

**SVCE PRO FORMA TERM SHEET
RENEWABLE ENERGY + STORAGE
FEBRUARY 2026**

**TERM SHEET
FOR
POWER PURCHASE AGREEMENT**

THIS TERM SHEET FOR POWER PURCHASE AGREEMENT (“**Term Sheet**”) is entered into as of [REDACTED], 2025 (the “**Effective Date**”), between Silicon Valley Clean Energy Authority, a California joint powers authority (“**SVCE**” or “**Buyer**”) and [Respondent] (“**Respondent**”). This Term Sheet includes the key commercial terms and conditions to be included in a proposed power purchase agreement (“**PPA**”) for renewable energy and storage to be negotiated between Buyer and [e.g., Project Company LLC] (“**Seller**”) (the “**Proposed Transaction**”). As used herein, Buyer and Seller are each a “**Party**” and collectively the “**Parties.**” Notwithstanding anything herein to the contrary, that until a definitive agreement is approved by Buyer’s respective management and Board of Directors, signed and delivered by Buyer and Seller, no Party shall have any legal obligations, expressed or implied, or arising in any other manner under this Term Sheet to continue negotiations or enter into the Proposed Transaction or the PPA.

1. PPA Terms and Conditions

Description of Facility:	A [XX] MW _{AC} solar photovoltaic electricity generating facility (the “ Generating Facility ”), which includes a [XX] MW/[XX] MWh co-located battery energy storage facility (the “ Storage Facility ”), located in [REDACTED] County, California. The Generating Facility and the associated Storage Facility are referred to herein as the “ Facility. ”
Product:	The “ Product ” shall meet the Portfolio Content Category 1 specifications, and includes all of the following: (1) Generating Facility Energy; (2) Environmental Attributes: All renewable energy credits (“ RECs ”) and any other environmental attributes associated with Facility Energy; (3) Capacity Attributes: All capacity rights, including resource adequacy benefits, if any, associated with the Facility, to be available to be listed on Buyer’s Supply Plan beginning on Commercial Operation Date; (4) Ancillary Services: All ancillary services, products and other attributes, if any, that may be obtained from the Facility; and (5) Storage Capacity: All rights and products and attributes associated with the maximum dependable operating capability of the Storage Facility to be charged with, store and discharge electric energy.

	Specifications for Portfolio Content Category 1 are described in California Public Utilities Code §399.16, California Public Utilities Commission Decision 11-12-052, and other applicable statutes, regulations, and regulatory orders.
Renewable Rate:	The Renewable Rate shall be \$[XX]/MWh (flat, with no escalation).
Storage Rate:	The Storage Rate shall be \$[XX]/kW-month. Seller shall be paid on a monthly basis at the applicable Storage Rate, <i>multiplied by</i> the Storage Capacity as adjusted for the Storage Capacity Test, for such month, <i>multiplied by</i> the Availability Adjustment for such month. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Storage Capacity. The Storage Rate shall not be subject to an escalator and shall allow for a minimum of 365 cycles per Contract Year.
Delivery Term:	“ Delivery Term ” means [XX] Contract Years. “ Contract Year ” means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and the last Contract Year shall end at midnight at the end of the day prior to the anniversary of the Commercial Operation Date.
Guaranteed Capacity:	The Generating Facility has a Guaranteed Capacity of [XX] MW _{AC} .
Storage Contract Capacity:	The Storage Facility will have an initial Storage Capacity of [XX] MW _{AC} for [XX] () hour discharge (the “ Storage Contract Capacity ”).
Expected Energy:	“ Expected Energy ” means [XXX,XXX] MWh during the first Contract Year and for each Contract Year thereafter during the Delivery Term. <i>[If there is an annual adjustment for degradation, this should be noted.]</i>
Interconnection Point:	The Facility shall interconnect to [e.g., XX substation] (the “ Interconnection Point ”). Seller shall be responsible for all costs of interconnecting the Facility to the Interconnection Point.
Delivery Point:	“ Delivery Point ” means the Facility Pnode on the CAISO-Controlled Grid.
Test Energy Rate:	Prior to COD, Buyer will purchase all Test Energy and any associated Product and Seller will be compensated at an amount

	<p>equal to hundred percent (100%) of net CAISO revenues associated with such Test Energy.</p>
<p>Guaranteed Energy Production:</p>	<p>Seller shall deliver to Buyer no less than the Guaranteed Energy Production in each Performance Measurement Period.</p> <p>The “Guaranteed Energy Production” means an amount of Energy, as measured in MWh, equal to the total Expected Energy for the applicable Performance Measurement Period multiplied by eighty-five percent (85%).</p> <p>The “Performance Measurement Period” shall be each two (2) consecutive Contract Year period during the Delivery Term, calculated on a rolling basis (e.g., Contract Years 1-2, 2-3, 3-4, etc.).</p> <p>For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer (i) any Deemed Delivered Energy and (ii) Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of Force Majeure Events, System Emergency, and Curtailment Periods (the “Adjusted Energy Production”).</p> <p>If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer liquidated damages equal to (a) the difference of the Guaranteed Energy Production less the Adjusted Energy Production, multiplied by (b) the replacement price for the energy and RECs less the Renewable Rate. No payment shall be due if the calculation yields a negative number.</p>
<p>Performance Guarantee:</p>	<p>The occurrence of any of the following shall constitute an Event of Default:</p> <ol style="list-style-type: none"> (1) if, in any two (2) consecutive Contract Years during the Delivery Term, the average Monthly Storage Availability is, in each Contract Year, less than seventy percent (70%); (2) if, beginning in the second Contract Year, the Adjusted Energy Production amount is not at least fifty percent (50%) of the Expected Energy amount in any Contract Year; (3) if, in any two (2) consecutive Contract Years during the Delivery Term, the Adjusted Energy Production amount is not at least sixty-five percent (65%) of the Expected Energy amount in each Contract Year;

	<p>(4) if, Seller fails to maintain an average Actual Efficiency Rate of at least seventy percent (70%) over a rolling 12-month period; or</p> <p>(5) if, Seller fails to maintain a Storage Capacity equal to at least seventy-five percent (75%) of the Storage Contract Capacity for longer than three hundred sixty (360) days.</p>
<p>Annual Excess Energy:</p>	<p>If, at any point in any Contract Year, the amount of Adjusted Facility Energy, plus the amount of Deemed Delivered Energy above the Curtailment Cap, exceeds one hundred percent (100%) of the Expected Energy for such Contract Year, the price to be paid for additional Adjusted Facility Energy or Deemed Delivered Energy shall be equal to the lesser of (a) the Delivery Point LMP for the Real Time Market for the applicable Settlement Interval or (b) fifty percent (50%) of the Renewable Rate, but not less than \$0.00/MWh.</p> <p>If, at any point in any Contract Year, the amount of Adjusted Facility Energy plus the amount of Deemed Delivered Energy above the Curtailment Cap exceeds one hundred and five percent (105%) of the Expected Energy for such Contract Year, the price to be paid for additional Adjusted Facility Energy or Deemed Delivered Energy shall be equal the lesser of (a) \$0.00/MWh or (b) the Delivery Point LMP for the Real Time Market for the applicable Settlement Interval.</p>
<p>Curtailment:</p>	<p>In the event the Facility is curtailed due to a System Emergency (to be defined in the PPA), Force Majeure, by the CAISO or the transmission owner, or for any reason other than Buyer’s sole action or inaction, Seller shall not be liable for failure to deliver such curtailed energy and Buyer shall not be obligated to pay for such curtailed energy.</p> <p>Buyer shall have the right to order Seller to curtail deliveries of Facility Energy, provided that Buyer shall pay Seller for all Deemed Delivered Energy associated with such Buyer-directed curtailments in excess of the Cumulative Curtailment Cap at the Renewable Rate, subject to the Annual Excess Energy provisions. Seller does not intend to utilize the Production Tax Credit and no payment will be owed to Seller for PTC amounts associated with curtailments in the event Seller later elects to utilize the PTC.</p> <p>“Cumulative Curtailment Cap” is the cumulative quantity of Generating Facility Energy curtailed during a Buyer Curtailment Period during the Delivery Term, not to exceed [the product of fifty (50) hours multiplied by the Delivery Term multiplied by the Guaranteed Capacity].</p>

	<p>“Deemed Delivered Energy” means the amount of Energy expressed in MWh that the Generating Facility would have produced and delivered to the Storage Facility or the Delivery Point, but that is not produced by the Generating Facility due to a Buyer-directed curtailment, which amount shall be calculated using an industry-standard methodology agreed to by Buyer and Seller that utilizes meteorological conditions on Site as input for the period of time during such Buyer-directed curtailments.</p>
<p>REC Tracking System:</p>	<p>Seller shall transfer RECs associated with the generation from the Facility for each month via WREGIS pursuant to the timelines in the WREGIS Operating Rules.</p>
<p>Progress Reporting:</p>	<p>After execution of the PPA, Seller shall provide a monthly report to Buyer that (a) describes the progress towards meeting the Facility Development Milestones; (b) identifies any missed Facility Development Milestones, including the cause of the delay; and (c) provides a detailed description of Seller’s corrective actions to achieve the missed Facility Development Milestones and all subsequent Facility Development Milestones by the Guaranteed Commercial Operation Date.</p>
<p>Resource Adequacy Failure:</p>	<p>For each month occurring after the RA Guarantee Date where there is an RA Shortfall, Seller shall pay to Buyer an amount (the “RA Deficiency Amount”) equal to the product of the difference, expressed in kW, of (i) the Guaranteed RA Amount, minus (ii) the Delivered RA for such month able to be shown on Buyer’s monthly or annual RA Plan to the CAISO and CPUC and counted as Resource Adequacy for System RA and, if applicable, Local RA, (such difference, the “RA Shortfall”), multiplied by the Replacement Price. Seller may provide Replacement RA in amounts up to the RA Shortfall, provided that any Replacement RA capacity is communicated by Seller to Buyer with Replacement RA product information in a written notice substantially in the form of <u>Exhibit M</u> at least seventy-five (75) days before the applicable CPUC Showing Month. “Replacement Price” means (a) the price at which Buyer, acting in a commercially reasonable manner, purchases a replacement for the Resource Adequacy Benefits not delivered by Seller, plus costs reasonably incurred by Buyer in purchasing such replacement Resource Adequacy Benefits, or at Buyer’s option, (b) the market price for such replacement Resource Adequacy Benefits not delivered as determined by Buyer in a commercially reasonable manner; provided, however, Buyer shall not be required to utilize or change its utilization of its owned or controlled assets or market</p>

	<p>positions to minimize Seller’s liability. “RA Guarantee Date” means the Commercial Operation Date.</p> <p>“Guaranteed RA Amount” means an amount equal to the Qualifying Capacity of an energy storage facility with an installed capacity equal to the Storage Contract Capacity based on four (4) hour discharge for each hour of the relevant day in the applicable Showing Month, less an amount equal to the Administrative NQC Reduction and any Deemed Delivered RA, if any, for the applicable Showing Month.</p> <p>“Administrative NQC Reduction” means a reduction in the maximum achievable Net Qualifying Capacity of the Facility due to a reduction that has been generally applied to resources materially similar to the Facility in terms of type, market and operational characteristics (including those characteristics specified in the CPUC Master Resource Database), including any methodology that incorporates fleet averages or other average outage rates or any changes with respect to storage duration requirements.</p> <p>“Delivered RA” means an amount, expressed in MW, calculated for the applicable Showing Month as the sum of (a) the amount of the Net Qualifying Capacity of the Facility for such Showing Month able to be shown on Buyer’s monthly or annual Resource Adequacy Plan to the CAISO and CPUC and able to be counted as system RAR and, if applicable, Local RAR, by both the CAISO and CPUC, (b) Deemed Delivered RA and (c) Replacement RA.</p> <p>“Deemed Delivered RA” means, for the applicable Showing Month, the amount of Net Qualifying Capacity, expressed in MW, that the Facility would have been able to deliver as Resource Adequacy Benefits, but for (a) a Force Majeure Event or (b) Planned Outages permitted by the terms of the PPA to the extent such Planned Outages reduce the maximum achievable Net Qualifying Capacity of the Facility.</p> <p>“Guaranteed RA Amount” means an amount equal to the Qualifying Capacity of an energy storage facility with an installed capacity equal to the Storage Contract Capacity based on four (4) hour discharge for each hour of the relevant day in the applicable Showing Month, less an amount equal to the Administrative NQC Reduction and any Deemed Delivered RA, if any, for the applicable Showing Month.</p>
<p>Maximum Storage Level:</p>	<p>[XX] MWh [number in MWh representing maximum amount of energy that may be discharged from the Storage Facility]</p>
<p>Minimum Storage Level:</p>	<p>[XX] MWh [number in MWh representing the lowest level to which the Storage Facility may be discharged]</p>

Maximum Charging Capacity:	[XX] MW [number in MW representing the highest level to which the Storage Facility may be charged]						
Minimum Charging Capacity:	[XX] MW [number in MW representing the lowest level at which the Storage Facility may be charged]						
Maximum Discharging Capacity:	[XX] MW [number in MW representing the highest level at which the Storage Facility may be discharged]						
Minimum Discharging Capacity:	0 MW [number in MW representing the lowest level at which the Storage Facility may be discharged]						
Maximum State of Charge (SOC) during Charging:	100 %						
Minimum State of Charge (SOC) during Discharging:	0 %						
Guaranteed Efficiency Rate:	<p>“Guaranteed Efficiency Rate” means [XX] percent ([XX]%).</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Contract Year</th> <th>Guaranteed Efficiency Rate</th> </tr> </thead> <tbody> <tr> <td>[XX]</td> <td>[XX]%</td> </tr> <tr> <td>[XX]</td> <td>[Seller to fill out rest of table]</td> </tr> </tbody> </table> <p><u>Liquidated Damages for Failure to Achieve Guaranteed Efficiency Rate:</u> If during any month during the Delivery Term, the Efficiency Rate for such month, as determined by a Storage Capacity Test or as can be calculated by meter data of Storage Facility performance, is less than the Guaranteed Efficiency Rate, Seller shall owe liquidated damages to Buyer, which damages shall be calculated by multiplying (i) the total Charging Energy for such month, by (ii) the percentage amount by which the Efficiency Rate is less than the Guaranteed Efficiency Rate, by (iii) the Renewable Rate, which amount Seller shall set off against amounts payable by Buyer in the applicable monthly invoice.</p>	Contract Year	Guaranteed Efficiency Rate	[XX]	[XX]%	[XX]	[Seller to fill out rest of table]
Contract Year	Guaranteed Efficiency Rate						
[XX]	[XX]%						
[XX]	[Seller to fill out rest of table]						
Ramp Rate:	[XX] MW/minute						
Annual Cycles:	[X] cycles per year						

Daily Dispatch Limits:	Charging: 2 times per day Discharging: 2 times per day
Other Operating Limits:	[Seller to describe all applicable operating limits on dispatch of the Storage Facility, if any]
Ancillary Services Capability:	[Seller to describe capability of Storage Facility to provide Ancillary Services.]
Grid Charging of Storage Facility:	The Storage Facility is capable of receiving charging energy from the Generating Facility and in the form of grid energy. Buyer is solely responsible, at Buyer’s sole cost, for procuring Charging Energy.
Station Use:	Buyer will not be responsible for Station Use and Station Use will not be provided by the Generating Facility or the Storage Facility.
Guaranteed Storage Availability:	[XX] percent ([XX]%)
Availability Adjustment:	<p>If the Monthly Storage Availability (as defined in the PPA) during any month is less than the Guaranteed Storage Availability, Buyer’s payment for the Storage Product shall be calculated by reference to the Availability Adjustment (“Availability Adjustment” or “AA”), which is calculated as follows:</p> <ul style="list-style-type: none"> (i) If the monthly storage availability is greater than or equal to the Guaranteed Storage Availability, then: AA = 100% (ii) If the monthly storage availability is less than the Guaranteed Storage Availability, but greater than or equal to 70%, then: AA = 100% - [([XX%] - monthly storage availability) × 1.5] (iii) If the monthly storage availability is less than 70%, then: AA = 0 <p>Monthly Storage Availability is calculated as:</p>

	<p>Monthly Storage Availability (%) = [(Total number of On-Peak Hours for the month) – (Unavailable Hours)] / (Total Number of On-Peak Hours for the month)</p> <p>Unavailable Hours are the total number of On-Peak Hours in the month during which the Storage Facility was unavailable to deliver Storage Product (as such unavailability is prorated for any Storage Contract Capacity that is available to deliver Storage Product at any given time) for any reason other than the occurrence of any of the following (each, an “Excused Event”): a Buyer Default, Storage Capacity Tests, System Emergencies, or the following Operating Restrictions to be detailed in the contract:</p> <ul style="list-style-type: none"> • Minimum Storage Level • Maximum Charge Capacity • Minimum Charging Capacity • Maximum Discharging Capacity • Minimum Discharging Capacity • Maximum State of Charge (SOC) during Charging • Minimum State of Charge (SOC) during Charging • Annual Average State of Charge Range (SOC) • Annual Throughput Limit • Daily Dispatch Limits • Ramp Rate <p>Any limitations of the Storage Facility that are not reflected on the Operating Restrictions detailed in the contract will not constitute an Excused Event.</p>
<p>Storage Capacity Tests:</p>	<p>Upon no less than ten (10 Business Days prior Notice to Buyer, and prior to the Commercial Operation Date, Seller shall schedule and complete a Storage Capacity Test. Following the Commercial Operation Date, once each Contract Year, Seller will perform a Storage Capacity Test and will give Buyer ten (10) Business Days prior Notice of such test. Thereafter, Seller and Buyer shall have the right to run additional tests of the Storage Capacity Test. Buyer shall have the right to send representatives to witness all Storage Capacity Tests. Following each Storage Capacity Test, Seller shall submit a testing report. If the actual capacity or efficiency rate determined pursuant to a Storage Capacity Test varies from the then-current Storage Capacity and/or Efficiency Rate, as applicable, then the actual capacity and/or efficiency rate, as applicable, determined pursuant to the Storage Capacity Test (up to, but not in excess of, the original Storage Contract Capacity set forth on the Cover Sheet)</p>

	<p>shall become the new Storage Capacity and/or Efficiency Rate, effective as of the day following the completion of the test.</p> <p>Buyer shall have the right (1) once per Contract Year to require Seller to schedule and complete a Storage Capacity Test and (2) to require a retest of the Storage Capacity Test at any time upon no less than ten (10) Business Days prior written Notice to Seller if Buyer provides data with such Notice reasonably indicating that the Storage Capacity has varied materially from the results of the most recent Storage Capacity Test. Seller shall have the right to run a retest of any Storage Capacity Test upon ten (10) Business Days' prior written Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice). Any testing of the Storage Facility requested by Buyer following the Commercial Operation Date and all required tests shall be deemed Buyer-instructed dispatches of the Facility (each, a "Buyer Dispatched Test"). Any test of the Storage Facility that is not a Buyer Dispatched Test (including all tests conducted prior to Commercial Operation) and other Seller-requested discretionary tests that Seller deems necessary or recommended for purposes of reliably operating or maintaining the Storage Facility or for reperforming a required test within a reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest) shall be deemed a "Seller Initiated Test". For all Buyer Dispatched Tests, Buyer shall bear the costs of any Charging Energy to be used to charge the Storage Facility and Buyer shall be entitled to all CAISO revenues associated with a Storage Facility dispatch during a Buyer Dispatched Test. For all Seller Initiated Tests, Seller shall reimburse Buyer the amount of Buyer's payment of the Charging Energy for such Seller Initiated Test, and Seller shall be entitled to all CAISO revenues associated with the discharge of such Energy.</p>
<p>Expected Construction Start Date:</p>	<p>Seller reasonably expects to achieve Construction Start by the following date: [] (the "Expected Construction Start Date").</p>
<p>Guaranteed Construction Start Date:</p>	<p>The "Guaranteed Construction Start Date" means the Expected Construction Start Date, subject to extensions on a day-for-day basis due to Force Majeure or delays caused by transmission provider (e.g., the CAISO) or transmission owner (e.g., PG&E) that are outside of the reasonable control of Seller(the "Development Cure Period"). The Development Cure Period, including for Force Majeure, shall be no longer than one-hundred twenty (120) days on a cumulative basis. For clarity, the Development Cure Period</p>

	<p>extends both the Guaranteed Construction Start Date and the Guaranteed COD simultaneously.</p> <p>Notwithstanding anything to the contrary, no extension shall be given if (i) the delay was the result of Seller’s failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide written notice to Buyer as required in the next sentence. Seller shall provide prompt written notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Expected Commercial Operation Date, or after such date, Seller must provide written notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer’s reasonable satisfaction that the delays described above did not result from Seller’s actions or failure to take commercially reasonable actions.</p> <p>In the event that Seller fails to achieve the Guaranteed Construction Start Date, Seller shall pay Construction Delay Damages for each day of delay until Seller achieves Construction Start. “<u>Construction Delay Damages</u>” are equal to the sum of Seven Hundred Fifty Dollars (\$750) per MW of Guaranteed Capacity and Seven Hundred Fifty Dollars (\$750) per MW of Storage Contract Capacity.</p> <p>If Seller fails to pay the Construction Delay Damages within 10 Business Days of receipt of Buyer’s invoice, Buyer shall be entitled to deduct such Construction Delay Damages from the Development Security.</p> <p>The Construction Delay Damages shall be refundable to Seller if, and only if, Seller achieves COD on or before the Guaranteed COD.</p> <p>Failure to achieve Guaranteed Construction Start within 180 days of the Guaranteed Construction Start Date shall constitute an Event of Default, and Buyer shall have the right, in its sole discretion, to terminate the PPA and retain a damage payment in the amount of the Development Security.</p>
<p>Expected Commercial Operation Date:</p>	<p>Seller reasonably expects to achieve Commercial Operation by the following date: [] (the “<u>Expected Commercial Operation Date</u>”).</p>
<p>Guaranteed Commercial Operation Date:</p>	<p>The “<u>Guaranteed Commercial Operation Date</u>” or “<u>Guaranteed COD</u>” means the Expected Commercial Operation Date, subject to extensions on a day-for-day basis under the Development Cure Period.</p>

	<p>If Seller does not achieve COD of the Facility by the Guaranteed COD, Seller shall pay COD Delay Damages to the Buyer for each day of delay until Seller achieves COD.</p> <p>“COD Delay Damages” are equal to the sum of Fifteen Hundred Dollars (\$1,500) per MW of Guaranteed Capacity and Fifteen Hundred Dollars (\$1,500) per MW of Storage Contract Capacity. COD Delay Damages shall be paid for each day of delay and shall be paid to Buyer in advance on a monthly basis. If Seller fails to pay the COD Delay Damages within 10 Business Days of receipt of Buyer’s invoice, Buyer shall be entitled to deduct such COD Delay Damages from the Development Security. A prorated amount will be returned to Seller if COD is achieved during the month for which COD Delay Damages were paid in advance.</p> <p>Failure to achieve COD within 60 days of the Guaranteed COD shall constitute an Event of Default, and Buyer shall have the right, in its sole discretion, to terminate the PPA and retain a damage payment in the amount of the Development Security.</p>
<p>Commercial Operation Date (“COD”):</p>	<p>The COD shall be the date when all of the following requirements have been met to Buyer’s reasonable satisfaction including Seller providing a certificate from an independent engineer to Buyer with respect to subparts (i) through (vii):</p> <ul style="list-style-type: none"> (i) Seller has installed equipment for the Generating Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Guaranteed Capacity. (ii) Seller has installed equipment for the Storage Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Storage Contract Capacity. (iii) The Generating Facility’s testing included a performance test demonstrating peak electrical output of no less than ninety-five percent (95%) of the Guaranteed Capacity for the Generating Facility at the Delivery Point, as adjusted for ambient conditions on the date of the Facility testing. (iv) The Storage Facility is fully capable of charging, storing and discharging energy up to no less than ninety-five percent (95%) of the Storage Contract Capacity and receiving instructions to charge, store and discharge energy, all within the operational constraints and subject to the applicable Operating Restrictions. (v) The Generating Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

- (vi) Seller has demonstrated functionality of the Facility's communication systems and automatic generation control (AGC) interface to operate the Facility as necessary to respond and follow instructions, including an electronic signal conveying real time and intra-day instructions, directed by the Buyer in accordance with the PPA and/or the CAISO.
- (vii) Seller has commissioned all equipment in accordance with its respective manufacturer's specifications.
- (viii) Authorization to parallel the Facility was obtained from the Participating Transmission Owner.
- (ix) Seller has provided Buyer with a copy of written notice from the CAISO supporting Commercial Operation, in accordance with the CAISO Tariff.
- (x) Seller has provided Buyer with a copy of written notice from the CAISO that the Facility has achieved Full Capacity Deliverability Status.
- (xi) Seller shall have caused the Facility to be included in the Full Network Model and has the ability to offer Bids into the CAISO Day-Ahead and Real-Time markets in respect of the Facility.
- (xii) All applicable permits and government approvals required for the operation of the Facility have been obtained.
- (xiii) Seller has provided copies of all documentation required to be provided as a condition precedent to commencement of the Delivery Term, e.g., Interconnection Agreement, proof of insurance, satisfaction of other Seller commitments, etc.
- (xiv) Seller has delivered the Performance Security to Buyer.
- (xv) Seller has paid Buyer all amounts owing under the PPA, if any.

Seller shall provide notice of expected COD to Buyer in writing no less than sixty (60) days in advance of such date.

If Seller has not installed one hundred percent (100%) of the Guaranteed Capacity, or one hundred percent (100%) of the Storage Contract Capacity, within one hundred twenty (120) days after the Commercial Operation Date, Seller shall pay Capacity Damages to Buyer for (A) each MW that the Guaranteed Capacity exceeds the Storage Contract Capacity, and (B) each MW that the Storage Contract Capacity exceeds the Guaranteed Capacity, and the Guaranteed Capacity and Storage Contract Capacity and other applicable portions of the PPA shall be adjusted accordingly.

	<p>“Capacity Damages” means an amount equal to Two Hundred Fifty Thousand Dollars (\$250,000) per MW.</p>
<p>Facility Development Milestones:</p>	<ul style="list-style-type: none"> • [mm/dd/yyyy] – Execute Interconnection Agreement • [mm/dd/yyyy] – Procure major equipment • [mm/dd/yyyy] – Obtain federal and state discretionary permits • [mm/dd/yyyy] – Expected Construction Start Date • [mm/dd/yyyy] – Obtain Full Capacity Deliverability Status • [mm/dd/yyyy] – Expected Commercial Operation Date
<p>Deliverability:</p>	<p>The Facility will have Full Capacity Deliverability Status by the Commercial Operation Date.</p>
<p>CPUC Mid-Term Reliability and Other Mandated Procurement Requirements:</p>	<p>Buyer intends to use the PPA to comply with mandatory procurement obligations for incremental capacity pursuant to CPUC Decision 21-06-035, Decision 23-02-040, other similar future CPUC decisions mandating procurement, and/or another existing or future compliance program administered by any regulatory agency to which Buyer is accountable.</p> <p>Seller represents and warrants to Buyer that:</p> <ul style="list-style-type: none"> (a) The Facility shall be incremental to the CPUC’s baseline generator list identified in CPUC Decision 21-06-035 as modified from time to time by the CPUC; (b) The Product shall include the exclusive right to claim the Capacity Attributes of the Facility as an incremental resource for purposes of CPUC Decision 21-06-035, Decision 23-02-40, other future CPUC decisions mandating procurement, and/or another existing or future compliance program administered by any regulatory agency to which Buyer is accountable; (c) Seller has not and will not sell, assign or transfer the right to claim procurement of the Capacity Attributes of the Facility as an incremental resource for purposes of CPUC Decision 21-06-035, Decision 23-02-040, other future CPUC decisions mandating procurement, and/or another existing or future compliance program administered by any regulatory agency to which Buyer is accountable during the Delivery Term to any other person or entity; and (d) Seller, upon reasonable request of Buyer, will provide additional information and documentation to Buyer to assist Buyer to meet compliance with regulatory agency requests and requirements that the Facility meets the procurement mandates

	<p>set forth in CPUC Decision 21-06-035, Decision 23-02-040, other future CPUC decisions mandating procurement, and/or another existing or future compliance program administered by any regulatory agency to which Buyer is accountable.</p> <p>Note: Depending on the resource, Buyer may require additional compliance language.</p>
<p>Bridge RA Capacity:</p>	<p>If the Commercial Operation Date has not occurred by [mm/dd/yyyy], Seller shall either, at Seller’s option (a) use commercially reasonable efforts to provide Buyer with Bridge RA Capacity in the amount of the Storage Contract Quantity for each Showing Month until the first Showing Month of the Delivery Term or (b) reimburse Buyer for the Bridge RA Replacement Price of such Bridge RA Capacity. To the extent that Seller exercises its option to provide the Bridge RA Capacity from an import resource, Seller shall use commercially reasonable efforts to ensure that there is sufficient maximum import capability (MIC) allocation for the associated Bridge RA Capacity and Seller shall deliver the Bridge RA Capacity in accordance with the delivery provisions to be set forth in the PPA.</p> <p>“<u>Bridge RA Capacity</u>” means energy that complies with the applicable requirements of D.21-06-035 and D.23-02-040, and any other relevant existing or subsequent decision, including compliance with the Resource Adequacy Requirements in effect as of the Effective Date of the PPA.</p> <p>“<u>Bridge RA Replacement Price</u>” means (a) the price at which Buyer, acting in a commercially reasonable manner, purchases a replacement for the Bridge RA Capacity in the amount of the Storage Contract Quantity not delivered by Seller, plus costs reasonably incurred by Buyer in purchasing such replacement Bridge RA Capacity, or at Buyer’s option, (b) the market price for such replacement Bridge RA Capacity as determined by Buyer in a commercially reasonable manner; provided, however, (x) Buyer shall not be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability, and (y) the Bridge RA Replacement Price shall not exceed \$[] per Contract Year. Upon request from Seller, Buyer shall provide reasonable documentation demonstrating that the Bridge RA Replacement Price amounts sought by Buyer from Seller were incurred or determined, as applicable, by Buyer in a commercially reasonable manner consistent with the components set forth in the immediately preceding sentence.</p>

<p>Dedicated Interconnection Capacity:</p>	<p>Seller shall ensure during the Test Energy period and throughout the Delivery Term that (a) the Facility will have an interconnection agreement providing for interconnection capacity available or allocable to the Facility that is no less than the Contract Capacity and (b) Seller shall have sufficient interconnection capacity and rights under such interconnection agreement to interconnect the Facility with the CAISO-Controlled Grid, to fulfill Seller’s obligations under the PPA, including with respect to Resource Adequacy, and to allow Buyer’s dispatch rights of the Facility to be fully reflected in the CAISO’s market optimization and not result in CAISO market awards that are not physically feasible (collectively, the “<u>Dedicated Interconnection Capacity</u>”). Seller shall hold Buyer harmless from any penalties, imbalance energy charges, or other costs from CAISO or under the PPA resulting from Seller’s inability to provide, or any third party use of, the Dedicated Interconnection Capacity.</p>
<p>Scheduling Requirements and CAISO Settlements:</p>	<p>Buyer or Buyer’s agent shall act as Scheduling Coordinator for the Facility. Buyer shall be financially responsible for such services and shall pay for all CAISO charges and retain all CAISO payments; provided however, that notwithstanding the foregoing, Seller shall assume all liability and reimburse Buyer for any and all costs or charges (i) incurred by Buyer because of Seller’s failure to perform, (ii) incurred by Buyer because of any outages for which notice has not been provided as required, (iii) associated with Resource Adequacy Capacity (as defined by the CAISO) from the Facility (including RAIMM and other Non-Availability Charges (as defined by the CAISO)), if applicable or (iv) to the extent arising as a result of Seller’s failure to comply with a timely Buyer Curtailment Order if such failure results in incremental costs to Buyer.</p> <p>Seller shall provide to Buyer non-binding annual, monthly and day-ahead forecasts of Generating Facility energy within a timeline that allows Buyer’s Scheduling Coordinator to meet the CAISO day-ahead scheduling protocols and deadlines.</p> <p>Seller shall provide the data to Buyer that is required for the CAISO’s Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with the PPA at least ten (10) Business Days before the deadline for submission to CAISO and Buyer (as SC) shall promptly provide such data to CAISO. Seller shall provide the data that is required for the CPUC’s Master Resource Database for the Facility to Buyer for review and approval at ten (10) Business Days before the deadline for submission of such to the CPUC. Neither Party shall change such CAISO or CPUC data without the other Party’s prior written consent.</p>

	<p><i>[Note that if Seller is the Scheduling Coordinator, Buyer will require additional modifications to the PPA.]</i></p>
<p>Monthly Settlement and Invoice:</p>	<p>Within ten (10) days after the end of each month of the Delivery Term, Seller shall send a detailed invoice to Buyer for the amount due for Product delivered during such month. The invoice shall include all information necessary to confirm the amount due.</p> <p>Payment for undisputed amounts shall be due to the applicable party thirty (30) days from the invoice date, with disputed payments subject to Buyer’s billing dispute process.</p>
<p>Operations and Maintenance:</p>	<p>Seller shall not during the months of June through September inclusive schedule any non-emergency maintenance unless (i) such outage is required to avoid damage to the Facility, (ii) such maintenance is necessary to maintain equipment warranties and cannot be scheduled outside the months of June through September, (iii) such outage is required in accordance with prudent electrical practices, or (iv) the Parties agree otherwise in writing.</p> <p>No later than January 15, April 15, July 15, and October 15 of each Contract Year, and at least sixty (60) days prior to the Commercial Operation Date, Seller shall submit to Buyer Seller’s schedule of proposed Planned Outages (“Outage Schedule”) for the following twenty-four (24)-month period in a form reasonably agreed to by Buyer. Within twenty (20) Business Days after its receipt of an Outage Schedule, Buyer shall give Notice to Seller of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Operating Practices, accommodate Buyer’s requests regarding the timing of any Planned Outage.</p> <p>Seller shall reimburse Buyer for any cost Buyer incurs in connection with any Outages and/or Maintenance (including penalties for failure to comply with CAISO or CPUC Resource Adequacy requirements, and/or the cost of any RA Substitute Capacity as required by the CPUC and/or CAISO).</p>
<p>Credit Requirements:</p>	<p>Seller shall post security as follows:</p> <p><u>Development Security</u> – The sum of \$125/kW of Guaranteed Capacity and \$125/kW of Storage Contract Capacity</p> <p><u>Performance Security</u> – The sum of \$125/kW of Guaranteed Capacity and \$125/kW of Storage Contract Capacity</p> <p>To secure its obligations under the PPA, Seller shall deliver the Development Security to Buyer within thirty (30) days of the</p>

	<p>Effective Date under the PPA. Development Security shall be in the form of cash or a Letter of Credit.</p> <p>To secure its obligations under the PPA, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date.</p> <p>Within five (5) Business Days following any draw by Buyer on the Development Security or the Performance Security, Seller shall replenish the amount drawn such that the security is restored to the applicable amount.</p>
<p>Prevailing Wage Requirement:</p>	<p>Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation employment discrimination laws and prevailing wage laws. Seller shall use reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable California law, if any (“Prevailing Wage Requirement”). Buyer agrees that Seller’s obligations for the Prevailing Wage Requirement will be satisfied upon the execution of a project labor agreement related to construction of the Facility.</p>
<p>Responsible Procurement:</p>	<p>Buyer will not accept any proposals for generating and/or storage facilities that rely on equipment or resources built with forced labor. Consistent with the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020, equipment or resources sourced from the Xinjiang region of China are presumed to involve forced labor. Seller must certify that it will not utilize such equipment or resources in connection with the construction, operation or maintenance of the Facility.</p>
<p>Other Seller Commitments:</p>	<p>Seller to check as applicable:</p> <ul style="list-style-type: none"> <input type="checkbox"/> At least [<i>e.g., fifty percent (50%)</i>] of labor sourced from 100 mile radius <input type="checkbox"/> At least [XX]% of materials sourced from within 100 mile radius <input type="checkbox"/> US made equipment and components

	<input type="checkbox"/> Pledge of community benefits (apprenticeships, scholarships, food programs, school programs, open space preservation, parks, etc.) in the form of [<i>describe community benefits</i>]. <input type="checkbox"/> Other:
Site Control:	Seller shall maintain site control of the Facility throughout the Delivery Term.
Permits and Approvals:	Seller shall obtain any and all permits and approvals, including without limitation, environmental clearance under the California Environmental Quality Act (“ CEQA ”) or other environmental law, from the local jurisdiction where the Facility is or will be constructed. Seller agrees and acknowledges that Buyer is simply purchasing energy and storage services under the PPA and does not intend to be the lead agency for the Facility.
Assignment:	<p>Neither Party may assign the PPA without prior written consent of the other Party, which shall not be unreasonably withheld.</p> <p>Any direct or indirect 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 shall not be unreasonably withheld.</p> <p>Seller shall pay Buyer’s out of pocket expenses, including reasonable attorneys’ fees, incurred to provide consents, estoppels, or other required documentation in connection with Seller’s financing for the Facility. 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 the definitive PPA.</p> <p>Buyer shall have the right to make a limited assignment in connection with a municipal prepayment transaction to an entity (“Limited Assignee”) that has, or provides a parent guaranty in form and substance reasonably acceptable to Seller from an entity with, an investment grade credit rating, of Buyer’s right to receive Product and Buyer’s obligation to make payments to the Seller. The limited assignment shall be expressly subject to the Limited Assignee’s timely payment of amounts due under the PPA. Buyer shall pay Seller for any payments not timely made by the Limited Assignee, and Buyer shall remain obligated to perform all of its obligations under the PPA notwithstanding the limited assignment. Any failure by the Limited Assignee to make payments to Seller when due hereunder shall be a Buyer Event of Default if not cured within the applicable cure period specified herein. Subject to the foregoing,</p>

	<p>Buyer may make such assignment upon not less than thirty (30) days' advance written notice by delivering to Seller a written request for Seller's consent to such assignment, which request must include a proposed assignment agreement substantially in the form attached as an Exhibit to the PPA.</p>
<p>Dispute Resolution:</p>	<p>In the event of any dispute arising under the PPA, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the authorized members of the Parties' senior management 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 thirty (30) days of initiating such discussions, the Parties shall submit the dispute to mediation prior to seeking any and all remedies available to it at Law in or equity.</p>
<p>No Recourse to Members of Buyer:</p>	<p>Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and is a public entity separate from its constituent members. Buyer will solely be responsible for all debts, obligations and liabilities accruing and arising out of the PPA. Seller will have no rights and will not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Buyer or Buyer's constituent members, in connection with the PPA.</p>
<p>Force Majeure:</p>	<p>“Force Majeure Event” means any act or event occurring after the Effective Date of the PPA that delays or prevents a Party from timely performing all or a portion of its obligations under the PPA or from complying with all or a portion of the conditions under the PPA 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.</p> <p>Notwithstanding the foregoing, the term “Force Majeure Event” does not include (i) economic conditions that render a Party's performance of the PPA at the Renewable Rate or Storage Rate unprofitable or otherwise uneconomic (including an increase in component costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy the Product at a lower price, or Seller's ability to sell Product at a higher price, than the Renewable Rate or Storage Rate); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the</p>

	<p>Generating Facility or the Storage Facility; (iii) the inability of a Party to make payments when due under the PPA, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Period, except to the extent such Curtailment Period is caused by a Force Majeure Event; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Generating Facility or the Storage Facility except to the extent such inability is caused by a Force Majeure Event; (vi) delays or nonperformance by suppliers, vendors or other third parties with whom a Party has contracted, except to the extent such delay or nonperformance is caused by a Force Majeure Event; (vii) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller’s Affiliates, Seller’s contractors, their subcontractors thereof or any other third party employed by Seller to work on the Generating Facility or the Storage Facility; (viii) any equipment failure except if such equipment failure is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of Seller to achieve the Guaranteed Construction Start Date or the Guaranteed Commercial Operation Date beyond the extensions provided for Force Majeure Event under the Development Cure Period, or (b) limit Buyer’s right to declare an Event of Default and terminate the PPA and receive a Damage Payment if Seller fails to achieve Construction Start within one hundred eighty (180) days of the Guaranteed Construction Start Date, or fails to achieve Commercial Operation within sixty (60) days after the Guaranteed Commercial Operation Date.</p> <p>Within two (2) Business Days of commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the event of Force Majeure, and within two (2) weeks of the commencement of the Force Majeure Event the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure claim. Failure to provide timely Notice as described in the preceding sentence constitutes a waiver of a Force Majeure claim for all periods prior to Buyer’s receipt of such Notice. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure.</p>
<p>Pre-COD Limitation of Liability and ROFO:</p>	<p>Prior to Seller’s achievement of the Commercial Operation Date, Seller’s aggregate liability for termination of the PPA, other than arising from fraud, misrepresentation, willful misconduct or</p>

	<p>indemnification, shall not exceed two (2) times the Development Security, including for payment of Construction Delay Damages, Commercial Operation Delay Damages, and the Damage Payment. For the avoidance of doubt, this provision shall not be applicable once the Facility has achieved Commercial Operation.</p> <p>If the PPA is terminated, Seller shall not enter into any agreement to sell any Product from the Facility within two (2) years after the effective date of such termination without first having provided written notice to Buyer of an offer to purchase such Product (a “ROFO Offer”). Buyer shall have thirty (30) days to consider and respond to such ROFO Offer. If Buyer provides notice to Seller accepting the ROFO Offer within thirty (30) days, then the Parties shall negotiate in good faith to enter into a binding agreement for purchase and sale of Product in accordance with the price and non-price commercial terms of the ROFO Offer and otherwise substantially in the form of the PPA. If the Parties fail to enter into a ROFO Agreement within ninety (90) days of Buyer’s acceptance of the ROFO Offer, then Seller shall have the right to enter into any other agreement, within the next one hundred eighty (180) days, so long as the prices under such agreement are equal to or greater than the respective prices under the ROFO Offer. If Seller does not enter into such agreement within such one hundred eighty (180) day period, then Seller shall be required again to first provide a ROFO Offer to Buyer, and comply with the related obligations under this provision, with respect to any agreement to sell any Product from the Facility that Seller enters into within two (2) years after Buyer’s termination of the PPA due to a Seller Event of Default.</p>
<p>Other Standard Contract Terms to be included in the PPA:</p>	<ul style="list-style-type: none"> • <u>Event of Default:</u> Events of Default shall include, but not be limited to, failure to pay any amounts when due, breach of representations and warranties, failure to perform covenants and material obligations in the PPA, bankruptcy, and assignment other than as permitted by the PPA, Seller failure to achieve Construction Start within one hundred eighty (180) days of Guaranteed Construction Start Date, and Seller failure to achieve Commercial Operation within sixty (60) days after the Guaranteed Commercial Operation Date. • <u>Indemnification:</u> Mutual indemnification from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys’ fees) for personal injury or death to persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by negligence or willful misconduct of the indemnifying party, its affiliates, its directors, officers, employees, or agents.

	<ul style="list-style-type: none"> • <u>Governing Law</u>: State of California • <u>Venue</u>: Santa Clara County
<p>Definitions:</p>	<p>The following terms, when used herein with initial capitalization, shall have the meanings set forth below:</p> <p>“<u>CAISO</u>” means the California Independent System Operator.</p> <p>“<u>CAISO-Controlled Grid</u>” has the meaning set forth in the CAISO Tariff.</p> <p>“<u>CAISO Tariff</u>” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.</p> <p>“<u>California Renewables Portfolio Standard</u>” or “<u>RPS</u>” means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, <i>inter alia</i>, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.</p> <p>“<u>Contract Capacity</u>” means the sum of the Guaranteed Capacity and the Storage Contract Capacity.</p> <p>“<u>Damage Payment</u>” means an amount equal to the amount of the Development Security.</p> <p>“<u>Facility Energy</u>” means the sum of Generating Facility Energy and discharging energy from the Storage Facility during any Settlement Interval or Settlement Period, net of electrical losses and station use, as measured by the Facility meter, which will be adjusted in accordance with CAISO meter requirements to account for electrical losses and station use.</p> <p>“<u>Full Capacity Deliverability Status</u>” has the meaning set forth in the CAISO Tariff.</p> <p>“<u>Generating Facility Energy</u>” means that portion of energy that is delivered from the Generating Facility directly to the Delivery Point, net of electrical losses and station use, as measured by the Facility meter, which will be adjusted in accordance with CAISO meter requirements.</p>

	<p>“<u>Guaranteed Capacity</u>” means the amount of generating capacity of the Generating Facility, as measured in MW at the Delivery Point, as the same may be adjusted pursuant to the PPA.</p> <p>“<u>Letter(s) of Credit</u>” means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch having a credit rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, in a form substantially similar to the letter of credit set forth in the PPA, or as otherwise reasonably acceptable to Buyer.</p> <p>“<u>MW</u>” means megawatts in alternating current, unless expressly stated in terms of direct current.</p> <p>“<u>MWh</u>” means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.</p> <p>“<u>Qualifying Capacity</u>” has the meaning set forth in the CAISO Tariff.</p> <p>“<u>Scheduling Coordinator</u>” has the meaning set forth in the CAISO Tariff.</p>
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2. Additional Term Sheet Provisions

- 2.1 Neither Party Obligated to Enter Into Proposed Transaction.** This Term Sheet is intended to provide an overview of the Proposed Transaction and is not intended to constitute a binding contract or an offer to enter into a PPA with respect to the Proposed Transaction and does not obligate either Party to enter into the Proposed Transaction or execute any agreement, including the PPA, in connection with the Proposed Transaction. Neither Party will be deemed to have agreed to the PPA and will not be bound by any term thereof, unless and until authorized representatives of both Parties execute final definitive documents, enforceable in accordance with their terms.
- 2.2 Other Agreements.** In connection with this Term Sheet, Respondent shall execute that certain Exclusive Negotiating Agreement (“**Exclusivity Agreement**”) with SVCE and provide a Shortlist Deposit (as defined in such agreement) to SVCE in accordance with the requirements of the Exclusivity Agreement. The Shortlist Deposit will be returned in accordance with, and subject to, the terms of the Exclusivity Agreement.
- 2.3 Expenses.** Each Party will pay its own costs and expenses (whether internal or out-of-pocket, and whether for legal, financial, technical or other consultants, or other purposes) in connection with the Term Sheet and any definitive agreements.
- 2.4 Termination.** This Term Sheet will terminate upon the earlier of (a) execution of the PPA or (b) expiration of the Exclusivity Period (as defined in the Exclusivity Agreement), as such Exclusivity Period may be extended pursuant to the Exclusivity Agreement.

- 2.5 Changed Circumstances.** Respondent will promptly notify SVCE of any material change in circumstances that may affect Respondent's ability to proceed with the Proposed Transaction, at any time from the Effective Date of this Term Sheet until the termination of this Term Sheet.
- 2.6 Governing Law.** This Term Sheet is governed by, and construed in accordance with, the laws of the State of California.
- 2.7 Counterparts and Electronic Signatures.** This Term Sheet may be executed electronically and in counterparts, each of which will be enforceable against the Parties actually executing such counterparts, and all of which together will constitute one instrument. The Parties may rely on electronic or scanned signatures as originals. Delivery of an executed signature page of this Term Sheet by electronic transmission (including email transmission of a PDF image) shall be the same as delivery of an original executed signature page.
- 2.8 Prior Agreements.** This Term Sheet supersedes all prior communications and agreements, oral or written, between the Parties regarding the subject matter herein contemplated.
- 2.9 Assignment.** This Term Sheet will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party will assign, pledge or otherwise transfer this Term Sheet or any right or obligation under this Term Sheet without first obtaining the other Party's prior written consent (which consent will not be unreasonably withheld, delayed, or encumbered).
- 2.10 No Consequential Damages.** IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES AND/OR REPRESENTATIVES BE LIABLE FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR EXEMPLARY DAMAGES UNDER OR IN RESPECT TO THIS TERM SHEET.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the Parties hereto have executed this Term Sheet effective as of the Effective Date.

**SILICON VALLEY CLEAN ENERGY
AUTHORITY, a California joint powers
authority**

[RESPONDENT/SELLER]

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Approved as to form:

By: _____

Printed Name: _____

Title: _____