATE COMMITMENT

This Solar Plus Business Rate Commitment ("Commitment") is entered into by and between the undersigned Property Owner and the Clean Energy Alliance ("CEA"), in connection with the installation and operation of a [solar and energy storage system / energy storage system] (the "System") by Luminia LLC ("Luminia"), and shall be effective as of the date this Commitment is signed by the parties below.

1. Background. Luminia and the Property Owner (or its predecessor in interest) have entered into a lease (the "Site Lease") granting Luminia the right to install, operate, and maintain the System at the following address: _____ (the "Property"). The Site Lease has an initial term of twenty-five (25) years, with up to two (2) renewal terms of five (5) years each, exercisable in accordance with the Site Lease. The System installed is designed to [generate and store renewable energy / store energy] for the purpose of offsetting electric consumption and reducing the electricity costs associated with the electric meter bearing the following number (the "Meter"): _____. CEA has entered into a master power purchase agreement with Luminia to purchase power generated by the System and sell it to the Meter account holder at the Property (the "Meter Account Holder"). The Property Owner is the Meter Account Holder while occupying the Property and holding the Meter account, and any tenant becomes the Meter Account Holder during their occupancy and Meter account ownership. For clarity, the terms of this Commitment that are applicable to the Meter Account Holder apply at all times during the Site Lease term (including any renewal terms) during which the Property Owner is the Meter Account Holder.

2. Rate Commitment.

The Meter Account Holder, agrees to:

(a)

i. Enroll the Meter in CEA's Solar Plus Business Rate (or any successor or substantially similar Energy Storage Program rate) (the "Solar Rate") once the System achieves commercial operation;

ii. Remain continuously enrolled under the Solar Rate for the shorter of (i) the period during which the undersigned is the Meter Account Holder, or (ii) the term of the Site Lease, including any extensions; and

iii. Cooperate with Luminia and CEA to complete any documentation necessary to confirm or maintain Solar Rate enrollment.

3. Initial Rate and Adjustments. The initial Solar Rate below reflects the rate proposed as of [_____*date*_____] based on the initial System design and installation scope. The final Solar Rate may be adjusted prior to the start of construction or interconnection due to a variety of reasons including changes in System design, size or equipment costs, and permitting or interconnection requirements. Upon such adjustment, Meter Account Holder will be notified in writing, of the final applicable Solar Rate prior to System operation. The initial Solar Rate will be subject to an annual increase in the amount of the percentage listed below under Annual Escalator.

Initial Solar Rate: _____ Annual Escalator: 1%_____

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4. Grid Services; System Attributes. The Meter Account Holder acknowledges and agrees that Luminia, as the System owner, may without additional consent enroll the Meter or System in one or more virtual power plant, grid service, or other similar programs (collectively, "Grid Services") that may not directly benefit the Meter Account Holder. The Meter Account Holder may not enroll, authorize, or permit the Meter or System to participate in any Grid Services or similar program without the prior written consent of CEA. The Meter Account Holder acknowledges that Luminia exclusively owns any and all tax attributes, tax credits, renewable energy credits, green tags, and any other attributes of ownership of the System, and the Meter Account Holder further agrees not to assert any ownership or rights in any of the foregoing attributes.

5. Successors and Assigns. This Commitment is binding upon the undersigned and their successors, assigns, or transferees. In the event of a change in Property ownership, tenancy, or Meter Account Holder, the Property Owner shall ensure that the applicable successor executes a Solar Plus Business Rate Commitment (in the case of a change in Property ownership) or a Solar Business Rate Continuation Acknowledgment (for changes in tenancy or other change in Meter Account Holder) prior to such transfer or change.

6. Duration and Cooperation. This Commitment shall remain in effect from the date of execution through the end of the Site Lease term, including renewals. Property Owner agrees to provide any cooperation reasonably required by Luminia, CEA, or SDG&E to maintain the Meter's eligibility for the Solar Rate, facilitate meter transitions, and verify enrollment.

7. Notices.

Notices under this Commitment shall be in writing and delivered to the parties at their addresses provided below or as updated in writing.

Property Owner:	**CEA**:
Company: _____	Company: _____
Atten: _____	Atten: _____
Address 1: _____	Address 1: _____
Address 2: _____	Address 2: _____
City, State, Zip: _____	City, State, Zip: _____

8. Miscellaneous.

(a) *Conflict of Terms*. This Commitment is intended to supplement, and shall be interpreted consistently with, the Site Lease. Nothing in this Commitment shall be deemed to amend, modify, or supersede the terms of the Site Lease. In the event of any conflict between this Commitment and the Site Lease, the terms of the Site Lease shall govern.

(b) *Counterparts*. This Commitment may be executed electronically and in any number of counterparts, which together shall constitute one and the same agreement. A true and correct electronic copy of this Commitment may be used for all purposes as an original.

(c) *Governing Law*. This Commitment shall be interpreted under, and enforced by the laws of the State of California. The Commitment and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Commitment (or the successors of those authorities).

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(d) *Entire Agreement; Amendments; Waivers*. This Commitment constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral, relating to such subject matter, except as expressly provided in the Site Lease. No amendment or modification of this Commitment shall be binding unless in writing and signed by both parties. No waiver by any party of any provision of this Commitment shall be effective unless explicitly set forth in writing and signed by the waiving party.

(e) *Severability*. In the event that any part of this Commitment is found to be illegal or unenforceable under the law as it is now or hereafter in effect, either party will be excused from performance of such portion or portions of this Commitment that is found to be illegal or unenforceable without affecting the remaining provisions of this Commitment.

(f) *Signatory Authority*. The individual(s) executing this Commitment represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Property Owner:

Signature: _____
Name: _____
Title: _____
Date: _____

CEA:

Signature: _____
Name: _____
Title: _____
Date: _____

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SOLAR PLUS BUSINESS RATE CONTINUATION ACKNOWLEDGMENT

This Solar Plus Business Rate Continuation Acknowledgment ("Acknowledgment") is entered into by and between the undersigned current or prospective tenant ("Tenant"), and the Clean Energy Alliance ("CEA"), for the property located at: _____ (the "Property"), and shall be effective as of the date this Acknowledgment is signed by the parties below. The Property is subject to a Site Lease between [Property Owner Name] ("Property Owner") and Luminia LLC ("Luminia"), granting Luminia the right to install and operate a [solar and/or energy storage system] (the "System") under the CEA Commercial Solar Plus and Energy Storage Program.

1. Rate Continuation. Tenant acknowledges and agrees that:

(a) The electric meter serving the Tenant's portion of the Property, Meter #_____ (the "Meter"), must remain continuously enrolled under CEA's Solar Plus Business Rate (or any successor or modified program rate) for the full duration of the Site Lease;

(b) Maintaining the Solar Plus Business Rate is a condition of occupancy and of the continued operation of the System;

(c) Tenant will realize benefits from the System and the power generated thereby prices at the Solar Rate; and

(d) Any change in Tenant shall not result in unenrollment from the Solar Plus Business Rate.

2. Grid Services. Tenant acknowledges and agrees that Luminia, as the System owner, may without additional consent enroll the Meter or System in one or more virtual power plant, grid service, or other similar programs (collectively, "Grid Services") that may not directly benefit Tenant. Tenant may not enroll, authorize, or permit the Meter or System to participate in any Grid Services or similar program without the prior written consent of CEA. Tenant acknowledges that Luminia exclusively owns any and all tax attributes, tax credits, renewable energy credits, green tags, and any other attributes of ownership of the System, and Tenant further agrees not to assert any ownership or rights in any of the foregoing attributes.

3. Cooperation. Tenant shall cooperate with Property Owner, Luminia, CEA, and SDG&E to maintain eligibility for the Solar Plus Business Rate; and to facilitate any required meter or account updates. Tenant shall cooperate with Luminia, CEA and SDG&E to execute any successor forms required to confirm enrollment in the applicable program rate.

4. Duration and Binding Effect. This Acknowledgment remains effective so long as Tenant is the responsible party for the Meter. It is binding upon the Tenant's assigns and permitted transferees. If Tenant subleases any portion of the Property and the subtenant becomes the responsible party for the Meter , Tenant shall require such subtenant to execute a Solar Plus Business Rate Continuation Acknowledgment substantially similar to this Acknowledgment.

5. Miscellaneous.

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(a) *Counterparts*. This Acknowledgment may be executed electronically and in any number of counterparts, which together shall constitute one and the same agreement. A true and correct electronic copy of this Acknowledgment may be used for all purposes as an original.

(b) *Governing Law*. This Acknowledgment shall be interpreted under, and enforced by the laws of the State of California. The Acknowledgment and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Acknowledgment (or the successors of those authorities).

(c) *Entire Agreement; Amendments; Waivers.* This Acknowledgment constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral, relating to such subject matter. No amendment or modification of this Acknowledgment shall be binding unless in writing and signed by both parties. No waiver by any party of any provision of this Acknowledgment shall be effective unless explicitly set forth in writing and signed by the waiving party.

(d) *Severability*. In the event that any part of this Acknowledgment is found to be illegal or unenforceable under the law as it is now or hereafter in effect, either party will be excused from performance of such portion or portions of this Acknowledgment that is found to be illegal or unenforceable without affecting the remaining provisions of this Acknowledgment.

(e) *Signatory Authority*. The individual(s) executing this Acknowledgment represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Tenant:

Signature: _____
Name: _____
Title: _____
Date: _____

CEA:

Signature: _____
Name: _____
Title: _____
Date: _____

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CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Gregory Wade, Chief Executive Officer

ITEM 5: Consider Adopting Resolution No. 2025-045 Amending Clean Energy Alliance Rate Schedule to Update the Wholesale Market Access Tariff Rate Effective January 1, 2026

RECOMMENDATION:

1) Conduct the Public Hearing: Open the Public Hearing, Receive Public Testimony, close the Public Hearing.
2) Approve Resolution No. 2025-045 Amending Clean Energy Alliance Rate Schedule to update the Wholesale Market Access Tariff Rate Effective January 1, 2026.

BACKGROUND AND DISCUSSION:

At its October 26, 2023 regular Board meeting, the Clean Energy Alliance (CEA) Board approved the Wholesale Market Access Tariff (WMAT) Program and Terms and Conditions. The WMAT Terms and Conditions established the methodology for calculating the WMAT rate, and specified the rate would be adopted at a scheduled public hearing.

At its July 31, 2025 regular Board Meeting, the Board adopted Resolution No. 2025-035 that amended the WMAT rate to $0.11350 per kWh effective August 1, 2025. The action before the Board for consideration is to set the rate for the 2026 calendar year, sufficient to cover the power supply and administrative expenses of the WMAT portfolio. Based on current assumptions for those expenses, staff is recommending updating the WMAT rate to $0.11759.

Per CEA's policy, notice of the public hearing was published in the San Diego Union Tribune on Friday November 7 and November 14, 2025.

FISCAL IMPACT

The WMAT Rate as proposed provides sufficient revenue to cover costs as currently estimated and to fund the proportionate share of CEA administration and reserves.

Submitted for Board consideration:

_____
Gregory Wade
Chief Executive Officer

ATTACHMENTS:

A. Public Hearing Notice
B. Resolution No. 2025-045

CLEAN ENERGY ALLIANCE

PUBLIC HEARING NOTICE
CLEAN ENERGY ALLIANCE

The Board of Directors of Clean Energy Alliance (CEA) will conduct a public hearing to consider adopting a resolution amending the Wholesale Market Access Tariff (WMAT) rate, effective January 1, 2026.

The proposed amended WMAT rate is: $.11759 per kWh

DATE OF HEARING:	Thursday, November 20, 2025
TIME OF HEARING:	2:00 p.m. or as soon thereafter as the matter may be heard
PLACE OF HEARING:	Leucadia Wastewater District, Board Room 1960 La Costa Ave Carlsbad, CA 92009

All interested persons are invited to attend the meeting and comment on adopting a Resolution Amending Rates for Clean Energy Alliance. Members of the public unable to attend the public hearing may submit their comments and recommendations in writing to Clean Energy Alliance, via email to clerk@thecleanenergyalliance.org, which must be received no later than 12 p.m. on Thursday, November 20, 2025 to ensure consideration by the Board.

Ana Alarcon

Ana Marie Alarcon, CMC
Clerk to the Board

DATED: November 3, 2025

Published: Friday, November 7, 2025
Friday, November 14, 2025

Published: San Diego Union Tribune

Posted: Monday November 7, 2025

Leucadia Wastewater Board Room

CLEAN ENERGY ALLIANCE
RESOLUTION NO. 2025-045

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CLEAN ENERGY ALLIANCE AMENDING RATE SCHEDULE UPDATING THE WHOLESALE MARKET ACCESS TARIFF RATE EFFECTIVE JANUARY 1, 2026

WHEREAS, the Clean Energy Alliance (CEA) is a joint powers agency formed on November 4, 2019, under the Joint Exercise of Power Act, California Government Code section 6500 *et seq*.,

WHEREAS, Section 4.6 of the Joint Powers Authority (JPA) Agreement establishes the specific responsibility of the CEA Board of Directors to adopt retail rates for power; and

WHEREAS, the CEA Board adopted the Wholesale Market Access Tariff (WMAT) Rate at its October 31, 2024 Board meeting effective January 1, 2025; and

WHEREAS, at its July 31, 2025 Regular Board Meeting, the CEA Board adopted Resolution No. 2025-035 amending the WMAT Rate effective August 1, 2025; and

WHEREAS, the WMAT rate is to be reviewed each year and if appropriate, updated, for the following calendar year; and

WHEREAS, the WMAT Terms and Conditions establishes the methodology for calculating the WMAT rate; and

WHEREAS, the updated WMAT Rate was calculated using the approved methodology to generate sufficient revenue to cover the costs of serving WMAT customers;

WHEREAS, the Public Hearing Notice was published in the San Diego Union Tribune on November 7 and November 14, 2025 and posted on November 7, 2025.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Clean Energy Alliance, as follows:

Section 1. The Board of Directors of the Clean Energy Alliance hereby approves CEA the updated WMAT Rate at $.11759 per kWh.

Section 2. Rate to be effective January 1, 2026.

The foregoing Resolution was passed and adopted this 20th day of November 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Katie Melendez, Chair

ATTEST:

_____
Ana Marie Alarcon, Clerk to the Board

CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Gregory Wade, Chief Executive Officer

ITEM 6: Receive Regulatory Update from Keyes & Fox

RECOMMENDATION:

Receive the Regulatory Update from Keyes & Fox.

BACKGROUND AND DISCUSSION:

Clean Energy Alliance (CEA) contracts with Keyes & Fox for Regulatory Advocacy related activities. Each month Keyes & Fox provides an update to the CEA Board on key items of interest. This month's update will focus on San Diego Gas & Electric's (SDG&E's) October revisions to their 2026 Energy Resource Recovery Account (ERRA) forecast for Power Charge Indifference Adjustments (PCIA) and bundled generation rates.

FISCAL IMPACT:

There is no fiscal impact from this action.

Submitted for Board consideration:

_____

Gregory Wade
Chief Executive Officer

ATTACHMENTS:

A. Keyes & Fox Regulatory Report

Attachment A

KEYES&FOX LLP

EQ Research

Clean Energy Alliance

Regulatory Monitoring Report

To:	Clean Energy Alliance (CEA) Board of Directors
From:	Tim Lindl, Partner, Keyes & Fox LLP Jacob Schlesinger, Partner, Keyes & Fox LLP Jason Hoyle, Director of Research, EQ Research LLC
Subject:	Monthly Regulatory Memo
Date:	November 10, 2025

Keyes & Fox LLP and EQ Research LLC are pleased to provide CEA's Board of Directors with this informational memo describing recent developments in key California regulatory and compliance-related updates from the California Public Utilities Commission (CPUC). Additional information is available in CEA's Digest of Regulatory Updates.

IRP Rulemaking (R.25-06-019)

- On October 28, the CPUC issued the Assigned Commissioner's Scoping Ruling setting May 5, 2026 as the IRP filing deadline. IRP filing requirements will be issued in a ruling expected in mid-November. A decision about the need for additional mid-term reliability procurement between 2029 and 2032 is expected by February.

- The scope for this proceeding also includes development of the Preferred System Plan portfolio for use in the 2027/2028 Transmission Planning Process recommendation to the CAISO, implementation of the Reliable and Clean Power Procurement Program (RCPPP) if a framework for the program is adopted in R.20-05-003, and coordination with Division of Water Resources on centralized Long-Lead Time resource procurement. Updates to IOU Bundled Procurement Plans are due April 1, 2026.

Resource Adequacy Rulemaking (R.25-10-003)

- Comments on the October 15 Order Instituting Rulemaking (OIR) were filed on November 4. Several parties recommended improving and expediting the coordination between the IRP and RA proceedings, particularly in relation to the RCPPP (when/if approved) and GHG emission accounting. CalCCA's Comments emphasized RA transactability under the slice-of-day framework, and PG&E's Comments acknowledged the issue but recommended it be moved to Track 1.B after the Energy Division Staff Report is available The proceeding may also consider updates to the 2028 and 2029 planning reserve margin, accreditation methodologies for long-duration energy storage, and evaluation of transactability issues within the slice-of-day framework.

- Reply comments on the OIR are due November 14. Following a prehearing conference on November 17, a scoping memo is expected in December, and party proposals will likely be due in late January.

SDG&E EE Portfolio (A.25-04-014)

- On November 3, the ALJ issued a Ruling amending the procedural schedule for consideration of SDG&E's proposal to withdraw from its role administering the regional energy efficiency programs in its region. The Ruling postpones an interim decision addressing legal issues in favor of reviewing testimony on factual and policy issues before preparing a comprehensive proposed decision in Summer 2026. The ruling accelerates deadlines as compared to the initial Scoping Memo by about a month. Parties' opening testimony is now due January 15, rebuttal testimony is now due February 18, and the deadline to request an evidentiary hearing is now March 11.

High Distributed Energy Resource Future (R.21-06-017)

- On October 31, SDG&E submitted Part 2 of its Draft Electrification Impact Study that lists grid needs and identified planning solutions related to increased building and transportation electrification. Under the base

case scenario, SDG&E expects peak load of 6,204 MW by 2030 and 7,007 MW by 2040 which will require an estimated $3 billion in distribution system investments. Increased demand flexibility is expected to reduce peak load to 6,086 MW by 2030 and 6,814 MW by 2040 at an estimated distribution system cost of $2.3 billion.

- On October 31, the CPUC issued Draft Resolution E-5413 (SCE AL 5567-E, SDG&E AL 4676-E, PG&E AL 7630-E) that would adopt the large IOUs' joint proposal to use a uniform pending loads framework to identify locations with high load growth and distribution capacity constraints. On November 3, the CPUC issued Draft Resolution E-5414 (SDG&E AL 4675-E, SCE AL 5566-E, PG&E AL 7631) that would adopt the large IOUs' joint proposal to establish a scenario planning framework in the distribution planning process. The scenario planning framework consists of three scenarios: Low, Base, and High, based on a range of factors including the categories of pending loads included, the use of pending loads, and changes in assumptions. Both resolutions are scheduled to be heard at the December 4 Commission meeting.

CLEAN ENERGY ALLIANCE

Staff Report

DATE: November 20, 2025

TO: Clean Energy Alliance Board of Directors

FROM: Gregory Wade, Chief Executive Officer

ITEM 7: Review Options for Customer Electricity Rate Relief

RECOMMENDATION:

That the Clean Energy Alliance (CEA) Board of Directors (Board) receive a report on CEA customer rate options and financial impacts resulting from San Diego Gas & Electric's (SDG&E's) 2026 Energy Resource Recovery Account (ERRA) Forecast for Power Charge Indifference Adjustment (PCIA) rates and provide direction to staff.

BACKGROUND AND DISCUSSION:

At the Board Meeting on October 30, 2025, staff presented preliminary 2026 PCIA rates and preliminary SDG&E bundled rates. While those rates will not be finalized until the end of December 2025, the preliminary rates show a dramatic increase in PCIA rates for all CEA vintage years. SDG&E's generation rates are also projected to increase, but not enough to offset the overall impact that is expected to be borne by CEA's customers through payment of the PCIA. The Board directed staff to look at options and impacts that would reduce the financial burden and impact on CEA's customers created by SDG&E's PCIA rates.

The second Core Guiding Principle of CEA's adopted Strategic Plan is to *Build & Maintain Financial Stability*. Among the key Financial Stability strategic goals is to achieve an Investment Grade Credit rating from one or more of the industry rating agencies. Achieving such a rating is a best practice for most electricity providers as it provides comfort to energy suppliers that an independent third-party believes that the rated entity is financially stable, creditworthy, and able to withstand the volatility that is inherent in energy markets. The result is that rated entities are able to avoid substantial collateral requirements and enjoy lower prices that can translate into lower customer rates. There are multiple measures that agencies use to assess the rating that they assign to electricity providers. The most common and well-known is Days Liquidity on Hand (DLOH), which measures how many days of cash (and available credit) an entity has on hand compared to its average daily level of expenses. While there are no hard numbers to point to, rating agencies generally require DLOH to be at least 150-180 days on a sustained basis. Many CCAs maintain DLOH levels well above those general guidelines.

Based on the current customer electricity rates, CEA's current forecasted financial performance and the fiscal year-ending DLOH for the following 5 years are summarized below. Using 180 days as the required target, it is estimated that CEA could hope to target an investment grade rating sometime in late in Calendar Year (CY) 2027 or early in CY 2028 as shown in Table 1.

Table 1

	Total Year FY26	Total Year FY27	Total Year FY28	Total Year FY29	Total Year FY30
Change in Net Position	$ 37,588,214	$ 41,193,206	$ 81,184,311	$ 90,603,516	$ 90,112,218
DLOH	65	101	199	256	349

Estimated Rate Comparison Based on Preliminary SDG&E 2026 Rates

Based on CEA's current electricity rates combined with the preliminary 2026 PCIA rates, it is estimated that CEA's customers will be paying a premium in 2026 as compared to the preliminary bundled SDG&E rates. As an example, for the rate class with the most residential customers (TOU-DR1) and using the average usage of 361 kWh per month, the average monthly bill for each CEA Vintage Year is shown in Table 2. Also shown is the premium that each City/Vintage Year would pay relative to SDG&E's bundled rate.

Table 2

		SDG&E	CEA Products		
		Bundled Residential Customers	Clean Impact (Base)	Clean Impact Plus (Default)	Green Impact (Premium)
		41.4% Renewable	50% Renewable	50% Renewable + 75% Carbon Free	100% Renewable
Average Monthly Bill	Vintage				
SDG&E		$ 180.46			
Solana Beach	2017		$ 190.06	$ 190.42	$ 192.77
Carlsbad/Del Mar	2020		$ 189.21	$ 189.57	$ 191.92
Escondidos/San Marcos	2022		$ 187.73	$ 188.09	$ 190.44
Oceanside/Vista	2023		$ 185.37	$ 185.73	$ 188.08
Average Monthly Premium as Compared to SDG&E					
SDG&E		$ -			
Solana Beach	2017		$ 9.60	$ 9.96	$ 12.31
Carlsbad/Del Mar	2020		$ 8.75	$ 9.11	$ 11.46
Escondidos/San Marcos	2022		$ 7.27	$ 7.63	$ 9.98
Oceanside/Vista	2023		$ 4.91	$ 5.27	$ 7.62

Options Considered for Customer Financial Relief

As directed by the Board, staff have evaluated several options which are shown below along with the estimated financial impact and other long-term implications for consideration by the Board.

1. Electricity Rate Reduction – 3% Reduction starting February 1, 2026

As shown in Table 3, adoption of a 3% rate reduction would reduce CEA's revenues by approximately $12 to $12.5 million per year. Based on the assumed DLOH target necessary to seek and obtain an investment grade credit rating, adoption of this rate decrease would likely push this timeline out by approximately a year to sometime between late CY 2028 to early in CY 2029.

Table 3

	Total Year FY26	Total Year FY27	Total Year FY28	Total Year FY29	Total Year FY30
Change in Net Position	$ 33,787,049	$ 29,115,842	$ 68,963,157	$ 78,196,765	$ 77,498,841
DLOH	62	86	169	211	291

2. Electricity Rate Reduction – 5% Reduction starting February 1, 2026

As shown in Table 4, adoption of a 5% rate reduction would reduce revenues by approximately $20 to $22.5 million per year. In terms of an investment grade credit rating, adoption of this rate decrease would likely push the timeframe for CEA to seek and receive a credit rating by approximately 18 months to late in CY 2029.

Table 4

	Total Year FY26	Total Year FY27	Total Year FY28	Total Year FY29	Total Year FY30
Change in Net Position	$ 31,252,939	$ 21,064,265	$ 60,815,721	$ 69,925,598	$ 69,089,924
DLOH	61	76	149	181	253

It is important to note that, in both of these options, typical residential customers would still pay a slight premium over an average SDG&E bundled residential customer as shown in Table 5 below.

Table 5	SDG&E	VY 2017	VY 2020	VY 2022	VY 2023
No Rate Change	$ 180.46	$ 190.42	$ 189.57	$ 188.09	$ 185.73
3% Rate Decrease	$ 180.46	$ 188.49	$ 187.64	$ 186.16	$ 183.80
5% Rate Decrease	$ 180.46	$ 187.20	$ 186.35	$ 184.87	$ 182.51

3. CARE/FERA Credit

As directed by the Board, staff also looked at providing a bill credit to California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) customers. There are approximately 52,000 such customers in CEA's territory. Unfortunately, SDG&E's billing system does not currently provide the ability to pass a credit to the customer if the credit results in a negative bill amount that would otherwise be owed to CEA. Additionally, providing this type of credit to CARE/FERA customers may be in tension with CEA's Joint Powers Authority (JPA) Agreement provision regarding the use and allocation of discretionary revenues. For these reasons, this credit option is not recommended.

4. Adjust CEA's Base Product Rate (Clean Impact) to be at Parity with SDG&E's Bundled Rate

New CEA customers are automatically enrolled in CEA's default product, Clean Impact Plus, which is 50% Renewable and 75% Carbon Free. Each customer has the option to "Opt Down" to the base product, Clean Impact (50% Renewable), at any time by making a voluntary election. If a customer does elect to Opt Down, the electricity rate is reduced by $0.001 (one-tenth of a cent) per kWh. As of today, very few customers have chosen to Opt Down to the Clean Impact product. Currently, the number of customers in each product category is as follows:

Product	Product Content	Customers
Clean Impact (Base)	50% Renewable	748
Clean Impact Plus (Default)	50% Renewable75% Carbon Free	253,081
Green Impact (Premium)	100% Renewable	1,469
	Total	**255,298**

The objective for this option would be to reduce the electricity rate for the Clean Impact product for all vintages so that even the highest CEA PCIA rate vintage (Vintage Year 2017) would be at parity to SDG&E's bundled rate for a one-year period.

Using the same TOU-DR1 Rate Class, the result would be that, instead of the average customer paying approximately $5 to $10 per month more than SDG&E, the average CEA customer who opts down to Clean Impact would pay either the same (for Vintage Year 2017) or less (for all other vintages) than if they were on SDG&E's bundled service for that one-year period. The savings would range from parity (2017 Vintage Year) to up to $4.69 per month (2023 Vintage Year). It is estimated that the earliest that such a rate change could take effect is February 1, 2026, following final publication of SDG&E's rates and the required CEA public notice period and rate hearing. So, the estimates below are based on a 12-month period beginning on February 1, 2026. If the Board elected to adopt this option, monthly charges and rates for customers would be as shown in Table 6 below.

Table 6

		SDG&E	CEA Products		
		Bundled Residential Customers	Clean Impact (Base)	Clean Impact Plus (Default)	Green Impact (Premium)
		41.4% Renewable	50% Renewable	50% Renewable + 75% Carbon Free	100% Renewable
Average Monthly Bill	Vintage				
SDG&E		$ 180.46			
Solana Beach	2017		$ 180.46	$ 190.42	$ 192.77
Carlsbad/Del Mar	2020		$ 179.61	$ 189.57	$ 191.92
Escondidos/San Marcos	2022		$ 178.13	$ 188.09	$ 190.44
Oceanside/Vista	2023		$ 175.77	$ 185.73	$ 188.08
Avg Monthly Premium/(Savings) Relative to SDG&E					
SDG&E		$ -			
Solana Beach	2017		$ (0.00)	$ 9.96	$ 12.31
Carlsbad/Del Mar	2020		$ (0.85)	$ 9.11	$ 11.46
Escondidos/San Marcos	2022		$ (2.33)	$ 7.63	$ 9.98
Oceanside/Vista	2023		$ (4.69)	$ 5.27	$ 7.62

If this option is adopted by the Board, the per-kWh electricity rate for Clean Impact for TOU-DR1 rate class customers would be set at a rate so that the total rate paid for electricity (including generation, delivery and PCIA) would be equal or better than what each customer would have paid had they been or chosen to opt out to become an SDG&E bundled customer (i.e. "Parity" or better).

Using an estimate that 30,000 residential customers might Opt Down with this CEA rate/product offering, Table 7 shows the projected Change in Net Position and the DLOH for this option.

Table 7

	Total Year FY26	Total Year FY27	Total Year FY28	Total Year FY29	Total Year FY30
Change in Net Position	$ 36,112,310	$ 39,126,941	$ 81,184,311	$ 90,603,516	$ 90,112,218
DLOH	64	97	195	252	345

The objective with this option would be to apply this rate relief to CEA's residential customers for 12 months in CY 2026 and to monitor SDG&E's 2027 ERRA Forecast for projected PCIA rate impacts. Staff would assess these impacts and present them to the Board at the end of 2026.

Staff have been coordinating with Calpine, CEA's data and billing services provider, to determine the procedural and logistical steps and timelines necessary for implementation of this rate relief option. This information will be presented to the Board at the November 20th Board Meeting. It should also be noted that the analysis conducted thus far for this option applies only to residential customers as they are the customers for whom rate relief would provide the most meaningful benefit. Should the Board wish to consider applying this rate relief option to any non-residential customer classes, that direction should be provided by the Board.

Summary of Options

In Table 8 below is a summary of the financial impact of the several options presented above.

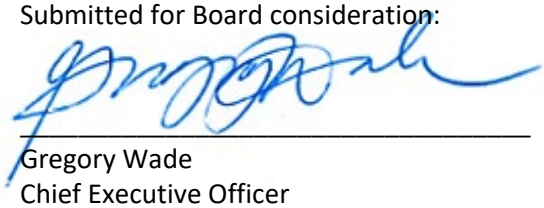
Table 8

Current Plan					
Change in Net Position	$ 37,588,214	$ 41,193,206	$ 81,184,311	$ 90,603,516	$ 90,112,218
DLOH	65	101	199	256	349
3% Decrease					
Change in Net Position	$ 33,787,049	$ 29,115,842	$ 68,963,157	$ 78,196,765	$ 77,498,841
DLOH	62	86	169	211	291
5% Decrease					
Change in Net Position	$ 31,252,939	$ 21,064,265	$ 60,815,721	$ 69,925,598	$ 69,089,924
DLOH	61	76	149	181	253
Parity 1 year (February 1 to January 31					
Change in Net Position	$ 36,112,310	$ 39,126,941	$ 81,184,311	$ 90,603,516	$ 90,112,218
DLOH	64	97	195	252	345

Staff Recommendation

Having considered the above options, staff recommends that the Board direct staff to continue to work with Calpine to develop a process to achieve the Clean Impact Residential Rate Relief option outlined in Option 4 and to return to the Board at its January 2026 Regular Board meeting to hold a Public Hearing implementing the residential rate relief at the earliest possible date in 2026.

Submitted for Board consideration:



Gregory Wade
Chief Executive Officer

ATTACHMENTS:

None.