**MCE 2020 Open Season**

**POWER PURCHASE AGREEMENT TERM SHEET**

This term sheet (“**Term Sheet**”) is entered into between Marin Clean Energy, a California joint powers authority (“**MCE**” or “**Buyer**”) and [*INSERT SELLER NAME*] (“**Seller**”), as of [*mm/dd/yyyy*] (the “**Effective Date**”). Buyer and Seller are each a “**Party**” and, collectively, the “**Parties**.” This Term Sheet includes the key commercial terms and conditions to be included in a proposed power purchase agreement (the “**PPA**”) for renewable energy and energy storage services (the “**Proposed Transaction**”) to be negotiated between Seller and Buyer in connection with the MCE 2020 Open Season (“**Open Season**”). Negotiation of the PPA is subject to Seller’s selection for the Open Season shortlist by Buyer, the terms and conditions of the Open Season, timely execution of the Exclusive Negotiating Agreement (as defined below) and delivery of the Shortlist Deposit (as defined below) to Buyer. Until a definitive agreement is approved by MCE’s management and Board of Directors, and signed and delivered, no party shall have any legal obligations, expressed or implied, or arising in any other manner, to proceed with the Proposed Transaction or the PPA.

**1. Power Purchase Agreement Terms and Conditions**

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| **Description of Facility:** | A [XX] MWAC [solar photovoltaic][wind] project (the “**Generating Facility**”), which includes a [XX] MW/[XX] MWh battery energy storage facility (the “**Storage Facility**”), located in \_\_\_\_\_\_\_\_\_\_\_ County, in the State of \_\_\_\_\_\_\_\_\_\_\_.  The Generating Facility and the associated Storage Facility are referred to herein as the “**Facility**.” |
| **Guaranteed Capacity:** | The Generating Facility has a Guaranteed Capacity of [XX] MWAC. |
| **Storage Contract Capacity:** | The Storage Facility will have an initial Storage Contract Capacity of [XX] MWAC. |
| **Product:** | “**Product**” means all energy, capacity, resource adequacy, ancillary services, and environmental attributes (including RECs) produced by the Facility. |
| **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 each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date. |
| **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 grid. |
| **Expected Energy:** | “**Expected Energy**” means[XXX,XXX] MWh during the first Contract Year and for each Contract Year thereafter during the Delivery Term. [*If there is an annual adjustment for degradation, this should be noted.*] |
| **Renewable Rate:** | The Renewable Rate shall be $[XX]/MWh. [*If there is an escalator, this should be noted.*] |
| **Storage Rate:** | The Storage Rate shall be $[XX]/kW-month multiplied by current Storage Contract Capacity, as adjusted for the Storage Capacity Test (as set forth in the PPA), multiplied by the actual round-trip efficiency, and subject to the Availability Adjustment. [*If there is an escalator, this should be noted.*] |
| **Test Energy Rate** | Prior to COD, Buyer will purchase all Test Energy and any associated Product at fifty percent (50%) of the Renewable Rate. |
| **Guaranteed Energy Production:** | Seller shall deliver to Buyer no less than the Guaranteed Energy Production in each Performance Measurement Period.  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 the applicable percentage, based on technology type:   * Solar: 85% * Wind: 75% * Geothermal: 90% * Small Hydro: 85%   The “**Performance Measurement Period**” shall be each two (2) consecutive Contract Year period during the Delivery Term, except for geothermal, which shall be each Contract Year, all calculated on a rolling basis.  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**”).  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. |
| **Performance Guarantee:** | The occurrence of any of the following shall constitute an Event of Default: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%);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; andif, 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. |
| **Excess Energy:** | If during any settlement interval, the Delivered Energy is greater than the Guaranteed Capacity (“**Excess Energy**”), then the price paid by Buyer for the Excess Energy shall be Zero dollars ($0). If the real-time locational marginal price (as defined by the CAISO) at the Delivery Point is negative for a settlement interval with Excess Energy, Seller shall pay Buyer an amount equal to the product of (i) the absolute value of the Delivery Point LMP, and (ii) Excess Energy. |
| **Annual Excess Energy:** | 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 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.  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 fifteen percent (115%) 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 $0.00/MWh. |
| **Curtailment:** | 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.  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 Curtailment Cap at the Renewable Rate, subject to the Annual Excess Energy provisions.  “**Curtailment Cap**” is the yearly quantity per Contract Year, in MWh, equal to fifty (50) hours multiplied by the Installed Generating Facility Capacity.  “**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. |
| **REC Tracking System:** | Seller shall transfer RECs associated with the generation from the Facility for each month via WREGIS pursuant to the timelines in WREGIS Operating Rules.  Each party shall be responsible for setting up an account with WREGIS. |
| **Progress Reporting:** | 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.  In the event Seller misses any Facility Development Milestones and cannot reasonably demonstrate a plan for completing the Facility by the Guaranteed COD, Buyer shall have the right to terminate the PPA and retain the Development Security as damages, in addition to any other remedies it may have at law or equity. |
| **Resource Adequacy Failure:** | For each RA Shortfall Month occurring after the RA Guarantee Date, Seller shall pay to Buyer an amount (the “**RA Deficiency Amount**”) equal to the product of the difference, expressed in kW, of (i) the maximum Qualifying Capacity of the Facility for such month, minus (ii) the Net Qualifying Capacity of the Facility for such month, including any adjustments for unforced capacity (UCAP) or similar adjustments, however described, multiplied by the CPM Soft Offer Cap as listed in Section 43A.4.1.1 of the CAISO Tariff (or its successor); provided that Seller may, as an alternative to paying RA Deficiency Amounts, provide Replacement RA in the amount of (X) the Qualifying Capacity of the Generating Facility with respect to such month, minus (Y) the Net Qualifying Capacity of the Generating Facility with respect to such month, provided that any Replacement RA capacity is communicated by Seller to Buyer with Replacement RA product information in a written notice to Buyer at least seventy-five (75) days before the applicable CPUC operating month for the purpose of monthly RA reporting. |
| **Maximum Storage Level:** | [XX] MWh [number in MWh representing maximum amount of energy that may be discharged from the Storage Facility] |
| **Minimum Storage Level:** | [XX] MWh [number in MWh representing the lowest level to which the Storage Facility may be discharged] |
| **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:** | [XX] 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 % |
| **Maximum Round-Trip Efficiency:** | [peak efficiency of conversion between charging energy and discharging energy (i.e. ratio of maximum charging energy to maximum discharging energy)] %  If actual round-trip efficiency is greater than or equal to Maximum Round-Trip Efficiency, then for purposes of calculating the monthly payment amount, the actual round-trip efficiency will be deemed to be 100%. |
| **Minimum Round-Trip Efficiency:** | [minimum guaranteed efficiency of conversion between charging energy and discharging energy (i.e. ratio of maximum charging energy to maximum discharging energy)] %  If actual round-trip efficiency is less than Minimum Round-Trip Efficiency, then for purposes of calculating the monthly payment amount, the actual round-trip efficiency will be deemed to be 0%. |
| **Ramp Rate:** | [XX] MW/minute |
| **Monthly Cycles:** | [XX] cycles per month |
| **Daily Dispatch Limits:** | Charging: [XX per day]  Discharging: [XX per day]  Partial Charging/Discharging: [maximum number of times per day Buyer may begin charging or discharging the Storage Facility without reaching either the Maximum SOC or Minimum SOC, respectively] |
| **Maximum Time at Minimum Storage Level:** | [Seller-specified, if applicable] |
| **Other Operating Limits:** | [Seller-specified, if applicable] |
| **Ancillary Services Capability:** | [Seller-specified, if applicable] |
| **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:** | Ninety-eight percent (98%) |
| **Availability Adjustment:** | 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 Adjusted Storage Contract Capacity. The applicable “**Availability Adjusted Storage Contract Capacity**” is calculated by multiplying the Storage Contract Capacity by the Availability Adjustment (“**Availability Adjustment**” or “**AA**”), which is calculated as follows:   1. If the monthly storage availability is greater than or equal to the Guaranteed Storage Availability, then:   AA = 100%   1. If the monthly storage availability is less than the Guaranteed Storage Availability, but greater than or equal to 70%, then:   AA = 100% - [(98% - monthly storage availability) × 2]   1. If the monthly storage availability is less than 70%, then:   AA = 0 |
| **Expected Construction Start Date:** | Seller reasonably expects to achieve Construction Start by the following date [\_\_\_\_\_\_\_] (the “**Expected Construction Start Date**”). |
| **Guaranteed Construction Start Date:** | 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. Such day-for-day extensions, including for Force Majeure, shall be no longer than one-hundred twenty (120) days on a cumulative basis. For clarity, these permitted extensions extend both the Guaranteed Construction Start Date and the Guaranteed COD simultaneously.  In the event that Seller fails to achieve the Guaranteed Construction Start Date, Seller shall pay delay damages to Buyer, (the “**Daily Delay Damages**”) for each day of delay, in the amount of the Development Security divided by 120. The Daily Delay Damages shall be refundable to Seller if, and only if, Seller achieves COD on or before the Guaranteed COD.  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. |
| **Expected Commercial Operation Date:** | Seller reasonably expects to achieve Commercial Operation by the following date [\_\_\_\_\_\_\_] (the “**Expected Commercial Operation Date**”). |
| **Guaranteed Commercial Operation Date:** | The “**Guaranteed Commercial Operation Date**” or “**Guaranteed COD**” means the Expected Commercial Operation 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. Such day-for-day extensions, including for Force Majeure, shall be no longer than one-hundred twenty (120) days on a cumulative basis. For clarity, these permitted extensions extend both the Guaranteed Construction Start Date and the Guaranteed COD simultaneously.  If Seller does not achieve COD of the Facility by the Guaranteed COD, Seller shall pay Delay Damages to the Buyer for each day of delay until Seller achieves COD.  “**Delay Damages**” are equal to the Development Security divided by 60. Delay Damages shall be paid for each day of delay and shall be paid to Buyer in advance on a monthly basis. A prorated amount will be returned to Seller if COD is achieved during the month for which Delay Damages were paid in advance.  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 the Development Security. |
| **Commercial Operation Date (“COD”):** | 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 certifying to the following:   1. The Generating Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System. 2. Seller has installed equipment for the Generating Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Guaranteed Capacity. 3. 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. 4. Seller has commissioned all equipment in accordance with its respective manufacturer’s specifications. 5. 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, and such peak electrical output, as adjusted, was [peak output in MW]. 6. 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. 7. Authorization to parallel the Facility was obtained by the Participating Transmission Owner, [Name of Participating Transmission Owner as appropriate] on [Date]. 8. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Participating Transmission Owner as appropriate] on [Date]. 9. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on [Date]   Seller shall provide notice of expected COD to Buyer in writing no less than sixty (60) days in advance of such date. |
| **Facility Development Milestones:** | * [*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*] – Guaranteed Construction Start Date * [*mm/dd/yyyy*] – Obtain Full Capacity Deliverability Status * [*mm/dd/yyyy*]– Expected Commercial Operation Date * [*mm/dd/yyyy*]– Guaranteed Commercial Operation Date |
| **Deliverability:** | The Facility will have Full Capacity Deliverability Status by the Commercial Operation Date. |
| **Scheduling Requirements and CAISO Settlements:** | Buyer or Buyer’s agent shall act as Scheduling Coordinator (as defined by the CAISO) 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 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.  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. |
| **Monthly Settlement and Invoice:** | 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.  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. |
| **Operations and Maintenance:** | Seller shall not during the months of June through September inclusive schedule any non-emergency maintenance that reduces the energy generating capability of the Facility by more than ten percent (10%), 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. |
| **Credit Requirements:** | Seller shall post security as follows:  **Development Security** – $90,000 per MW of Contract Capacity  **Performance Security** – $105,000 per MW of Contract Capacity  “**Contract Capacity**” means the sum of the Guaranteed Capacity and the Storage Contract Capacity.  To secure its obligations under this PPA, Seller shall deliver the Development Security to Buyer within thirty (30) days of the Effective Date.  Development Security shall be in the form of cash or a Letter of Credit.  To secure its obligations under this PPA, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date.  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. |
| **Prevailing Wage:** | Seller shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation employment discrimination laws and prevailing wage laws. |
| **Diversity Reporting** | Seller shall be required under the PPA to complete the Supplier Diversity and Labor Practices questionnaire in MCE’s Offer Form, or a similar questionnaire, and agrees to comply with similar regular reporting requirements related to diversity and labor practices. |
| **Pollinators** | [*Proposals utilizing solar photovoltaic facilities to include pollinator-related commitments.*] |
| **Site Control:** | Seller shall maintain site control of the Facility throughout the Delivery Term. |
| **Assignment:** | Neither party may assign the PPA without prior written consent of the other party, which shall not be unreasonably withheld.  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.  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. |
| **Dispute Resolution:** | 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. |

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| **Confidentiality:** | Upon shortlisting, Seller shall execute a Mutual Non-Disclosure Agreement with Buyer. |
| **Exclusivity:** | Upon shortlisting, Seller shall execute an Exclusive Negotiating Agreement with Buyer. |
| **No Recourse to Members of Buyer:** | Buyer is organized as a Joint Powers Authorities in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer’s constituent members in connection with this Agreement. |
| **Force Majeure:** | “**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. Notwithstanding the foregoing, the term “**Force Majeure Event**” does not include (i) economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer’s ability to buy the Product at a lower price, or Seller’s ability to sell Product at a higher price, than the Contract Price); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Generating Facility or the Storage Facility; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above 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) 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; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) events otherwise constituting a Force Majeure Event that prevent Seller from achieving Construction Start or Commercial Operation of the Generating Facility or the Storage Facility, except to the extent expressly permitted as an extension under the PPA. |
| **Other Standard Contract Terms to be included in the PPA:** | * Event of Default: 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. In addition, it shall be a Seller Event of Default if COD is not achieved within achieved within 60 days after the Guaranteed COD. * Indemnification: Mutual indemnification for third party claims arising from negligence, willful misconduct, or breach of the PPA. * Governing Law: State of California * Venue: San Francisco County |

1. **Additional Term Sheet Provisions**
2. **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 an 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.
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.
4. **Termination**. This Term Sheet will terminate upon the earlier of (a) execution of the PPA or (b) expiration of the Exclusivity Deadline (as defined in the Exclusive Negotiating Agreement), as such Exclusivity Deadline may be extended by the Parties in accordance with the Exclusive Negotiating Agreement.
5. **Governing Law**. This Term Sheet is governed by, and construed in accordance with, the laws of the State of California.
6. **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, facsimile or scanned signatures as originals. Delivery of an executed signature page of this Term Sheet by electronic transmission (including facsimile and email transmission of a PDF image) shall be the same as delivery of an original executed signature page.
7. **Prior Agreements**. This Term Sheet supersedes all prior communications and agreements, oral or written, between the Parties regarding the subject matter herein contemplated.
8. **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.
9. **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 by their duly authorized representatives executed this Term Sheet as of the Effective Date.

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| **MARIN CLEAN ENERGY, a California joint powers authority** | **[*SELLER***] |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |