

RENEWABLE GENERATION TERM SHEET

THIS RENEWABLE GENERATION \ 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 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.

1. Terms and Conditions.

Facility:	A [] MW [renewable energy facility] located in [] County, in the State of [].
Guaranteed Capacity:	[] MW _{AC} .
Product:	Facility Energy, Green Attributes (PCC1), Capacity Attributes, 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
Contract Price:	\$[]/MWh (flat) with no escalation. 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 Contract Price for Buyer.
Compensation	Buyer shall pay Seller the Contract Price for each MWh of 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. [If applicable, the Contract Price shall be subject to a Settlement Point adjustment. The “Settlement Point” shall be [pNode/SP-15].] If 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 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 Contract Price. If 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.
Delivery Term:	[20] Contract Years.
Interconnection Point:	[XX substation/on-site CAISO meter]. Seller shall be responsible for all costs of interconnecting the Facility to the Interconnection Point.
Settlement Point:	The Facility pnode on the CAISO Grid
Scheduling Coordinator:	Buyer or Buyer's agent
Seller Security Requirements:	"Development Security" – \$90/kW multiplied by the Guaranteed Contract Capacity "Performance Security" – \$105/kW multiplied by the Installed Capacity - 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. 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.
Guaranteed Milestones	[mm/dd/yyyy] –Guaranteed Construction Start Date [mm/dd/yyyy] –Guaranteed Commercial Operation Date
Guaranteed Commercial Operation Date (GCOD):	"Guaranteed Commercial Operation Date" or "GCOD" means []. - 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 "COD Delay Damages") 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.



Environmental Attributes:	Buyer shall be entitled to renewable energy credits (“RECs”) and any other environmental attributes associated with 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. Each party shall be responsible for setting up an account with WREGIS.
Expected Energy:	“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.
Guaranteed Energy Production:	Seller shall deliver to Buyer no less than the Guaranteed Energy Production in each Performance Measurement Period. The “Guaranteed Energy Production” or “GEP” means an amount of Facility Energy, as measured in MWh, equal to the total Expected Energy for the applicable Performance Measurement Period multiplied by 85% The “Performance Measurement Period” shall be each two (2) consecutive Contract Year period during the Delivery Term, calculated on a rolling basis. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer (i) any Deemed Delivered Energy and (ii) the amount of Energy that would have been delivered but for Force Majeure Events, Curtailments, System Emergencies or Buyer Default. 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.
Guaranteed RA Amount:	“Guaranteed RA Amount” means, for any Showing Month, the Qualifying Capacity assigned to the 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. “Maximum Hourly RA Capacity” means, for any Showing Month, the highest hourly quantity of Qualifying Capacity for the Facility in such Showing Month. “Administrative NQC Reduction” means a reduction in the maximum achievable Net Qualifying Capacity of the Facility that cannot be avoided by and is beyond the reasonable control of and without the fault or negligence of Seller that has been generally applied to resources materially similar to the Facility in terms of technology 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.



Resource Adequacy Failure:	If in any month of the Delivery Term the Delivered RA is less than the Guaranteed 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. "Delivered RA" means an amount, expressed in MW, calculated for the applicable Showing Month as the sum of (a) the amount of Net Qualifying Capacity of the Facility for the hour corresponding to the Maximum Hourly RA Capacity for such Showing Month able to be shown on Buyer's monthly or annual Resource Adequacy Plans to the CAISO and CPUC and able to be counted as Resource Adequacy Benefits by both the CAISO and CPUC, (b) Deemed Delivered RA, and (c) Replacement RA. "Deemed Delivered RA" means, for the applicable Showing Month, the amount of Net Qualifying Capacity, expressed in MW, that the Facility would have been able to deliver as Resource Adequacy Benefits for the hour corresponding to the Maximum Hourly RA Capacity, but for (a) a Force Majeure Event, or (b) Planned Outages permitted by the terms of this Agreement to the extent such Planned Outages reduce the maximum achievable Net Qualifying Capacity of the Facility for the hour corresponding to the Maximum Hourly RA Capacity.
Dispatch Down/Buyer Bid Curtailment	Seller agrees to reduce the amount of Energy produced by the 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 Facility. "Buyer Curtailment Order" means the instruction from Buyer to Seller to reduce Delivered Energy from the 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. "Buyer Bid Curtailment" means the occurrence of both of the following: (a) the CAISO provides notice to a Party or the Scheduling Coordinator for the Facility, requiring the Party to deliver less Facility Energy than the full amount of Energy forecasted in accordance with Section 4.5 to be produced from the Facility for a period of time;



	(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 Facility or Energy, including where Buyer or the SC for the Facility: (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 Energy forecasted to be generated by or delivered from the Facility. If the 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 Facility Energy that was not generated due to such Planned Outage, Forced Facility Outage, Force Majeure Event or Curtailment Period. <u>“Curtailement Cap”</u> is the quantity per Contract Year, in MWh, equal to fifty (50) hours multiplied by the Guaranteed Capacity. <u>“Deemed Delivered Energy”</u> means the amount of Facility Energy, expressed in MWh, in excess of the Curtailment Cap that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility during a Buyer Curtailment Period, which amount shall be calculated using (a) 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 (b) the amount of 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). Seller shall receive no compensation from Buyer for (i) Delivered Energy or Deemed Delivered Energy during any Curtailment Period and (ii) Deemed Delivered Energy in amounts below the Curtailment Cap. 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 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
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	Seller's failure to comply with the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.
Facility Outages:	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. Seller shall limit Planned Outage to periods of the day when Seller does not reasonably believe the Facility will be dispatched. 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.
Compliance Expenditure Cap:	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.
Workforce Standards	Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable Laws, if any (" Prevailing Wage Requirement "). Additionally, Seller shall [project-specific commitments pertaining to union, local and/or other workforce commitments to be inserted]. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability arising from or related to any inapplicable provisions of any applicable labor Laws.
Seller Events of Default:	Seller Events of Default include, but are not limited to, the occurrence of any of the following: • 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 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; • 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	• 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 (the "**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: _____

