



**Marin Clean Energy
Technical Committee Meeting
Monday, May 12, 2014
9:00 A.M.**

**San Rafael Corporate Center, Boro Room
750 Lindero Street, San Rafael, CA 94901**

Dawn Weisz
Executive Officer

Damon Connolly
Chair
City of San Rafael

Kathrin Sears
Vice Chair
County of Marin

Bob McCaskill
City of Belvedere

Sloan C. Bailey
Town of Corte Madera

Larry Bragman
Town of Fairfax

Kevin Haroff
City of Larkspur

Garry Lion
City of Mill Valley

Denise Athas
City of Novato

Tom Butt
City of Richmond

Carla Small
Town of Ross

Ford Greene
Town of San Anselmo

Ray Withy
City of Sausalito

Emmett O'Donnell
Town of Tiburon

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mceCleanEnergy.org

781 Lincoln Ave., #320
San Rafael, CA 94901

Agenda

- 1. Board Announcements (Discussion)**
- 2. Public Open Time (Discussion)**
- 3. Report from Executive Officer (Discussion)**
- 4. Approval of 4.14.14 Meeting Minutes (Discussion/Action)**
- 5. MCE Feed-in Tariff Amendment (Discussion/Action)**
- 6. Members & Staff Matters (Discussion)**
- 7. Adjourn**



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**MARIN CLEAN ENERGY
TECHNICAL COMMITTEE MEETING
MONDAY APRIL 14, 2014
9:00 A.M.
SAN RAFAEL CORPORATE CENTER, BORO ROOM
750 LINDARO STREET, SAN RAFAEL, CA 94901**

Roll Call

Present: Kate Sears, County of Marin, Chair
Ray Withy, City of Sausalito
Ford Greene, Town of San Anselmo
Carla Small, Town of Ross

Absent: Emmett O'Donnell, Town of Tiburon
Kevin Haroff, Town of Larkspur

Staff: Dawn Weisz, Executive Officer
Greg Brehm, Director of Power Resources
Jamie Tuckey, Communications Director
Emily Goodwin, Internal Operations Coordinator
John Dalessi, Technical Consultant
Kirby Dusel, Technical Consultant

Action taken:

Agenda Item #4 – Approval of Minutes from 3.10.14 Meeting (Discussion/Action)

M/s O'Greene/Small (passed 4-0) approval of minutes from 3.10.14 meeting. Directors O'Donnell and Haroff were absent.

Agenda Item #6 – Additional Discussion Regarding MCE 100% Local Solar Program (Discussion/Action)

M/s Greene/Small (passed 4-0) approved the final iteration of the "Sol Shares" program having incorporated final considerations (presented at the March Technical Committee meeting). Directors O'Donnell and Haroff were absent.

Kate Sears, Chair

ATTEST:

Dawn Weisz, Executive Officer

Marin Clean Energy

Feed-In Tariff for Distributed Renewable Generation (FIT)

Revised June 2014

I. Applicability

This Schedule is optional for customers who wish to sell to Marin Clean Energy (“MCE”) the electric output from an Eligible Small-Scale Distributed Renewable Generation Resource (“Eligible Resource”), with capacity of not more than one (1) megawatt (“MW”), as defined in the General Conditions section of this Schedule.

Service under this schedule is on a first-come, first-served basis until the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) reaches ten (10) MW or until such combined rated generation capacity is increased beyond the current level of ten (10) MW by MCE’s Board of Directors.

II. Territory

This Schedule is available to any Eligible Resources located within any member jurisdiction of the MCE (the “Eligible Territory”), which meets the eligibility requirements established in this Schedule.

III. General Conditions

1. REQUIRED CONTRACT

Any Eligible Resource accepting service under this tariff shall execute a power purchase agreement (“PPA”) with MCE.

2. CONTRACT DELIVERY TERM

The tariff shall be offered for a contract Delivery Term of twenty (20) years.

3. PARTICIPATION IN OTHER MCE PROGRAMS

Customers taking service under this Schedule may not also obtain benefits from any of the following:

- a. A power purchase agreement with MCE for deliveries from the same facility; or
- b. Any net metering option for energy deliveries from the same facility.

4. ENVIRONMENTAL ATTRIBUTES

A distributed generation resource accepting service under this tariff will deliver to MCE both the energy generated and any environmental attributes associated with that energy.

5. DEFINITION OF ELIGIBLE RESOURCES

For purposes of this Schedule, *Eligible Resource* shall have the following meaning: an electric generating facility meeting the California Renewables Portfolio Standard eligibility requirements described in the California Energy Commission's Renewables Portfolio Standard Guidebook: <http://www.energy.ca.gov/2012publications/CEC-300-2012-006/CEC-300-2012-006-CMF.pdf>, as this document may be amended or supplemented from time to time, which also meets the capacity requirements/limitations described herein.

6. ELECTRICAL INTERCONNECTION

Distributed generation resources receiving service under this Schedule Tariff shall be interconnected within the Eligible Territory and shall be required to: 1) comply with applicable interconnection procedures established by PG&E and/or the California Independent System Operator ("CAISO"); and 2) shall execute applicable agreements with PG&E and/or the CAISO to establish and maintain interconnection with such transmission or distribution system. Any resources not meeting the requirements specified in the applicable interconnection procedures of PG&E and/or the CAISO will *not* be eligible for service under this Schedule.

7. METERING REQUIREMENTS

Eligible Resources receiving service under this Schedule shall comply with all applicable rules in installing a meter appropriate for full buy/sell or excess sale agreements, and which can be read daily by means acceptable to PG&E and MCE. All costs associated with such installation will be the responsibility of the customer. The customer shall be responsible for procuring and maintaining any communication link required by PG&E for retrieving meter data.

IV. Payments for Electric Generation Produced by Eligible Resources

Under this Schedule, MCE will pay for the Eligible Resource according to the applicable price for metered energy, consistent with the Energy Delivery Profile specified.

Applicable prices are presented below in Section VI, Prices for Energy Produced by Eligible Resources, and will also be reflected in MCE's Small Renewable Generator Power Purchase Agreement, with prices differentiated by Delivery Profile.

V. Renewable Energy Delivery Profiles

MCE has established the following Energy Delivery Profiles, which will be used to determine applicable energy prices to be paid for Eligible Resources.

Energy Delivery Profile	Delivery Characteristics	Representative Fuel Type
Peak	Under normal operating conditions, 90 percent or more of daily electric generating output is produced and delivered between the hours of 6:00 A.M. and 10:00 P.M. (On-Peak Hours)	Photovoltaic Solar and Solar Thermal
Baseload	Under normal operating conditions, the annual capacity factor for the generator typically exceeds 75 percent, inclusive of planned outages (maintenance)	Landfill Gas, Biomass, Fuel Cell
Intermittent	Delivery characteristics are not consistent with either of the described Peak or Baseload Energy Delivery Profiles	Wind

VI. Prices for Energy Produced by Eligible Resources

MCE has established the following price schedule, consistent with the Energy Delivery Profiles specified in this Schedule, which will be used to determine prices paid to Eligible Resources meeting the requirements of this Schedule. MCE's Board of Directors may periodically review and revise this price schedule¹.

Prices Shall Apply Under the Following Conditions	Peak Energy Prices (20-year Term, \$/MWh)	Baseload Energy Prices (20-year Term, \$/MWh)	Intermittent Energy Prices (20-year Term, \$/MWh)
Condition 1	\$ 137.66	\$ 116.49	\$ 100.57
Condition 2	\$ 120.00	\$ 105.00	\$ 95.00
Condition 3	\$ 115.00	\$ 100.00	\$ 90.00
Condition 4	\$ 110.00	\$ 95.00	\$ 85.00
Condition 5	\$ 105.00	\$ 90.00	\$ 80.00

Condition 1: For any Eligible Resource such that the addition of such Eligible Resource occurs before the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) reaches 2 MW.

¹ MCE Staff reserves the right to divert select FIT projects to supply the MCE "Sol Shares" solar development program at the sole discretion of MCE staff and subject to the approval of MCE's Board of Directors. The development requirements for such projects, as reflected on the FIT Application, may be amended as part of this process to expedite contract execution, subject to MCE staff and Board approval. FIT projects supplying the Sol Shares program will receive the currently effective FIT price but the associated project capacity shall not count against the active condition (rate) for other FIT projects. Projects diverted to the Sol Shares program shall be subject to all applicable FIT terms and conditions, including execution of the PPA.

Condition 2: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 2 MW but before such combined rated generation capacity reaches 4 MW.

Condition 3: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 4 MW but before such combined rated generation capacity reaches 6 MW.

Condition 4: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 6 MW but before such combined rated generation capacity reaches 8 MW.

Condition 5: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 8 MW but before such combined rated generation capacity reaches 10 MW.

**SMALL RENEWABLE GENERATOR
POWER PURCHASE AGREEMENT
BETWEEN**

AND

MARIN CLEAN ENERGY

MARIN CLEAN ENERGY, a California joint powers authority (“MCE” or “Buyer”), and _____ (“Seller”) hereby enter into this Small Renewable Generator Power Purchase Agreement (“Agreement”). Seller and MCE are sometimes referred to in this Agreement jointly as “Parties” or individually as “Party.” In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

1. DOCUMENTS INCLUDED; DEFINED TERMS

This Agreement includes the following appendices, which are specifically incorporated herein and made a part of this Agreement.

Appendix A – Definitions

Appendix B – Initial Product Delivery Date Confirmation Letter

Appendix C – Counterparty Notification Requirements for Outage and Generation Schedule Changes

Appendix D – Description and Location of Facility

Appendix E – Facility Drawings

2. SELLER’S GENERATING FACILITY, PURCHASE PRICES AND PAYMENT

2.1 Facility. This Agreement governs MCE’s purchase of Products from the electrical generating facility as described below in this Section 2.1 (the “Facility”):

2.1.1 The Facility’s Energy Delivery Profile is _____ [based on the descriptions provided below in this Section 2.1.1 select one of the following designations: 1) “Peak”; 2) “Baseload”; or 3) “Intermittent”, as approved by MCE]. Seller shall be required to deliver Products consistent with the Energy Delivery Profile of the Facility.

~~2.1.1~~2.1.2 Contract Type [MCE Staff to select one]

Standard Feed-In-Tariff

Sol Shares (see additional Conditions Precedent is section 2.4.2)

Energy Delivery Profile	Delivery Characteristics	Representative Fuel Type
Peak	Under normal operating conditions, 90 percent or more of daily electric generating output is produced and delivered between the hours of 6:00 A.M. and 10:00 P.M. (generally described as “On-Peak Hours”)	Photovoltaic Solar and Solar Thermal
Baseload	Under normal operating conditions, the annual capacity factor for the generator typically exceeds 75 percent, inclusive of planned outages (maintenance)	Landfill Gas, Biomass, Fuel Cell
Intermittent	Delivery characteristics are not consistent with either of the described Peak or Baseload Energy Delivery Profiles	Wind

2.1.22.1.3 A description of the Facility, including a summary of its significant components, is attached and incorporated herein as Appendix D. A drawing showing the general arrangements of the Facility, and a single line diagram illustrating the interconnection of the Facility and loads with PG&E’s electric distribution system, are attached and incorporated herein as Appendix E.

2.1.32.1.4 The name and address PG&E and MCE use to locate the electric service account(s) and premises used to interconnect the Facility with PG&E’s distribution systems is:

2.2 Contract Capacity. The contract capacity (“Contract Capacity”) of the Facility is equal to the nameplate rating of the Facility at unity power factor at 60 degrees Fahrenheit at sea level available upon Commercial Operation of the Facility in the amount shown in Appendix D. Contract Capacity shall not exceed 1,000 kilowatts. Seller shall not modify the Facility to increase the Contract Capacity without the prior written consent of MCE. Any increase in Contract Capacity must be consistent with the interconnection requirements of Pacific Gas & Electric Company (“PG&E”).

2.3 Transaction. Subject to the terms of this Agreement, during the Delivery Term of this Agreement, Seller shall sell and deliver, or cause to be delivered, and MCE shall purchase and receive, or cause to be received, the Products from the Facility at the Delivery Point, pursuant to Seller's election of a (check one) full buy/sell or excess sale arrangement as described in paragraphs 2.3.1 and 2.3.2 below. MCE shall pay Seller the Contract Price, set forth in Section 2.5, in accordance with the terms hereof. Whenever Facility output is not enough to supply Station Use and transformation and transmission losses to the Delivery Point, Seller shall purchase energy required to serve the Facility's on-site load from MCE pursuant to MCE's applicable retail rate schedule. In no event shall Seller have the right to procure or substitute the Products from sources other than the Facility for sale or delivery to MCE under this Agreement. MCE shall have no obligation to receive or purchase Products from Seller prior to the Initial Product Delivery Date, as defined in Section 2.4, or after the end of the Delivery Term, as defined in Section 2.4.

2.3.1 Full Buy/Sell. Seller agrees to sell to MCE the Facility's gross output of Products delivered to the Delivery Point into the PG&E electrical system for delivery to MCE customers. For purposes of this Section 2.3.1, the Energy conveyed to MCE shall be net of Station Use and transformation and transmission losses.

2.3.2 Excess Sale. Seller agrees to sell to MCE the Facility's gross output of Products delivered to the Delivery Point into the PG&E electrical system for delivery to MCE customers. For purposes of this Section 2.3.1, the Energy conveyed to MCE shall be net of Station Use and any on-site use by Seller and transformation and transmission losses.

2.4 Delivery Term.

2.4.1 Delivery Term – Standard Feed-In-Tariff option 1 The Seller shall deliver the Products from the Facility to MCE for a period of twenty (20) Contract Years (“Delivery Term”), which shall commence on the first date on which Products are delivered from the Facility to MCE under this Agreement (the “Initial Product Delivery Date”) and continue until the end of the last Contract Year unless terminated by the terms of this Agreement. The Initial Product Delivery Date shall occur only when all of the following conditions have been satisfied:

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A. the Commercial Operation Date has occurred, if the Facility was not in operation prior to the Execution Date of this Agreement;

B. Seller has identified a certified Qualified Reporting Entity (“QRE”), according to criteria established by WREGIS, for the Facility and has executed the appropriate agreement(s) with such QRE to ensure that the net electric energy produced by the Facility will be timely reported to WREGIS for the purpose of creating related renewable energy certificates throughout the Delivery Term; a copy of the aforementioned QRE agreement(s) has been provided to MCE.

C. the Facility's status as an Eligible Renewable Energy Resource is demonstrated by Seller's receipt of certification from the CEC and registration with WREGIS; and

D. as evidence of the Initial Product Delivery Date, the Parties shall execute and exchange the "Initial Product Delivery Date Confirmation Letter" attached hereto as Appendix B on the Initial Product Delivery Date.

2.3.32.4.2 Delivery Term – Sol Shares option 2 [] The Seller shall deliver the Products from the Facility to MCE for a period of twenty (20) Contract Years ("Delivery Term"), which shall commence on the first date on which Products are delivered from the Facility to MCE under this Agreement (the "Initial Product Delivery Date") and continue until the end of the last Contract Year unless terminated by the terms of this Agreement. The Initial Product Delivery Date shall occur only when all of the following conditions have been satisfied:

A. the project receives a final conditional use permit from the local planning authority within 45 days of the date this agreement is executed.

B. the project receives an unconditional financing commitment within 60 days of the date this agreement is executed.

C. the project developer demonstrates substantial construction mobilization on the project site with 90 days of the execution of this agreement.

A.D. the Commercial Operation Date has occurred, if the Facility was not in operation prior to the Execution Date of this Agreement;

B.E. Seller has identified a certified Qualified Reporting Entity ("QRE"), according to criteria established by WREGIS, for the Facility and has executed the appropriate agreement(s) with such QRE to ensure that the net electric energy produced by the Facility will be timely reported to WREGIS for the purpose of creating related renewable energy certificates throughout the Delivery Term; a copy of the aforementioned QRE agreement(s) has been provided to MCE.

C.F. the Facility's status as an Eligible Renewable Energy Resource is demonstrated by Seller's receipt of certification from the CEC and registration with WREGIS; and

D.G. as evidence of the Initial Product Delivery Date, the Parties shall execute and exchange the "Initial Product Delivery Date Confirmation Letter" attached hereto as Appendix B on the Initial Product Delivery Date.

2.4.2.5 Contract Price. For the Delivery Term, the contract price for the Products (“Contract Price”) equals the amount set forth below for the applicable Energy Delivery Profile and corresponding “condition,” as described below¹. Amounts owed to Seller by MCE will be calculated by multiplying the Contract Amount by the applicable hourly Energy quantity delivered to MCE (as metered at the Delivery Point), net of any on-site uses or losses, as described above in Section 2.3; however, Seller shall not receive payment for any Products delivered in any hour to MCE in excess of the maximum hourly energy delivery quantity specified in Appendix D.

Prices Shall Apply Under the Following Conditions	Peak Energy Prices (20-year Term, \$/MWh)	Baseload Energy Prices (20-year Term, \$/MWh)	Intermittent Energy Prices (20-year Term, \$/MWh)
Condition 1	\$ 137.66	\$ 116.49	\$ 100.57
Condition 2	\$ 120.00	\$ 105.00	\$ 95.00
Condition 3	\$ 115.00	\$ 100.00	\$ 90.00
Condition 4	\$ 110.00	\$ 95.00	\$ 85.00
Condition 5	\$ 105.00	\$ 90.00	\$ 80.00

Condition 1: For any Eligible Resource such that the addition of such Eligible Resource occurs before the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) reaches 2 MW.

Condition 2: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 2 MW but before such combined rated generation capacity reaches 4 MW.

Condition 3: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 4 MW but before such combined rated generation capacity reaches 6 MW.

Condition 4: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 6 MW but before such combined rated generation capacity reaches 8 MW.

Condition 5: For any Eligible Resource such that the addition of such Eligible Resource occurs after the combined rated generation capacity within the Eligible Territory (as measured by Eligible Resources under contract with MCE) has reached 8 MW but before such combined rated generation capacity reaches 10 MW.

¹ MCE Staff reserves the right to divert select FIT projects to supply the MCE “Sol Shares” solar development program at the sole discretion of MCE staff and subject to the approval of MCE’s Board of Directors. The development requirements for such projects, as reflected on the FIT Application, may be amended as part of this process to expedite contract execution, subject to MCE staff and Board approval. FIT projects supplying the Sol Shares program will receive the currently effective FIT price but the associated project capacity shall not count against the active condition (rate) for other FIT projects. Projects diverted to the Sol Shares program shall be subject to all applicable FIT terms and conditions, including execution of the PPA.

2.52.6 Billing. MCE shall pay Seller by check or Automated Clearing House transfer within approximately 30 days of invoice receipt from Seller if the value of the purchased energy in a month is at least fifty dollars (\$50); if less, MCE may pay Seller quarterly. Seller shall submit invoices for Products to MCE on a monthly basis consistent with the terms of this Agreement. MCE shall have the right, but not the obligation, to read the Facility's meter on a daily basis.

2.62.7 Title and Risk of Loss. Title to and risk of loss related to the Products from the Facility shall transfer from Seller to MCE at the Delivery Point. Seller warrants that it will deliver to MCE all Products from the Facility free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

2.72.8 No Additional Incentives. Seller agrees that during the Term of this Agreement, Seller shall not seek additional compensation or other benefits pursuant to the Self-Generation Incentive Program, as defined in CPUC Decision ("D.") 01-03-073, the California Solar Initiative, as defined in CPUC D.06-01-024, PG&E's net energy metering tariff, MCE's net energy metering tariff, or other similar California ratepayer subsidized program relating to energy production with respect to the Facility.

2.82.9 Private Energy Producer. Seller agrees to provide to Buyer copies of each of the documents identified in California Public Utilities Code Section 2821(d)(1), if applicable, as may be amended from time to time, as evidence of Seller's compliance with such California Public Utilities Code section. Such documentation shall be provided to Buyer within thirty (30) days of Seller's receipt of written request therefore.

3. GREEN ATTRIBUTES; RESOURCE ADEQUACY BENEFITS

3.1 Conveyance of Green Attributes. Seller provides and conveys all rights, title, and interest in all Green Attributes (whether now existing or that hereafter come into existence during the Term) from the Facility to MCE as part of the Product delivered to MCE for the duration of the Delivery Term. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Green Attributes to MCE to the fullest extent allowed by applicable law as included in the delivery of the Product from the Facility. Seller represents that the Products and Green Attributes from the Facility have not been, nor will be, sold or used to satisfy any California Renewables Portfolio Standard obligation other than the RPS Requirements applicable to MCE.

3.2 WREGIS. Prior to the Initial Product Delivery Date, Seller shall register the Facility in WREGIS and take all other actions necessary to ensure that the Products from the Facility are tracked for purposes of satisfying the MCE RPS

Requirements. Seller warrants that it shall take all necessary steps to ensure the Renewable Energy Credits transferred to Buyer under this Agreement are tracked in WREGIS and transferred in a timely manner to Buyer through WREGIS for purposes of satisfying the MCE RPS Requirements.

3.3 Resource Adequacy Benefits. In accordance with California Public Utilities Code Section 399.20(f), Seller conveys to MCE all Resource Adequacy Benefits attributable to the physical generating capacity of Seller's Facility to enable MCE to count such capacity towards MCE's resource adequacy requirement for purposes of California Public Utilities Code Section 380. At MCE's request, Seller shall take all reasonable actions and execute documents and instructions necessary to enable MCE to secure Resource Adequacy Benefits; Seller shall comply with all applicable reporting requirements.

4. REPRESENTATION AND WARRANTIES; COVENANTS

4.1 Representations and Warranties. On the Execution Date, each Party represents and warrants to the other Party that:

- 4.1.1 it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- 4.1.2 the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- 4.1.3 this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;
- 4.1.4 it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;
- 4.1.5 there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement; and
- 4.1.6 it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

4.2 General Covenants. Each Party covenants that throughout the Term of this Agreement:

- 4.2.1 it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- 4.2.2 it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and
- 4.2.3 it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

4.3 Seller Representation and Warranty and Covenant.

- 4.3.1 Representation and Warranty. In addition to the representations and warranties specified in Section 4.1, Seller makes the following additional representations and warranties as of the Execution Date:
 - (a) Seller has not received an incentive under the Self-Generation Incentive Program, as defined in CPUC D.01-03-073, or the California Solar Initiative, as defined in CPUC D.06-01-024.
 - (b) Seller's execution of this Agreement will not violate California Public Utilities Code Section 2821(d)(1) if applicable.
- 4.3.2 Covenant. Seller hereby covenants that throughout the Term of the Agreement, the Facility is, or will qualify prior to the Initial Product Delivery Date, as an ERR, specifically, Seller and, if applicable, its successors, represents and warrants throughout the term of the Delivery Term of this Agreement that: (a) the Facility qualifies and is certified by the CEC as an Eligible Renewable Energy Resource; and (b) the Facility output of Products delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

5. GENERAL CONDITIONS

- 5.1 Facility Care, Interconnection and Transmission Service. If PG&E or MCE does not deem Seller's existing interconnection service, equipment and agreement satisfactory for the delivery of Products under this Agreement, Seller shall execute an interconnection agreement for the Facility with PG&E and pay and be responsible for designing, installing, operating, and maintaining the Facility in accordance with all applicable laws and regulations

and shall comply with all applicable MCE, PG&E, CAISO, CPUC and FERC tariff provisions, including applicable interconnection and metering requirements. Seller shall also comply with any modifications, amendments or additions to the applicable tariff and protocols. Prior to and during the Delivery Term, Seller shall arrange and pay independently for any and all necessary costs under any interconnection agreement with PG&E. To make deliveries to MCE, Seller must maintain an interconnection agreement with PG&E in full force and effect.

- 5.2 Metering Requirements. Seller shall comply with all applicable rules in installing a meter appropriate for deliveries pursuant to the Full Buy/Sell or Excess Sale arrangement selected in paragraph 2.2, above, which can be electronically read daily by: (a) a telephone and modem; (b) an analog or digital phone connection; or (c) an internet portal address for PG&E's Energy Data Services ("EDS"). Seller shall be responsible for procuring and maintaining the communication link to electronically retrieve this metering data.
- 5.3 Standard of Care. Seller shall: (a) maintain and operate the Facility and Interconnection Facilities, except facilities installed by PG&E, in conformance with all applicable laws and regulations and in accordance with Good Utility Practice; (b) obtain any governmental authorizations and permits required for the construction and operation thereof; and (c) generate, schedule and perform transmission services in compliance with all applicable operating policies, criteria, rules, guidelines and tariffs and Good Utility Practice. Seller shall reimburse MCE for any and all losses, damages, claims, penalties, or liability MCE incurs as a result of Seller's failure to obtain or maintain any governmental authorizations and permits required for construction and operation of the Facility throughout the Term of this Agreement.
- 5.4 Access Rights. MCE, its authorized agents, employees and inspectors shall have the right to inspect the Facility on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to MCE by law, or its tariff schedules, PG&E Interconnection Handbook and rules on file with the CPUC. Seller shall keep MCE and PG&E advised of current procedures for communicating with the Facility operator's Safety and Security Departments.
- 5.5 Protection of Property. Seller shall be responsible for protecting the Facility from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the PG&E interconnection facilities.
- 5.6 MCE Performance Excuse; Seller Curtailment.

- 5.6.1 MCE Performance Excuse. MCE shall not be obligated to accept or pay for any Products provided from the Facility during a Dispatch Down Period, or an event of Force Majeure.
- 5.6.2 Seller Curtailment. MCE, PG&E or the CAISO may require Seller to interrupt or reduce deliveries of energy: (a) in the case of PG&E, when necessary to construct, install, maintain, repair, replace, remove, or investigate any of its equipment or part of PG&E's transmission system or distribution system or facilities; or (b) if MCE, PG&E or the CAISO determines that curtailment, interruption, or reduction is necessary because of a System Emergency, as defined in the CAISO Tariff, Forced Outage, Force Majeure as defined in Appendix A, or compliance with Good Utility Practice.
- 5.7 Interconnection Agreement. Seller shall comply with the terms and conditions of the Facility's interconnection agreement between Seller and PG&E.
- 5.8 Greenhouse Gas Emissions. During the Term, Seller acknowledges that a Governmental Authority may require Buyer to take certain actions with respect to greenhouse gas emissions attributable to the generation of Energy, including, but not limited to, reporting, registering, tracking, allocating for or accounting for such emissions. Promptly following Buyer's written request, Seller agrees to take all commercially reasonable actions and execute or provide any and all documents, information or instruments with respect to generation by the Facility reasonably necessary to permit Buyer to comply with such requirements, if any.

6. INDEMNITY

Each Party as indemnitor shall save harmless and indemnify the other Party and the directors, officers, and employees of such other Party against and from any and all loss and liability for injuries to persons including employees of either Party, and damages, including property of either Party, resulting from or arising out of: (a) the engineering, design, construction, maintenance, or operation of; or (b) the installation of replacements, additions, or betterments to the indemnitor's facilities. This indemnity and save harmless provision shall apply notwithstanding the active or passive negligence of the indemnitee. Neither Party shall be indemnified for liability or loss, resulting from its sole negligence or willful misconduct. The indemnitor shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity and shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

7. LIMITATION OF DAMAGES

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL

DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 6 (INDEMNITY), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

8. NOTICES

Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). Whenever this Agreement requires or permits delivery of a "notice" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by facsimile transmission or email will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All written notices shall be directed as follows:

TO MCE: Marin Clean Energy
Attention: Executive Officer
781 Lincoln Ave, Suite 320
San Rafael, CA 94901

TO SELLER: _____

9. INSURANCE

9.1 General Liability Coverage.

- 9.1.1 Seller shall maintain during the performance hereof, General Liability Insurance² of not less than \$1,000,000 if the Facility's nameplate is over 100 kW, \$500,000 if the nameplate rating of the Facility is over 20 kW to 100kW or \$100,000 if the nameplate rate of the Facility is 20 kW or below of combined single limit or equivalent for bodily injury, personal injury, and property damage as the result of any one occurrence.
- 9.1.2 General Liability Insurance shall include coverage for Premises Operations, Owners and Contractors Protective, Products/Completed Operations Hazard, Explosion, Collapse, Underground, Contractual Liability, and Broad Form Property Damage including Completed Operations.
- 9.1.3 Seller shall use reasonable efforts to provide for thirty (30) days written notice to MCE prior to cancellation, termination, alteration, or material change of such insurance.

9.2 Additional Insurance Provisions.

- 9.2.1 Evidence of coverage described above in Paragraph 9.1 shall state that coverage provided is primary and is not excess to or contributing with any insurance or self-insurance maintained by MCE.
- 9.2.2 MCE shall have the right to inspect or obtain a copy of the original policy(ies) of insurance.
- 9.2.3 Seller shall furnish the required certificates and endorsements to MCE prior to commencing operation.

10. TERM, DEFAULT, TERMINATION EVENT AND TERMINATION

10.1 Term. The term of this Agreement shall commence upon execution by the duly authorized representatives of each of MCE and Seller; and shall remain in effect until the conclusion of the Delivery Term or unless terminated sooner pursuant to Section 10.3 of this Agreement (the "Term"). All indemnity rights shall survive the termination of this Agreement for twelve (12) months.

10.2 Termination Event. Buyer shall be entitled to terminate the Agreement upon the occurrence of any of the following, each of which is a "Termination Event":

² Governmental agencies which have an established record of self-insurance may provide the required coverage through self-insurance.

~~(a)~~a. The Facility has not achieved Commercial Operation within twelve (12) months of the Execution Date other than as a direct result of a Force Majeure event;

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~~(b)~~b. Seller has not sold or delivered energy from the Facility to MCE for a period of twelve (12) consecutive months other than as a direct result of a Force Majeure event;

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~~(c)~~c. Seller fails to deliver Energy from the Facility consistent with the selected Energy Delivery Profile as calculated over the most recent rolling twenty four (24) month period;

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~~(d)~~d. Seller breaches its covenant to maintain its status as an ERR as set forth in Section 4.3.2 of the Agreement.

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10.3 Termination.

10.3.1 Declaration of a Termination Event. If a Termination Event has occurred and is continuing, Buyer shall have the right to: (a) send notice, designating a day, no earlier than five days after such notice is deemed to be received (as provided in Section 8) and no later than 20 days after such notice is deemed to be received (as provided in Section 8), as an early termination date of this Agreement ("Early Termination Date") unless Seller has timely communicated with Buyer and the Parties have agreed to resolve the circumstances giving rise to the termination Event; (b) accelerate all amounts owing between the Parties; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date.

10.3.2 Release of Liability for Termination Event. Upon termination of this Agreement pursuant to Section 10.3.1, neither Party shall be under any further obligation or subject to liability hereunder, except with respect to the indemnity provision in Section 6 hereof, which shall remain in effect for a period of 12 months following the Early Termination Date.

11. SCHEDULING

11.1 Scheduling Obligations. As necessary, MCE shall designate Seller's Scheduling Coordinator (as defined by CAISO Tariff). At MCE's direction, MCE's designated scheduling coordinator will schedule the output of the Facility using Good Utility Practices and Seller shall employ Good Utility Practices and exercise reasonable efforts to operate and maintain the Facility. All necessary generation interconnection and scheduling services shall be performed in accordance with all applicable operating policies, criteria, guidelines and tariffs of the CAISO or its successor, and any other generally accepted operational requirements. Seller, at its own expense, shall be responsible for complying with all applicable contractual, metering and interconnection requirements. Seller shall promptly notify MCE and the

Scheduling Coordinator, as applicable, of significant (i.e., greater than 100 kW) changes to its energy schedules using Scheduling Coordinator's web site (see Appendix C). Seller will exercise reasonable efforts to comply with conditions that might arise if the CAISO modifies or amends its tariffs, standards, requirements, and/or protocols in the future.

11.2 CAISO Charges.

- 11.2.1 CAISO Charge Obligations. To the extent that the Facility's electric output is scheduled with the CAISO, MCE and Seller shall cooperate to minimize CAISO delivery imbalances and any resulting fees, liabilities, assessments or similar charges assessed by the CAISO ("CAISO Charges") to the extent possible, and shall each promptly notify the other as soon as possible of any material loss of system capability, deviation or imbalance that is occurring or has occurred. In the event that the Facility's electric output is scheduled with the CAISO, Seller shall reimburse MCE for any CAISO Charges MCE incurs as a result of Seller's loss of system capability, deviation or imbalance. Any such CAISO Charges reimbursable to MCE shall be limited to the period until the commencement of the next settlement period following Seller's notification for which the delivery schedule can be adjusted. Notwithstanding anything to the contrary herein, in the event Seller makes a change to its schedule on the actual date and time of delivery for any reason (other than an adjustment imposed by CAISO) which results in differences between the Facility's actual generation and the scheduled generation (whether in part or in whole), Seller shall use reasonable efforts to notify MCE and the Scheduling Coordinator. MCE and the Scheduling Coordinator will make commercially reasonable efforts to accommodate Seller's changes and mitigate any imbalance penalties or charges levied for such changes.
- 11.2.2 CAISO Penalties. To the extent that the Facility's electric output is scheduled with the CAISO, Seller shall be responsible for any "non-Performance Penalties" assessed to MCE by the CAISO ("CAISO Penalties"), under the CAISO Tariff Enforcement Protocol, and not due to any fault of MCE, which shall include, without limitation, any deviation, imbalance or uninstructed energy charges or penalties payable to the CAISO that are due to the fault of Seller. To the extent that Seller materially deviates from its energy schedules (other than an adjustment imposed by the CAISO, a deviation due to any fault of MCE, or an excused Seller failure to deliver, whether for reasons of Force Majeure or otherwise), and such departure results in CAISO Penalties being assessed to MCE, such CAISO Penalties shall be passed on to Seller. Any such CAISO Penalties passed on to Seller shall be limited to the period until the commencement of the next settlement period following Seller's notification (as described above) for which the delivery schedule can be adjusted.

12. CONFIDENTIALITY

Seller authorizes MCE to release to the California Energy Commission ("CEC") and/or the CPUC information regarding the Facility, including the Seller's name and location, and the size,

location and operational characteristics of the Facility, the Term, the ERR type, the Initial Product Delivery Date and the net power rating of the Facility, as requested from time to time pursuant to the CEC's or CPUC's rules and regulations.

The Parties hereto acknowledge that MCE is a local agency and subject to provisions of the California Public Records Act (Cal. Government Codes section 6250 and following). In the event that Seller contends that any information disclosed or required to be disclosed by Seller pursuant to this Agreement is confidential, Seller shall clearly identify such documents as such before transmitting the same to MCE. In the event that any claim or action is filed against MCE pursuant to the Public Records Act seeking the disclosure of any records or documents provided by Seller which were marked confidential hereunder, MCE shall notify Seller in writing of such fact and Seller shall thereupon defend, save harmless and indemnify MCE from all costs and expense in connection with said claim or litigation, including attorney's fees, and agrees to abide by the final decision of a court of competent jurisdiction in connection therewith.

13. ASSIGNMENT

Except as expressly provided in this Section, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof to its financing providers and the financing provider(s) shall assume the payment and performance obligations provided under this Agreement with respect to the transferring Party provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request. Notwithstanding anything to the contrary set forth herein, Seller may transfer or assign its interest under this Agreement without the consent of Buyer, to (a) an affiliate, subsidiary, or parent of Seller, or a corporation, partnership or other legal entity wholly owned by Seller (collectively, an "Affiliated Party"), or (b) a successor to Seller by purchase, merger, consolidation or reorganization (each such transfer a "Permitted Transfer" and any such assignee or transferee of a Permitted Transfer, a "Permitted Transferee"); provided that Seller shall give Buyer written notice at least ten (10) days prior to the effective date of the proposed Permitted Transfer and any such Permitted Transferee shall agree in writing to be bound by the terms and conditions hereof. As used herein, (1) "parent" shall mean a company which owns a majority of Seller's voting equity; (2) "subsidiary" shall mean an entity wholly owned by Seller or at least fifty-one percent (51%) of whose voting equity is owned by Seller; and (3) "affiliate" shall mean an entity controlled, controlling or under common control with Seller.

14. APPLICABLE LAW

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT

REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

15. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE 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 MCE's constituent members in connection with this Agreement.

16. SEVERABILITY

If any provision in this Agreement is determined to be invalid, void or unenforceable by the CPUC or any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

17. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

18. GENERAL

No amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation.

Absent the prior mutual written agreement of all parties to the contrary, the standard of review for any proposed changes to the rates, terms, and/or conditions of service of this Agreement, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*,

350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

In addition, to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then the foregoing shall not apply, provided that, consistent with the foregoing, neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing.

The headings used herein are for convenience and reference purposes only.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

MARIN CLEAN ENERGY

By: _____ Date: _____

Name: _____

Title: _____

SELLER

By: _____ Date: _____

Name: _____

Title: _____

Appendix A DEFINITIONS

“Agreement” has the meaning set forth in the preamble.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday during the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party’s principal place of business where the relevant Party in each instance shall be the Party from whom the notice, payment or delivery is being sent.

“CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.

“CAISO Tariff” means the CAISO FERC Electric Tariff as amended from time to time.

“California Renewables Portfolio Standard” means the renewable energy program and policies established by Senate Bill 1038 and 1078, codified in California Public Utilities Code Sections 399.11 through 399.20 and California Public Resources Code Sections 25740 through 25751, as such provisions may be amended or supplemented from time to time.

“CEC” means the California Energy Resources Conservation and Development Commission, also known as the California Energy Commission, or its successor agency.

“Commercial Operation” means the period of operation of the Facility once the Commercial Operation Date has occurred.

“Commercial Operation Date” means the date on which the Facility is operating and is in compliance with applicable interconnection and system protection requirements, and able to produce and deliver energy pursuant to the terms of this Agreement.

“Contract Capacity” has the meaning set forth in Section 2.2.

“Contract Price” has the meaning set forth in Section 2.5.

“Contract Year” means a period of twelve (12) consecutive months with the first Contract Year commencing on the first day of the month immediately following the Initial Product Delivery Date and each subsequent Contract Year commencing on the anniversary of the Initial Product Delivery Date.

“CPUC” means the California Public Utilities Commission, or successor entity.

“Delivery Point” means the point of interconnection to the PG&E distribution system.

“Delivery Term” has the meaning set forth in Section 2.4.

“Dispatch Down Period” means: (a) curtailments ordered by the CAISO or PG&E as a result of a System Emergency, as defined in the CAISO Tariff; or (b) scheduled or unscheduled maintenance on PG&E’s transmission, distribution or interconnection facilities that prevents Buyer from receiving Delivered Energy at the Delivery Point.

“Distribution Operator” means PG&E.

“Early Termination Date” has the meaning set forth in Section 10.3.1.

“Eligible Renewable Energy Resource” or “ERR” has the meaning set forth in Public Utilities Code Sections 399.12 and California Public Resources Code Section 25741, as either code provision may be amended or supplemented from time to time.

“Energy” means electrical energy delivered to the PG&E Distribution System for the benefit of MCE with the voltage and quality required by PG&E, and measured in megawatt-hours (“MWh”) or kilowatt-hours (“kWh”).

“Energy Delivery Profile” means the manner in which Energy is delivered from the Facility in consideration of the delivery characteristics described in 2.1.1.

“Expected Annual Output” means the Energy that the Facility can be expected to produce during a typical year of operation, factoring in typical weather patterns, expected fuel availability, etc. The Expected Annual Output is shown in Appendix D.

“ERR Credits” means any and all credits associated with electricity procured from Eligible Renewable Energy Resources, pursuant to the California Renewables Portfolio Standard, that are directly attributable to electric production from the Facility.

“Execution Date” means the latest signature date found at the end of the Agreement.

“Facility” has the meaning set forth in Section 2.1.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Forced Outage” means any unplanned reduction or suspension of the electrical output from the Facility resulting in the unavailability of the Facility, in whole or in part, in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction and any other unavailability of the Facility for operation, in whole or in part, for maintenance or repair that is not a scheduled maintenance outage and not the result of Force Majeure.

“Force Majeure” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (ii) the Party seeking to have its

performance obligation(s) excused thereby has taken all reasonable precautions and measures to prevent or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the direct or indirect result of the negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby. Force Majeure shall not be based on: (i) MCE's inability economically to use or resell the energy or capacity purchased hereunder; (ii) Seller's ability to sell the energy, capacity or other benefits produced by or associated with the Facility at a price greater than the price set forth in this Agreement, (iii) Seller's inability to obtain approvals of any type for the construction, operation, or maintenance of the Facility; (iv) Seller's inability to obtain sufficient fuel to operate the Facility, except if Seller's inability to obtain sufficient fuel is caused by an event of Force Majeure of the specific type described in any of subsections (i) through (iv) of this definition of Force Majeure; (v) a Forced Outage except where such Forced Outage is caused by an event of Force Majeure of the specific type described in any of subsections (i) through (iv) of this definition of Force Majeure; (vi) a strike or labor dispute limited only to Seller, Seller's affiliates, the Engineering, Procurement, and Construction Contractor or subcontractors thereof; or (vii) any equipment failure not caused by an event of Force Majeure of the specific type described in any of subsections (i) through (iv) of this definition of Force Majeure.

"Good Utility Practice" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region, including those practices required by Federal Power Act section 215(a)(4). Seller acknowledges that the use of Good Utility Practice by Seller does not exempt Seller from any obligations set forth in this Agreement. Good Utility Practice includes, at a minimum, those professionally responsible practices, methods and acts that comply with manufacturers' warranties, restrictions in this Agreement, the interconnection requirements of PG&E, the requirements of Governmental Authorities, and WECC and NERC standards.

Good Utility Practice also includes taking reasonable steps to ensure that:

- a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility's needs;
- b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Facility and emergencies whether caused by events on or off the Facility site;

c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long-term and safe operation of the Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;

d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;

e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the connecting utility's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Facility site and under both normal and emergency conditions.

"Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility, and its displacement of conventional energy generation. Green Attributes include but are not limited to ERR Credits and Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) nitrous oxide, hydrofluoro carbons, perfluoro carbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of energy. Green Attributes do not include: (i) any energy, capacity, reliability or other power attributes from the Facility; (ii) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation; (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits; or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. If Seller's Facility is a biomass or landfill gas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer

with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from such facility.

“Initial Delivery Period” shall mean the calendar year in which the Initial Product Delivery Date occurs.

“Initial Product Delivery Date” has the meaning set forth in Section 2.4.

“Law” means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective during the Delivery Term; or any binding interpretation of the foregoing.

“MCE RPS Requirements” means (i) the California Renewables Portfolio Standard-compliant energy MCE is required to procure pursuant to the California Renewables Portfolio Standard, and (ii) any additional California Renewables Portfolio Standard-compliant energy procured by MCE in excess of the mandatory California Renewables Portfolio Standard requirements.

“NERC” means the North American Electric Reliability Corporation, or any successor organization.

“Party” or “Parties” has the meaning set forth in the preamble.

“PG&E” means Pacific Gas & Electric Company, or any successor entity.

“Products” means Energy, Contract Capacity and Green Attributes.

“Renewable Energy Credit” has the meaning set forth in California Public Utilities Code Section 399.12(g), as may be amended from time to time or as further defined or supplemented by Law.

“Resource Adequacy” means a requirement by a governmental authority or in accordance with its FERC-approved tariff, or a policy approved by a local regulatory authority, that is binding upon either Party and that requires such Party procure a certain amount of electric generating capacity.

“Resource Adequacy Benefits” means the rights and privileges attached to the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Facility.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable governmental authority, as such decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time during the Delivery Term.

“Seller” has the meaning set forth in the preamble.

“Station Use” means energy consumed within the Facility’s electric energy distribution system as losses, as well as energy used to operate the Facility’s auxiliary equipment. The auxiliary equipment may include, but is not limited to, forced and induced draft fans, cooling towers, boiler feeds pumps, lubricating oil systems, plant lighting, fuel handling systems, control systems, and sump pumps.

“Term” has the meaning set forth in Section 10.1.

“WREGIS” means the Western Renewable Energy Generating Information System or any successor renewable energy tracking program.

Appendix B

INITIAL PRODUCT DELIVERY DATE CONFIRMATION LETTER

In accordance with the terms of that certain Small Renewable Generator Power Purchase Agreement dated _____ (“Agreement”) by and between the Marin Clean Energy (“MCE”) and _____ (“Seller”), this letter serves to document the parties further agreement that MCE will begin receiving the Products, as specified in the Agreement, as of this ____ day of _____, _____ (the “Initial Product Delivery Date”). This letter confirms the Initial Product Delivery Date, as defined in the Agreement, as the date referenced in the preceding sentence.

Pursuant to the Agreement, Seller hereby represents and warrants that as of the date hereof that:

- A. the Commercial Operation Date has occurred, if the Facility was not in operation prior to the Execution Date of this Agreement;
- B. Seller has identified a certified QRE, according to criteria established by WREGIS, for the Facility and has executed the appropriate agreement(s) with such QRE to ensure that the net electric energy produced by the Facility will be timely reported to WREGIS for the purpose of creating related renewable energy certificates throughout the Delivery Term; a copy of the aforementioned QRE agreement(s) has been provided to MCE.
- C. the Facility’s status as an Eligible Renewable Energy Resource, is demonstrated by Seller’s receipt of certification from the CEC and evidence of Seller’s registration with WREGIS has been satisfied.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below:

By Seller
 Name: _____
 Title: _____
 Date: _____

By: Marin Clean Energy
 Name: _____
 Title: _____
 Date: _____

Appendix C
COUNTERPARTY NOTIFICATION AND FORECASTING REQUIREMENTS

A. NOTIFICATION REQUIREMENTS FOR START-UP AND SHUTDOWN

Prior to paralleling to or after disconnecting from the electric system, ALWAYS notify your designated Distribution Operator as follows:

1. Call your Distribution Operator for permission to parallel before any start-up.
2. Call your Distribution Operator again after start-up with parallel time.
3. Call your Distribution Operator after any separation and report separation time as well as date and time estimate for return to service.

B. FORECASTING REQUIREMENTS

Seller shall abide with all established requirements and procedures described below:

- (a) Generating Facilities of 1000 kW must comply with the CAISO Tariff and Protocols while generating facilities under 1000 kW must comply with all applicable interconnection, communication and metering rules; and
- (b) Annual Energy Forecast: No later than January 1st of each year during the Delivery Term, Generating Facilities 100 kW and greater will electronically provide MCE and the Scheduling Coordinator, if applicable, with an Energy Forecast for the next calendar year.

The Annual Energy Forecast submitted to MCE and the Scheduling Coordinator, if applicable, shall:

- (a) Not include any anticipated or expected electric energy losses;
- (b) Be provided as instructed by MCE;
- (c) Include Seller's contact information and an indication of the Generating Facilities for which the forecast is being provided;
- (d) Identify the expected dates and times of any planned outages associated with the Generating Facilities.

Appendix D

DESCRIPTION AND LOCATION OF FACILITY

A.1 Seller's Feed-In Tariff Record Number as assigned by MCE: _____

A.2 The Facility is described as _____

A.3 The Facility is located at the following address _____.

A.4 The Facility's primary fuel is _____

A.5 The Facility has a Contract Capacity of ____ kilowatts ("kW").

A.6 The maximum hourly energy delivery quantity is _____ kWh (Contract Capacity x 1 hour).

A.7 The Expected Annual Energy Output of the Facility is _____ kWh.

A.8 The scheduled Commercial Operation Date of the Facility is _____.

A.9 The Facility has a primary voltage level of ____ kilovolts ("kV")

A.10 The Facility is connected to PG&E's electric system at _____ kV.

A.11 MCE shall revise this Appendix D as appropriate, give written notice to Seller regarding the revision, and issue a new Appendix D which shall then become part of the Agreement, in the event of changes to the information contained within Appendix D.

Appendix E

FACILITY DRAWINGS

[Seller to include: (i) a drawing showing the general arrangements of the Facility, and (ii) a single line diagram illustrating the interconnection of the Facility and loads with PG&E's electric distribution system]