

Board of Directors Adjourned Regular Meeting Agenda

January 13, 2022, 2:00 p.m.
City of Solana Beach | Virtual Meeting

Pursuant to Government Code Section 54953(3) (Assembly Bill 361), and in the interest of public health and safety, Clean Energy Alliance (CEA) is temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding CEA Joint Powers Authority meetings electronically or by teleconferencing. All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the CEA Joint Powers Authority Board of Directors.

Members of the public can watch the meeting live through the You Tube Live Stream Link at:

<https://thecleanenergyalliance.org/agendas-minutes/>

or

<https://www.youtube.com/channel/UCGXJILzITUJOCZwVGpYoC8Q>

This is a view-only live stream. If the You Tube live stream experiences difficulties members of the public should access the meeting via the Zoom link below.

Members of the public can observe and participate in the meeting via Zoom by clicking:

<https://us06web.zoom.us/j/81376410530>

or telephonically by dialing:

(253) 215-8782

Meeting ID: 813 7641 0530

Members of the public can provide public comment in writing or orally as follows:

Written Comments: If you are unable to connect by Zoom or phone and you wish to make a comment, you may submit written comments prior to and during the meeting via email to: Secretary@thecleanenergyalliance.org. Written comments received up to an hour prior to the commencement of the meeting will be announced at the meeting and become part of the meeting record. Public comments received in writing will not be read aloud at the meeting.

Oral Comments: You can participate in the meeting by providing oral comments either: (1) online by using the raise hand function and speaking when called upon or (2) using your telephone by pressing *9 to raise your hand and speaking when called upon.

If you are an individual with a disability and need a reasonable modification or accommodation pursuant to the Americans with Disabilities Act ("ADA"), please contact Secretary@thecleanenergyalliance.org prior to the meeting for assistance.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

BOARD COMMENTS & ANNOUNCEMENTS

PRESENTATIONS

PUBLIC COMMENT

New Business

Item 1: Consideration of Adoption of Resolution No. 2022-001 Approving Credit Agreement Amendment and Fee Agreement with JPMorgan Increasing the Line of Credit from \$6MM to \$15MM

RECOMMENDATION

- 1) Adopt Resolution No. 2022-001 approving credit agreement amendment with JPMorgan, in a form substantially as attached, increasing the line of credit from \$6MM to \$15MM and authorize the Chief Executive Officer to execute all documents, subject to Special and General Counsel approval; and
- 2) Approve related Fee Agreement with JPMorgan and authorize the Chief Executive Officer to execute all documents, subject to Special and General Counsel approval.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

NEXT MEETING: Regular Board Meeting January 27, 2022, City of Carlsbad, Virtual



Staff Report

DATE: January 13, 2022

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Chief Executive Officer

ITEM 1: Consideration of Adoption of Resolution No. 2022-001 Approving Credit Agreement Amendment with JPMorgan Increasing the Line of Credit from \$6MM to \$15MM

RECOMMENDATION:

- 1) Adopt Resolution No.2022-001 approving credit agreement amendment with JPMorgan, in a form substantially as attached, increasing the line of credit from \$6MM to \$15MM and authorize the Chief Executive Officer to execute all documents, subject to Special and General Counsel approval; and
- 2) Approve related Fee Agreement with JPMorgan and authorize the Chief Executive Officer to execute all documents, subject to Special and General Counsel approval.

BACKGROUND AND DISCUSSION:

At its regular meeting on January 21, 2021, the Clean Energy Alliance (CEA) Board approved Resolution No. 2021-004, approving a credit agreement with JPMorgan for \$6MM to fund start-up costs and initial cash flow needs for CEA. As of January 2022, CEA will have drawdown the full \$6MM.

Since initiating its power supply procurement in spring 2021, CEA has experienced rising power supply costs. These increased costs are resulting in power supply costs that exceed estimates in Fiscal Year (FY) 2021/22. At its meeting on December 30, 2021, the CEA Board adopted an amended rate schedule that results in sufficient revenue being generated in fiscal years beginning 2022/23 and beyond, however the shortfall for the remainder of FY 2021/22 remains.

CEA staff has undergone discussions with JPMorgan regarding increasing the line of credit to meet the FY 2021/22 cash flow needs. Based on discussions between CEA and JPMorgan, JPMorgan has proposed the following amendments to existing terms and new terms to the existing credit agreement, which are reflected in the attached redlined Revolving Credit Agreement (Attachment C), to be attached as Annex A to the Second Amendment to Revolving Credit Agreement (Attachment B) upon finalization of the documents.

Amendments to Existing Term

1. Increase to \$15,000,000 on the new Effective Date (defined as January 14, 2022).

2. Quarterly and annual reporting to be expanded to include a Debt Service Coverage Ratio (“DSCR”) calculation, a Days Liquidity on Hand calculation (as defined below), and any updates to the annual budget.
3. Monthly reporting to be expanded to include a monthly liquidity report disclosing available liquidity, unrestricted cash and a summary report of hedging transactions.
4. Requirement to report to JPMorgan within 5 business days of Board adoption, adjustments to CEA generation rates when the adjustment is 5% or greater and to include an updated 12-month financial projection.
5. DSCR quarterly testing start date changed from quarter ended 6/30/2022 to 6/30/2023. If DSCR is below 1.40x for any testing period, but Days Liquidity on Hand, (defined as: the quotient, in number of days, obtained by dividing (i) sum of unrestricted cash and cash equivalents and the unutilized portion of the line of credit on such date of determination by (ii) the product of (A) the sum of operating and interest expenses for the four consecutive fiscal quarter period ended on or immediately prior to such date of determination and (B) 1/365) as of the last day of such testing period exceeds 30 days for FY 2022/23 and 50 days in any testing period thereafter, then DSCR will not be considered to be breached. The Liquidity on Hand cure may only be applied two times in aggregate in any four quarter consecutive periods.

New Terms

6. Effective date shall mean January 14, 2022.
7. A requirement that CEA must repay \$5,000,000 of the line of credit by no later than 12/31/2023. Amounts repaid may be re-borrowed after 30 days.
8. Introduction of a rolling hedge requirement (inclusive of Escondido and San Marcos) for the following levels:

ANNUAL REQUIREMENTS	HEDGING REQUIREMENT
CY 2022	Minimum 80% hedged
CY 2023	Minimum 60% hedged
CY 2024	Minimum 40% hedged

Roll forward of the hedge requirements will be subject to JPMorgan’s discretion, in its reasonable judgement based on an annual meeting between CEA and JPMorgan, and a roll forward of the schedule shall not be required by JPMorgan for a particular year (or JP Morgan may require lower hedging percentages) if CEA provides JPMorgan information demonstrating that a roll forward would be contrary to market conditions then existing for power purchases and adverse to CEA’s financial position.

9. CEA Board approve rate increase effective January 1, 2022 (Board approved December 30, 2021).
10. Line of credit converted from LIBOR based interest to SOFR due to elimination of LIBOR. The applicable interest rate to be calculated by the sum of the Term SOFR Rate plus 0.10%, plus 3.45%, provided that if the Adjusted Term SOFR Rate is less than zero, then the rate shall be determined to be zero for calculating the interest rate. For example, if the 1-Month Term SOFR is 0.05%, the adjusted SOFR rate is 0.15%, and loans will be charged 3.60% (3.45% + 0.15%).

The term of the line of credit remains unchanged with the full amount to be repaid by January 31, 2026.

Staff and its legal and technical team have reviewed and vetted the amended and new terms proposed by JPMorgan, and have determined them to be acceptable and achievable.

The increase of \$9.00MM (from \$6.0MM to \$15.0MM) is projected to fund projected cash needs through June 30, 2022, of \$6.0MM and an additional \$3.0MM to fund unanticipated costs related to service expansion to Escondido and San Marcos.

Cost Estimates

Cost estimates, based on scenarios of utilizing 38% (current drawn amount), 50% and 100% of the increased line of credit amount of \$15 million, are reflected below:

Clean Energy Alliance - Cost Estimates

As of January 6, 2022

Scenario 1: Current Drawn Size Unchanged

Line of Credit Commitment Amount	\$ 15,000,000
Closing Date	1/14/22
Maturity Date	2/2/26
Years Facility in Place:	4.05
<u>Working Capital Loan</u>	
Average Utilization (% of Amount)*	38%
1-Month SOFR (as of 1/6/2022)	0.055%
Credit Spread Adjustment	0.100%
Applicable Margin	3.450%
Undrawn Fee (% of Undrawn Amount)	2.150%
<u>Standby LOC</u>	
Standby LOC Utilization (% of Amount)	0%
Standby LOC Fee (% of Drawn Amount)	
1-Year LOC Fee	3.25%
2-Year LOC Fee	3.30%
3-Year LOC Fee	3.34%
4-Year LOC Fee	3.40%
5-Year LOC Fee	3.45%
Standby LOC Draw Fee (per LOC)	\$500
Amendment Fee	\$10,000
Documentation Fee	\$0
Amendment Fee	\$10,000
Commitment Fee**:	\$816,630
Interest on Outstanding Balances**:	\$851,288
Standby LOC Fees:	\$0
Bank Counsel Fees:	\$20,000
Total Cost over the Remaining Life of Facility:	\$1,697,918
Interest Only Costs:	\$1,667,918
Utilization Amount (Draws):	\$5,750,000
Standby LOC Amount:	\$0
Total Utilization:	\$5,750,000
	38%

*Utilization based on current drawn amount

**Calculated on act/360 basis

Assuming a 38% utilization (current drawn amount), the total costs (interest plus fees) through the life of the credit facility are \$1,697,918 and interest only costs for the remaining life are \$1,667,918.

Clean Energy Alliance - Cost Estimates

As of January 6, 2022

Scenario 2: 50% Utilization

Line of Credit Commitment Amount	\$ 15,000,000
Closing Date	1/14/22
Maturity Date	2/2/26
Years Facility in Place:	4.05
<u>Working Capital Loan</u>	
Average Utilization (% of Amount)*	50%
1-Month SOFR (as of 1/6/2022)	0.055%
Credit Spread Adjustment	0.100%
Applicable Margin	3.450%
Undrawn Fee (% of Undrawn Amount)	2.150%
<u>Standby LOC</u>	
Standby LOC Utilization (% of Amount)	0%
Standby LOC Fee (% of Drawn Amount)	
1-Year LOC Fee	3.25%
2-Year LOC Fee	3.30%
3-Year LOC Fee	3.34%
4-Year LOC Fee	3.40%
5-Year LOC Fee	3.45%
Standby LOC Draw Fee (per LOC)	\$500
Amendment Fee	\$10,000
Documentation Fee	\$0
Amendment Fee	\$10,000
Commitment Fee**:	\$662,133
Interest on Outstanding Balances**:	\$1,110,375
Standby LOC Fees:	\$0
Bank Counsel Fees:	\$20,000
Total Cost over the Remaining Life of Facility:	\$1,802,508
Interest Only Costs:	\$1,772,508
Utilization Amount (Draws):	\$7,500,000
Standby LOC Amount:	\$0
Total Utilization:	\$7,500,000
	50%

*Utilization a manual input

**Calculated on act/360 basis

Assuming a 50% utilization of the increased capacity, the total costs (interest plus fees) through the life of the credit facility are \$1,802,508 and interest only costs for the remaining life are \$1,772,508.

Clean Energy Alliance - Cost Estimates

As of January 6, 2022

Scenario 3: 100% Utilization

Line of Credit Commitment Amount	\$ 15,000,000
Closing Date	1/14/22
Maturity Date	2/2/26
Years Facility in Place:	4.05
Working Capital Loan	
Average Utilization (% of Amount)*	100%
1-Month SOFR (as of 1/6/2022)	0.055%
Credit Spread Adjustment	0.100%
Applicable Margin	3.450%
Undrawn Fee (% of Undrawn Amount)	2.150%
Standby LOC	
Standby LOC Utilization (% of Amount)	0%
Standby LOC Fee (% of Drawn Amount)	
1-Year LOC Fee	3.25%
2-Year LOC Fee	3.30%
3-Year LOC Fee	3.34%
4-Year LOC Fee	3.40%
5-Year LOC Fee	3.45%
Standby LOC Draw Fee (per LOC)	\$500
Amendment Fee	\$10,000
Documentation Fee	\$0
Amendment Fee	\$10,000
Commitment Fee**:	\$0
Interest on Outstanding Balances**:	\$2,220,750
Standby LOC Fees:	\$0
Bank Counsel Fees:	\$20,000
Total Cost over the Remaining Life of Facility:	\$2,250,750
Interest Only Costs:	\$2,220,750
Utilization Amount (Draws):	\$15,000,000
Standby LOC Amount:	\$0
Total Utilization:	\$15,000,000
	100%

*Utilization a manual input

**Calculated on act/360 basis

Assuming a 100% utilization, the total costs (interest plus fees) through the life of the credit facility are \$2,250,750 and interest only costs for the remaining life are \$2,220,750.

The Second Amendment to Revolving Credit Agreement (Attachment B) includes the closing conditions and documents, including CEA's representations and warranties, required to finalize the proposed amendment, and reflects the proposed amendments as a marked copy of the Credit Agreement to be attached as Annex A to the Second Amendment.

The Amended Credit Agreement (Attachment C) reflects the amended and new terms as listed above, and upon finalization, will be attached as Annex A to the Second Amendment described above.

The Fee Agreement (Attachment D) before the Board memorializes the terms and conditions of the fees associated with the credit facility amendment consistent with the term sheet. It establishes calculation methodologies of fees including Undrawn Fees, Letter of Credit Fees, Issuance or Drawing Fees and other related fees for the Line of Credit. The document has been reviewed and approved by Nixon Peabody and CEA's General Counsel.

FISCAL IMPACT

Costs related to the credit agreement increase include a JPMorgan fee of \$10,000, JPMorgan legal fees capped at \$20,000 and CEA legal fees estimated at \$20,000. Current CEA rates are sufficient to cover annual interest expenses, the required \$5.0MM repayment by December 31, 2023, and full repayment by January 31, 2026.

ATTACHMENTS:

Attachment A - Resolution 2022-001 Approving Credit Agreement Amendment with JPMorgan
Attachment B – Second Amendment to Revolving Credit Agreement
Attachment C – Annex A to Second Amendment (redlined JP Morgan Credit Agreement)
Attachment D – JPMorgan Fee Agreement

**CLEAN ENERGY ALLIANCE
RESOLUTION NO. 2022-001**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
CLEAN ENERGY ALLIANCE APPROVING AND AUTHORIZING
AN AMENDMENT TO THE REVOLVING CREDIT AGREEMENT WITH
JPMORGAN CHASE BANK, N.A., INCLUDING AN INCREASE IN THE
COMMITMENT AVAILABLE THEREUNDER, A NEW FEE AGREEMENT AND
CERTAIN MATTERS RELATED THERETO**

WHEREAS, Clean Energy Alliance (“CEA”) is a joint powers authority established on November 4, 2019, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, CEA now currently includes the following members: the City of Carlsbad, the City of Del Mar, the City of Solana Beach, the City of Escondido and the City of San Marcos; and

WHEREAS, CEA and JPMorgan Chase Bank, N.A. (“JPMorgan”) have previously entered into a Revolving Credit Agreement, dated as of February 3, 2021, as amended by that certain First Amendment to Revolving Credit Agreement, dated as of February 26, 2021 (the “Revolving Credit Agreement”), including the fee agreement related thereto (the “Prior Fee Agreement”), which Revolving Credit Agreement is available for general agency purposes and to provide credit support for future power purchase contracts, and which Revolving Credit Agreement and Prior Fee Agreement currently allows CEA to borrow cash or to request the issuance of letters of credit in an aggregate principal amount not to exceed \$6,000,000; and

WHEREAS, CEA staff and JPMorgan have been and are negotiating the terms of an increase in the commitment available under the Revolving Credit Agreement to allow CEA to borrow cash or to request the issuance of letters of credit in an aggregate principal amount not to exceed \$15,000,000 pursuant to an amendment (the “Amendment”) and a new fee agreement (the “New Fee Agreement”) thereto, copies of which Amendment and New Fee Agreement are on file with the Board of Directors of CEA; and

WHEREAS, the good faith estimates required to be obtained and disclosed with respect to the increase in the commitment available under the Revolving Credit Agreement and New Fee Agreement in accordance with Government Code Section 5852.1 are set forth in the report accompanying this Resolution; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of Clean Energy Alliance, as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The Board of Directors (the “Board”) of the Clean Energy Alliance (“CEA”) hereby approves the Chief Executive Officer, the Chief Financial Officer/Treasurer (including the Interim Chief Financial Officer/Treasurer) and their designees as authorized representatives of

CEA (each an “Authorized Representative” and collectively, the “Authorized Representatives”) in connection with the negotiation and execution of the Amendment to increase the amount of the commitment available under the Revolving Credit Agreement as amended by the Amendment (the “Amended Revolving Credit Agreement”) to \$15,000,000, and the New Fee Agreement related thereto, including such related amendments deemed necessary or advisable by the Authorized Representative executing the Amendment and the New Fee Agreement to implement the terms of increase, and any ancillary documents relating thereto.

Section 3. The Board hereby approves each Authorized Representative, acting singly, to execute and deliver the Amendment, the New Fee Agreement and any related ancillary documents in substantially the same form presented to the Board of Directors of CEA, with such modifications, changes, insertions and omissions as may be approved by such Authorized Representative as in the best interests of CEA, the execution thereof to be conclusive evidence of such approval.

Section 4. The Board hereby approves each Authorized Representative, acting singly, to borrow and authorize advances or the issuance of letters of credit from time to time under the Amended Revolving Credit Agreement in such amounts as in their judgment should be borrowed and to provide security for the obligations of CEA under the Amended Revolving Credit Agreement, including, without limitation, a pledge of the net revenues of CEA, and to execute and deliver any requests or other documents and agreements as such Authorized Representative may, in her or his discretion, deem reasonably necessary or proper in order to carry into effect the provisions of the Amended Revolving Credit Agreement and the New Fee Agreement.

Section 5. The Board hereby affirms the prior appointment of Nixon Peabody LLP to act as special counsel to CEA in connection with the negotiation and execution of the Amended Revolving Credit Agreement, the New Fee Agreement and the ancillary documents.

Section 6. The Authorized Representatives, the Interim Board Secretary, and the Interim Board Clerk and all other appropriate officials of the CEA are hereby authorized and directed to execute such other agreements, documents and certificates as may be necessary to effect the purposes of this resolution.

Section 7. The Board hereby approves that all acts, transactions or agreements undertaken, prior to the adoption of these resolutions by any of the officers of CEA, or their designees, in its name and for its account in connection with the foregoing matters, are hereby ratified, confirmed and adopted by CEA.

Section 8. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was passed and adopted this 13th day of January 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Kristi Becker, Chair

ATTEST:

Sheila Cobian, Interim Board Secretary

SECOND AMENDMENT TO REVOLVING CREDIT AGREEMENT

This SECOND AMENDMENT TO REVOLVING CREDIT AGREEMENT (this “*Amendment*”) dated as of January [14], 2022 (the “*Effective Date*”), is by and between CLEAN ENERGY ALLIANCE, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. (together with its successors and assigns, “*Borrower*” or “*CEA*”), and JPMORGAN CHASE BANK, N.A. (together with its successors and assigns, the “*Lender*”). All capitalized terms herein and not defined herein shall have the respective meanings set forth in the hereinafter defined Agreement.

WITNESSETH

WHEREAS, CEA and the Lender have entered into that certain Revolving Credit Agreement dated as of February 3, 2021, as amended by that certain First Amendment to Revolving Credit Agreement, dated February 26, 2021 (together, the “*Agreement*”), relating to the advance of revolving loans and the issuance of letters of credit by the Lender;

WHEREAS, CEA has requested that the Lender amend certain provisions of the Agreement and the Lender is willing to amend such provisions pursuant to the terms and conditions provided for herein;

WHEREAS, pursuant to Section 7.1 of the Agreement, the Agreement may be amended by a written amendment thereto executed by the Lender and CEA;

NOW THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

1. AMENDMENTS.

Subject to the satisfaction or waiver of the conditions precedent set forth in Section 2 below, the Agreement shall be and hereby is amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the underlined text (indicated textually in the same manner as the following example: underlined text) as set forth in the pages of the Agreement attached hereto as Annex A.

2. CONDITIONS PRECEDENT.

This Amendment shall become effective on the Effective Date, subject to the satisfaction of or waiver by the Lender of all of the following conditions precedent:

2.01. Delivery by CEA and the Lender of an executed counterpart of this Amendment.

2.02. Delivery by CEA to the Lender of (i) the authorizing resolution of the Borrower approving the execution and delivery of this Amendment and the Amended and Restated Fee Agreement, dated the date hereof (the “*Fee Agreement*”), by and between the Borrower and the

Lender, and performance of its obligations hereunder, (ii) opinions of (a) Nixon Peabody LLP, special counsel to the Borrower, and (b) Richards, Watson & Gershon, a Professional Corporation, general counsel to the Borrower, each dated the Effective Date and each addressed to the Lender in the form satisfactory to the Lender and its counsel and (iii) a customary certificate executed by the appropriate officers of the Borrower including the incumbency and signature of the officer of the Borrower executing this Amendment and the Fee Agreement.

2.03. Delivery by CEA to the Lender of evidence of (i) CEA's January 2022 rate increase and (ii) CEA's approval of the Cities of San Marcos and Escondido to become members of CEA, each in form satisfactory to the Lender and its counsel.

2.04. Payment of all fees and expenses of the Lender, including the Lender's \$10,000 amendment fee and the Lender's reasonable legal fees, incurred in connection with the preparation of this Amendment.

2.05. All other legal matters pertaining to the execution and delivery of this Amendment shall be reasonably satisfactory to the Lender and its counsel.

3. REPRESENTATIONS AND WARRANTIES

3.01. Borrower represents and warrants to the Lender as follows:

(a) the undersigned (i) is, on and as of the Effective Date, the duly appointed, qualified and acting Chief Executive Officer of CEA and (ii) has been and is duly authorized to execute and deliver, in the name of, for and on behalf of CEA, this Amendment;

(b) the representations and warranties of CEA contained in the Agreement and each of the Basic Documents are true and correct on and as of the Effective Date as though made on and as of each such date; and

(c) no Default or Event of Default has occurred and is continuing or would result from the execution of this Amendment.

3.02. In addition to the representations given in the Agreement, the Borrower hereby ratifies and affirms that, both before and after giving effect to this Amendment:

(a) The Net Revenues are pledged by the Borrower to the payment of the Obligations without priority or distinction of one Obligation over another Obligation. The pledge of Net Revenues is valid and binding in accordance with the terms of the Act, the Joint Powers Agreement and the Resolution, and the Net Revenues shall immediately be subject to the pledge, and the pledge shall constitute a lien and security interest which shall immediately attach to the Net Revenues and be effective, binding, and enforceable against the Borrower, its successors, creditors, and all others asserting the rights therein, to the extent set forth in the Agreement, and in accordance with the Act, the Joint Powers Agreement and the Resolution, irrespective of whether those parties have notice of the

pledge and without the need for any physical delivery, recordation, filing, or further act. The pledge of the Net Revenues made in the Agreement shall be irrevocable until the Commitment has expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed. Notwithstanding any other provision of the Agreement to the contrary, all Obligations are limited obligations of the Borrower payable solely from Net Revenues. The pledge of the Net Revenues made in the Agreement shall be senior to any pledge of the Net Revenues made with respect to any Subordinate Debt.

4. MISCELLANEOUS.

Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its terms. Reference to this Amendment need not be made in any note, document, agreement, letter, certificate, the Agreement or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement shall be sufficient to refer to, and shall mean and be a reference to, the Agreement, as hereby amended. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby. All capitalized terms used herein without definition shall have the same meanings herein as they have in the Agreement. THIS AMENDMENT AND THE AGREEMENT, AS AMENDED HEREBY, SHALL BE DEEMED TO BE A CONTRACT UNDER, AND FOR ALL PURPOSES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS; *PROVIDED*, THAT THE OBLIGATIONS OF THE LENDER HEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS. Section 7.14 of the Agreement is incorporated herein by reference.

This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract; *provided* that such execution shall be in accordance with Section 7.11 of the Agreement, which Section 7.11 is incorporated herein by reference.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers hereunto duly authorized as of the Effective Date.

CLEAN ENERGY ALLIANCE

By: _____

Name: Barbara Boswell

Title: Chief Executive Officer

JPMORGAN CHASE BANK, N.A.

By: _____

Name: Allyson Goetschius

Title: Executive Director

**ANNEX A TO SECOND AMENDMENT TO
REVOLVING CREDIT AGREEMENT
(ATTACHED)**

REVOLVING CREDIT AGREEMENT

Dated as of February 3, 2021

by and between

CLEAN ENERGY ALLIANCE,
as Borrower

and

JPMORGAN CHASE BANK, N.A.,
as Lender

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REVOLVING CREDIT AGREEMENT

THIS REVOLVING CREDIT AGREEMENT, dated as of February 3, 2021 (together with all amendments and supplements hereafter, this “*Agreement*”) is by and between CLEAN ENERGY ALLIANCE, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. (together with its successors and assigns, “*Borrower*” or “*CEA*”), and JPMORGAN CHASE BANK, N.A. (together with its successors and assigns, the “*Lender*”).

WITNESSETH:

WHEREAS, Borrower has requested, and Lender has agreed to make available to Borrower, a revolving credit facility upon and subject to the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the premises and the mutual agreements herein contained, the Borrower and the Lender agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1. Definitions. As used in this Agreement:

“*Account Control Agreement*” means the Account Control Agreement, substantially in the form attached hereto as Exhibit E, as amended and supplemented in accordance with the terms hereof, by and among by and among (i) River City Bank, a California corporation, (ii) CEA and (iii) River City Bank, a California corporation, not in its individual capacity, but solely as collateral agent.

“*Act*” means the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq.

“*Adjusted ~~LIBO~~Term SOFR Rate*” means, with respect to any ~~Eurodollar Borrowing~~SOFR Loan for any Interest Period, an interest rate per annum (~~rounded upwards, if necessary, to the next 1/16 of 1%~~) equal to (a) the ~~LIBO~~Term SOFR Rate in effect for such Interest Period ~~multiplied by plus~~ (b) the ~~Statutory Reserve Rate~~Credit Spread Adjustment; provided that if the Adjusted Term SOFR Rate as so determined would be less than zero (0.0%), such rate shall be deemed to be zero (0.0%) for the purposes of this Agreement.

“*Affiliate*” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“*Agreement*” has the meaning set forth in the introductory paragraph hereof.

[“Alternate Rate” has the meaning assigned to such term in Section 2.11\(c\).](#)

“*Annual Debt Service*” means, as of any date of calculation, for any Fiscal Year or other designated four fiscal quarter period, the sum of (a) all interest and fees (including facility fees, undrawn fees and commitment fees) due and payable on the Loans, other Parity Debt and other Subordinate Debt (or, in the case of projected Annual Debt Service, projected to be due and payable) in such Fiscal Year or other designated four fiscal quarter period and (b) the quotient obtained by dividing the average daily outstanding principal balance of the Loans, other Parity Debt and Subordinate Debt during such Fiscal Year or other designated four fiscal quarter period by 5.

“*Anti-Corruption Laws*” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower from time to time concerning or relating to bribery or corruption.

“*Applicable Law*” means (i) all applicable common law and principles of equity and (ii) all applicable provisions of all (A) constitutions, statutes, rules, regulations and orders of all governmental and non-governmental bodies, (B) Governmental Approvals and (C) orders, decisions, judgments and decrees of all courts (whether at law or in equity) and arbitrators.

“*Applicable Margin*” has the meaning set forth in the Fee Agreement.

“*Audited Financial Statements*” has the meaning set forth in Section 4.6.

“*Authorized Representative*” means an “Authorized Representative” as defined in the Resolution, and any other individual designated from time to time as an “Authorized Representative” in a certificate executed by the Borrower and delivered to the Lender.

[“Available Liquidity” means the unrestricted cash and investments as reflected in the Statement of Net Position in the unaudited quarterly financial statements or audited financial statements for the relevant quarterly or fiscal year period, but excluding, without limitation: \(1\) any trustee-held funds; \(2\) any creditor-held funds; \(3\) any debt service reserve funds established to secure any Debt of the Borrower; \(4\) any self-insurance and captive insurance funds; \(5\) any pension and retirement funds; and \(6\) the fair market value of collateral posted to secure any swap termination payments under any Swap Agreement.](#)

“*Availability Period*” means the period from and including the Closing Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitment.

“*Bank Agreement*” means any credit agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement, bond purchase agreement, or other agreement or instrument (or any amendment, supplement or other modification thereof) under which, directly or indirectly, any Person or Persons undertake(s) to (x) make or provide funds to make payment of, or to purchase or provide credit enhancement for, bonds or notes of the Borrower or (y) extend credit to the Borrower.

“*Base Rate*” means, for any day, a rate per annum equal to the greatest of (a) the Prime

Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus 0.5% per annum; and (c) the Adjusted LIBO Term SOFR Rate for a one month Interest Period ~~as published two U.S. Government Securities Business Days prior to~~ such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%; ~~provided that for the purpose of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate (or if the LIBO Screen Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m. London time on such day.~~ Any change in the Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the LIBO Adjusted Term SOFR Rate, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to Section 2.11 hereof, then the Base Rate shall be the greater of ~~clause~~clauses (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Base Rate ~~shall~~is determined pursuant to the foregoing would be less than one percent (1.0%), such rate shall be deemed to be one percent (1.0%) for purposes of this Agreement.

“*Base Rate Borrowing*”, when used in reference to any Loan or Borrowing of a Loan, refers to whether such Loan or Borrowing bears interest at a rate determined by reference to the Base Rate.

“*Basic Documents*” means, at any time, each of the following documents and agreements as in effect or as outstanding, as the case may be, at such time: (a) this Agreement, including schedules and exhibits hereto, (b) the Fee Agreement, and (c) and any other documents executed and delivered by Borrower in connection with this Agreement or the Fee Agreement, if any. For the avoidance of doubt, PPAs are not Basic Documents.

“Benchmark” means, initially, the Term SOFR Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Rate, then “Benchmark” means the Alternate Rate to the extent that such Alternate Rate has replaced such prior benchmark rate pursuant to clause (c) of Section 2.11.

“*Benchmark Transition Event*” means the occurrence of one or more of the following events with respect to the LIBO Term SOFR Rate:

(~~1~~i)- a public statement or publication of information by or on behalf of the CME Term SOFR Administrator (or any successor administrator of the LIBO Screen Term SOFR Rate, or the published component used in the calculation thereof) announcing that such ~~administrator~~CME Term SOFR Administrator has ceased or will cease to provide the LIBO Screen Term SOFR Rate (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBO Screen Term SOFR Rate (or such component thereof); or

(~~2~~ii)- a public statement or publication of information by the NYFRB, the Federal Reserve Board, or, as applicable, the regulatory supervisor for the ~~administrator of the LIBO Screen Rate, the U.S. Federal Reserve System~~CME Term SOFR Administrator, an insolvency official with jurisdiction over the ~~administrator for the LIBO Screen Rate~~CME

Term SOFR Administrator, a resolution authority with jurisdiction over the ~~administrator for the LIBO Screen Rate~~CME Term SOFR Administrator, or a court or an entity with similar insolvency or resolution authority over the ~~administrator for the LIBO Screen Rate; CME Term SOFR Administrator, in each case~~, which states that the CME Term SOFR Administrator (or any successor administrator of the LIBO Screen Term SOFR Rate, or the published component used in the calculation thereof) has ceased or will cease to provide the ~~LIBO Screen~~Term SOFR Rate (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the ~~LIBO Screen~~Term SOFR Rate (or such component thereof); or

(3iii) ~~a~~ public statement or publication of information by the Federal Reserve Board, the NYFRB, the CME Term SOFR Administrator, or the regulatory supervisor for the CME Term SOFR Administrator (or any successor administrator of the LIBO Screen Term SOFR Rate, or the published component used in the calculation thereof), announcing that the ~~LIBO Screen~~Term SOFR Rate (or such component thereof) is no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to the Term SOFR Rate if a public statement or publication of information set forth above has occurred with respect to each then-current available tenor of the Term SOFR Rate.

“Board” means the Board of Directors of the Borrower.

“Borrower” has the meaning set forth in the introductory paragraph hereof.

“Borrowing” means the making, conversion or continuation of a Loan.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.3 and in the form of Exhibit C hereto.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Chicago or San Diego are authorized or required by law to remain closed; *provided* that, when used in connection with a ~~Eurodollar~~SOFR Loan, the term “Business Day” shall also exclude any day on which ~~banks are not open for dealings in dollar deposits in the London interbank market~~the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“Cash Collateral Loan” means a Loan (or a portion of a Loan) the proceeds of which are deposited with a Person other than the Borrower in order to secure the Borrower’s payment obligations under one or more PPAs or to make a termination payment under PPAs.

“Change in Law” means the occurrence after the date of this Agreement of (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation

or treaty or in the interpretation or application thereof by any Governmental Authority or (c) compliance by the Lender (or, for purposes of Section 2.12(b), by any lending office of the Lender or its holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; *provided* that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Lender for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“*Closing Date*” means the first date on which the conditions precedent set forth in Section 3.1 hereof are satisfied and/or waived in writing by the Lender.

“*CME Term SOFR Administrator*” means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (or a successor administrator).

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time, including regulations, rulings and judicial decisions promulgated thereunder.

“*Commitment*” means the commitment of the Lender to make Loans and to issue Letters of Credit, expressed as an amount representing the maximum aggregate amount of the Lender’s Revolving Credit Exposure hereunder, as such commitment may be reduced from time to time pursuant to Section 2.8. The initial amount of the Commitment ~~is~~ was \$6,000,000. As of the Second Amendment Effective Date, the amount of the Commitment is \$15,000,000.

“*Connection Income Taxes*” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“*Control*” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, “Controlling” and “Controlled” have meanings correlative thereto.

“*Credit Spread Adjustment*” means 0.10% per annum.

“*Days Liquidity on Hand*” means, as of any date of determination, the quotient, in number of days, obtained by dividing (i) sum of Available Liquidity and the Unutilized Commitment (as defined in the Fee Agreement) on such date of determination by (ii) the product of (A) the sum of Operating and Maintenance Costs for the four consecutive fiscal quarter period ended on or immediately prior to such date of determination and (B) 1/365.

“*Debt*” of any Person means, at any date, without duplication, (a) all obligations of such

Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee under capital leases, (e) all debt of others secured by a Lien on any asset of such Person, whether or not such debt is assumed by such Person, (f) all Guarantees by such Person of debt of other Persons, (g) the net obligations of such Person under any Swap Agreement and (h) all obligations of such Person to reimburse or repay any bank or other Person in respect of amounts paid or advanced under a letter of credit, credit agreement, liquidity facility or other instrument. The amount of any net obligation under any Swap Agreement on any date shall be deemed to be the Swap Termination Value thereof as of such date.

“Debt Service Coverage Ratio” means, for any fiscal quarter of the Borrower, the quotient obtained by dividing Net Revenues by Annual Debt Service, in each case as determined for the four consecutive fiscal quarter periods ended on the last date of such fiscal quarter.

“Debt Service Coverage Ratio Notice” has the meaning set forth in Section 5.1(q) hereof.

“Default” means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

“Default Rate” has the meaning set forth in the Fee Agreement.

“Direction Letter” has the meaning set forth in the Security Agreement.

“dollars” or *“\$”* refers to lawful money of the United States of America.

“EEI Master Agreement” means the EEI Master Power Purchase and Sale Agreement, version 2.1 (modified 4/25/00), created by the Edison Electric Institute and National Energy Marketers Association.

“Electronic System” means any electronic system, including e-mail, e-fax, web portal access for the Borrower, and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Lender and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

“Employee Plan” means an employee benefit plan covered by Title W of ERISA and maintained for employees of the Borrower.

“Environmental Laws” means any and all federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products,

chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

~~“Eurodollar” when used in reference to any Loan or Borrowing of a Loan, refers to whether such Loan, or the Loan comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate.~~

“Event of Default” has the meaning set forth in Section 6.1 hereof.

“Excluded Taxes” means, with respect to the Lender or any Participant, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which the Lender or such Participant is organized or in which its principal office is located and (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located.

“Existing Debt” means (i) that certain Agreement, dated June 1, 2020, between the Borrower and Calpine, including that certain Promissory Note, issued in connection therewith by Borrower to Calpine, currently outstanding in the aggregate principal amount of \$400,000, and (ii) that certain Agreement, dated June 1, 2020, between the Borrower and Calpine, including that certain Promissory Note 2, issued in connection therewith by Borrower to Calpine, currently outstanding in the aggregate principal amount of \$250,000.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as shall be set forth on ~~NYFRB~~the Federal Reserve Bank of New York’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate, provided that, if the Federal Funds Effective Rate as so determined would be less than zero (0.0%), such rate shall be deemed to be zero (0.0%) for the purposes of this Agreement.

“Federal Reserve Bank of New York’s Website” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System of

the United States of America.

“*Fee Agreement*” means the Amended and Restated Fee Agreement ~~of even date herewith,~~ dated the Second Amendment Effective Date, between the Borrower and the Lender, as supplemented, amended, restated or otherwise modified from time to time.

“*Fiscal Year*” means each twelve-month period commencing on July 1 of a calendar year and ending on June 30 of the following calendar year.

“*Floor*” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Term SOFR Rate. For the avoidance of doubt the initial Floor for the Term SOFR Rate shall be zero (0.0%).

“*GAAP*” means generally accepted accounting principles in the United States of America from time to time as set forth in (a) the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and (b) statements and pronouncements of the Government Accounting Standards Board, as modified by the opinions, statements and pronouncements of any similar accounting body of comparable standing having authority over accounting by governmental entities.

“*Governmental Approval*” means an authorization, consent, approval, license or exemption of, registration or filing with, or report to, any Governmental Authority.

“*Governmental Authority*” means the government of the United States or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other Person with authority to bind a party at law.

“*Guarantees*” means, for any Person, all guarantees, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations of such Person to purchase, to provide funds for payment, to supply funds to invest in any other Person or otherwise to assure a creditor of another Person against loss.

~~“*Impacted Interest Period*” has the meaning assigned to it in the definition of “LIBO Rate.”~~

“*Indemnified Taxes*” means (a) Taxes other than Excluded Taxes and (b) to the extent not otherwise described in (a) hereof, Other Taxes.

“*Intercreditor and Collateral Agency Agreement*” means the Intercreditor and Collateral Agency Agreement, substantially in the form attached hereto as Exhibit F, as amended and supplemented in accordance with the terms hereof, is entered into by and among (i) River City

Bank, a California corporation, not in its individual capacity, but solely in its capacity as collateral agent, (ii) each of the creditors from time to time signatory thereto that are party to a PPA, and (iii) CEA.

“*Interest Election Request*” means a request by the Borrower to convert or continue a Revolving Borrowing (other than a Base Rate Borrowing of a Reimbursement Loan) in accordance with Section 2.5.

“*Interest Payment Date*” means, (a) with respect to any Base Rate Loan, the first Business Day of the month and the Maturity Date, and (b) with respect to any ~~Eurodollar~~SOFR Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and the Maturity Date.

“*Interest Period*” means, with respect to ~~any Eurodollar Borrowing~~SOFR Loans, the period commencing on the date of such ~~Eurodollar~~ Borrowing and ending on the numerically corresponding day in the calendar month that is one or three months thereafter, as the Borrower may elect; ~~provided~~, that (i) if any Interest Period would end on a day ~~other than~~which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day ~~and~~, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, and (c) no Interest Period may extend beyond the Maturity Date. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, ~~in the case of a Revolving Borrowing~~, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

~~“*Interpolated Rate*” means, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Lender (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period for which the LIBO Screen Rate is available that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate for the shortest period (for which that LIBO Screen Rate is available that exceeds the Impacted Interest Period, in each case, at such time.~~

“*Investment Policy*” means the investment guidelines of the Borrower as in effect on the date hereof, as such investment guidelines may be amended from time to time in accordance with State laws.

“*Joint Powers Act*” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et. seq.)

“*Joint Powers Agreement*” means the Joint Powers Agreement of Borrower effective as of November 4, 2019, and as amended from time to time.

“*Law*” means any treaty or any Federal, regional, state and local law, statute, rule,

ordinance, regulation, code, license, authorization, decision, injunction, interpretation, policy, guideline, supervisory standard, order or decree of any court or other Governmental Authority.

“*LC Collateral Account*” has the meaning set forth in Section 2.4(h).

“*LC Disbursement*” means a payment made by the Lender pursuant to a Letter of Credit.

“*LC Exposure*” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time.

“*Letter of Credit*” means any letter of credit issued pursuant to this Agreement.

“*Letter of Credit Fees*” has the meaning set forth in the Fee Agreement.

“*Letter of Credit Request*” means a request by the Borrower for a Letter of Credit in accordance with Section 2.4(a) and in the form of Exhibit D-1 hereto.

“*Letter of Credit Sublimit*” means \$0 or, subject to the terms and conditions set forth herein, such greater amount as may be agreed upon by the Lender in writing from time to time.

“*Lender*” has the meaning set forth in the introductory paragraph hereof.

“*Liabilities*” mean all claims (including intraparty claims), actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

~~“*LIBO Rate*” means, with respect to any Eurodollar Borrowing for any applicable Interest Period, the LIBO Screen Rate at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “*Impacted Interest Period*”) then the LIBO Rate shall be the Interpolated Rate.~~

~~“*LIBO Screen Rate*” means, for any day and time, with respect to any Eurodollar Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate, for Dollars for a period equal in length to such Interest Period as displayed on such day and time on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Lender in its reasonable discretion,~~

~~provided that if the LIBO Screen Rate as so determined would be less than twenty-five basis points (0.250%), such rate shall be deemed to twenty-five basis points (0.250%) for the purposes of this Agreement.~~

“*Lien*” means, with respect to any asset, (a) any lien, charge, claim, mortgage, security interest, pledge or assignment of revenues of any kind in respect of such asset or (b) the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

“*Loans*” means the loans made by the Lender to the Borrower pursuant to this Agreement, including, without limitation, Cash Collateral Loans, the Working Capital Loans and the Reimbursement Loans.

“*Lockbox Security Document(s)*” means, individually or collectively, as applicable, the Security Agreement, the Account Control Agreement, the Intercreditor and Collateral Agency Agreement and the Direction Letter.

“*Material Adverse Change*” means any material or adverse change in the business, operations, properties, assets, liability, condition (financial or otherwise) or prospects of the Borrower which, in the reasonable determination of the Lender, calls into question the Borrower’s ability to perform Borrower’s Obligations hereunder.

“*Material Adverse Effect*” means (a) a Material Adverse Change in, or a material adverse effect on, the operations, business, assets, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Borrower; (b) a material impairment of the rights and remedies of any Lender under this Agreement or any other Basic Document, or of the ability of the Borrower to perform its Borrower’s Obligations under this Agreement and any other Basic Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability of Borrower’s Obligations under this Agreement or any other Basic Document to which Borrower is a party.

“*Material Litigation*” shall have the meaning assigned to such term in Section 4.5.

“*Maturity Date*” means the date on which Commitment is scheduled to expire pursuant to its terms, initially 5:00 p.m. (New York time) on February 2, 2026, or such later date to which the Maturity Date may be extended pursuant to Section 2.17 and, if any such date is not a Business Day, the next preceding Business Day.

“*Maximum Rate*” means the maximum non-usurious interest rate that may, under applicable federal law and applicable state law, be contracted for, charged or received under such laws.

“*Member*” or “*Members*” means, individually or collectively, as applicable, (i) the City of Carlsbad, California (ii) the City of Del Mar, California and (iii) the City of Solana Beach, California.

“*Member Capital Advances*” means the capital contributions (whether cash or in kind) made by the Members prior to the Closing Date and outstanding in the aggregate amount of \$450,000.

“*Net Revenues*” means, for any period and as of any date of determination, the amount obtained by subtracting Operating and Maintenance Costs from Revenues, in each case for such period as of such date. Net Revenues does not include the “*Collateral*” as defined under the Security Agreement.

“*NYFRB*” means the Federal Reserve Bank of New York.

“*NYFRB Rate*” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); *provided* that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Lender from a ~~Federal~~federal funds broker of recognized standing selected by it; *provided, further*, that if any of the aforesaid rates ~~shall~~as so determined would be less than zero (0.0%), such rate shall be deemed to be zero (0.0%) for purposes of this Agreement.

~~“*NYFRB’s Website*” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.~~

“*Obligations*” means all obligations of the Borrower to the Lender or any Participant arising under or in relation to this Agreement and the Fee Agreement, including all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees (including, without limitation, the Undrawn Fee and the Letter of Credit Fees) and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of the Borrower to the Lender or any indemnified party, individually or collectively, existing on the ~~Effective~~Closing Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Basic Documents or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof.

“*Operating and Maintenance Costs*” shall be determined in accordance with the accrual basis of accounting in accordance with GAAP and shall mean the reasonable and necessary costs paid or incurred by Borrower for maintaining and operating the System, including costs of electric energy and power generated or purchased, costs of transmission and fuel supply, and including all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative costs of Borrower that are charged directly or apportioned to the maintenance and operation of the System, such as salaries and wages of employees, overhead, insurance, taxes (if any) and insurance

premiums, and including all other reasonable and necessary costs of Borrower such as fees and expenses of an independent certified public accountant, and including Borrower's share of the foregoing types of costs of any electric properties co-owned with others, excluding in all cases depreciation, replacement and obsolescence charges or reserves therefore and amortization of intangibles and extraordinary items computed in accordance with GAAP or other bookkeeping entries of a similar nature. Maintenance and Operation Costs shall include all amounts required to be paid by Borrower under take or pay contracts.

"Operating Reserve" means a reserve fund established by the Borrower to provide a reserve that can be utilized by the Borrower to pay Operating and Maintenance Costs (including power costs) when Revenues are insufficient.

"Other Connection Taxes" means, with respect to the Lender, Taxes imposed as a result of a present or former connection between the Lender and the jurisdiction imposing such Tax (other than connections arising from the Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Basic Document, or sold or assigned an interest in any Loan or Basic Document).

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Basic Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Overnight Lender Funding Rate" means, for any day, the rate comprised of both overnight federal funds and overnight ~~Eurodollar borrowings~~ eurolollar transactions denominated in Dollars by U.S.-managed banking offices of depository institutions, (as such composite rate shall be determined by the NYFRB as set forth on the NYFRB Federal Reserve Bank of New York's Website from time to time,) and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

"Parity Debt" means any System Debt issued or incurred by the Borrower (i) the payment of which is on parity with the Borrower's payment Obligations under this Agreement and (ii) that is subject to an intercreditor agreement in form and substance satisfactory to the Lender.

"Participant" has the meaning set forth in Section 7.3(b) hereof.

"Participation" has the meaning set forth in Section 7.3(b) hereof.

"Person" means an individual, a firm, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

"PPA" means a power purchase agreement executed between the Borrower and a PPA Counterparty. For purposes of notices, "PPA" includes EEI Master Agreements, but does not

include individual transaction confirmations executed under an EEI Master Agreement or WSPP Agreement.

“PPA Counterparty” means a party to a PPA other than the Borrower.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Lender) or any similar release by the Federal Reserve Board (as determined by the Lender).- Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Product” means any of the following: energy, renewable energy attributes, capacity attributes, resource adequacy benefits, or any other similar or related products contemplated in the PPAs.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

“Reimbursement Loan” has the meaning assigned to such term in Section 2.4(d).

“Reimbursement Loan Amortization Payment Amount” means, with respect to a Reimbursement Loan, the principal amount of such Reimbursement Loan on the applicable Reimbursement Loan Start Date divided by the number of Reimbursement Loan Payment Dates in the applicable Reimbursement Loan Amortization Period.

“Reimbursement Loan Amortization Period” means, with respect to a Reimbursement Loan, the period commencing on the applicable Reimbursement Loan Start Date and ending on the applicable Reimbursement Loan Maturity Date.

“Reimbursement Loan Maturity Date” means, with respect to a Reimbursement Loan, (the Maturity Date.

“Reimbursement Loan Payment Date” means, with respect to a Reimbursement Loan, the first Business Day of each calendar quarter during the applicable Reimbursement Loan Amortization Period and the Reimbursement Loan Maturity Date.

“Reimbursement Loan Start Date” means, with respect to a Reimbursement Loan, the date such Reimbursement Loan is made.

“Reimbursement Obligations” means any and all obligations of the Borrower to reimburse the Lender for LC Disbursements under Letters of Credit and all obligations to repay the Lender for any Loan relating thereto, including in each instance all interest accrued thereon.

“*Related Parties*” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“*Relevant Governmental Body*” means the Federal Reserve Board or the NYFRB, the CME Term SOFR Administrator, as applicable, or a committee officially endorsed or convened by the Federal Reserve Board or the NYFRB, or, in each case, any successor thereto.

“*Requirement of Law*” means, with respect to any Person, (a) the charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents of such Person and (b) any statute, law (including common law), treaty, rule, regulation, code, ordinance, order, decree, writ, judgment, injunction or determination of any arbitrator or court or other Governmental Authority (including Environmental Laws), in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“*Reserve Funds Notice*” has the meaning set forth in Section 5.1(r) hereof.

“*Reserve Policy*” means the Financial Reserve Policy (CEA-09) of the Borrower, adopted by CEA on January 21, 2021.

“*Resolution*” means Resolution No. 2021-004, adopted by CEA on January 21, 2021.

“*Revenues*” means all revenues, rates and charges received and accrued by the Borrower for electric power and energy and other services, facilities and commodities sold, furnished or supplied by the System, together with income, earnings and profits therefrom, as determined in accordance with GAAP.

“*Revolving Borrowing*” means a Loan hereunder other than a Loan for which the proceeds thereof are used to repay Reimbursement Obligations.

“*Revolving Credit Exposure*” means, with respect to the Lender at any time, the sum of the outstanding principal amount of the Loans and its LC Exposure at such time.

“*Sanctioned Country*” means, at any time, a country, region or territory which is the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, and Syria).

“*Sanctioned Person*” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

“*Sanctions*” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority.

“*Second Amendment Effective Date*” means January [14], 2022, being the Effective Date of the Second Amendment to Revolving Credit Agreement, dated January [14], 2022, between the Lender and the Borrower.

“*Security Agreement*” means the Security Agreement, substantially in the form attached hereto as Exhibit G, as amended and supplemented in accordance with the terms hereof, by and among CEA, and River City Bank, a California corporation, not in its individual capacity, but solely as collateral agent, for the benefit of the each seller of Product under a PPA that is made a party to the Intercreditor Agreement, and its respective successors and assigns.

“*Senior Debt*” means any System Debt issued or incurred by the Borrower, whether secured or unsecured, the payment of which is senior to the payment in full of the Borrower’s payment Obligations under this Agreement.

“*SOFR*” means a rate equal to the secured overnight financing rate as administered by the NYFRB (or a successor administrator of the secured overnight financing rate).

“*SOFR Borrowing*” means any Borrowing bearing interest at the Adjusted Term SOFR Rate.

“*SOFR Loan*” means any Loan bearing interest at the Adjusted Term SOFR Rate.

“*State*” means the State of California.

~~“*Statutory Reserve Rate*” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) established by the Federal Reserve Board to which the Lender is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as “*Eurocurrency liabilities*” in Regulation D). Such reserve percentage shall include those imposed pursuant to such Regulation D of the Federal Reserve Board. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to the Lender under Regulation D of the Federal Reserve Board or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.~~

“*Subordinate Debt*” means any unsecured System Debt issued or incurred by the Borrower, the payment of which is subordinate to the payment in full of the Borrower’s payment

Obligations under this Agreement in form and substance satisfactory to the Lender.

“*Swap Agreement*” means any agreement with respect to any swap, forward, spot, future, credit default or derivative transaction or any option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

“*Swap Termination Value*” means, in respect of any one or more Swap Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Agreements, (a) for any date on or after the date such Swap Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Agreements (which may include the Lender or any Affiliate of the Lender).

“*System*” means (i) all facilities, works, properties, structures and contractual rights to distribution, metering and billing services, electric power, scheduling and coordination, transmission capacity, and fuel supply of Borrower for the generation, transmission and distribution of electric power, (ii) all general plant facilities, works, properties and structures of Borrower, and (iii) all other facilities, properties and structures of Borrower, wherever located, reasonably required to carry out any lawful purpose of Borrower. The term shall include all such contractual rights, facilities, works, properties and structures now owned or hereafter acquired by Borrower.

“*System Debt*” means Debt of the Borrower.

“*Taxes*” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), value added taxes, or any other goods and services, use or sales taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“*Term SOFR Rate*” means, with respect to any SOFR Borrowing, such reference rate as is published by the CME Term SOFR Administrator at approximately 5:00 a.m., Chicago time, two Business Days prior to the commencement of such tenor comparable to the applicable Interest Period; such rate being the rate per annum determined by the Lender as the forward-looking term rate based on SOFR; provided that if the Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be the Floor for the purposes of this Agreement.

“*2020 Audited Financial Statements*” means the statement of net position of the System at June 30, 2020, the statement of revenues, expenses and changes in net position of the System for the year ended June 30, 2020, and the statement of cash flows of the System for the fiscal year

ended June 30, 2020, together with unqualified audit opinion of Lance, Soll & Lunghard, LLP.

“*Type*”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted ~~LIBO~~ Term SOFR Rate or the Base Rate.

“*Undrawn Fee*” has the meaning set forth in the Fee Agreement.

“*U.S. Government Securities Business Day*” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“*Working Capital Loan*” means any Loan other than a Cash Collateral Loan or a Reimbursement Loan.

“*WSPP Agreement*” means the WSPP Agreement created by WSPP Inc. and filed with the Federal Energy Regulatory Commission, as revised by the WSPP Inc. from time to time.

Section 1.2. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.3. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; *provided that*, if the Borrower notifies the Lender that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Lender requests an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or

such provision amended in accordance herewith.

Section 1.4. Interest Rates; ~~LIBOR~~Benchmark Notification. The interest rate on Eurodollar Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate (“~~LIBOR~~”). ~~LIBOR is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the “IBA”) for purposes of the IBA setting LIBOR. As a result, it is possible that commencing in 2022, LIBOR may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine thea Loan may be derived from an~~ interest rate on Eurodollar Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of ~~LIBOR~~benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. ~~In~~Upon the ~~event~~occurrence of a Benchmark Transition Event ~~occurs, Section 2.11(c) of this Agreement~~ provides a mechanism for determining an alternative rate of interest. The Lender will notify the Borrower, pursuant to Section 2.11(c), in advance of any change to the reference rate upon which the interest rate of Eurodollar Loans is based. However, the Lender does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to ~~LIBOR or other rates in the definition of “LIBO Rate”~~any interest rate used in this Agreement, or with respect to any alternative, or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the ~~LIBO Rate~~existing interest rate being replaced or have the same volume or liquidity as did ~~LIBOR~~any existing interest rate prior to its discontinuance or unavailability. The Lender and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Alternate Rate) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Lender may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE 2

THE CREDITS

Section 2.1. Commitments. Subject to the terms and conditions set forth herein, the Lender agrees to make Loans to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result (after giving effect to any application of proceeds

of such Borrowing pursuant to Section 2.7) in the Revolving Credit Exposure exceeding the Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Loans.

Section 2.2. Loans and Borrowings. (a) Subject to Section 2.4(d), Section 2.5(d) and Section 2.11, at the time of each Borrowing, the Borrower may elect to incur a Loan as a Base Rate Loan or a EurodollarSOFR Loan.

(b) At the commencement of each Interest Period for any EurodollarSOFR Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$100,000. At the time that each Base Rate Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$25,000 and not less than \$100,000; *provided* that a Base Rate Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.4(d).

(c) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.3. Requests for Revolving Borrowings. To request a Borrowing, the Borrower shall notify the Lender of such request by telephone (a) in the case of a EurodollarSOFR Borrowing, not later than 10:00 a.m., New York City time, three (3) Business Days before the date of the proposed Borrowing or (b) in the case of a Base Rate Borrowing, not later than 10:00 a.m., New York City time, one Business Day before the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by electronic means to the Lender of a written Borrowing Request in a form attached hereto as Exhibit C and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the information set forth in Exhibit C hereto.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be a Base Rate Borrowing. If no Interest Period is specified with respect to any requested EurodollarSOFR Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Subject to satisfaction of the terms and conditions of Section 3.2, the Lender shall make available to, or for the account of, the Borrower the amount of each Borrowing no later than 2:00 p.m., New York City time, on date of the applicable Borrowing.

Section 2.4. Letters of Credit.

(a) *General.* Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit as the applicant thereof for the support of its PPA payment obligations, in the form of a Letter of Credit Request set forth in Exhibit D-1 hereto at any time and from time to time during the Availability Period; *provided, however*, that prior to the issuance of the initial Letter of Credit hereunder, the Borrower and the Lender shall execute a Continuing Agreement for Commercial and Standby Letters Of Credit in the form of Exhibit D-3 hereto. In the event of any inconsistency between the terms and conditions of this Agreement and the terms

and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Lender relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(b) *Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions.* To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or fax (or transmit through an Electronic System, if arrangements for doing so have been approved by the Lender) to the Lender (reasonably in advance of the requested date of issuance, amendment, renewal or extension, but in any event no less than five (5) Business Days) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Lender, the Borrower also shall submit a letter of credit application on the Lender's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the Revolving Credit Exposure shall not exceed the Commitment and (ii) the LC Exposure shall not exceed the Letter of Credit Sublimit.

The Lender shall not be under any obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Lender from issuing such Letter of Credit, or any Requirement of Law relating to the Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Lender shall prohibit, or request that the Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Lender is not otherwise compensated hereunder) not in effect on the EffectiveClosing Date, or shall impose upon the Lender any unreimbursed loss, cost or expense which was not applicable on the EffectiveClosing Date and which the Lender in good faith deems material to it, or

(ii) the issuance of such Letter of Credit would violate one or more policies of the Lender applicable to letters of credit generally.

(c) *Expiration Date.* Unless otherwise expressly agreed to by the Lender, each Letter of Credit shall expire (or be subject to termination by notice from the Lender to the beneficiary thereof) at or prior to the close of business on the date that is five (5) Business Days prior to the Maturity Date.

(d) *Reimbursement.* If the Lender shall make any LC Disbursement in respect of a Letter

of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Lender an amount equal to such LC Disbursement not later than 11:00 a.m., New York City time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 9:00 a.m., New York City time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 11:00 a.m., New York City time, on the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; *provided* that, if such LC Disbursement is not less than \$100,000, and no Default or Event of Default shall have occurred, the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.3 that such payment be financed with a Base Rate Revolving Borrowing in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Base Rate Borrowing (such Base Rate Borrowing, a "*Reimbursement Loan*").

(e) *Obligations Absolute.* The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (d) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Lender under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Lender nor any of its Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms, any error in translation or any consequence arising from causes beyond the control of the Lender; *provided* that the foregoing shall not be construed to excuse the Lender from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by the Lender's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Lender (as finally determined by a court of competent jurisdiction), the Lender shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Lender may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the

terms of such Letter of Credit.

(f) *Disbursement Procedures.* The Lender shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Lender shall promptly after such examination notify the Borrower by telephone (confirmed by fax or through an Electronic System) of such demand for payment if the Lender has made or will make an LC Disbursement thereunder; *provided* that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Lender with respect to any such LC Disbursement.

(g) *Interim Interest.* If the Lender shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the reimbursement is due and payable at the rate per annum set forth in Section 2.10(d) for Base Rate Loans and such interest shall be due and payable on the date when such reimbursement is payable.

(h) *Cash Collateralization.* If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Lender demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Lender, in the name and for the benefit of the Lender (the “*LC Collateral Account*”), an amount in cash equal to 105% of the amount of the LC Exposure as of such date plus accrued and unpaid interest thereon; *provided* that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 6.01(e) or Section 6.01(f) hereof. The Lender shall have exclusive dominion and control, including the exclusive right of withdrawal, over the LC Collateral Account and the Borrower hereby grants the Lender a security interest in the LC Collateral Account and all moneys or other assets on deposit therein or credited thereto. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Lender and at the Borrower’s risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Lender for LC Disbursements for which it has not been reimbursed, together with related fees, costs, and customary processing charges, and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, be applied to satisfy other Obligations. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all such Events of Default have been cured or waived as confirmed in writing by the Lender.

Section 2.5. Interest Elections. (a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a EurodollarSOFR Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing (other than a Base Rate Borrowing of a Reimbursement Loan) to a different Type or to continue such Borrowing and, in the case of a EurodollarSOFR Borrowing,

may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing (other than a Base Rate Borrowing of a Reimbursement Loan) and the Loan comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Lender of such election by telephone by the time that a Borrowing Request would be required under Section 2.3 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by electronic copy to the Lender of a written Interest Election Request in a form approved by the Lender and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.2:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be a Base Rate Borrowing or a EurodollarSOFR Borrowing; and

(iv) if the resulting Borrowing is a EurodollarSOFR Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a EurodollarSOFR Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a EurodollarSOFR Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to a Base Rate Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Lender so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a EurodollarSOFR Borrowing and (ii) unless repaid, each EurodollarSOFR Borrowing shall be converted to a Base Rate Borrowing at the end of the Interest Period applicable thereto; *provided, however,* that the actions specified in clauses (i) and (ii) immediately above shall apply automatically without notice from the Lender if the Event of Default that has occurred and is continuing is an Event of Default described in Section 6.1(e) or Section 6.1(f).

Section 2.6. Termination and Reduction of Commitment. (a) Unless previously terminated, the Commitment shall terminate automatically on the Maturity Date.

(b) Subject to the provisions of the Fee Agreement, the Borrower may at any time terminate, or from time to time reduce, the Commitment; *provided* that (i) each reduction of the Commitment shall be in an amount that is an integral multiple of \$100,000 and not less than \$500,000 and (ii) the Borrower shall not terminate or reduce the Commitment if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.8, the Revolving Credit Exposure would exceed the Commitment.

(c) The Borrower shall notify the Lender of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; *provided* that a notice of termination of the Commitment delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Lender on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitment shall be permanent.

Section 2.7. Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay to the Lender the then unpaid principal amount of each Loan on the Maturity Date.

(b) The Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to the Lender resulting from each Loan made by the Lender, the Type of each Loan and the Interest Period, if any, applicable thereto and the amounts of principal and interest payable and paid to the Lender from time to time hereunder. The entries made in such account or accounts shall be prima facie evidence of the existence and amounts of the obligations recorded therein; *provided* that the failure of the Lender to maintain such account or accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(c) The Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to the Lender a promissory note payable to the Lender and in a form approved by the Lender. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 7.3) be represented by one or more promissory notes in such form.

Section 2.8. Prepayment of Loans. (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section and in accordance with any amounts due and owing pursuant to Section 2.13 of this Agreement.

(b) The Borrower shall notify the Lender by telephone (confirmed by fax) or through Electronic System, if arrangements for doing so have been approved by the Lender, of any

prepayment hereunder (i) in the case of prepayment of a ~~Eurodollar~~SOFR Borrowing, not later than 10:00 a.m., New York City time, three Business Days before the date of prepayment, or (ii) in the case of prepayment of a Base Rate Borrowing, not later than 10:00 a.m., New York City time, one Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; *provided* that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.6, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.6. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.2. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.10.

Section 2.9. Fees. The Borrower agrees to pay to the Lender the fees and other amounts set forth in the Fee Agreement at the time and in the manner set forth in the Fee Agreement, including, but not limited to, the Undrawn Fee and the Letter of Credit Fees. The Fee Agreement is, by this reference, incorporated herein in its entirety as if set forth herein in full. All fees and other amounts payable under the Fee Agreement shall be paid in immediately available funds. Fees paid shall not be refundable under any circumstances.

Section 2.10. Interest. (a) The Loans comprising each Base Rate Borrowing (other than Reimbursement Loans) shall bear interest at the Base Rate plus the Applicable Margin.

(b) The Loans comprising each ~~Eurodollar~~SOFR Borrowing shall bear interest at the Adjusted ~~LIBO~~Term SOFR Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin.

(c) The Reimbursement Loans shall bear interest at the Base Rate plus the Applicable Margin.

(d) Upon the occurrence and continuance of an Event of Default hereunder, the Default Rate shall apply to all Loans and Letters of Credit. Interest and fees for Letters of Credit accruing at the Default Rate shall be payable on demand of the Lender. Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder or under the Fee Agreement is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 3% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section, (ii) in the case of the undrawn amount of all outstanding Letters of Credit at such time, 3% plus the LC Facility Fee (as defined in the Fee Agreement) and (iii) in the case of any other amount, 3% plus the rate applicable to Base Rate Loans as provided in paragraph (a) of this Section.

(e) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitment; *provided* that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of a Base Rate Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be

payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any ~~Eurodollar~~SOFR Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) All interest hereunder shall be computed on the basis of a year of 360 days and the actual number of days elapsed, except that interest computed by reference to the Base Rate at times when the Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Base Rate, Adjusted ~~LIBO~~Term SOFR Rate ~~or LIBO, and Term SOFR Rate shall be determined by the Lender, and such determination shall be conclusive absent manifest error.~~

(g) Anything herein to the contrary notwithstanding, the amount of interest payable hereunder for any interest period shall not exceed the Maximum Rate. If for any interest period the applicable interest rate would exceed the Maximum Rate, then (i) such interest rate will not exceed but will be capped at such Maximum Rate and (ii) in any interest period thereafter that the applicable interest rate is less than the Maximum Rate, any Obligation hereunder will bear interest at the Maximum Rate until the earlier of (x) payment to the Lender of an amount equal to the amount which would have accrued but for the limitation set forth in this Section and (y) the Maturity Date. Upon the Maturity Date or, if no Revolving Credit Exposure is outstanding, on the date the Commitment is permanently terminated, in consideration for the limitation of the rate of interest otherwise payable hereunder, to the extent permitted by Applicable Law, the Borrower shall pay to the Lender a fee in an amount equal to the amount which would have accrued but for the limitation set forth in this Section 2.10(g) that has not previously been paid to the Lender in accordance with the immediately preceding sentence.

Section 2.11. Alternate Rate of Interest; Illegality. (a) Subject to clause (c) of this Section 2.11, if prior to the commencement of any Interest Period for a ~~Eurodollar~~SOFR Borrowing:

(i) the Lender determines (which determination shall be conclusive and binding absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted ~~LIBO~~Term SOFR Rate or the ~~LIBO~~Term SOFR Rate, as applicable ~~(including, without limitation, by means of an Interpolated Rate or because the LIBO Screen Rate is not available or published on a current basis),~~ for such Interest Period; or

(ii) the Lender determines the Adjusted ~~LIBO~~Term SOFR Rate or the ~~LIBO~~Term SOFR Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to the Lender of making or maintaining its Loans (or Loan) included in such Borrowing for such Interest Period;

then the Lender shall give notice thereof to the Borrower by telephone, fax or through an Electronic System as provided in Section 7.2 as promptly as practicable thereafter and, until (x) the Lender notifies the Borrower that the circumstances giving rise to such notice no longer exist and (y) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.5 or a new Borrowing Request in accordance with the terms of Section 2.3, (A) any Interest

Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a EurodollarSOFR Borrowing shall be ineffective and any such EurodollarSOFR Borrowing shall be repaid or converted into a Base Rate Borrowing on the last day of the then current Interest Period applicable thereto, and (B) if any Borrowing Request requests a EurodollarSOFR Borrowing, such Borrowing shall be made as a Base Rate Borrowing.

(b) If the Lender determines that any Requirement of Law has made it unlawful, or if any Governmental Authority has asserted that it is unlawful, for the Lender or its applicable lending office to make, maintain, fund or continue any EurodollarSOFR Borrowing, or any Governmental Authority has imposed material restrictions on the authority of the Lender to purchase or sell, or to take deposits of, dollars in the London-interbank offering market, then, on notice thereof by the Lender to the Borrower, any obligations of the Lender to make, maintain, fund or continue EurodollarSOFR Loans or to convert Base Rate Borrowings to EurodollarSOFR Borrowings will be suspended until the Lender notifies the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower will upon demand from the Lender, either prepay or convert all EurodollarSOFR Borrowings of the Lender to Base Rate Borrowings, either on the last day of the Interest Period therefor, if the Lender may lawfully continue to maintain such EurodollarSOFR Borrowings to such day, or immediately, if the Lender may not lawfully continue to maintain such Loans. Upon any such prepayment or conversion, the Borrower will also pay accrued interest on the amount so prepaid or converted.

(c) ~~If~~ Notwithstanding anything to the contrary herein or in any other Loan Document (and any Swap Agreement shall be deemed not to be a “Loan Document” for purposes of this 2.11(c)), if a Benchmark Transition Event ~~occurs, then the~~ has occurred, Lender may, by notice to Borrower, ~~select~~ amend this Agreement to establish an alternate rate of interest for the ~~LIBO Rate~~ Benchmark that gives due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) the then-evolving or prevailing market convention for determining a benchmark rate of interest for loans in US Dollars as a replacement for the then current Benchmark at such-time (the “Alternate Rate”); Borrower acknowledges that the Alternate Rate may include a mathematical adjustment using any then-evolving or prevailing market convention or method for determining a spread adjustment for the replacement of the ~~LIBO Rate. For avoidance of doubt, all references to the LIBO Rate shall be deemed to be references to the Alternate Rate when the Alternate Rate becomes effective in accordance with this section. In addition, the Lender will have the right, from time to time~~ Benchmark (which may include, if any Benchmark already contains such a spread, adding that spread to the Alternate Rate). The Lender may further amend this Agreement by such notice to Borrower to make technical, administrative or operational changes (including without limitation, changes to the definition of “~~Base Rate~~”, ~~the definition of “Interest Period”~~”, timing and frequency of determining rates and making payments of interest, the timing of prepayment or conversion notices, the length of lookback periods, the applicability of breakage provisions and other technical, administrative or operational matters) that ~~the~~ Lender decides in its reasonable discretion may be appropriate to reflect the adoption and implementation of the Alternate Rate. The Alternate Rate, together with all such technical, administrative and operational changes as specified in any notice, shall become effective at the later of (i) the fifth Business Day after ~~the~~ Lender has provided notice (including without limitation for this purpose, by electronic means) to the Borrower (the “Notice Objection Date”) and (ii) a date specified by ~~the~~ Lender in the

notice, without any further action or consent of the Borrower, so long as Lender has not received, by 5:00 ~~p.m.~~pm Eastern time on the ~~Notice~~Objection Date, written notice of objection to the Alternate Rate from the Borrower. ~~Any determination, decision, or election that may be made by the Lender~~If, on the date the Benchmark actually becomes permanently unavailable pursuant to this section, including any determination with respect to a rate or adjustment or the occurrence or non-occurrence of an event, circumstance or date, and any decision to take or refrain from taking any action, willa Benchmark Transition Event, an Alternate Rate has not been established in this manner, Advances will, until an Alternate Rate is so established, bear interest at the Base Rate. In no event shall the Alternate Rate be less than the Floor.

(d) All determinations by Lender under this Section 2.11 shall be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from the Borrower. Until an Alternate Rate shall be determined in accordance with this section, the interest rate shall be equal to the sum of (a) the greater of (x) Prime Rate and (y) 2.50%, plus (b) the Applicable Margin. In no event shall the Alternate Rate be less than 0.00%any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.11.

Section 2.12. Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, the Lender (except any such reserve requirement reflected in the Adjusted ~~LIBO~~Term SOFR Rate); or

(ii) impose on the Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by the Lender or any Letter of Credit; or

(iii) subject the Lender to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to the Lender of making, continuing, converting into or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to the Lender of issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by the Lender hereunder (whether of principal, interest or otherwise), then the Borrower will pay to the Lender such additional amount or amounts as will compensate the Lender for such additional costs incurred or reduction suffered.

(b) If the Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the Lender's capital or on the capital of the Lender's holding company, as a consequence of this Agreement, the Commitment of or the Loans made by, or the Letters of Credit issued by, the Lender, to a level

below that which the Lender or the Lender's holding company could have achieved but for such Change in Law (taking into consideration the Lender's policies and the policies of the Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to the Lender such additional amount or amounts as will compensate the Lender or the Lender's holding company for any such reduction suffered.

(c) A certificate of the Lender setting forth the amount or amounts necessary to compensate the Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay the Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Failure or delay on the part of the Lender to demand compensation pursuant to this Section shall not constitute a waiver of the Lender's right to demand such compensation; *provided* that the Borrower shall not be required to compensate the Lender pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that the Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of the Lender's intention to claim compensation therefor; *provided further* that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.13. Break Funding Payments. In the event of (a) the payment of any principal of any ~~Eurodollar~~SOFR Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.8 hereof), (b) the conversion of any ~~Eurodollar~~SOFR Loan other than on the last day of the Interest Period applicable thereto, or (c) the failure to borrow, convert, continue or prepay any ~~Eurodollar~~SOFR Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.8(b) and is revoked in accordance therewith), then, in any such event, the Borrower shall compensate the Lender for the loss, cost and expense attributable to such event. In the case of a ~~Eurodollar~~SOFR Loan, such loss, cost or expense to the Lender shall be deemed to include an amount determined by the Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such SOFR Loan had such event not occurred, at the Adjusted ~~LIBO~~Term SOFR Rate that would have been applicable to such SOFR Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such SOFR Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which the Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the ~~eurodollar~~applicable interbank market, whether or not such SOFR Loan was in fact funded.- A certificate of the Lender setting forth any amount or amounts that the Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay the Lender the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

Section 2.14. Payments Free of Taxes. (a) Any and all payments by or on account of any obligation of the Borrower under any Basic Document shall be made without deduction or

withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of the Borrower) requires the deduction or withholding of any Tax from any such payment by the Borrower, then the Borrower shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.14) the Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Lender timely reimburse the Lender for, Other Taxes.

(c) As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this Section 2.14, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

(d) The Borrower shall indemnify the Lender, within 30 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Lender or required to be withheld or deducted from a payment to the Lender and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Lender shall be conclusive absent manifest error.

(e) If the Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.14 (including by the payment of additional amounts pursuant to this Section 2.14), it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.14 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). The Borrower, upon the request of the Lender, shall repay to the Lender the amount paid over pursuant to this paragraph (e) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that the Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the Lender be required to pay any amount to the Borrower pursuant to this paragraph (e) the payment of which would place the Lender in a less favorable net after-Tax position than the Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require the Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(f) Each party's obligations under this Section 2.14 shall survive any assignment of rights by the Lender, the termination of the Commitment and the repayment, satisfaction or discharge of all obligations under any Basic Document.

(g) For purposes of this Section 2.14, the term "applicable law" includes FATCA.

Section 2.15. Payments Generally. (a) The Borrower shall make each payment required to be made by it hereunder or under the Fee Agreement (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.12, 2.13 or 2.14, or otherwise) prior to 12:00 noon, New York City time, on the date when due, in immediately available funds, without set off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Lender, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Lender at its offices at 270 Park Avenue, New York, New York, except that payments pursuant to Sections 2.12, 2.13, 2.14 and 7.5 shall be made directly to the Persons entitled thereto. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Lender to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, and (ii) second, ratably towards payment of principal and unreimbursed LC Disbursements then due hereunder.

Section 2.16. Mitigation Obligation. If the Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to the Lender or any Governmental Authority for the account of the Lender pursuant to Section 2.14, then the Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of the Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.12 or 2.14, as the case may be, in the future and (ii) would not subject the Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to the Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by the Lender in connection with any such designation or assignment.

Section 2.17. Extension of Maturity Date. The Maturity Date may be extended an unlimited number of times, in each case in the manner set forth in this Section 2.17. Upon receipt of written request of the Borrower to extend the Maturity Date, received no more than one hundred twenty (120) days and no less than sixty (60) days prior to the then current Maturity Date, the Lender will use its commercially reasonable efforts to notify the Borrower of its response within thirty (30) days of receipt of the request therefor (the Lender's decision to be made in its sole and absolute discretion and on such terms and conditions as to which the Lender and the Borrower may agree); *provided, however*, that the failure of the Borrower to receive a written confirmation from the Lender within the time established therefor shall be deemed a denial of such request. Any

extension of the Maturity Date will be deemed to be on the existing terms of this Agreement unless the Lender and the Borrower have entered into a written agreement confirming a change in any term of this Agreement.

Section 2.18. Pledge; Security of Obligations. The Net Revenues are hereby pledged by the Borrower to the payment of the Obligations without priority or distinction of one Obligation over another Obligation. The pledge of Net Revenues is valid and binding in accordance with the terms of the Act, the Joint Powers Agreement and the Resolution, and the Net Revenues shall immediately be subject to the pledge, and the pledge shall constitute a lien and security interest which shall immediately attach to the Net Revenues and be effective, binding, and enforceable against the Borrower, its successors, creditors, and all others asserting the rights therein, to the extent set forth in this Agreement, and in accordance with the Act, the Joint Powers Agreement and the Resolution, irrespective of whether those parties have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. The pledge of the Net Revenues herein made shall be irrevocable until the Commitment has expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed. Notwithstanding any other provision of this Agreement to the contrary, all Obligations are limited obligations of the Borrower payable solely from Net Revenues. The pledge of the Net Revenues herein made shall be senior to any pledge of the Net Revenues made with respect to any Subordinate Debt.

ARTICLE 3

CONDITIONS

Section 3.1. Conditions Precedent to Effectiveness. The obligation of the Lender to make Loans and to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied:

(a) *Opinions.* The Lender has received an opinion of Nixon Peabody LLP, special counsel to the Borrower, dated the Closing Date and addressed to the Lender in the form attached hereto as Exhibit A.

(b) *Documents.* (i) The Lender has received executed copies of the Basic Documents executed by the Borrower on the Closing Date or prior to the Closing Date if certified by the Secretary of the Borrower, the Clerk of the Board or any Authorized Representative or the Board, as applicable, as being complete and in full force and effect on and as of the Closing Date.

(ii) The Lender has received a certified copy of the Joint Powers Agreement.

(c) *Defaults; Representations and Warranties.* On and as of the Closing Date, the representations of the Borrower set forth in Article Four hereof are true and correct in all material respects on and as of the Closing Date with the same force and effect as if made

on and as of such date and no Default or Event of Default has occurred and is continuing or would result from the execution and delivery of this Agreement and the Fee Agreement.

(d) *No Litigation.* No action, suit, investigation or proceeding is pending or, to the knowledge of the Borrower, threatened (i) in connection with the Basic Documents or any transactions contemplated thereby or (ii) against or affecting the Borrower, the result of which could have a Material Adverse Effect.

(e) *No Material Adverse Change.* Since the date of the 2020 Audited Financial Statements, (i) no Material Adverse Change has occurred in the status of the business, operations or condition (financial or otherwise) of the Borrower or its ability to perform its obligations under the Basic Documents and (ii) to the best of its knowledge, no law, regulation, ruling or other action (or interpretation or administration thereof) of the United States, the State of California or any political subdivision or authority therein or thereof is in effect or has occurred, the effect of which would be to prevent the Lender from fulfilling its obligations under this Agreement or the Letters of Credit.

(f) *Certificate.* The Lender has received (i) certified copies of all proceedings of the Borrower authorizing the execution, delivery and performance of the Basic Documents and the transactions contemplated thereby and (ii) a certificate or certificates of one or more Authorized Representatives dated the Closing Date certifying the accuracy of the statements made in Section 3.1(c), (d), (e) and (i) hereof and further certifying the name, incumbency and signature of each individual authorized to sign this Agreement, the Fee Agreement and the other documents or certificates to be delivered by the Borrower pursuant hereto or thereto, on which certification the Lender may conclusively rely until a revised certificate is similarly delivered, and that the conditions precedent set forth in this Section 3.1 have been satisfied.

(g) *Payment of Fees.* The Lender has received all fees and expenses due and payable to the Lender and/or its legal counsel pursuant to the Fee Agreement.

(h) *Financial Statements.* The Lender has received the 2020 Audited Financial Statements, internally prepared quarterly budget reports of the Borrower for the most recent fiscal quarter end, if not previously provided.

(i) *Rates.* The Lender has received satisfactory evidence that rates charged by the Borrower for its services will be reasonably competitive to the rates of the San Diego Gas & Electric Company.

(j) *Other Matters.* The Lender has received such other statements, certificates, agreements, documents and information with respect to the Borrower and matters contemplated by this Agreement as the Lender may have requested.

Section 3.2. Conditions Precedent to each Credit Event. The obligation of the Lender to make a Loan on the occasion of any Borrowing, and of the Lender to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The Borrower shall have filed the necessary notices and filings with and provided for payment to the California Debt Issuance Advisory Commission of any fee related thereto.

(b) The representations and warranties of the Borrower set forth in this Agreement shall be true and correct on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable.

(c) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall have occurred and be continuing.

(d) It has provided the Lender with a completed Borrowing Request substantially in the form of Exhibit C hereto or a Letter of Credit Request substantially in the form of Exhibit D-1 hereto, as applicable.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

Section 3.3. Condition Subsequent to Closing Date. Within five (5) Business Days of the Closing Date, the Borrower shall provide written evidence that the Existing Debt has been paid in full in immediately available funds, and such Existing Debt and the documents thereto shall have been terminated to the satisfaction of the Lender. Failure to comply with this Section 3.3 shall constitute an Event of Default under Section 6.1 hereunder.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES

In order to induce the Lender to make Loans and issue the Letters of Credit, the Borrower represents and warrants to the Lender as follows:

Section 4.1. Organization, Powers, Etc. The Borrower (a) is a public agency formed under the provisions of the Joint Powers Act that is qualified to be a community choice aggregator pursuant to California Public Utilities Code Section 366.2 and; (b) has full and adequate power to own its Property and conduct its business as now conducted, and is duly licensed or qualified in each jurisdiction in which the nature of the business conducted by it or the nature of the Property owned or leased by it requires such licensing or qualifying unless the failure to be so licensed or qualified could not reasonably be expected to have a Material Adverse Effect. The Borrower has the agency power to (i) execute, deliver and perform its obligations under the Basic Documents;

(ii) provide for the security of this Agreement and the Fee Agreement pursuant to the Joint Powers Act; and (iii) has complied with all Laws in all matters related to such actions of the Borrower as are contemplated by the Basic Documents.

Section 4.2. Authorization, Absence of Conflicts, Etc. The execution, delivery and performance by the Borrower of the Basic Documents (a) have been duly authorized by all necessary action on the part of the Borrower, (b) do not conflict with, or result in a violation of, any Laws, including the Joint Powers Agreement, or any order, writ, rule or regulation of any court or governmental agency or instrumentality binding upon or applicable to the Borrower which violation would result in a Material Adverse Effect and (c) do not conflict with, result in a violation of, or constitute a default under, any resolution, agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property is bound which, in any case, would result in a Material Adverse Effect.

Section 4.3. Binding Obligations. The Basic Documents are valid and binding obligations of the Borrower (assuming due authorization, execution and delivery by the other parties thereto) enforceable against the Borrower in accordance with their respective terms, except to the extent, if any, that the enforceability thereof may be limited by (i) any applicable bankruptcy, insolvency, reorganization, moratorium or other similar law of the State or Federal government affecting the enforcement of creditors' rights generally heretofore or hereafter enacted, (ii) the fact that enforcement may also be subject to the exercise of judicial discretion in appropriate cases and (iii) the limitations on legal remedies against public agencies of the State.

Section 4.4. Governmental Consent or Approval. No consent, approval, permit, authorization or order of, or registration or filing with, any court or government agency, authority or other instrumentality not already obtained, given or made is required on the part of the Borrower for execution, delivery and performance by the Borrower of the Basic Documents.

Section 4.5. Absence of Material Litigation. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, arbitrator or governmental or other board, body or official pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower questioning the validity of the Joint Powers Agreement, the execution, delivery and performance by the Borrower of the Basic Documents or any proceeding taken or to be taken by the Borrower or the Board in connection therewith, or seeking to prohibit, restrain or enjoin the execution, delivery and performance by the Borrower of the Basic Documents, or which could reasonably be expected to result in any Material Adverse Effect, or wherein an unfavorable decision, ruling or finding would in any way materially adversely affect the transactions contemplated by the Basic Documents (any such action or proceeding being herein referred to as "*Material Litigation*").

Section 4.6. Financial Condition. The most recent audited financial statements of the System delivered (or deemed delivered) to the Lender (the "*Audited Financial Statements*") were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved and were subject to certification by independent certified public accountants of nationally recognized standing or by independent certified public accountants otherwise acceptable to the Lender. The most recent unaudited financial statements of the System delivered (or deemed

delivered) to the Lender were prepared on a consistent basis and in accordance with GAAP. The data on which such financial statements and budget reports are based were true and correct in all material respects. The Audited Financial Statements and the budget reports present fairly the net position of the System as of the date they purport to represent and the revenues, expenses and changes in fund balances and in net position for the periods then ended. Since the date of the most recent Audited Financial Statements delivered to the Lender, no Material Adverse Effect has occurred.

Section 4.7. Incorporation of Representations and Warranties. The representations and warranties of the Borrower set forth in the Basic Documents (other than this Agreement and the Fee Agreement) are true and accurate in all material respects on the Closing Date, as fully as though made on the Closing Date. The Borrower makes, as of the Closing Date, each of such representations and warranties to, and for the benefit of, the Lender, as if the same were set forth at length in this Section 4.7 together with all applicable definitions thereto. No amendment, modification or termination of any such representations, warranties or definitions contained in the Basic Documents (other than this Agreement and the Fee Agreement) will be effective to amend, modify or terminate the representations, warranties and definitions incorporated in this Section 4.7 by this reference, without the prior written consent of the Lender.

Section 4.8. Accuracy and Completeness of Information. The Basic Documents and all certificates, financial statements, documents and other written information furnished to the Lender by or on behalf of the Borrower in connection with the transactions contemplated hereby were, as of their respective dates, complete and correct in all material respects to the extent necessary to give the Lender true and accurate knowledge of the subject matter thereof and did not contain any untrue statement of a material fact.

Section 4.9. No Default. (a) No Default or Event of Default under this Agreement has occurred and is continuing.

(b) No “event of default” has occurred and is continuing under any other material mortgage, indenture, contract, agreement or undertaking respecting the System (including, but not limited to, any PPA) to which the Borrower is a party or which purports to be binding on the Borrower or on any of the property of the System.

Section 4.10. No Proposed Legal Changes. There is no amendment or, to the knowledge of the Borrower, proposed amendment to the Constitution of the State, any State law or the Joint Powers Agreement or any administrative interpretation of the Constitution of the State, any State law, or the Joint Powers Agreement, or any judicial decision interpreting any of the foregoing, the effect of which could reasonably be expected to have a Material Adverse Effect.

Section 4.11. Compliance with Laws, Etc. The Borrower is in compliance with the Investment Policy and all Laws applicable to the Borrower, non-compliance with which could reasonably be expected to have a Material Adverse Effect. In addition, no benefit plan maintained by the Borrower for its employees is subject to the provisions of ERISA, and the Borrower is in compliance with all Laws in respect of each such benefit plan.

Section 4.12. Environmental Matters. In the ordinary course of its business, the Borrower conducts an ongoing review of Environmental Laws on the business, operations and the condition of its property, in the course of which it identifies and evaluates associated liabilities and costs (including, but not limited to, any capital or operating expenditures required for clean-up or closure of properties currently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review, the Borrower does not believe that Environmental Laws are likely to have a Material Adverse Effect.

Section 4.13. Regulation U. The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System).

Section 4.14. Liens. This Agreement creates a valid Lien on and pledge of the Net Revenues to secure the payment and performance of the Borrower's obligations under this Agreement and the Fee Agreement, and no filings, recordings, registrations or other actions are necessary on the part of the Borrower, the Lender or any other Person to create or perfect such Lien. Except for the Lien over Net Revenues contained in this Agreement, there is no pledge of or Lien on Net Revenues.

Section 4.15. Sovereign Immunity. The Borrower is not entitled to claim immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) with respect to itself or its revenues (irrespective of their use or intended use) from (i) any action, suit or other proceeding arising under or relating to this Agreement or any other Basic Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or for recovery of property or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be made subject in any action, suit or proceeding relating to this Agreement or any other Basic Document, and no such immunity (whether or not claimed) may be attributed to the Borrower or its revenues.

Section 4.16. Usury. The terms of the Basic Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

Section 4.17. Insurance. As of the Closing Date, the Borrower maintains such insurance, including self-insurance, as is required by Section 5.1(k) hereof.

Section 4.18. ERISA. The Borrower does not maintain or contribute to, and has not maintained or contributed to, any Employee Plan that is subject to Title IV of ERISA.

Section 4.19. Sanctions Concerns and Anti-Corruption Laws. The Borrower and its respective officers and directors and to the knowledge of the Borrower, its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects.

None of (a) the Borrower, any of its directors or officers or employees, or (b) to the knowledge of the Borrower, any agent of the Borrower that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds, Transaction or other transaction contemplated by this Agreement or the other Basic Documents will violate Anti-Corruption Laws or applicable Sanctions.

Section 4.20. System Debt. The Borrower has not incurred or issued any System Debt other than the System Debt created under this Agreement and the Member Capital Advances.

ARTICLE 5

COVENANTS

Section 5.1. Affirmative Covenants. Until the Commitment has expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lender that:

(a) *Accounting and Reports.* The Borrower shall maintain a standard system of accounting in accordance with GAAP consistently applied and furnish to the Lender:

(i) as soon as available, and in any event within sixty (60) days after the close of each of the first three (3) fiscal quarters of each Fiscal Year, an unaudited balance sheet of Borrower, including the specific amount in the Operating Reserve, as of the last day of the quarterly period then ended and the statements of income, retained earnings and cash flows of Borrower for the quarterly period then ended, prepared in accordance with GAAP and in a form acceptable to Lender;

(ii) as soon as available, and in any event within six (6) months after the close of each Fiscal Year of Borrower, a copy of the audited balance sheet of Borrower, including the specific amount in the Operating Reserve, as of the last day of the Fiscal Year then ended and the statements of income, retained earnings and cash flows of Borrower for the Fiscal Year then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous Fiscal Year, accompanied by an unqualified opinion thereon of Borrower's independent public accountants, to the effect that the financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the financial condition of Borrower as of the close of such Fiscal Year and the results of its operations and cash flows for the Fiscal Year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards and, accordingly, such examination included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances;

(iii) promptly after receipt thereof, any additional written reports, management letters or other detailed information contained in writing concerning significant aspects of Borrower's operations and financial affairs given to it by its independent public accountants;

(iv) promptly after knowledge thereof shall have come to the attention of any responsible officer of Borrower, written notice of any litigation threatened in writing or any pending litigation or governmental proceeding or labor controversy against Borrower which, if adversely determined, could reasonably be expected to have a Material Adverse Effect or result in the occurrence of any Default or Event of Default hereunder;

(v) as soon as available, and in any event within 30 days of adoption, the Borrower shall provide the Lender its annual budget;

(vi) as soon as available, and in any event within 30 days of the end of each month, the monthly operating information of the Borrower, substantially in the form agreed upon between CEA and the Lender, which shall include customer enrollments, opt-outs, ~~and~~ total revenues and a summary report of all hedging transactions described in Section 5.1(u) hereof;

(vii) as soon as available and, in any event, within forty-five (45) days after the end of each calendar month, a monthly liquidity report disclosing Available Liquidity after the end of such preceding calendar month, in form and substance satisfactory to the Bank;

(viii) promptly after receipt thereof, copies of each PPA entered into by the Borrower; and

~~(viii)~~ promptly after the request therefor, all such other information as Lender may reasonably request.

Each of the financial statements furnished to Lender pursuant to subsection (a)(i) and (ii) of this Section 5.1 shall be accompanied by a compliance certificate, substantially in the form of Exhibit B hereto, signed by an Authorized Representative (i) stating that no Event of Default or Default has occurred or if any Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or Default, ~~and such compliance certificate shall also include the Debt Service Coverage Ratio test required by Section 5.1(q) hereof and the (ii) including (A) a reasonably detailed calculation of the amount of the Available Liquidity (including amounts in each individual reserve fund of the Borrower) as of the end of such fiscal quarter or Fiscal Year, as applicable, (B) a certification of compliance with Section 5.1(q) hereof and the related Debt Service Coverage Ratio and Days Liquidity on Hand~~

calculations, (C) the amount set forth in the Operating Reserve and (D) any updates to the most recent annual budget provided pursuant to Section 5.1(n) hereof.

(b) *Access to Records.* At any reasonable time and from time to time, during normal business hours and, so long as no Event of Default has occurred and is continuing, on at least five (5) Business Days' notice, the Borrower shall permit the Lender or any of its agents or representatives to visit and inspect any of the properties of the Borrower and the other assets of the Borrower, to examine the books of account of the Borrower (and to make copies thereof and extracts therefrom), and to discuss the affairs, finances and accounts of the Borrower with, and to be advised as to the same by, its officers, all at such reasonable times and intervals as the Lender may reasonably request.

(c) *Compliance with Basic Documents; Operation and Maintenance of System.*

(i) The Borrower shall perform and comply with each covenant set forth in the Basic Documents and any other agreements, instruments or documents evidencing Parity Debt or Subordinate Debt. By the terms of this Agreement, the Lender is hereby made a third party beneficiary of the covenants set forth in each of the Basic Documents (other than this Agreement and the Fee Agreement), and each such covenant, together with the related definitions of terms contained therein, is incorporated by reference in this Section 5.1(c) with the same effect as if it were set forth herein in its entirety. Except as otherwise set forth in paragraph (ii) below and in Section 5.2(a) hereof, the Borrower will not amend, supplement or otherwise modify (or permit any of the foregoing), or request or agree to any consent or waiver under, or effect or permit the cancellation, acceleration or termination of, or release or permit the release of any collateral held under any of the Basic Documents in any manner without the prior written consent of the Lender, and the Borrower shall take, or cause to be taken, all such actions as may be reasonably requested by the Lender to strictly enforce the obligations of the other parties to any of the Basic Documents, as well as each of the covenants set forth therein. The Borrower shall give prior written notice to the Lender of any action referred to in this subparagraph (i).

(ii) The Borrower covenants that it will maintain and preserve the System in good repair and working order at all times from the Revenues available for such purposes, in conformity with standards customarily followed for municipal power systems of like size and character. The Borrower will from time to time make all necessary and proper repairs, renewals, replacements and substitutions to the properties of the System, so that at all times business carried on in connection with the System shall and can be properly and advantageously conducted in an efficient manner and at reasonable cost, and will operate the System in an efficient and economical manner and shall not commit or allow any waste with respect to the System.

(d) *Defaults.* The Borrower shall notify the Lender of any Default or Event of Default of which the Borrower has knowledge, as soon as possible and, in any event, within three (3) Business Days of acquiring knowledge thereof, setting forth the details of such Default or Event of Default and the action which the Borrower has taken and proposes to take with respect thereto.

(e) *Compliance with Laws.* The Borrower shall comply in all material respects with all Laws binding upon or applicable to the Borrower (including Environmental Laws) and material to the Basic Documents. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower and its respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. The Borrower will not use or allow any tenants or subtenants to use its Property for any business activity that violates any federal or state law or that supports a business that violates any federal or state law.

(f) *Investment Policy and Guidelines.* The Borrower shall promptly notify the Lender in writing, not less than thirty (30) days after the Borrower receives notice of the formal consideration thereof, of any change proposed to the Investment Policy, which proposed change would increase the types of investments permitted thereby as of the Closing Date.

(g) *Notices.* The Borrower shall promptly give notice to the Lender of any action, suit or proceeding actually known to it at law or in equity or by or before any court, governmental instrumentality or other agency which, if adversely determined, would materially impair the ability of the Borrower to perform its obligations under any Basic Document.

(h) *Bank Agreements.* In the event that Borrower shall enter into or otherwise consent to any amendment, supplement or other modification of any Bank Agreement after the Closing Date which Bank Agreement contains additional or more restrictive covenants or additional or more restrictive events of default or additional or improved remedies (“*Improved Provisions*,” which for the avoidance of doubt does not include pricing, termination fees and provisions related to interest rates but does include improved term-out provisions), then the Borrower shall provide the Lender with a copy of such Bank Agreement and the Improved Provisions shall automatically be deemed incorporated into this Agreement and the Lender shall have the benefit of the Improved Provisions until such time as the Bank Agreement containing such Improved Provisions terminates. The Borrower shall promptly cooperate with the Lender to enter into an amendment of this Agreement to include such Improved Provisions.

(i) *Further Assurances.* The Borrower shall execute, acknowledge where appropriate and deliver, and cause to be executed, acknowledged where appropriate and delivered, from time to time, promptly at the request of the Lender, all such instruments and documents as are usual and customary or advisable to carry out the intent and purpose of the Basic Documents.

(j) *Notices.* The Borrower shall promptly furnish, or cause to be furnished, to the Lender (i) notice of the occurrence of any “default” or “event of default” or “termination event” under any Basic Document (other than this Agreement and the Fee Agreement) or any PPA, (ii) copies of any communications received from any Governmental Authority with respect to the transactions contemplated by the Basic Documents or any other System Debt which are not restricted or prohibited from being

shared with the Lender under the law or the direction of a court of competent jurisdiction or other Governmental Authority, (iii) notice of any proposed modification to any Lockbox Security Document, (iv) copies of all PPAs and modifications thereto, promptly following the execution thereof; *provided, however*, that to the extent any such PPA is subject to a confidentiality agreement, pricing, credit-specific, and other commercially sensitive provisions may be redacted by the Borrower in order to comply with such confidentiality agreement, (v) notice of any proposed substitution of any Letter of Credit, and (vi) notice of the passage of any state or local Law not of general applicability to all Persons of which the Borrower has knowledge, which could reasonably be expected to have a Material Adverse Effect.

(k) *Maintenance of Insurance.* The Borrower shall maintain, or cause to be maintained, at all times, insurance on and with respect to its properties with responsible and reputable insurance companies; *provided, however*, that the Borrower may maintain self-insurance general liability on its properties not covered by the public entity property insurance program policy, for worker's compensation and vehicle liability and, with the consent of the Lender, such other self-insurance as it deems prudent. Such insurance must include casualty, liability and workers' compensation and be in amounts and with deductibles and exclusions customary and reasonable for governmental entities of similar size and with similar operations as the Borrower. The Borrower shall, upon request of the Lender, furnish evidence of such insurance to the Lender. The Borrower shall also procure and maintain at all times adequate fidelity insurance or bonds on all officers and employees handling or responsible for any Revenues or funds of the System, such insurance or bond to be in an aggregate amount at least equal to the maximum amount of such Revenues or funds at any one time in the custody of all such officers and employees or in the amount of one million dollars (\$1,000,000), whichever is less. The insurance described above may be provided as part of any comprehensive fidelity and other insurance and not separately for the System.

(l) *Preservation of Security.* The Borrower shall take any and all actions necessary to preserve and defend the pledge of Net Revenues set forth in this Agreement.

(m) *Rates.* The Borrower shall fix, establish, maintain and collect rates and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of the System, which shall be fair and nondiscriminatory and adequate to provide the Borrower with Revenues in each Fiscal Year sufficient to ~~(i)~~ pay, to the extent not paid from other available moneys, any and all amounts the Borrower is obligated to pay or set aside from Revenues by law or contract in such Fiscal Year ~~and (ii) maintain on a historical and projected basis a Debt Service Coverage Ratio of not less than 1.40 for each Fiscal Year.~~ If the Borrower adjusts rates and charges as described in the preceding sentence and the cumulative integer of such adjustments is 5% or greater than the budgeted rates and charges set forth in the most recent annual budget delivered pursuant to Section 5.1(n) hereof, the Borrower will be required to promptly notify the Bank and provide the Bank with an updated twelve (12) month financial projection of Revenues.

(n) *Budget.* The Borrower shall include in each annual budget of the Borrower all amounts reasonably anticipated to be necessary to pay all obligations due to the Lender hereunder and under the Fee Agreement. If the amounts so budgeted are not adequate for the payment of the obligations due hereunder and under the Fee Agreement, the Borrower shall take such action as may be necessary to cause such annual budget to be amended, corrected or augmented so as to include therein the amounts required to be paid to the Lender during the course of the Fiscal Year to which such annual budget applies.

(o) *Payment of Taxes, Etc.* The Borrower shall pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Borrower on account of the System or any portion thereof and which, if unpaid, might impair the security of this Agreement and the Fee Agreement, but nothing herein contained will require the Borrower to pay any such tax, assessment or charge so long as it in good faith contests the validity thereof. The Borrower shall duly observe and comply with all valid material requirements of any Governmental Authority relative to the System or any part thereof.

(p) *Lockbox Security Documents and PPAs.* The Borrower shall perform and comply with all its agreements and covenants set forth in the Lockbox Security Documents and the PPAs. The Borrower will not amend, supplement or otherwise modify (or permit any of the foregoing) any Lockbox Security Document in any manner that could reasonably be expected to have a materially adverse effect on the interests of the Lender without the prior written consent of the Lender, and the Borrower shall take, or cause to be taken, all such actions as may be reasonably requested by the Lender to strictly enforce the obligations of the other parties to any of the Lockbox Security Documents, as well as each of the covenants set forth therein. The Borrower shall give prior written notice to the Lender of any proposed action referred to in this subparagraph (p).

(q) *Debt Service Coverage.* The Borrower shall maintain a Debt Service Coverage Ratio of not less than 1.40 for each fiscal quarter of the Borrower, commencing with the fiscal quarter ended June 30, ~~2022~~2023. The Debt Service Coverage Ratio shall be tested on a rolling last twelve month basis and forward for the following twelve months as of the last day of each fiscal quarter commencing with the fiscal quarter ended June 30, ~~2022~~2023. The Borrower shall determine the Debt Service Coverage Ratio at each fiscal quarter and provide written notice thereof together with supporting calculations in reasonable detail to the Lender as soon as practicable following the end of a fiscal quarter and in any event no later than forty-five (45) calendar days following the end of such fiscal quarter (each such notice, a “*Debt Service Coverage Ratio Notice*”). Notwithstanding the foregoing, during any fiscal quarter in which the Debt Service Coverage Ratio is less than 1.40 for such fiscal quarter, the Borrower shall have been deemed to have cured its failure to maintain a Debt Service Coverage Ratio of 1.40 (the “*Days Liquidity on Hand Cure*”) if (i) during the fiscal quarter ending June 30, 2023, Days Liquidity on Hand exceeds thirty (30) days as of the last day of such fiscal quarter in which the Debt Service Coverage Ratio is less than 1.40 for such fiscal quarter or (ii) during any fiscal quarter in the Fiscal Year ending June 30, 2024 and thereafter, Days Liquidity on Hand exceeds fifty (50) days as of the last day of such fiscal quarter in which the Debt Service Coverage Ratio is less than

1.40 for such fiscal quarter; provided that the Days Liquidity on Hand Cure may only be applied two (2) times in the aggregate for any consecutive four (4) fiscal quarters or such failure to maintain a Debt Service Coverage Ratio of not less than 1.40 shall be deemed to be a breach of this Section 5.1(q).

(r) *Reserve Policy.* (i) The Borrower shall comply with the terms of its Reserve Policy in all respects and shall not amend such Reserve Policy without the prior written consent of the Lender.

(ii) As of the end of each Fiscal Year (commencing with Fiscal Year ending June 30, 2022), as shown in the audited balance statement of the Borrower delivered pursuant to Section 5.1(a)(ii) hereof for such Fiscal Year, the Borrower shall maintain an Operating Reserve in an amount equal to at least five percent (5%) of Revenues to cover unexpected revenue losses, extraordinary payments and other contingencies, and to provide liquidity in connection with the Borrower's outstanding Debt.

(s) *Use of Proceeds.* (i) The proceeds of the Loans will be used only for working capital purposes to repay LC Disbursements, to cash collateralize PPA obligations or, through September 30, 2021, to pay interest accrued on any Loans hereunder or any fees owing hereunder or under the Fee Agreement. No part of the proceeds of any Loan and no Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X. Letters of Credit will be issued only to support collateral posting requirements under PPAs.

(ii) The Borrower will not request any Borrowing or Letter of Credit, and the Borrower shall not use, and shall procure that its directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with Sanctions, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

(t) *Repayment.* The Borrower shall repay \$5,000,000 aggregate principal amount of Loans on or before December 31, 2023 and may not reborrow such amount for at least thirty (30) consecutive days.

(u) *Required Power Purchase Hedging.* No later than August 31, 2022, and at all times thereafter, the Borrower will maintain one or more hedging transactions in connection with its power purchase requirements (which may include, without limitation, long-term fixed price purchase contracts) with one or more counterparties reasonably acceptable to the Lender, covering the percentage of projected load requirements (including, without limitation, projected load requirements for the cities of Escondido and San Marcos and any other approved new Members) of the Borrower during each related

period specified below:

<u>Period</u>	<u>Required Percentage of Projected Load Requirements Hedged</u>
<u>1/1/22 through 12/31/22</u>	<u>80%</u>
<u>1/1/23 through 12/31/23</u>	<u>60%</u>
<u>1/1/24 through 12/31/24</u>	<u>40%</u>

Without limiting the foregoing, the Lender may in its reasonable discretion, by written notice to the Borrower, adjust the periods and percentages (but in any event not greater than the respective percentages specified above for any three-year consecutive period) specified in this clause (u) (including, without limitation, a “roll forward” of such requirements), it being understood that any such adjustment shall (i) not occur more than once per fiscal year, (ii) not occur until after the annual meeting between the Borrower and the Lender to discuss such requirements (which both parties agree to hold at least once per year), and (iii) give due regard to then prevailing market conditions for power purchases and CEA’s financial condition at the time of any such adjustment, the Lender hereby agreeing to consider such factors described in this clause (iii) in good faith in connection with any such adjustment.

Section 5.2. Negative Covenants. Until the Commitment has expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lender that it will not:

(a) *No Impairment.* Take any action that would have an adverse effect on (i) the ability of the Borrower to pay when due amounts owing to the Lender or any Participant under this Agreement or the Fee Agreement; (ii) the pledge of Net Revenues or the priority of payments from Net Revenues provided in this Agreement; or (iii) the rights or remedies of the Lender under the Basic Documents.

(b) *Merger, Disposition of Assets.* Consolidate or merge with or into any Person or sell, lease or otherwise transfer all or substantially all of its assets to any Person.

(c) *Abandon.* Take any action to abandon the System or any significant portion thereof.

(d) *Preservation of Corporate Existence, Etc.* Take any action to terminate its existence as a public agency under the Joint Powers Act or its rights and privileges as such entity within the State.

(e) *Liens.* Create or suffer to exist or permit any Lien on the Revenues or the proceeds thereof other than the Liens (i) created by this Agreement, and (ii) created by the

Security Agreement.

(f) *Sovereign Immunity.* To the fullest extent permitted by applicable law, with respect to its obligations arising under this Agreement or any other Basic Document, the Borrower irrevocably agrees that it will not assert or claim any immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) from (i) any action, suit or other proceeding arising under or relating to this Agreement or any other Basic Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be entitled in any such action, suit or other proceeding, and the Borrower hereby irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues (irrespective of their use or intended use), all such immunity.

(g) *System.* Construct, operate or maintain any system or utility competitive with the System. The Borrower shall have in effect, or cause to have in effect, at all times an ordinance or resolution requiring all customers of the System to pay the fees, rates and charges applicable to the services and facilities furnished by the System. The Borrower shall not provide any service of the System free of charge to any Person, except (i) to the extent that any such free use is required by the terms of any existing contract or agreement and (ii) for incidental insignificant free use so long as such free use does not prevent the Borrower from satisfying the other covenants of this Agreement.

(h) *Preservation of Existence, Etc.* Take any action to accomplish a merger, consolidation or combination of the System with any other entity or enterprise.

(i) *Use of Proceeds.* Use the Letters of Credit for any purpose other than to secure the Borrower's obligations under PPAs. Use the proceeds of any Loan, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case in violation of, or for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the Board of Governors of the Federal Reserve System. Use the proceeds for any Loan for any purposes other than (i) to provide cash collateral to secure the Borrower's obligations under PPAs, (ii) to repay in whole or in part any LC Disbursement, (iii) for general corporate purposes, or (iv) capital expenditures related to the development or acquisition of new assets related to the System subject to prior written approval by the Lender, which such approval shall not be unreasonably withheld. For the avoidance of doubt, Loan Proceeds may not be used for other long-term expenditures or for funding the Operating Reserve. Use the proceeds of any Loan or any Letter of Credit in violation of any Sanctions or Anti-Corruption Laws.

(j) *System Debt.* Not issue, incur or assume to exist any Senior Debt, Parity Debt or Subordinate Debt except for (i) Debt existing under this Agreement and (ii) Member Capital Advances in an amount not to exceed \$450,000.

(k) *Excess Revenues.* Not use excess revenues for any purpose other than: (i) payment of Operating and Maintenance Costs; (ii) payment of Obligations; (iii) funding and replenishment of the Operating Reserve; (iv) capital expenditures in connection with assets that will become part of the System; (v) rebates to System customers; and (vi) any other lawful purpose that inures to the direct benefit of the System.

(l) *Swap Agreements.* Not enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower has actual exposure, and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower.

(m) *Repayment of Member Capital Advances.* Not to repay the Member Capital Advances without prior written consent of the Lender unless (i) such repayment is made on or after the third (3rd) anniversary of the date the System commences providing utility services to customers, (ii) on the date of such repayment, no Default or Event of Default has occurred and is continuing hereunder and (iii) the Borrower shall have provided to Lender a certificate, together with reasonably detailed calculations, demonstrating that Borrower has maintained and continues to maintain on a historical and projected basis a Debt Service Coverage Ratio of not less than 1.50 for each Fiscal Year.

ARTICLE 6

DEFAULTS

Section 6.1. Events of Default and Remedies. If any of the following events occur, each such event will be an “*Event of Default*”:

(a) the Borrower fails to pay, or cause to be paid, as and when due, (i) any principal of or any interest on any Loan or Reimbursement Obligation or (ii) any other Obligation hereunder or under the Fee Agreement and, in the case of clause (ii), such failure continues for three (3) Business Days.

(b) any representation or warranty made by or on behalf of the Borrower in this Agreement or in any other Basic Document or in any certificate or statement delivered hereunder or thereunder is incorrect or untrue in any material respect when made or deemed to have been made or delivered;

(c) the Borrower defaults in the due performance or observance of any of the covenants set forth in Section 5.1(a), 5.1(c), 5.1(d), 5.1(g), 5.1(k), 5.1(l), 5.1(m), 5.1(q), 5.1(r)(i), 5.1(s) or 5.2 hereof;

(d) the Borrower defaults in the due performance or observance of any other term, covenant or agreement contained in this Agreement or any other Basic Document

and such default remains unremedied for a period of thirty (30) days after the occurrence thereof;

(e) the Borrower, directly or indirectly, (i) has entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) becomes insolvent or does not pay, or is unable to pay, or admits in writing its inability to pay, its debts generally as they become due, (iii) makes an assignment for the benefit of creditors, (iv) applies for, seeks, consents to, or acquiesces in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institutes any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fails to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) takes any corporate action in furtherance of any matter described in clauses (i) through (v) above or (vii) fails to contest in good faith any appointment or proceeding described in Section 6.1(f) of this Agreement;

(f) a custodian, receiver, trustee, examiner, liquidator or similar official is appointed for the Borrower or any substantial part of its Property, or a proceeding described in Section 6.1(e)(v) is instituted against the Borrower and such proceeding continues undischarged, undismissed and unstayed for a period of thirty (30) days;

(g) a debt moratorium, debt restructuring, debt adjustment or comparable restriction is imposed on the repayment when due and payable of the principal of or interest on any Debt of the Borrower by the Borrower or any Governmental Authority with appropriate jurisdiction;

(h) any material provision of this Agreement, the Joint Powers Agreement or any other Basic Document at any time for any reason ceases to be valid and binding on the Borrower as a result of any legislative or administrative action by a Governmental Authority with competent jurisdiction or is declared in a final non-appealable judgment by any court with competent jurisdiction to be null and void, invalid or unenforceable, or the validity or enforceability thereof is publicly contested by the Borrower, or the Borrower publicly contests the validity or enforceability of any obligation to pay System Debt, or any Authorized Representative publicly repudiates or otherwise denies in writing that it has any further liability or obligation under or with respect to any provision of this Agreement, the Joint Powers Agreement, any other Basic Document or any operative document related to System Debt;

(i) dissolution or termination of the existence of the Borrower;

(j) the Borrower (i) defaults on the payment of the principal of or interest on any System Debt beyond the period of grace, if any, *provided* in the instrument or agreement under which such System Debt was created or incurred or (ii) defaults in the

observance or performance of any agreement or condition relating to any System Debt, including, without limitation, any Bank Agreement, or contained in any instrument or agreement evidencing, securing or relating thereto, or any other default, event of default or similar event occurs or condition exists, the effect of which default, event of default or similar event or condition is to permit (determined without regard to whether any notice is required) any such System Debt to become immediately due and payable in full as the result of the acceleration, mandatory redemption or mandatory tender of such System Debt;

(k) any final, nonappealable judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, in an aggregate amount not less than \$250,000 are entered or filed against the Borrower or against any of its Property and remain unpaid, unvacated, unbonded and unstayed for a period of sixty (60) days;

(l) *Reserved*;

(m) the passage of any Law has occurred which could reasonably be expected to have a Material Adverse Effect.

Section 6.2. Remedies. Upon the occurrence of any Event of Default (other than an Event of Default described in Section 6.1(e) or 6.1(f)), and at any time thereafter during the continuance of such event, the Lender may by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitment, and thereupon the Commitment shall terminate immediately, (ii) require cash collateral for the LC Exposure in accordance with Section 2.4(h) hereof and (iii) declare all Obligations then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any Event of Default described in Section 6.1(e) or 6.1(f), the Commitment shall automatically terminate and the principal of the Loans then outstanding, and cash collateral for the LC Exposure, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

ARTICLE 7

MISCELLANEOUS

Section 7.1. Amendments, Waivers, Etc. No amendment or waiver of any provision of this Agreement, or consent to any departure by the Borrower therefrom, will in any event be effective unless the same is in writing and signed by the Lender and an Authorized Representative of the Borrower, and then such waiver or consent is effective only in the specific instance and for

the specific purpose for which given.

Section 7.2. Notices. All notices and other communications provided for hereunder must be in writing (including required copies) and sent by courier (including Federal Express or other receipted courier service), facsimile transmission or regular mail, as follows:

- (a) if to the Borrower:

Clean Energy Alliance
1200 Carlsbad Village Drive
Carlsbad, California 92008
Attention: Chief Executive Officer
Email: CEO@thecleanenergyalliance.org

with a copy to:

Nixon Peabody LLP

300 South Grand Avenue, Suite 4100
Los Angeles, CA 9007
Attention: Rudy S. Salo
Telephone: (213) 629-6069
Facsimile: (866) 817-1940
Email: rsalo@nixonpeabody.com

- (b) if to the Lender:

JPMorgan Chase Bank, N.A.
383 Madison Avenue, 3rd Floor
New York, New York 10179
Mail Code: NY1-M076
Attention: Allyson Goetschius or Janice Fong
Telephone: (212) 270-0335 or (212) 270-3762
Facsimile: (917) 849-0272
Email: Allyson.l.goetschius@jpmorgan.com or
Janice.r.fong@jpmorgan.com

with a copy to:

JPMorgan Chase Bank, National Association
JPM-Delaware Loan Operations
500 Stanton Christiana Road, NCC5, Floor 01
Newark, DE 19713-2107
Attention: PFG Servicing
Telephone: (302) 634-9627
Email/Fax: PFG_Servicing@jpmorgan.com

And, for compliance-related items, with a copy to:

public.finance.notices@jpmchase.com

or, as to each Person named above, at such other address or telephone or telecopy number as is designated by such Person in a written notice to the parties hereto. All such notices and other communications will, when delivered, sent by facsimile transmission or mailed, be effective when deposited with the courier, sent by facsimile transmission or mailed, respectively, addressed as aforesaid, except that requests for LC Disbursements submitted to the Lender will not be effective until received by the Lender.

Section 7.3. Survival of Covenants; Successors and Assigns. (a) All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto will survive the making of any Loan, and will continue in full force and effect until all of the Obligations hereunder are paid in full. Whenever in this Agreement any of the parties hereto is referred to, such reference will, subject to the last sentence of this Section, be deemed to include the successors and assigns of such party, and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Agreement will inure to the benefit of the successors and assigns of the Lender. The Borrower may not transfer its rights or obligations under this Agreement without the prior written consent of the Lender. The Lender may transfer or assign some or all of its rights and obligations under this Agreement and the Fee Agreement with, so long as no Event of Default has occurred and is continuing, the prior written consent of the Borrower (which consent may not be withheld unreasonably); *provided* that the Lender shall be responsible for all costs solely relating to such transfer or assignment. This Agreement is made solely for the benefit of the Borrower and the Lender, and no other Person (including, without limitation, any PPA Counterparty) will have any right, benefit or interest under or because of the existence of this Agreement.

(b) Notwithstanding the foregoing, the Lender will be permitted to grant to one or more financial institutions (each a "*Participant*") a participation or participations in all or any part of the Lender's rights and benefits and obligations under this Agreement, the Fee Agreement, the Loans and the Letters of Credit on a participating basis but not as a party to this Agreement (a "*Participation*") without the consent of the Borrower. In the event of any such grant by the Lender of a Participation to a Participant, the Lender shall remain responsible for the performance of its obligations hereunder and under the Letters of Credit, and the Borrower may continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations under this Agreement, under the Fee Agreement and under the Letters of Credit. The Borrower agrees that each Participant will, to the extent of its Participation, be entitled to the benefits of this Agreement as if such Participant were the Lender; *provided* that no Participant will have the right to declare, or to take actions in response to, an Event of Default under Section 6.1 hereof; and *provided, further*, that the Borrower's liability to any Participant (including, without limitation, amounts payable pursuant to Sections 2.12, 2.13 and 2.14) will not in any event exceed that liability which the Borrower would owe to the Lender but for such participation.

Section 7.4. No Recourse Against Constituent Members of CEA. CEA is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California

(Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated November 4, 2019, and is a public entity separate from its constituent members. CEA shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. The Lender shall not make any claims, take any actions or assert any remedies against any of CEA's constituent members arising solely as a result of CEA's breach of this Agreement.

Section 7.5. Liability of Lender; Indemnification. (a) To the extent permitted by the laws of the State, the Borrower assumes all risks of the acts or omissions of the PPA Counterparties with respect to the use of the Letters of Credit or the use of proceeds thereunder; *provided* that this provision is not intended to and will not preclude the Borrower from pursuing such rights and remedies as it may have against the PPA Counterparties under any other agreements. Neither the Lender nor any of its respective officers or directors will be liable or responsible for (i) the use of any Letter of Credit, the LC Disbursements or the Loans or the transactions contemplated hereby and by the other Basic Documents or for any acts or omissions of any PPA Counterparty, (ii) the validity, sufficiency or genuineness of any documents determined in good faith by the Lender to be valid, sufficient or genuine, even if such documents, in fact, prove to be in any or all respects invalid, fraudulent, forged or insufficient, (iii) payments by the Lender against presentation of requests for LC Disbursements or requests which the Lender in good faith has determined to be valid, sufficient or genuine and which subsequently are found not to comply with the terms of this Agreement or (iv) any other circumstances whatsoever in making or failing to make payment hereunder; *provided* that the Borrower is not required to indemnify the Lender for any claims, losses, liabilities, costs or expenses to the extent, but only to the extent that a court of competent jurisdiction has determined by a final, non-appealable judgment were caused by the gross negligence or willful misconduct of the Lender.

(b) To the extent permitted by the laws of the State, the Borrower indemnifies and holds harmless the Lender from and against any and all direct, as opposed to consequential, claims, damages, losses, liabilities, costs and expenses (including specifically reasonable attorneys' fees) which the Lender may incur (or which may be claimed against the Lender by any Person whatsoever) by reason of or in connection with the execution, delivery and performance of the Basic Documents, the Letters of Credit and the transactions contemplated thereby; *provided* that the Borrower is not required to indemnify the Lender to the extent, but only to the extent, any such claim, damage, loss, liability, cost or expense is caused by the Lender's willful misconduct or gross negligence as determined by a final order of a court of competent jurisdiction. The Lender is expressly authorized and directed to honor any demand for payment which is made under any Letter of Credit without regard to, and without any duty on its part to inquire into the existence of, any disputes or controversies between the Borrower, any PPA Counterparty or any other Person or the respective rights, duties or liabilities of any of them or whether any facts or occurrences represented in any of the documents presented under any Letter of Credit are true and correct.

(c) To the fullest extent permitted by Applicable Law, the Borrower shall not assert, and waives, any claim against the Lender, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, any Basic Document or any agreement or instrument contemplated thereby, the transactions contemplated thereby or the use of the proceeds thereof.

(d) The obligations of the Borrower under this Section 7.5 will survive the termination of this Agreement.

Section 7.6. Expenses. Upon receipt of a written invoice, the Borrower shall promptly pay (i) the reasonable fees and expenses of counsel to the Lender incurred in connection with the preparation, execution and delivery and administration of this Agreement, the Letters of Credit, the Fee Agreement and the other Basic Documents as set forth in the Fee Agreement, (ii) the reasonable out-of-pocket expenses of the Lender incurred in connection with the preparation, execution and delivery and administration of this Agreement, the Letters of Credit, the Fee Agreement and the other Basic Documents, (iii) the fees and disbursements of counsel to the Lender with respect to advising the Lender as to its rights and responsibilities under the Basic Documents after the occurrence of a Default or an Event of Default and (iv) all costs and expenses, if any, in connection with the administration and enforcement of the Basic Documents, including in each case the fees and disbursements of counsel to the Lender. In addition, and notwithstanding the foregoing, the Borrower agrees to pay, after the occurrence of an Event of Default, all costs and expenses (including attorneys' fees and costs of settlement) incurred by the Lender in enforcing any obligations or in collecting any payments due from the Borrower hereunder or under the Fee Agreement by reason of such Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "workout" or of any insolvency or bankruptcy proceedings. The obligations of the Borrower under this Section 7.6 will survive the termination of this Agreement.

Section 7.7. No Waiver; Conflict. Neither any failure nor any delay on the part of the Lender in exercising any right, power or privilege hereunder, nor any course of dealing with respect to any of the same, will operate as a waiver thereof or preclude any other or further exercise thereof, nor will a single or partial exercise thereof, preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. To the extent of any conflict between this Agreement and any other Basic Documents, this Agreement will control solely as between the Borrower and the Lender.

Section 7.8. Modification, Amendment Waiver, Etc. No modification, amendment or waiver of any provision of this Agreement will be effective unless the same is in writing and signed in accordance with Section 7.1 hereof.

Section 7.9. Dealings. The Lender and its affiliates may accept deposits from, extend credit to and generally engage in any kind of banking, trust or other business with the Borrower and/or any PPA Counterparty regardless of the capacity of the Lender hereunder or under any Letter of Credit.

Section 7.10. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction, and all other remaining provisions hereof will be construed to render them enforceable to the fullest extent permitted by law. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or

unenforceable provisions with valid provisions the economic or legal effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 7.11. Counterparts; Integration; Effectiveness; Electronic Execution. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Basic Documents and any separate letter agreements with respect to fees payable to the Lender constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 3.1, this Agreement shall become effective when it shall have been executed by the Lender and when the Lender shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of (x) this Agreement, (y) any other Basic Document and/or (z) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 7.2), certificate, request, statement, disclosure or authorization related to this Agreement, any other Basic Document and/or the transactions contemplated hereby and/or thereby (each an "*Ancillary Document*") that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Basic Document or such Ancillary Document, as applicable. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement, any other Basic Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; *provided* that nothing herein shall require the Lender to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; *provided, further*, without limiting the foregoing, (i) to the extent the Lender has agreed to accept any Electronic Signature, the Lender shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of the Borrower without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (ii) upon the request of the Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the Borrower hereby (A) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Lender and the Borrower, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Basic Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (B) the Lender may, at its option, create one or more copies of this Agreement, any other Basic Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be

deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (C) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Basic Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Basic Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (D) waives any claim against any Lender-Related Person for any Liabilities arising solely from the Lender's reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of the Borrower to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

Section 7.12. Table of Contents; Headings. The table of contents and the section and subsection headings used herein have been inserted for convenience of reference only and do not constitute matters to be considered in interpreting this Agreement.

Section 7.13. Entire Agreement. This Agreement and the Fee Agreement represents the final agreement between the parties hereto with respect to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties hereto as to such subject matter.

Section 7.14. Governing Law Waiver of Jury Trial. (a) THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND FOR ALL PURPOSES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS; *PROVIDED*, THAT THE OBLIGATIONS OF THE LENDER HEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS.

(b) TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE BASIC DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, EACH OF THE PARTIES HERETO CONSENTS TO THE ADJUDICATION OF ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE IS EMPOWERED TO HEAR AND DETERMINE ALL ISSUES IN SUCH REFERENCE, WHETHER FACT OR LAW. EACH OF THE PARTIES HERETO REPRESENTS THAT IT HAS REVIEWED THIS WAIVER AND CONSENT AND, FOLLOWING CONSULTATION WITH LEGAL COUNSEL ON SUCH MATTERS, KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT OR TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

(c) The covenants and waivers made pursuant to this Section 7.14 are irrevocable and

unmodifiable, whether in writing or orally, and are applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

Section 7.15. Reserved.

Section 7.16. USA PATRIOT Act. The Lender notifies the Borrower that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lender to identify the Borrower in accordance with the Act. The Borrower agrees to provide such documentary and other evidence of the Borrower’s identity as may be requested by the Lender at any time to enable the Lender to verify the Borrower’s identity or to comply with any Applicable Law or regulation, including, without limitation, the Act.

Section 7.17. Reserved.

Section 7.18. Assignment to Federal Reserve Bank. The Lender may assign and pledge all or any portion of the obligations owing to it hereunder to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank, *provided* that any payment in respect of such assigned obligations made by the Borrower to the Lender in accordance with the terms of this Agreement will satisfy the Borrower’s obligations hereunder in respect of such assigned obligation to the extent of such payment. No such assignment will release the Lender from its obligations hereunder.

Section 7.19. Reserved.

Section 7.20. Arm’s Length Transaction. The transaction described in this Agreement is an arm’s length, commercial transaction between the Borrower and the Lender in which: (i) the Lender is acting solely as a principal (*i.e.*, as a lender) and for its own interest; (ii) the Lender is not acting as a municipal advisor or financial advisor to the Borrower; (iii) the Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to the Borrower with respect to this transaction and the discussions, undertakings and procedures leading thereto (irrespective of whether the Lender or any of its affiliates has provided other services or is currently providing other services to the Borrower on other matters); (iv) the only obligations the Lender has to the Borrower with respect to this transaction are set forth in this Agreement, the Fee Agreement and the Letters of Credit; and (v) the Lender is not recommending that the Borrower take an action with respect to the transaction described in this Agreement and the other Basic Documents, and before taking any action with respect to the this transaction, the Borrower should discuss the information contained herein with the Borrower’s own legal, accounting, tax, financial and other advisors, as the Borrower deems appropriate.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Borrower and the Lender have duly executed this Agreement as of the date first written above.

CLEAN ENERGY ALLIANCE

By: _____
Name: _____
Title: _____

JPMORGAN CHASE BANK, N.A.

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF OPINION OF NIXON PEABODY LLP

[See Index No. 4 of the Closing Transcript]

EXHIBIT B

FORM OF COMPLIANCE CERTIFICATE

This Compliance Certificate (this “*Certificate*”) is furnished to JPMorgan Chase Bank, N.A. (including its successors and assigns, the “*Lender*”) pursuant to the Revolving Credit Agreement, dated as of February 3, 2021 (together with all amendments and supplements thereto, the “*Agreement*”), by and between the Clean Energy Alliance (including its successors and assigns, the “*Borrower*”) and the Lender. Unless otherwise defined herein, the terms used in this Certificate have the meanings assigned thereto in the Agreement.

This Compliance Certificate is being delivered in connection with [annual audited financials for the Fiscal Year ended _____, 20] [unaudited financial statements for the fiscal quarter ended _____, 20].

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am an Authorized Representative of the Borrower;
2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Borrower during the accounting period covered by the attached financial statements;
3. The examinations described in paragraph 2 did not disclose, and I have no knowledge of, the existence of any condition or the occurrence of any event which constitutes a Default or Event of Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth below; and
4. To the best of my knowledge the financial statements required by Section 5.1(a) of the Agreement and being furnished to you concurrently with this certificate fairly represent the consolidated financial condition of the Clean Energy Alliance System in accordance with GAAP as of the date and for the period covered thereby.

[Describe below the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the Borrower has taken, is taking, or proposes to take with respect to each such condition or event:

~~5.~~6. The amount of Available Liquidity as of the end of the [Fiscal Year][fiscal quarter] for which this certificate is being delivered is: _____.¹

7. The Borrower is in compliance with Section 5.1(q) of the Agreement on the date hereof, as evidenced by the Debt Service Coverage Ratio ~~calculation pursuant to Section 5.1(q)~~ and Days Liquidity on Hand calculations set forth on Appendix I hereto.

~~6~~8. Amounts held in the Operating Reserve are as follows: \$ _____.

9. The undersigned, on behalf of the Borrower, hereby represents that the Borrower has fixed, established, maintained and collected rates and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of the System, which are fair and nondiscriminatory and adequate to provide the Borrower with Revenues in Fiscal Year ended [_____, 20__] sufficient to pay, to the extent not paid from other available moneys, any and all amounts the Borrower is obligated to pay or set aside from Revenues by law or contract in such Fiscal Year.²

10. [There have been no updates to the most recent annual budget provided pursuant to Section 5.1(n) of the Agreement.][Attached hereto as Appendix II are [describe updates to budget].]

[Remainder of page intentionally left blank]

¹ As required by Section 5.1(a)(iii), please provide a reasonably detailed calculation of the Available Liquidity when submitting this certificate.

² Pursuant to Section 5.1(m), to the extent that rates have moved by 5% or greater (as compared to the Borrower's most recently adopted annual budget), the Borrower is required to promptly provide the Bank notice, as soon as possible, and in no event later than five (5) Business Days after such adjustment, the Commission shall provide the Bank with an updated twelve (12) month projection of Revenues.

The foregoing certifications and the financial statements delivered with this Certificate in support hereof, are made and delivered this ____ day of _____, 20__.

CLEAN ENERGY ALLIANCE

By: _____
Name: _____
Title: _____

APPENDIX I TO COMPLIANCE CERTIFICATE

[FOR ANY FISCAL QUARTER IN FISCAL YEAR ENDED JUNE 30, 2023:]

[A. Days Liquidity on Hand (Section 5.1(q))

- | | |
|--|-------------------|
| <u>1. Available Liquidity and Unutilized Commitment</u> | <u>\$ _____</u> |
| <u>2. Sum of operating and interest expense for the four consecutive fiscal quarter period ended on or immediately prior to such date of determination</u> | <u>\$ _____</u> |
| <u>3. Line A2 times 1/365</u> | <u>_____</u> |
| <u>4. Line A1 divided by Line A3</u> | <u>_____</u> |
| <u>5. Days Liquidity on Hand based on Line A4</u> | <u>_____ Days</u> |
| <u>6. Line A5 must not be less than</u> | <u>30 Days</u> |
| <u>7. The Borrower is in compliance (circle one)</u> | <u>Yes/No</u> |

[FOR ANY FISCAL QUARTER IN FISCAL YEAR ENDED JUNE 30, 2024 OR THEREAFTER:]

[A. Days Liquidity on Hand (Section 5.1(q))

- | | |
|--|-----------------------------|
| <u>1. Available Liquidity and Unutilized Commitment</u> | <u>\$ _____</u>
<u>=</u> |
| <u>2. Sum of operating and interest expense for the four consecutive fiscal quarter period ended on or immediately prior to such date of determination</u> | <u>\$ _____</u>
<u>=</u> |
| <u>3. Line A2 times 1/365</u> | <u>_____</u> |
| <u>4. Line A1 divided by Line A3</u> | <u>_____</u> |
| <u>5. Days Liquidity on Hand based on Line A4</u> | <u>_____ Days</u> |
| <u>6. Line A5 must not be less than</u> | <u>50 Days</u> |
| <u>7. The Borrower is in compliance (circle one)</u> | <u>Yes/No</u> |

B. Debt Service Coverage Ratio (Section 5.1(q))

- | | |
|---|-----------------|
| <u>1. Net Revenues as determined for the four consecutive fiscal quarter periods ended on the last date of such fiscal quarter</u> | <u>\$ _____</u> |
| <u>2. Annual Debt Service as determined for the four consecutive fiscal quarter periods ended on the last date of such fiscal quarter</u> | <u>\$ _____</u> |

<u>3. Ratio of Line B1 to B2</u>	<u>_____</u>
<u>4. Line B3 must not be less than</u>	<u>1.40:1.00</u>
<u>5. The Borrower is in compliance (circle one)</u>	<u>Yes/No</u>

APPENDIX II TO COMPLIANCE CERTIFICATE

[ATTACHED]

EXHIBIT C

FORM OF BORROWING REQUEST

_____, 20__

JPMorgan Chase Bank, N.A.
383 Madison Avenue, 3rd Floor
New York, New York 10179
Mail Code: NY1-M076
Attention: _____

Ladies and Gentlemen:

The undersigned refers to the Revolving Credit Agreement, dated as of February 3, 2021 (together with any amendments or supplements thereto, the “*Agreement*”), by and between Clean Energy Alliance (with its successors and assigns, the “*Borrower*”) and JPMorgan Chase Bank, N.A. (with its successors and assigns, the “*Lender*”) (the terms defined therein being used herein as therein defined) and hereby requests, pursuant to Section 2.3 of the Agreement, that the Lender make a Loan under the Agreement and disburse such funds as set forth in #6 below, and in that connection sets forth below the following information relating to such Loan (the “*Proposed Loan*”):

1. The Business Day of the Proposed Loan is _____, 20__ (the “*Issuance Date*”).

2. The principal amount of the Proposed Loan is \$_____, which is not greater than the Revolving Credit Exposure or the Loan Sublimit as of the Issuance Date set forth in 1 above. After giving effect to the Proposed Loan, the aggregate principal amount of all Loans outstanding under the Agreement will not exceed the Loan Sublimit as of the Issuance Date, and the aggregate principal amount of all Loans and LC Exposure outstanding under the Agreement will not exceed the Revolving Credit Exposure as of the Issuance Date.

3. The interest rate with respect to the Proposed Loan shall be a [Base Rate Loan*][EurodollarSOFR Loan][.];[IN THE CASE OF A EURODOLLARSOFR BORROWING] the initial Interest Period shall be for [one month][three months].]

4. The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the Issuance Date, before and after giving effect to the Proposed Loan:

(a) The representations and warranties of the Borrower set forth in

* Reimbursement Loans may only be Base Rate Loans, not Eurodollar Loans.

Article IV of the Agreement (other than in Section 4.7 thereof) are true and correct in all material respects (or in the case of any representation qualified by materiality, in all respects) on the date hereof, as if made on the date hereof;

(b) No Event of Default has occurred and is continuing; and

(c) No event or change shall be in effect or shall have occurred that could reasonably be expected to have a Material Adverse Effect.

5. The proceeds for Proposed Loan are being used for the following purposes:

(a) To provide cash collateral to secure the Borrower’s obligations under PPAs,

(b) to repay in whole or in part any LC Disbursement under Section 2.4(d) in the case of a Reimbursement Loan* ,

(c) for general corporate purposes,

(d) to pay interest accrued on any Obligations through September 30, 2021, or

(e) capital expenditures related to the development or acquisition of new assets related to the System.

6. The Proposed Loan shall be made by the Lender by wire transfer of immediately available funds or deposited [in the amount of \$_____] into Borrower’s account at the Lender in accordance with the instructions set forth in the Agreement or to or on behalf of the Borrower in accordance with the instructions set forth below and the Borrower hereby confirms that the Lender is authorized to make said disbursements:

[Insert wire instructions and amounts]

CLEAN ENERGY ALLIANCE

By: _____
Name: _____
Title: _____

* Reimbursement Loans may only be Base Rate Loans, not Eurodollar Loans

Approved by the Lender:

JPMORGAN CHASE BANK, N.A.

By: _____

Name: _____

Title: _____

EXHIBIT D-1

FORM OF LETTER OF CREDIT REQUEST

_____, 20__

JPMorgan Chase Bank, N.A.
383 Madison Avenue, 3rd Floor
New York, New York 10179
Mail Code: NY1-M076
Attention: _____

Ladies and Gentlemen:

The undersigned refers to the Revolving Credit Agreement, dated as of February 3, 2021 (together with any amendments or supplements thereto, the "*Agreement*"), by and between Clean Energy Alliance (with its successors and assigns, the "*Borrower*") and JPMorgan Chase Bank, N.A. (with its successors and assigns, the "*Lender*") (the terms defined therein being used herein as therein defined) and hereby requests, pursuant to Section 2.4 of the Agreement, that the Lender issue a Letter of Credit under the Agreement, and in that connection sets forth below the following information relating to such Letter of Credit (the "*Proposed Letter of Credit*"):

1. The Business Day of the Proposed Letter of Credit is _____, 20__ (the "*Issuance Date*").

2. The principal amount of the Proposed Letter of Credit is \$_____, which is not greater than the Revolving Credit Exposure or the Letter of Credit Sublimit as of the Issuance Date set forth in 1 above. After giving effect to the Proposed Letter of Credit, the aggregate principal amount of all Letters of Credit outstanding under the Agreement will not exceed the Letter of Credit Sublimit as of the Issuance Date set forth in 1 above, and the aggregate principal amount of all Loans and Letters of Credit outstanding under the Agreement will not exceed the Revolving Credit Exposure as of the Issuance Date set forth in 1 above.

3. The tenor of the Proposed Letter of Credit shall be [_____].

4. The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the Issuance Date, before and after giving effect thereto:

(a) The representations and warranties of the Borrower set forth in Article IV of the Agreement (other than in Section 4.7 thereof) are true and correct in all material respects on the date hereof, as if made on the date hereof;

(b) No Event of Default has occurred and is continuing;

(c) No event or change shall be in effect or shall have occurred that

could reasonably be expected to have a Material Adverse Effect.

5. The undersigned hereby confirms that the Borrower has submitted a Standby Letter of Credit Application, a form of which is on file with the Borrower and the Lender.

CLEAN ENERGY ALLIANCE

By: _____
Name: _____
Title: _____

EXHIBIT D-2

SHORT FORM LETTER OF CREDIT APPLICATION

TO BE PROVIDED UNDER SEPARATE COVER BY THE LENDER.

EXHIBIT D-3

**FORM OF COMMERCIAL & STANDBY LETTERS OF CREDIT
BETWEEN CLEAN ENERGY ALLIANCE AND JPMORGAN CHASE BANK, N.A.
(FOR CREDITS ISSUED UNDER A CREDIT AGREEMENT)**

To induce JPMorgan Chase Bank, N.A. and/or any of its domestic or foreign subsidiaries or affiliates (individually and collectively, “*Bank*”), to issue for the account of Applicant or for the account of the Account Party named in the Application, one or more standby or commercial letters of credit or other independent undertakings, from time to time at the request of the undersigned (individually and collectively, “*Applicant*”; jointly and severally, if more than one), Applicant agrees as to each letter of credit or undertaking (together with any replacements, extensions or modifications, a “*Credit*,” collectively, “*Credits*”) as follows:

All Credits issued pursuant to this Continuing Agreement (as amended, supplemented or otherwise modified, the “*Agreement*”) are issued under and pursuant to the terms and conditions of the Revolving Credit Agreement (as amended, extended, restated or otherwise modified from time to time, and including any successor agreement to which the Bank is a party (as a letter of credit issuing bank) which refinances or otherwise governs the Credits, the “*Credit Agreement*”) dated as of among Clean Energy Alliance and JPMorgan Chase Bank, N.A. as Lender. Capitalized terms used herein and not otherwise defined have the meaning assigned to them in the Credit Agreement. If the Credit Agreement is terminated or expires, references in this Agreement to the Credit Agreement shall refer to the Credit Agreement in the form it was in immediately prior to such termination or expiration, unless otherwise agreed by Bank and Applicant. In the event of any inconsistency between the terms and conditions of the Credit Agreement and the terms and conditions of this Agreement, the terms and conditions of the Credit Agreement shall control, except that provisions relating to indemnification and limitation of Bank’s liability as set forth in this Agreement shall also apply.

SECTION 1. DEFINITIONS.

The following terms shall have the meanings set forth below:

“*Application*” means an irrevocable request to issue a Credit, in a form acceptable to the Bank.

“*Costs*” means any and all claims, suits, judgments, costs, losses, fines, penalties, damages, liabilities, and expenses, including reasonable and documented expert witness fees and legal fees, charges and disbursements of any counsel for any Indemnified Person.

“*Drawing Document*” means any document presented for purposes of drawing under a Credit.

“*Good Faith*” means honesty in fact in the conduct of the transaction concerned.

“Instructions” means each Application, any inquiries, communications and instructions (in any form, whether oral, telephonic, written, electronic mail or transmission or facsimile) regarding a Credit. Bank’s records of the content of any Instruction shall be conclusive absent manifest error.

“ISP” means International Standby Practices 1998 (International Chamber of Commerce Publication No. 590) and any subsequent revision thereof adhered to by Bank on the date such Credit is issued.

“LOIs” means steamship guarantees, releases or letters of indemnity in favor of a carrier issued by Bank upon Instruction of Applicant as set forth on Annex I.

“Obligations” means all obligations and liabilities of Applicant to Bank in respect of any and all Credits and LOIs issued hereunder (if any), whether matured or unmatured, absolute or contingent, now existing or hereafter incurred.

“Property” means all property of any kind whatsoever (now existing or hereafter acquired) referred to, or relating to, an applicable Credit including, without limitation, any and all right, title and interest of Applicant in any goods, equipment, inventory, money, documents, letters of credit, warehouse receipts, instruments, securities, security entitlements, financial assets, investment property, precious and base metals, chattel paper, electronic chattel paper, accounts, commercial tort claims, deposit accounts, general intangibles (including any claims for breach of contract, breach of warranty claims and any insurance policies and proceeds), letter of credit rights, choses in action and the proceeds of any and all thereof (including any and all of the aforesaid referred to in any Credit or the Drawing Documents relating thereto).

“Released Merchandise” means, with respect to a Credit, all Property released (including pursuant to a forwarders cargo receipt or by any other means whatsoever) or consigned to Applicant or any Person designated by Applicant in connection with such Credit or related LOI.

“Standard Letter of Credit Practice” means, for Bank, any domestic or foreign law or letter of credit practices applicable in the city in which Bank issued the applicable Credit or for its branch or correspondent, such laws and practices applicable in the city in which it has advised, confirmed or negotiated such Credit, as the case may be. Such practices shall be (i) of banks that regularly issue Credits in the particular city and (ii) required or permitted under the UCP or the ISP, as chosen in the applicable Credit.

“UCP” means Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 and any subsequent revision thereof adhered to by Bank on the date such Credit is issued.

“UN Convention” means the United Nations Convention on Independent Guarantees and Standby Letters of Credit.

SECTION 2. LIMITATION OF LIABILITY; INDEMNIFICATION.

(a) Without limiting any provision of the Credit Agreement covering the limitation of liability of the issuing bank (including any exception set forth therein), Bank and each other Indemnitee shall not be responsible to Applicant for, and Bank's rights and remedies against Applicant and Applicant's obligation to reimburse Bank under the Credit Agreement shall not be impaired by: (i) honor of a presentation under any Credit which on its face substantially complies with the terms of such Credit; (ii) honor of a presentation of any Drawing Documents which appear on their face to have been signed, presented or issued (X) by any purported successor or transferee of any beneficiary or other party required to sign, present or issue the Drawing Documents or (Y) under a new name of the beneficiary; (iii) acceptance as a draft of any written or electronic demand or request for payment under a Credit, even if nonnegotiable or not in the form of a draft, and may disregard any requirement that such draft, demand or request bear any or adequate reference to the Credit; (iv) the identity or authority of any presenter or signer of any Drawing Document or the form, accuracy, genuineness, or legal effect of any presentation under any Credit or of any Drawing Documents; (v) disregard of any non-documentary conditions stated in any Credit; (vi) acting upon any Instruction which it, in Good Faith, believes to have been given by a Person or entity authorized to give such Instruction; (vii) any errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document (regardless of how sent or transmitted) or for errors in interpretation of technical terms or in translation; (viii) any delay in giving or failing to give any notice; (ix) any acts, omissions or fraud by, or the solvency of, any beneficiary, any nominated Person or any other Person; (x) any breach of contract between the beneficiary and Applicant or any of the parties to the underlying transaction; (xi) assertion or waiver of any provision of the UCP or ISP which primarily benefits an issuer of a letter of credit, including, any requirement that any Drawing Document be presented to it at a particular hour or place; (xii) payment to any paying or negotiating bank (designated or permitted by the terms of the applicable Credit) claiming that it rightfully honored or is entitled to reimbursement or indemnity under the Standard Letter of Credit Practice applicable to it; or (xiii) acting or failing to act as required or permitted under Standard Letter of Credit Practice (or in the case of other independent undertakings or guarantees, the UN Convention) applicable to where it has issued, confirmed, advised or negotiated such Credit, as the case may be.

(b) Without limiting any provision in the Credit Agreement covering the indemnification of the issuing bank by the Applicant (including any limitation or exception set forth therein) ("*Indemnity Provisions*"), such Indemnity Provisions shall apply to Bank and each related Indemnitee notwithstanding the occurrence of any of the events specified in clause (a) of this Section 2.

(c) If a Credit is to be governed by a law other than that of the State of New York, Bank shall not be liable for any Costs resulting from any act or omission by Bank in accordance with the UCP or the ISP, as applicable, and Applicant shall indemnify Bank for all such Costs.

SECTION 3. FOREIGN CURRENCY.

Unless otherwise previously agreed by the Bank, if an amount drawn under any Credit is in non-United States dollar ("*foreign currency*"), Applicant shall reimburse Bank, on demand, the

United States dollar equivalent of such drawn amount based on the Bank's actual cost of settlement of its obligation. Applicant's obligation to make payments in any currency (the "*Contract Currency*") shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or otherwise, that is expressed in or converted into any currency other than the Contract Currency, except to the extent that such tender or recovery results in the actual receipt by Bank at its designated office of the full amount of the Contract Currency specified to be payable hereunder. Applicant's obligation to make payments in the Contract Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Contract Currency specified to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder. Applicant shall indemnify Bank for any shortfall in such actual receipt.

SECTION 4. REPRESENTATIONS AND WARRANTIES.

Applicant hereby represents and warrants on and as of the date hereof, and the date of each issuance, amendment, renewal and extension of a Credit, as applicable, that (i) this Agreement constitutes the legal, valid and binding obligation of Applicant enforceable against it in accordance with its terms; (ii) the representations and warranties set forth in the Credit Agreement are true and correct; and (iii) if applicable, no goods or vessels used to transport goods related to such Credit will be the subject of any Sanctions.

SECTION 5. REMEDIES.

If at any time there shall occur and be continuing any action for a temporary restraining order, preliminary or permanent injunction, beneficiary wrongful dishonor action or the issuance or commencement of any similar order, action or event in connection with any Credit or any Drawing Document or this Agreement, which order, action or event may apply, directly or indirectly, to Bank or which otherwise threatens to extend or increase Bank's contingent liability beyond the time, amount or other limit provided in such Credit or this Agreement then, Applicant shall, upon Bank's demand, deliver to Bank, as additional security for the Obligations, cash in an amount required by Bank.

SECTION 6. ASSERTION OF RIGHTS

To the extent Bank honors a presentation for which Bank remains unpaid, Bank may assert rights of Applicant and Applicant shall cooperate with Bank in its assertion of Applicant's rights, if any, against the beneficiary, the beneficiary's rights against Applicant and any other rights that Bank may have by subordination, subrogation, reimbursement, indemnity or assignment.

SECTION 7. NOTICES, S.W.I.F.T., ELECTRONIC TRANSMISSIONS.

(a) *Notices.* Unless otherwise provided in the Credit Agreement, notices to Bank shall be sent to the address of Bank as set forth in the Credit and shall be delivered by hand, overnight courier or certified mail, return receipt requested. Notices to Applicant shall be sent to the address set forth in the Application unless advised otherwise in writing.

(b) *S.W.I.F.T.* Bank may transmit a Credit and any amendment thereto by S.W.I.F.T. message and thereby bind Applicant directly and as indemnitor to the S.W.I.F.T. rules.

(c) *Electronic Transmissions.* Bank is authorized to accept and process any Application and any amendments, transfers, assignments of proceeds, Instructions, consents, waivers and all documents relating to the Credit or the Application which are sent by electronic transmission using the system provided by Bank, including S.W.I.F.T., electronic mail, facsimile or other computer generated telecommunications ("*Electronic Transmission*") and such Electronic Transmission shall have the same legal effect as an original and shall be binding upon and enforceable against Applicant. Bank may, but shall not be obligated to, require authentication of such Electronic Transmission or receipt of original documents prior to acting on such Electronic Transmission. If it is a condition of the Credit that payment may be made upon receipt by Bank of an Electronic Transmission advising negotiation, Applicant hereby agrees to reimburse Bank on demand for the amount indicated in such Electronic Transmission advice, and further agrees to hold Bank harmless if the documents fail to arrive, or if, upon the arrival of the documents, Bank should determine that the documents do not comply with the terms and conditions of the Credit.

SECTION 8. COMMERCIAL CREDITS.

(a) *Pledge of Underlying Goods and Title Documents.* As security for the payment and performance of all obligations and liabilities of Applicant to Bank in respect of any and all commercial Credits and LOIs issued hereunder (if any) and under this Agreement, Applicant hereby grants to Bank a continuing lien and security interest in all of Applicant's right, title and interest in, to and under all the underlying goods relating to the commercial Credits and the title documents evidencing such goods and all products and proceeds of the foregoing (whether now existing or hereafter created or acquired) which have been or at any time shall be delivered to, received by or otherwise come into the possession or control of Bank, its correspondents or Applicant in connection with each Credit.

(b) *Acceptance of Drawing Documents; No Waiver.* Applicant's acceptance or retention of a Drawing Document presented under or in connection with any Credit (whether or not the document is genuine) or of any Released Merchandise shall ratify Bank's honor of the presentation and preclude Applicant from raising a defense, set-off or claim with respect to Bank's honor of such Credit. Bank shall not be required to seek any waiver of discrepancies from Applicant or to grant any waiver of discrepancies which Applicant approves or requests.

(c) *Possession of Drawing Documents.* If Bank shall agree to honor (accept) Drawing Documents under a Credit on a time draft or deferred payment basis, Applicant shall not take possession of the Drawing Documents or the underlying Property except for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with such Property in a manner preliminary to its sale or exchange. An Instruction to release any such Drawing Document or Property shall be deemed a representation by Applicant to Bank that Applicant seeks such release for one of said purposes. In each such case, Applicant shall apply the proceeds of Property to the Obligations relating to the applicable Credit.

(d) *Absence of Written Instructions.* In the absence of written instructions to the

contrary, Applicant agrees that (i) if the Credit authorizes drawings and/or shipments in installments and any installment is not drawn and/or shipped within the period allowed for that installment but Applicant waives such discrepancy, Bank is authorized to honor any subsequent installments so long as documents for such installments are presented within the period allowed for such installments; and (ii) each negotiated Credit shall expire at the counters of the nominated person even if notice of the presentation or any documents contained in the presentation is not received by Bank until after the expiry date of the Credit or any installment thereof.

(e) *Release of Documents or Claiming of Goods from the Carrier.* In the event Bank, upon Applicant's request, agrees to deliver to Applicant, a customs broker or any other person designated by Applicant, any of the documents of title relating to the Credit, prior to having received payment in full of all the Obligations, Applicant agrees to obtain possession of any goods represented by such documents within twenty-one days after the date of delivery of such documents, and if Applicant fails to do so, Applicant agrees to return such documents or to have them returned to Bank prior to the expiration of the twenty-one day period. Applicant further agrees to execute and deliver to Bank receipts for such documents and the goods represented thereby identifying and describing such documents and goods. If Applicant claims from the carrier any goods identified in the shipping documents required under the Credit (by virtue of a steamship release, air release, letter of indemnity or any other means), with or without the assistance of Bank, and such goods have been released to Applicant or a customs broker or agent acting on Applicant's behalf, Applicant hereby authorizes Bank to immediately, and without further inquiry and consideration, debit any account of Applicant in an amount equal to the fair market value of such goods, that have been released, together with any out-of-pocket charges or expenses owing to Bank.

SECTION 9. STANDBY CREDITS.

(a) *Installments.* If the Credit is issued subject to UCP 600, unless otherwise agreed, in the event that any installment of the Credit is not drawn within the period allowed for that installment, the Credit may continue to be available for any subsequent installments in the sole discretion of Bank, notwithstanding Article 32 of UCP 600.

(b) *Auto Extend Notice.* If the Credit provides for automatic extension without amendment, Applicant agrees that it will notify Bank in writing at least thirty (30) days prior to the last day specified in the Credit by which Bank must give notice of nonextension if Applicant wishes the Credit not to be extended. Any decision to extend or not extend the Credit shall be in Bank's sole discretion and judgment. Applicant hereby acknowledges that in the event Bank notifies the beneficiary of the Credit that it has elected not to extend the Credit and the beneficiary draws on the Credit after receiving the notice of non-extension, Applicant acknowledges and agrees that Applicant shall have no claim or cause of action against Bank or defense against payment under the Agreement for Bank's discretionary decision to extend or not extend the Credit.

(c) *Pending Expiry Notice.* If a Credit's terms and conditions provide that Bank give beneficiary a notice of pending expiration, Applicant agrees that it will notify Bank in writing at least thirty (30) days prior to the last day specified in the Credit by which Bank must give such notice of the pending expiration date. In the event Applicant fails to so notify Bank and the Credit

is extended, Applicant's Obligations under this Agreement shall continue in effect and be binding on Applicant with regard to the Credit as so extended.

SECTION 10. WAIVER OF DEFENSE; JOINT AND SEVERAL LIABILITY.

Applicant waives any defense whatsoever which might constitute a defense available to, or discharge of, a surety or a guarantor. If more than one Person signs this Agreement or an Application hereunder, each of them shall be jointly and severally liable hereunder and thereunder and all the terms and provisions regarding liabilities, obligations and Property of such Persons shall apply to any liabilities, obligations and Property of any and all of them.

SECTION 11. TERMINATION.

This Agreement is a continuing agreement and may not be terminated by Applicant except upon (i) thirty (30) days' prior written notice of such termination by Applicant to Bank at the address of Bank set forth on the most recent Credit issued hereunder, (ii) payment of all Obligations and (iii) the expiration or cancellation of all Credits issued hereunder. Notwithstanding the foregoing sentence, if a Credit is issued in favor of a sovereign or commercial entity, which is to issue a guarantee or undertaking on Applicant's behalf in connection therewith, or is issued as support for such a guarantee, Applicant shall remain liable with respect to such Credit until Bank is fully released in writing by such entity.

SECTION 12. AMENDMENT; WAIVER.

Bank shall not be deemed to have amended or modified any term hereof, or waived any of its rights unless Bank consents in writing to such amendment, modification or waiver. No such waiver, unless expressly stated therein, shall be effective as to any transaction which occurs subsequent to such waiver, nor as to any continuance of a breach after such waiver. Bank's consent to any amendment, modification or waiver does not mean that Bank shall consent or has consented to any other or subsequent Instruction to amend, modify, or waive a term of this Agreement or any Credit.

SECTION 13. COMMENCEMENT OF ACTION.

Any action or proceeding in respect of any matter arising under or in connection with Credits, the Applications or this Agreement must be brought by Applicant against Bank within the time period specified in Section 5-115 of the Uniform Commercial Code.

SECTION 14. JURISDICTION; WAIVER OF JURY TRIAL; GOVERNING LAW.

Applicant agrees to be bound by the provisions in the Credit Agreement relating to jurisdiction, venue, and waiver of jury trial and that such provisions shall also apply to this Agreement. This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

SECTION 15. SUCCESSORS AND ASSIGNS.

The provisions of this Agreement shall be binding upon and inure to the benefit of Bank and Applicant and their respective successors and assigns permitted hereby, except that Applicant may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Bank. Nothing in this Agreement, expressed or implied, shall be construed to confer any right or benefit upon any Person (other than the parties hereto, the Indemnified Persons and their respective successors and permitted assigns).

SECTION 16. COUNTERPARTS; INTEGRATION; ELECTRONIC EXECUTION.

This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the Credit Agreement constitute the entire contract and final agreement among the parties relating to the subject matter and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 17. SURVIVAL.

The provisions of Sections 2, 8(a), 11, 14 and 17 shall survive and remain in full force and effect regardless of the consummation of any transactions contemplated hereby, the reimbursement or repayment of any drawings or Obligations, the expiration or termination of the Credits or LOIs or the termination of this Agreement or any provision hereof.

IN WITNESS WHEREOF, the Applicant hereto has caused this Agreement to be duly executed and delivered by its respective authorized officer as of the day and year written below.

APPLICANT/OBLIGOR:

CLEAN ENERGY ALLIANCE

By: _____
Name: _____
Title: _____

ANNEX I TO CONTINUING AGREEMENT

If Bank issues an LOI or endorses a bill of lading at the instruction of Applicant or otherwise pursuant hereto, Applicant agrees as follows:

Except as otherwise set forth in this Annex I or expressly set forth elsewhere in this Agreement, an LOI shall be deemed issued by Bank subject to the same terms and conditions set forth herein for Credits, including, without limitation, payment obligations, indemnification provisions and limitations of liability benefiting Bank and other Indemnified Persons. Applicant shall be liable for payments made under any LOI on demand and otherwise in accordance with its absolute obligation to reimburse the Bank set forth in the Credit Agreement. Bank shall have the right in its sole discretion and without notice to or approval of Applicant, to pay, settle or adjust any claim or demand made against or upon Bank in connection therewith without inquiry or determination, on Bank's part, of the circumstances, merits or validity of any claim or demand. Applicant shall take whatever steps are necessary to obtain the shipping documents concerning the Released Merchandise. Upon Applicant's receipt of such shipping documents, Applicant shall deliver them to the carrier, duly endorsed by all parties whose endorsement is required by the carrier, and obtain from the carrier and deliver to Bank, the LOI and a release of Bank's liability to the carrier. Bank may make payments against any drawing under the Credit related to an LOI, whether or not the drawing shall comply with the terms and conditions of such Credit, without any liability whatsoever to Bank. Applicant expressly acknowledges that Applicant may be required to reimburse Bank for payments made by Bank under both the LOI and such Credit with respect to the same Released Merchandise. Applicant shall account by delivering to Bank, immediately upon the receipt thereof by Applicant, the proceeds of the sale of the Released Merchandise or the documents related thereto in whatever form received (with Applicant's endorsement where necessary) to be applied by Bank to the payment of any drawing under the Credit. If any proceeds shall be notes, accounts, acceptances, or in any form other than cash, they shall not be applied by Bank until paid in cash. Bank shall have the option at any time to sell or discount these items and so apply the net proceeds, conditionally upon final payment of these items. Applicant shall pay all charges in connection with the Released Merchandise and shall at all times hold it separate and apart from the Property of Applicant and shall definitively show such separation in all its records and entries. Applicant shall at all times keep the Released Merchandise fully insured at Applicant's expense in favor of, and to the satisfaction of, Bank against loss by fire, theft, and any other risk to which it may be subject. Applicant shall deposit the insurance policies with Bank upon its demand. If for any reason any of such policies fail to provide for payment of the loss thereunder to Bank as its interest may appear, Applicant hereby (1) assigns and makes the loss payable under any of such policies payable to Bank as its interest may appear, (2) assigns to Bank all of the avails and proceeds of any and all of such policies, and (3) agrees to accept such avails and proceeds in trust for Bank and to forthwith deliver the same to Bank in the exact form received (with the endorsement of Applicant where necessary). Bank shall have no responsibility for the existence, quantity, quality, condition, value or delivery of any Released Merchandise or the correctness, validity or genuineness of the documents purporting to represent Released Merchandise.

EXHIBIT E

FORM OF ACCOUNT CONTROL AGREEMENT

EXHIBIT F

FORM OF INTERCREDITOR AND COLLATERAL AGENCY AGREEMENT

EXHIBIT G

FORM OF SECURITY AGREEMENT

AMENDED AND RESTATED FEE AGREEMENT

This AMENDED AND RESTATED FEE AGREEMENT dated January [14], 2022 (as amended, modified or restated from time to time, this “*Fee Agreement*”), is by and between the CLEAN ENERGY ALLIANCE, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 *et. seq.* (together with its successors and assigns, “*Borrower*”), and JPMORGAN CHASE BANK, N.A. (together with its successors and assigns, the “*Lender*”).

Reference is made to (i) the Revolving Credit Agreement, dated as of February 3, 2021 (as amended, modified, extended or restated from time to time, the “*Agreement*”), including as amended by the First Amendment to Revolving Credit Agreement, dated as of February 26, 2021, and the Second Amendment to Revolving Credit Agreement, dated as of January [14], 2022 (the “*Amendment*”), each entered into between the Borrower and the Lender and (ii) the Fee Agreement, dated February 3, 2021 (the “*Existing Fee Agreement*”), by and between the Borrower and the Lender. Capitalized terms not otherwise defined herein have the meanings set forth in the Agreement.

The Borrower has requested that the Bank make certain modifications to the Existing Fee Agreement and, for the sake of clarity and convenience, the Bank and the Borrower wish to amend and restate the Existing Fee Agreement in its entirety, and this Fee Agreement amends and restates the Existing Fee Agreement in its entirety. The Borrower acknowledges and agrees that all fees previously paid to the Bank under the Existing Fee Agreement were fully earned and nonrefundable. This Fee Agreement is the Fee Agreement referenced in the Agreement and the terms of this Fee Agreement are incorporated by reference into the Agreement. This Fee Agreement and the Agreement are to be construed as one agreement between the Borrower and the Lender, and all obligations hereunder are to be construed as obligations thereunder. All references to amounts due and payable under the Agreement will be deemed to include all amounts, fees and expenses payable under this Fee Agreement.

ARTICLE I**FEEES**

Section 1.1. Undrawn Fees. The Borrower agrees to pay to the Lender, in immediately available funds, for the period from and including the Closing Date to and including the earlier of the Maturity Date and the date the Commitment is terminated in full (the “*Commitment End Date*”), and in arrears on the first Business Day of each April, July, October and January occurring thereafter to the Commitment End Date, and on the Commitment End Date (each, a “*Payment Date*”), a non-refundable undrawn fee (the “*Undrawn Fee*”) in an amount equal for each day during such calculation period to the product of (x) two hundred fifteen basis points (2.150%) per annum (the “*Undrawn Fee Rate*”), (y) the Unutilized Commitment (as defined below) for such day and (z) a fraction the numerator of which is 1 and denominator of which is 360.

The term “Unutilized Commitment” as used in this Fee Agreement means, for any day, the number obtained by subtracting the Revolving Credit Exposure as of 5:00 p.m. New York City time on such day from the Commitment in effect at as of 5:00 p.m. New York City time on such day.

The Undrawn Fee shall be calculated from and including one Payment Date (or, in the case of the first Undrawn Fee payment, the Closing Date) to but excluding the next Payment Date (each, a “*Payment Period*”), and the Lender shall provide the Borrower with an invoice for each Undrawn Fee; *provided, however*, that the failure of the Lender to do so shall not relieve the Borrower from its obligation to pay such Undrawn Fee.

Section 1.2. Letter of Credit Fees. The Borrower agrees to pay to the Lender, in immediately available funds, for the period from and including the date of issuance of each Letter of Credit to but excluding the date such Letter of Credit is terminated (the “*LC Termination Date*”), and in arrears on the first Business Day of each April, July, October and January occurring thereafter to the LC Termination Date, and on the LC Termination Date (each, a “*LC Payment Date*”), a non-refundable undrawn fee (the “*LC Facility Fee*”) in an amount equal for each day during such calculation period to the product of (x) a percentage to be agreed upon in writing between the Borrower and the Lender, (y) the stated amount of such Letter of Credit as of 5:00 p.m. New York City time on such day and (z) a fraction the numerator of which is 1 and denominator of which is 360.

The LC Facility Fee shall be calculated from and including one LC Payment Date (or, in the case of the initial LC Facility Fee payment in respect of a Letter of Credit, the date such Letter of Credit is issued (unless such date of issuance is a LC Payment Date)) to but excluding the next LC Payment Date (each, a “*LC Payment Period*”), and the Lender shall provide the Borrower with an invoice for each LC Facility Fee; *provided, however*, that the failure of the Lender to do so shall not relieve the Borrower from its obligation to pay such LC Facility Fee.

Section 1.3. Issuance or Drawing Fees. The Borrower agrees to pay to the Lender a non-refundable fee of \$500 for each issuance or drawing under a Letter of Credit, which fee shall be earned on the issuance or drawing date and shall be payable upon invoice on the next LC Payment Date (or, if there is no further LC Payment Date, the LC Termination Date).

Section 1.4. Amendment Waiver or Consent Fees. The Borrower agrees to pay to the Lender on the date on which the Borrower requests from the Lender (i) an amendment, supplement or modification to the Agreement or any other Basic Document, (ii) a consent under, or a waiver of any provision of, the Agreement or any other Basic Document or (iii) the transfer of any Letter of Credit, a non-refundable fee to be determined by the Lender at the time of such amendment, supplement or modification or waiver or consent or transfer, but in any event at a minimum of \$3,000, plus, in each case, the reasonable fees and expenses of legal counsel to the Lender; *provided, however*, that in the case of a simple extension with no modifications to any Basic Document, there shall be no fee of the Lender required hereunder, though reasonable fees and expenses of legal counsel to the Lender shall still be applicable.

Section 1.5. Termination Fee; Reduction Fee. (a) The Borrower hereby agrees to pay to the Lender a termination fee in connection with any termination of the Commitment by the Borrower prior to the second anniversary of the Second Amendment Effective Date, in an amount equal to the product of (1) the Undrawn Fee Rate in effect on the date of such termination, (2) the Commitment (without regard to any outstanding Loans, Letters of Credit or LC Disbursements) and (3) a fraction, the numerator of which is equal to the number of days from and including the date of such termination to but excluding the second anniversary of the Second Amendment Effective Date, and the denominator of which is 360 (the “*Termination Fee*”), which Termination Fee shall be paid on or before the date of such termination. No termination in full of the Commitment shall become effective unless and until all amounts payable by the Borrower to the Lender under the Agreement and this Fee Agreement (including without limitation the amount payable, if any, pursuant to this Section 1.5(a)) have been paid in full.

(b) The Borrower agrees not to permanently reduce the Commitment below the Commitment in effect as of the Closing Date prior to the second anniversary of the Second Amendment Effective Date, without the payment by the Borrower to the Lender of a reduction fee (the “*Reduction Fee*”) in connection with each and every permanent reduction of the Commitment in an amount equal to the product of (1) the Undrawn Fee Rate in effect on the date of such permanent reduction, (2) the amount of the permanent Commitment reduction and (3) a fraction, the numerator of which is equal to the number of days from and including the date of such reduction to the second anniversary of the Second Amendment Effective Date, and the denominator of which is 360. Under no circumstances shall the Borrower permanently reduce the Commitment below the Revolving Credit Exposure unless in connection with such permanent reduction the Borrower reduces the Revolving Credit Exposure (whether by prepayment of Loans or return and cancellation of Letters of Credit) so that after giving effect to such permanent reduction the Revolving Credit Exposure is not greater than the reduced Commitment.

Section 1.6. Applicable Margin. As used in the Agreement and this Fee Agreement, the “Applicable Margin” means (i) with respect to a Base Rate Borrowing, two hundred forty-five basis points (2.450%) and (ii) with respect to any other Borrowing, three hundred forty-five basis points (3.450%).

Section 1.7. Default Rate. For purposes of this Fee Agreement and the Agreement, “*Default Rate*” means, with respect to any Loans (but not Letters of Credit), the then applicable Adjusted Term SOFR Rate or Base Rate plus the Applicable Margin plus three percent (3%), and with respect to any Letter of Credit that has not triggered a Reimbursement Loan, the then applicable LC Facility Fee Rate plus three percent (3%).

ARTICLE II

MISCELLANEOUS

Section 2.1. Legal Fees. On the Second Amendment Effective Date, the Borrower shall pay the reasonable legal fees and expenses of the Lender incurred in connection with the

preparation and negotiation of the Amendment in an amount not to exceed \$20,000 plus disbursements.

Section 2.2. Amendments. No amendment to this Fee Agreement will become effective without the prior consent of the Borrower and the Lender, which consent must be in writing and signed by the Lender and an Authorized Representative of the Borrower.

Section 2.3. Governing Law. THIS FEE AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND FOR ALL PURPOSES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS; *PROVIDED*, THAT THE OBLIGATIONS OF THE LENDER HEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS.

Section 2.4. Counterparts. This Fee Agreement may be executed in counterparts in accordance with Section 7.11 of the Agreement, which Section 7.11 is incorporated herein by reference.

Section 2.5. Severability. Any provision of this Fee Agreement which is prohibited, unenforceable or not authorized in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Section 2.6. Amendment and Restatement. This Fee Agreement amends and restates in its entirety the Existing Fee Agreement but is not intended to be or operate as a novation or an accord and satisfaction of the Existing Fee Agreement or the indebtedness, obligations and liabilities of the Borrower evidenced or provided for thereunder. The parties hereto agree that this Fee Agreement does not extinguish or discharge the obligations of the Borrower under the Existing Fee Agreement. Reference to this specific Fee Agreement need not be made in any agreement, document, instrument, letter or certificate, the Existing Fee Agreement itself or any communication issued or made pursuant to or with respect to the Existing Fee Agreement, any reference to the Existing Fee Agreement being sufficient to refer to the Existing Fee Agreement as amended and restated hereby, and more specifically, on or after the Second Amendment Effective Date, any and all references to the Fee Agreement in the Agreement shall mean this Fee Agreement.

[Signature Pages To Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Fee Agreement to be duly executed and delivered by their respective officers or representatives thereunto duly authorized on the date first set forth above.

CLEAN ENERGY ALLIANCE

By: _____
Name: _____
Title: _____

JPMORGAN CHASE BANK, N.A.

By: _____
Name: Allyson Goetschius
Title: Executive Director