

**RENEWABLE ENERGY PURCHASE AND SALE AGREEMENT
BY AND BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA
AND XYZ PARTY, CALIFORNIA**

This Renewable Energy Purchase and Sale Agreement (“Agreement”, or “Customer Agreement”) is by and between the City of Santa Clara, California, a chartered California municipal corporation doing business as Silicon Valley Power (“SVP”) and XYZ PARTY, a SVP retail electric customer and a corporation incorporated in the state of _____ (“XYZ PARTY” or “Customer”). SVP and XYZ PARTY may be referred to herein individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

WHEREAS:

- A. The SVP Large Customer Renewable Energy Program (“LCRE Program”) allows SVP’s customer to procure their own supplemental renewable energy, sell such energy to SVP at a specified price, and repurchase such energy from SVP at the same price for their energy consumption in the City; and
- B. Customer warrants they have secured RPS-eligible bundled renewable energy resources under direct ownership or a Long-Term Power Purchase Agreement. Customer wants to attribute this renewable energy to Customer’s facility in SVP territory; and
- C. This Agreement will enable SVP to purchase from and sell to Customer the bundled renewable energy (“Transaction”) in accordance with the following terms and conditions; and
- D. This Agreement does not obligate either Party to engage in a Transaction, but it does provide the terms and conditions that shall govern Transactions entered into by the Parties in accordance with this Agreement.

In consideration of the following mutual covenants, agreements, and obligations, the Parties agree as follows:

AGREEMENT PROVISIONS

1.0 Definitions

Definitions of the terms used in this Agreement with initial capitalization are found either in the body of this Agreement, or in Exhibit A.

2.0 Term of Agreement

This Agreement shall become binding upon the Parties on the Effective Date and shall remain in effect until terminated by either Party upon thirty (30) days advance written notice to the other Party. However, no termination (except for default) shall be effective until the completion of any ongoing Transaction agreed to by the Parties.

3.0 Availability and Sale of Renewable Energy

- 3.1 Transactions. At any time during the term of this Agreement, the Customer may notify SVP that specified amounts of renewable energy are available for purchase by SVP and immediate repurchase by Customer under the LCRE Program. The general terms and conditions for any Transaction with the other Party shall be in accordance with the terms and conditions of this Agreement. The specific terms and conditions of each Transaction shall be as agreed to by the Parties in advance of the Transaction and are referred to herein as “Economic Terms.”
- 3.2 Economic Terms. The Economic Terms of each Transaction shall be agreed upon by the Operating Representatives, and shall be reflected in a Transaction Confirmation substantially in the form of the Transaction Confirmation attached hereto as Exhibit “B.” The Transaction Confirmation shall include, at a minimum, the following terms and conditions: (1) Description of Product; (2) Buying Party; (3) Selling Party; (4) Delivery Period/Term; (5) Delivery Point; (6) Contract Price (\$ US); and (7) Special Conditions.
- 3.3 Transaction Confirmation. A Transaction Confirmation shall be completed prior to the commencement of the Transaction. The terms and conditions of a Transaction may supplement, but shall not conflict with, the terms and conditions of this Agreement. Said Transaction Confirmation may be sent via email or by United States mail as agreed upon by the Parties. Each Transaction Confirmation shall constitute an integral part of this Agreement and shall be read and construed as one with this Agreement. In the event of any conflict between the language of this Agreement and the Transaction Confirmation, the language contained in this Agreement shall control, except with regard to Economic Terms, the Transaction Confirmation shall control.
- 3.4 Operating Representatives. Within thirty (30) calendar days after execution of this Agreement, each Party shall designate in writing one or more persons with authority to act on its behalf with respect to matters contained herein (“Operating Representatives”). Operating Representatives shall have the authority to negotiate the Economic Terms of a Transaction provided, however, such Operating Representatives shall have no authority to modify any provision of this Agreement in any manner. Each Party shall give written notice to the other Party of the identity of its designated Operating Representatives and shall promptly notify the other Party of any subsequent changes in such designation.

4.0 Certification and Retirement of Renewable Energy Credits

The certification and retirement of Renewable Energy Credits (RECs) hereunder shall be represented by WREGIS Certificates. Customer will provide SVP a copy of the CEC certification of the Facility, including the CEC RPS ID number, WREGIS ID, EIA ID, (if applicable), Project Name, and fuel type. Customer will set up a WREGIS account, and the RECs associated with the renewable energy generated by the Facility shall be retired a) in SVP’s WREGIS subaccount

designated for the benefit of Customers to meet the requirement of SVP's RPS compliance for the compliance year, or b) if Customer chooses to manage their own WREGIS account instead of transferring RECs to SVP's WREGIS account to be retired in SVP's WREGIS subaccount designated for Customer, Customer will provide a retirement report in a form that's acceptable to SVP and the CEC, by May 1st the following calendar year, subject to changes in WREGIS operating rules and regulations.

5.0 Billing and Payment

Customer's payment obligations under this Agreement includes LCRE Program administrative fee. Customer will receive an annual credit for the market value, as determined by SVP, of the RECs included in SVP's energy delivery portfolio if SVP is able to exclude customer's energy usage from SVP's retail sales in determining renewable energy delivery obligation under Section 3024 (b) (9) of California Code of Regulation, Title 20, Division 2, Chapter 13.

6.0 Confidentiality

The Contract Price and terms of each Transaction shall be treated as Confidential Information by each Party to this Agreement. Except as may be required by applicable law or order of any regulatory agency, court, or commodities exchange, neither Party will, without the express written agreement of the other Party, publish, disclose or otherwise divulge Confidential Information to any third party.

7.0 Notice

All notices given pursuant to this Agreement shall be in writing and delivered by means of the United States Postal Service first-class mail, or private overnight delivery systems, or by facsimile transmission, provided that a copy of the facsimile is also sent on that same date by United States mail or by private express delivery systems, addressed as follows:

To City:

City of Santa Clara, Silicon Valley Power
1500 Warburton Avenue
Santa Clara, CA 95050
Attn.: Risk Manager
Telephone No.: (408) 261-5292
Facsimile No.: (408) 249-0217

To XYZ Party:

Name
Address
Attn.:
Telephone No:
Facsimile No.:

Notices shall be deemed received on the same day as a facsimile is sent, the day following the date on which the Notice was sent via an overnight mail service, and five (5) days from the date postmarked by the United States Postal Service if sent by first-class mail. If Notice is given pursuant to two different methods receipt, shall be deemed to occur on the earlier date.

8.0 Necessary Authorization

Each Party represents that it has the necessary corporate and/or legal authority to enter into this Agreement and any Transaction[s] which it agrees to hereunder, and to perform each and every duty and obligation imposed by this Agreement, and that this Agreement, when executed by each Party, represents a valid, binding, and enforceable legal obligation of each Party. Each individual affixing a signature to this Agreement represents and warrants that he or she has been duly authorized to execute this Agreement on behalf of the Party he or she represents, and that by signing the Agreement a valid, binding, and enforceable legal obligation of said Party has been created.

9.0 Remedies

9.1 Contract Quantity Exceeds or Falls below Customer's Supplemental Renewable Energy Requirement

If, during a calendar year or a RPS compliance year, the Contract Quantity exceeds customer's actual supplemental RE requirement, SVP may purchase such excess RECs at a mutually agreeable price from Customer, or Customer can choose to bank the excess RECs for subsequent use. If Customer determines, at least 60 days prior to the end of the calendar year, that its Contract Quantity will be less than Customer's actual supplemental RE requirement, Customer may request, and SVP may agree, to supply additional RE quantities to mitigate such shortfall on Customer's behalf.

9.2 Customer holds SVP harmless if SVP is unable to, using reasonable commercial efforts, timely procure replacement RE at a price acceptable to Customer.

9.3 If Customer chooses to provide RE to meet 100% of their energy consumption and if, during a calendar year or a RPS compliance year, the amount of RE delivered by Customer is less than SVP's RPS compliance requirement for that Customer during the then effective compliance year, Customer will not receive any credit pursuant to Section 4.0 and will compensate SVP for the price difference, if positive, between the market cost of replacement RE and the cost of RPS compliance embedded in Customer's applicable retail electric rate schedule.

10.0 Early Termination by Customer

If Customer terminates or reduces its Contract Quantities for any reason other than Customer Contract expiration, Customer must provide 90 day written notice of such termination or modification.

11.0 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law rule. State and federal courts situated in the state of California shall have exclusive jurisdiction to resolve any disputes with respect to this Agreement.

12.0 Binding Effect

The terms and provisions of this Agreement, and the respective rights and obligations hereunder of each Party shall be binding. No amendment, modification or change of the terms and provisions of this Agreement shall become effective unless by written amendment executed by the Parties.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation
doing business as Silicon Valley Power

APPROVED AS TO FORM:

Dated: _____

City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“SVP”

***COUNTERPARTY**

***CHOOSE ONE: ENTER STATE NAME CORPORATION/PARTNERSHIP/INDIVIDUAL**

Dated: _____

By: _____

(Signature of Person executing the Agreement on behalf of Counterparty)

Name: _____

Title: _____

Local Address: _____

Email Address: _____

Telephone: _____

Fax: _____

“Counterparty”

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EXHIBIT “A” DEFINITIONS

Business Day: Any day except a Saturday, Sunday, or a Federal Reserve Bank holiday and shall be between the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party’s principal place of business where the relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

Buyer: The Party to a Transaction which is obligated to purchase and receive, or cause to be received, Services during a Delivery Period.

CAISO: Is the California Independent System Operator Corporation, or its successor.

CEC: Means California’s State Energy Resources Conservation and Development Commission, also known as the California Energy Commission. The CEC is the agency responsible for certifying eligible renewable resources and tracking the procurement of such resources.

CEC Certification: Means that the California Energy Commission (or its successor agency) has certified that the Facility is an ERR for purposes of the California Renewables Portfolio Standard and that all Energy produced by the Facility qualifies as generation from an ERR for purposes of the Facility.

Contract Price: The agreed price in US dollars (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of Energy and any other required charges, as specified in a Transaction.

Contract Quantity: The quantity of Services that Seller agrees to deliver, or cause to be delivered to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller, Expressed in hourly, daily, or monthly amounts and quantities for the life of the Transaction.

Contract Year: Means a twelve (12) month period beginning on the Delivery Date and each successive twelve (12) month period thereafter during the Term.

Delivery Date: The date identified by the CAISO and mutually agreed upon both Buyer and Seller where generation may commence in the CAISO market.

Delivery Period: The period of time from the date physical delivery of Energy is to commence to the date physical delivery is to terminate under a Transaction.

Delivery Point: The agreed point (or points) of delivery and receipt of Energy, on an electric system, as specified in a Transaction.

ERR: Means Eligible Renewable Resource as defined in the Renewables Portfolio Standard (RPS) Eligibility Guidebook (Ninth Edition, Revised), publication # CEC-300-2016-006-ED9-CMF-REV, adopted April 27, 2017.

Facility: Has the meaning set forth in Exhibit B.

Firm Bundled REC: A REC purchased and sold in a transaction that includes the purchase and sale of Energy. The Seller has a firm obligation to Deliver the REC and Energy pursuant to the Confirmation.

Long-Term Power Purchase Agreement: An RPS-eligible bundled renewable energy purchase agreement between Customer and a renewable energy supplier for a delivery term longer than 10 years, with such energy generated in California or delivered directly into California.

RECs or Renewable Energy Credits: A certificate of proof issued by WREGIS that an Eligible Renewable Energy Resource (ERR) has generated one megawatt hour (MWh or 1,000 kWh) of electricity. A REC shall also have the same meaning as in California Public Utilities Code Section 399.12(h). Currently RECs are used to convey Environmental Attributes associated with electricity production by a renewable energy resource.

Transaction: Each sale, purchase, or transfer entered into under this Agreement.

WREGIS: The Western Renewable Energy Generation Information System, or any successor renewable energy tracking system for implementing California's Renewables Portfolio Standard.

EXHIBIT “B”
REC TRANSACTION CONFIRMATION

This Transaction Confirmation confirms the agreement between Silicon Valley Power and XYZ PARTY (“Customer”) regarding the sale of renewable energy under the following terms and conditions:

IDENTIFICATION OF PARTIES

Name of Purchaser:

Name of Seller:

Seller Information:

Purchaser Information:

Contact:

Contact:

Tel (O): _____

Tel (O): _____

Tel (Cell): _____

Tel (Cell): _____

E-mail: _____

E-mail: _____

Fax: _____

Fax: _____

Contact information is subject to change by notice.

INCORPORATED DOCUMENTATION (any “long form” or other bilateral agreements between the Parties applicable to this Confirmation and incorporated herein)

Renewable Energy Purchase and Sale Agreement

REC TRANSACTION TERMS

REC Product (e.g., Firm Bundled REC):

Firm Bundled REC

Vintage of REC to be created (MM/YYYY)

Contract Quantity (stated on a megawatt hour basis over the course of one (1) calendar year)

Contract Price:

Allocation if agreed:

REC:

Energy:

Determinants for Annual Credit Calculation to Customer pursuant to Section 5.0 of Agreement:

Price _____

Quantity _____

Annual Credit _____

Renewable Energy Source or Renewable Energy Facility

Renewable Energy Source:

Renewable Energy Facility

Name: _____

Location: _____

Generation Information System number: _____

Tracking System number: _____

Fuel (wind, solar, etc.): _____

REC Tracking System(s)

_____ WREGIS _____

TERMS APPLICABLE TO ENERGY IF INCLUDED IN REC PRODUCT

Period (Schedule) of Delivery: From ____________ To

Schedule (Days and Hours): _____

Delivery Point(s): _____

Contract Quantity (specify all details): _____

EFFECTIVE DATE AND OTHER PROVISIONS

Effective Date (no earlier than mutual execution of this Confirmation)

Other provisions: _____

[generally stated in attachment to the Confirmation]

The Parties agree to the REC Transaction set forth herein as of the Effective Date

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation
doing business as Silicon Valley Power

APPROVED AS TO FORM:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“SVP”

***COUNTERPARTY**

***CHOOSE ONE: ENTER STATE NAME CORPORATION/PARTNERSHIP/INDIVIDUAL**

Dated: _____

By: _____
(Signature of Person executing the Agreement on behalf of Counterparty)

Name: _____

Title: _____

Local Address: _____

Email Address: _____

Telephone: _____

Fax: _____

“Counterparty”