

RENEWABLE GENERATION AND ENERGY STORAGE TERM SHEET

THIS RENEWABLE GENERATION AND ENERGY STORAGE TERM SHEET (the “**Term Sheet**”) is entered into as of [] (the “**Effective Date**”), between San Diego Community Power (“**SDCP**”) and [Respondent] (“**Respondent**”). This Term Sheet is intended to set forth the key commercial terms and conditions to be included in a proposed agreement for the purchase and sale of renewable energy and energy storage product (the “**PPA**”) to be negotiated between SDCP (“**Buyer**”) and [e.g., Project Company LLC] (“**Seller**”) (the “**Proposed Transaction**”). As used herein, Buyer and Seller are each a “**Party**” and collectively the “**Parties**.” Notwithstanding anything herein to the contrary, until a definitive agreement is fully negotiated and all applicable approvals have been received for each Party, no Party shall have any legal obligations, expressed or implied, or arising in any other manner under this Term Sheet to continue negotiations or enter into the Proposed Transaction or the PPA.

The following Term Sheet presumes a [co-located] [hybrid] resources¹ within the CAISO market, with [separate CAISO meters] [a single CAISO meter] for the Generating Facility and Storage Facility.

1. Terms and Conditions.

Description of Facility:	A [] MW photovoltaic and [] MW [] -hour battery energy storage project located in [] County, in the State of [].
Contract Capacity:	The sum of the Guaranteed Generating Capacity and the Guaranteed Storage Capacity. <ul style="list-style-type: none">Guaranteed Generating Capacity is [] MW_{AC}.Guaranteed Storage Capacity is [] MW for []-hour discharge
Product	Generating Facility Energy, Green Attributes (PCC1), Capacity Attributes, Effective Storage Capacity, Discharging Energy, Imbalance Reserves, Ancillary Services, any other existing products and products that may be developed or evolve from time to time during the Contract Term that the Facility is able to provide as the Facility is configured on the Commercial Operation Date
Ancillary Services Capability:	All Ancillary Services, products and other attributes, if any, associated with the Installed Capacity of the Facility, including spinning reserve, non-spinning reserve, regulation up, regulation down, as each is defined in the CAISO Tariff
Contract Price:	Renewable Rate: \$[]/MWh (flat) with no escalation. Storage Rate:

¹ This draft Term Sheet reflects a co-located project and necessary adjustments will be made during the term sheet negotiations period for hybrid projects.

	<p>\$[]/kW-month (flat) with no escalation.</p> <p>If after the Effective Date of the PPA, the Renewable Energy Incentives are increased from the current credit amount of [XX percent (XX%), e.g., 26% (twenty-six percent)], Seller and Buyer shall each be entitled to equally share in the additional net benefits with a commensurate reduction in the Renewable and/or Storage Rate for Buyer.</p>
Delivery Term:	[20] Contract Years.
Interconnection Point:	Seller shall be responsible for all costs of interconnecting the Facility to the Interconnection Point.
Settlement Point:	[The Facility pnode on the CAISO Grid]
Capacity Area:	CAISO System, SD-IV
Scheduling Coordinator:	Buyer or Buyer's agent
RA Guarantee Date and Deliverability:	<p><u>"RA Guarantee Date"</u> means Commercial Operation Date.</p> <p>The Facility shall have Full Capacity Deliverability Status ("FCDS") in the amount of the Contract Capacity by the Commercial Operation Date and shall maintain FCDS throughout the Delivery Term.</p>
Compensation	<p>(a) <u>Renewable Payment.</u> Buyer shall pay Seller the Renewable Rate for each MWh of Generating Facility Energy plus the amount of Deemed Delivered Energy (as adjusted by the Curtailment Cap), for the relevant month, up to one hundred five percent (105%) of the Expected Energy for each Contract Year.</p> <ul style="list-style-type: none"> • If Generating Facility Energy and Deemed Delivered Energy exceeds one hundred five percent (105%) of the Expected Energy for the Contract Year, the price for each MWh of Generating Facility 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, but not less than \$0.00/MWh, or (b) fifty percent (50%) of the Renewable Rate. If Generating Facility Energy and Deemed Delivered Energy exceeds one hundred fifteen (115%) of the Expected Energy for the Contract Year, no payment shall be owed by Buyer for excess deliveries or Deemed Delivered Energy. <p>(b) <u>Storage Payment.</u> The Storage Rate multiplied by the Effective Storage Capacity (as determined by the most recent Capacity Test), multiplied by the Availability Adjustment.</p>
Seller Security Requirements:	<u>"Development Security"</u> – \$90/kW multiplied by the Guaranteed Contract Capacity

	<p><u>“Performance Security”</u> – \$105/kW multiplied by the Installed Capacity</p> <p><u>“Contract Capacity”</u> means the sum of the Guaranteed Generating Capacity and the Guaranteed Storage Capacity.</p> <ul style="list-style-type: none"> • 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. • Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date in the form of cash or a Letter of Credit. <p>Within five (5) Business Days following any draw by Buyer on the Performance Security, Seller shall replenish the amount drawn such that the security is restored to the applicable amount.</p>
Guaranteed Milestones	<p>[mm/dd/yyyy] –Guaranteed Construction Start Date</p> <p>[mm/dd/yyyy] –Guaranteed Commercial Operation Date</p>
Guaranteed Construction Start Date:	<p>The <u>“Guaranteed Construction Start Date”</u> or <u>“GCSD”</u> means [Date]</p> <p>To the extent that Seller has taken all commercially reasonable actions to meet its requirements and deadlines, the GCSD may be extended (i) day-for-day, up to a total of one hundred twenty (120) days on a cumulative basis (the <u>“Development Cure Period”</u>), for delays arising out of: (a) a Force Majeure Event, (b) the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for interconnection of the Facility by the Guaranteed Commercial Operation Date (<u>“GCOD”</u>), or (c) Buyer has not made all necessary arrangements to receive energy at the Delivery Point by the GCOD. An extension of the Guaranteed Construction Operation Date due to a Development Cure Period extends both the GCSD and the Guaranteed COD simultaneously; and (ii) Seller may pay daily delay damages in the amount of the Development Security divided by one hundred twenty (120) to Buyer in advance (the <u>“Construction Delay Damages”</u>) to extend the Guaranteed Construction Start Date by up to one hundred twenty (120) days. Failure to achieve Construction Start on or before the GCSD, as such date may be extended pursuant to the PPA, shall constitute an Event of Default.</p>
Guaranteed Commercial Operation Date (GCOD):	<p><u>“Guaranteed Commercial Operation Date”</u> or <u>“GCOD”</u> means [].</p> <ul style="list-style-type: none"> • to the extent that Seller has taken all commercially reasonable actions to meet its requirements and deadlines, the GCOD may be extended on a day-for-day basis under the Development Cure Period; and • Seller shall have the option to pay daily delay damages in the amount of the Development Security divided by ninety (90) to Buyer in advance (the <u>“COD Delay Damages”</u>) to extend the Guaranteed Commercial Operation Date by up to ninety (90) days.

	Failure to achieve COD on or before the GCOD, as such date may be extended pursuant to the PPA is an Event of Default.
Guaranteed Storage Availability	[Ninety-eight percent (98%)].
Monthly Storage Availability Calculation:	A percentage that represents the total number of hours, or partial hours, in the month during which the Facility was available to charge and discharge Energy between the Facility and the Delivery Point and to provide Ancillary Services at the Delivery Point. Excused Hours which are not included in Available Hours include Buyer Dispatched Tests or Operating Restrictions.
Availability Adjustment:	<p>If the Monthly Storage Capacity Availability during any month of the Delivery Period is less than the Guaranteed Storage Availability, the Monthly Storage Capacity Payment shall be multiplied by an Availability Adjustment (“<u>Availability Adjustment</u>” or “<u>AA</u>”) calculated as follows:</p> <p>(i) If the Monthly Storage Capacity Availability is greater than or equal to the Guaranteed Storage Availability, then:</p> <p style="padding-left: 40px;">AA = 100%</p> <p>(ii) If the Monthly Storage Capacity Availability is less than the Guaranteed Storage Availability, but greater than or equal to 70%, then:</p> <p style="padding-left: 40px;">AA = The lesser of the Monthly Storage Capacity Availability or 100% - [(Guaranteed Storage Availability - Monthly Storage Capacity Availability) × 2]</p> <p>(iii) If the Monthly Storage Capacity Availability is less than 70%, then:</p> <p style="padding-left: 40px;">AA = 0</p>
Guaranteed Efficiency Rate:	[] percent ([]%) for all Contract Years
Minimum Efficiency Rate:	Seventy percent (70%) for all Contract Years
Efficiency Rate Liquidated Damages	If during any month during the Delivery Term, the Efficiency Rate is less than the Guaranteed Efficiency Rate, Seller shall pay liquidated damages to Buyer calculated as the total Charging Energy for the month multiplied by the percentage by which the Efficiency Rate is less than the Guaranteed Efficiency Rate multiplied by Buyer’s average cost of procuring Charging Energy.
Storage Maximum Annual Throughput	[XX] MWh per Contract Year.

Environmental Attributes:	<p>Buyer shall be entitled to renewable energy credits (“RECs”) and any other environmental attributes associated with Generating Facility Energy. Seller shall transfer RECs associated with the generation from the Facility for each month via WREGIS pursuant to the timelines in the WREGIS Operating Rules.</p> <p>Each party shall be responsible for setting up an account with WREGIS.</p>
Expected Energy (Generating Facility):	<p>“Expected Energy” means [] MWh during the first Contract Year and for each subsequent Contract Year thereafter during the Delivery Term, subject to []% degradation per Contract Year.</p>
Guaranteed Energy Production:	<p>Seller shall deliver to Buyer no less than the Guaranteed Energy Production in each Performance Measurement Period.</p> <p>The “Guaranteed Energy Production” or “GEP” means an amount of Generating Facility Energy, as measured in MWh, equal to the total Expected Energy for the applicable Performance Measurement Period multiplied by 85%</p> <p>The “Performance Measurement Period” shall be each two (2) consecutive Contract Year period during the Delivery Term, calculated on a rolling basis.</p> <p>For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer (i) any Deemed Delivered Energy and (ii) the amount of Energy that would have been delivered but for Force Majeure Events, Curtailments, System Emergencies or Buyer Default.</p> <p>If Seller fails to achieve the GEP during any Performance Measurement Period, Seller shall (a) pay to Buyer liquidated damages calculated as the replacement price for energy plus Green Attributes multiplied by the GEP shortfall. As an alternative to paying GEP liquidated damages, Seller may, with the prior consent of Buyer, provide Replacement Product in an amount not to exceed []% of the Expected Energy for the previous Contract Year.</p>
Guaranteed RA Amount:	<p>“Guaranteed PV RA Amount” means, for any Showing Month, the Qualifying Capacity assigned to the Generating Facility by the CPUC during the hour corresponding to the Maximum Hourly RA Capacity, <i>minus</i> Administrative NQC Reduction in the applicable Showing Month.</p> <p>“Maximum Hourly RA Capacity” means, for any Showing Month, the highest hourly quantity of Qualifying Capacity for the Generating Facility in such Showing Month.</p> <p>“Guaranteed Storage RA Amount” means, for any Showing Month, the amount of Qualifying Capacity that is able to be shown for each hour of the Resource Duration, expressed in MW, equal to the Installed Storage</p>

	<p>Capacity of the Storage Facility, <i>minus</i> Administrative NQC Reduction in the applicable Showing Month.</p> <p><u>“Administrative NQC Reduction”</u> means a reduction in the maximum achievable Net Qualifying Capacity of the Generating Facility or Storage Facility able to be shown for each hour of the Resource Duration, as applicable, that cannot be avoided by and is beyond the reasonable control of and without the fault and negligence of Seller, due to a reduction that has been generally applied to resources materially similar to the Generating Facility or Storage Facility, as applicable, in terms of type, market and operational characteristics (including those characteristics specified in the CPUC Master Resource Database), including any methodology that incorporates fleet averages or other average outage rates.</p> <p><u>“Resource Duration”</u> means the number of continuous hours of discharge set forth on the Cover Sheet.</p>
Resource Adequacy Failure:	<p>If, in any month of the Delivery Term, the Delivered PV RA is less than the Guaranteed PV RA Amount and/or the Delivered Storage RA is less than the Guaranteed Storage RA Amount, Seller shall pay to Buyer damages equal to the sum of (i) the product of (A) the RA Shortfall Amount, and (B) the CPUC System RA Penalty and/or the CPM Soft Offer Cap assessed against Buyer as a result of such RA Shortfall Amount, if any, and (ii) Buyer’s cost of procuring replacement Resource Adequacy Benefits in a quantity up to the amount of the RA Shortfall Amount, or if Buyer did not purchase replacement Resource Adequacy Benefits, the market cost of Resource Adequacy Benefits not purchased by Buyer in a quantity up to the amount of the RA Shortfall Amount, as reasonably determined by Buyer.</p>
Dispatch Down/Buyer Bid Curtailment	<p>Seller agrees to reduce the amount of Generating Facility Energy produced by the Generating Facility, by the amount and for the period set forth in any Curtailment Order, Buyer Curtailment Order, or notice received from CAISO in respect of a Buyer Bid Curtailment; <i>provided</i>, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Generating Facility.</p> <p><u>“Buyer Curtailment Order”</u> means the instruction from Buyer to Seller to reduce Generating Facility Energy from the Generating Facility by the amount, and for the period of time set forth in such instruction, for reasons unrelated to a Planned Outage, Forced Facility Outage, Force Majeure Event or Curtailment Order.</p> <p><u>“Buyer Bid Curtailment”</u> means the occurrence of both of the following:</p> <p>(a) the CAISO provides notice to a Party or the Scheduling Coordinator for the Facility, requiring the Party to deliver less Generating Facility Energy than the full amount of Energy forecasted in accordance with</p>

	<p>Section 4.5 to be produced from the Generating Facility for a period of time;</p> <p>(b) for the same time period as referenced in (a), the notice referenced in (a) results from the manner in which Buyer or the SC schedules or bids the Generating Facility or Generating Facility Energy, including where Buyer or the SC for the Generating Facility:</p> <ul style="list-style-type: none"> (i) did not submit a Self-Schedule or an Energy Supply Bid for the MW subject to the reduction; or (ii) submitted an Energy Supply Bid and the CAISO notice referenced in (a) is solely a result of CAISO implementing the Energy Supply Bid; or (iii) submitted a Self-Schedule for less than the full amount of Generating Facility Energy forecasted to be generated by or delivered from the Generating Facility. <p>If the Generating Facility is subject to a Planned Outage, Forced Facility Outage, Force Majeure Event or a Curtailment Period during the same time period as referenced in (a), then the calculation of Deemed Delivered Energy during such period shall not include any Generating Facility Energy that was not generated due to such Planned Outage, Forced Facility Outage, Force Majeure Event or Curtailment Period.</p> <p><u>“Curtailement Cap”</u> is the quantity per Contract Year, in MWh, equal to fifty (50) hours multiplied by the Guaranteed Generating Capacity.</p> <p><u>“Deemed Delivered Energy”</u> means the amount of Generating Facility Energy, expressed in MWh, in excess of the Curtailment Cap that the Generating Facility would have produced and delivered to the Delivery Point, but that is not produced by the Generating Facility during a Buyer Curtailment Period, which amount shall be calculated using the CAISO VER forecast or 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 Curtailment Period, less the amount of Generating Facility Energy delivered to the Delivery Point during the Buyer Curtailment Period (or other relevant period); <i>provided</i> that, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0).</p> <p>Seller shall receive no compensation from Buyer for (i) Generating Facility Energy or Deemed Delivered Energy during any Curtailment Period and (ii) Deemed Delivered Energy in amounts below the Curtailment Cap.</p> <p>If Seller fails to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, then, for each MWh of Generating Facility Energy that is delivered by the Facility to the Delivery Point in</p>
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	contradiction to the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such excess MWh and, (B) is the sum, for all Settlement Intervals with a Negative LMP during the Buyer Curtailment Period or Curtailment Period, of the absolute value of the product of such excess MWh in each Settlement Interval and the Negative LMP for such Settlement Interval, and (C) is any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.
Facility Outages:	<p>Seller shall schedule all Planned Outages within the time period determined by the CAISO to qualify for an "Approved Maintenance Outage" under the CAISO Tariff. Seller shall reimburse Buyer for any cost Buyer incurs in connection with a Planned Outage including the cost of any replacement Capacity Attributes as required by the CAISO).</p> <p>No Planned Outages shall be scheduled from June 1 to October 31 during the Delivery Term, unless approved by Buyer in its sole discretion. Seller shall provide RA Substitute Capacity as required by CAISO and failure to comply shall be deemed an RA shortfall for the purpose of calculating liquidated damages.</p>
Storage Capacity Tests	<p>Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test prior to the Commercial Operation Date.</p> <p>Following the Commercial Operation Date, at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test. The Efficiency Rate and Storage Capacity determined pursuant to a Storage Capacity Test shall become the new Storage Contract Capacity and Efficiency Rate at the beginning of the day following the completion of the test for calculating the Storage Rate and all other purposes under this Agreement.</p>
Compliance Expenditure Cap:	<p>If a change in law occurring after the Effective Date increases Seller's known or reasonably expected costs and expenses to comply with Seller's obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Environmental Attributes or Capacity Attributes, (the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all such Compliance Actions shall be capped at \$[] per MW of Contract Capacity, in the aggregate over the term of the PPA. If Buyer agrees to fund such Compliance Actions in excess of the foregoing limits, Seller shall take such actions.</p>

Seller Events of Default:	<p>Seller Events of Default include, but are not limited to, the occurrence of any of the following:</p> <ul style="list-style-type: none"> • in any consecutive six (6) month period, Adjusted Energy Production is not at least ten (10%) of Expected Energy, subject to a Cure Plan not to exceed one hundred eighty (180) days; • in any Contract Year, the simple average of the Monthly Storage Availability for such Contract Year is not at least seventy percent (70%), subject to a Storage Cure Plan not to exceed one hundred eighty (180) days; • in any Contract Year, the Adjusted Energy Production amount is not at least fifty percent (50%) of the Expected Energy amount in such Contract Year; • in any two (2) consecutive Contract Year period, the Adjusted Energy Production amount is not at least sixty-five percent (65%) of the Expected Energy amount for such 2 year period; • in any rolling twelve (12) month period, the average Efficiency Rate is less than seventy percent (70%); • the Effective Storage Capacity is not equal to at least seventy-five percent (75%) of the Installed Storage Capacity for more than three hundred sixty-five (365) days; • Construction Start is not achieved on or before the Guaranteed Construction Start Date or Commercial Operation is not achieved on or before the Guaranteed COD, as such dates may be extended under the PPA.
Remedies for Default	<ul style="list-style-type: none"> • If the Agreement is terminated prior to the COD for a Seller Event of Default, Seller shall pay Buyer a Damage Payment in the amount of the Development Security and Buyer shall retain all amounts paid as Delay Damages. • If the Agreement is terminated prior to the COD for (a) a Buyer Event of Default or (b) any Event of Default by either Party after the COD, the Defaulting Party shall owe a Termination Payment to the Non-Defaulting Party in the amount of the Non-Defaulting Party's Gains minus Losses. If the Termination Payment is negative, no damages shall be owed. • If the Agreement is terminated prior to the COD for any reason other than a Buyer Event of Default, for the two (2) year period following such termination, Seller and its Affiliates may not sell, market or deliver Product to any entity other than Buyer unless Seller first offers the Product to Buyer on terms materially similar to the terms and conditions in the Agreement, including price.

2. Additional Term Sheet Provisions.

(a) **No Obligation to Enter into Proposed Transaction.** This Term Sheet is intended to provide an overview of the Proposed Transaction and is not intended to constitute a binding contract or an offer to enter into a PPA with respect to the Proposed Transaction and does not obligate any Party to enter into the Proposed Transaction or execute any agreement, including the PPA, in connection with the Proposed Transaction. Neither Buyer nor Seller 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 Buyer and Seller execute final definitive documents, enforceable in accordance with their terms.

(b) **Other Agreements.** In connection with this Term Sheet, Respondent shall execute that certain Exclusivity Agreement (“**Exclusivity Agreement**”).

(c) **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.

(d) **Termination.** This Term Sheet will terminate upon the earlier of (a) execution of the PPA or (b) expiration of the Negotiation Period and any applicable Extension Period (as defined in the Exclusivity Agreement), as such Exclusivity Deadline may be extended pursuant to the Exclusivity Agreement.

(e) **Governing Law.** This Term Sheet is governed by, and construed in accordance with, the laws of the State of California.

(f) **Counterparts and Electronic Signatures.** This Term Sheet may be executed electronically and in counterparts, each of which will be enforceable against the Parties actually executing such counterparts, and all of which together will constitute one instrument. The Parties may rely on electronic or scanned signatures as originals. Delivery of an executed signature page of this Term Sheet by electronic transmission (including email transmission of a PDF image) shall be the same as delivery of an original executed signature page.

(g) **Prior Agreements.** This Term Sheet supersedes all prior communications and agreements, oral or written, between the Parties regarding the subject matter herein contemplated.

(h) **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 prior written consent of the other Party.

(i) **No Consequential Damages.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER 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.

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

**SAN DIEGO COMMUNITY POWER, a
California joint powers authority**

[RESPONDENT]

By:_____

By:_____

Printed Name:_____

Printed Name:_____

Title:_____

Title:_____