Date:

Mailing Address:

Attention:

Subject: Exclusivity Agreement for [project name]

Dear Respondent:

California Community Power, a California joint powers authority (“**CCP**”), is pleased to confirm that the Offer (as defined below) submitted to CCP by [company], a [state, type of entity] (“**Respondent**”) for the [project name] (the “**Project**”) has been short listed for further negotiation of a Definitive Agreement (as defined below) in CCP’s 2025 Request for Proposals to procure new clean energy and reliability resources, which closed on December 5, 2025 (the “**RFP**”). CCP and Respondent are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

If you wish to proceed with negotiations for a legally binding agreement or agreements setting forth the final terms and conditions to effectuate the Offer (as defined below) (“**Definitive Agreement**”) under the terms and conditions set forth below, please countersign this Exclusivity Agreement below and return it to Philippe Gerretsen, Director of Origination at pgerretsen@cacommunitypower.org no later than five (5) business days after the date set forth above.

“**Offer**” shall mean Respondent’s offer submitted to CCP’s RFP to [summarize proposal, i.e. sell energy, capacity and renewable attributes; provide energy storage services and capacity; build and transfer ownership] (“**Product**”), from the [size] Project, at [location], with CAISO interconnection queue position [#], an expected commercial operation date of [date], at a contract price of [$], and with a delivery term of [#] years from the Project’s initial commercial operation date.

This Exclusivity Agreement shall be effective as of the date listed above (the “**Effective Date**”) and shall terminate upon the date (the “**Termination Date**”) that is the earlier to occur of (i) the completion by both Parties of their obligations hereunder, (ii) CCP’s written notice to Respondent that CCP no longer has interest in the Project, and (iii) CCP’s RFP Termination (as defined below).

# **Representations and Warranties**

In entering this Exclusivity Agreement, Respondent hereby makes the following representations and warranties:

* 1. From and after the Effective Date and until the Termination Date, Respondent will not engage in oral, written, or any other form of communication with any other entity submitting an offer to CCP in response to the RFP with respect to the terms of Respondent’s Offer or such other entities’ offer(s) in the RFP.
	2. From and after the Effective Date and until the Exclusivity Deadline (as defined below), Respondent and its affiliates will cease any existing engagement and will not engage in oral, written, or any other form of communication with any third party under which such third party, or any of such third party’s affiliates may agree, conditionally or unconditionally, to enter into an agreement for the sale of Product from the Project associated with the Offer; *provided*, notwithstanding the foregoing, Respondent may contact any third party in order to terminate discussions with respect to the Product and Project that had commenced prior to the Effective Date hereof.
	3. From and after the Effective Date and until the Termination Date, Respondent will promptly notify CCP of any material change in circumstances that may affect Respondent’s ability to fulfill the terms of its Offer.

Respondent understands and agrees that any breach by Respondent of the above representations and warranties is grounds for immediate disqualification of Respondent from negotiations and constitutes a material breach under this Exclusivity Agreement.

# **Exclusivity Period**

Respondent hereby grants CCP exclusivity with respect to the Offer until the earlier of the following events (the “**Exclusivity Deadline**”):

* 1. CCP’s written notice to Respondent that CCP no longer has interest in the Project;
	2. CCP’s termination of the RFP process by providing written notice to all respondents in the RFP with exclusivity agreements then in effect (including Respondent) that CCP is terminating the RFP (“**RFP Termination**”); or
	3. The first to occur of (A) execution of a Definitive Agreement, and (B) [PPA/ESSA: one hundred twenty (120) / BTA: one hundred eighty (180)] days from the Effective Date.
1. **Shortlist Deposit**

In consideration of CCP’s obligations under this Exclusivity Agreement, Respondent agrees to provide CCP with a deposit in the form of either (a) cash or (b) a Letter of Credit (as defined below) in a form reasonably acceptable to CCP in the amount of $3**/**kW ($[#]) (the “**Shortlist Deposit**”), within three (3) business days of Respondent’s countersignature of this Exclusivity Agreement.

“**Letter of Credit**” means an irrevocable standby letter of credit, in a form reasonably acceptable to CCP, issued either by (i) a U.S. commercial bank, or (ii) a U.S. branch of a foreign commercial bank that meets the following conditions: (A) it has sufficient assets in the U.S. as determined by CCP, and (B) it is acceptable to CCP in its sole discretion. The issuing bank must have a credit rating of at least A- from S&P or A3 from Moody’s, with a stable outlook designation. All costs of the Letter of Credit shall be borne by Respondent. The Letter of Credit shall be sent by overnight delivery to:

Attn: General Manager

901 H Street

Suite 120, PMB 157

Sacramento, CA 95814

CCP will provide wire instructions to Respondent if Respondent requests to post the Shortlist Deposit in the form of cash.

The Shortlist Deposit paid will be promptly returned to Respondent in its entirety under one or more of the following conditions: (i) following execution of the Definitive Agreement(s) and provision of the required security in accordance with the terms of such Definitive Agreement(s), (ii) CCP’s written notice to Respondent that CCP no longer has interest in the Project, (iii) CCP’s RFP Termination, (iv) upon the Exclusivity Deadline, provided that none of the conditions in the next paragraph requiring forfeiture of the Shortlist Deposit has first occurred.

Notwithstanding the foregoing, Respondent hereby acknowledges and agrees that Respondent shall forfeit its Shortlist Deposit, and CCP shall have the right to draw on such Shortlist Deposit in its entirety without further notice to Respondent under one or more of the following conditions: (i) Respondent made a material misrepresentation in information submitted to CCP’s RFO or to CCP from and after the Effective Date and until the Termination Date, (ii) Respondent materially breaches its obligations under the Exclusivity Agreement, (iii) Respondent unilaterally withdraws the Offer or attempts to materially modify the terms of its Offer, (iv) the Exclusivity Period ends without the Parties having executed a Definitive Agreement. This paragraph shall survive the Termination Date.

1. **Miscellaneous**

This Exclusivity Agreement does not obligate CCP to enter into Definitive Agreement(s) or any other agreement with respect to Respondent’s Offer. Respondent agrees that CCP will not be obligated to enter into any transaction with Respondent unless and until final negotiated Definitive Agreement(s) have been submitted for, and received, approval from the boards of each of CCP and Respondent, as applicable, and have been fully executed by the Parties thereto.

This Exclusivity Agreement shall be governed by and interpreted in accordance with the laws of the State of California, without regard to conflicts of laws. The Parties hereby consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Sacramento, CA for the purposes of adjudicating any matter arising from or in connection with this Exclusivity Agreement.

Neither Respondent nor Respondent’s affiliates may sell or transfer the Project, or any part thereof, or land rights or interests in the Project (including the interconnection queue position of the Project) so long as the limitations contained in this Exclusivity Agreement apply, unless the transferee agrees to be bound by the terms set forth in this  Exclusivity Agreement pursuant to a written agreement approved by CCP. Respondent shall indemnify and hold CCP harmless from all benefits lost and other damages sustained by CCP as a result of any breach by Respondent of its covenants contained within this Exclusivity Agreement.

This Exclusivity Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns; provided, however, that neither Party may assign this Exclusivity Agreement in whole or in part, without the prior written consent of the other Party. No waiver of any provisions of this Exclusivity Agreement shall be valid unless the same is in writing and signed by the Party against whom such waiver is sought to be enforced, and no valid waiver of any provision of this Exclusivity Agreement shall be deemed a waiver of any other provision of this Exclusivity Agreement. A waiver or consent given by either Party on any one occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion.

In the event that any one of the provisions contained in this Exclusivity Agreement should be found to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality or enforceability of the remaining provisions contained in this Exclusivity Agreement shall not in any way be affected or impaired by such a finding.

The Parties understand, agree and acknowledge that (i) this Exclusivity Agreement has been freely negotiated by both Parties; and (ii) in any controversy, dispute or contest over the meaning, interpretation, validity, or enforceability of this Exclusivity Agreement or any of its terms or conditions, there shall not be any inference, presumption, or conclusion drawn whatsoever against either Party by virtue of that Party having drafted this Exclusivity Agreement or any portion thereof.

Except as expressly allowed herein, neither Party shall be liable to the other for any lost or prospective profits or any other consequential, incidental, special, punitive, indirect or exemplary damages under or in respect to this Exclusivity Agreement.

This Exclusivity Agreement [and the Confidentiality Agreement entered between the Parties] contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes any and all prior agreements, written or oral, between Parties relating to the subject matter of this Exclusivity Agreement and may not be amended unless agreed to in writing by both Parties.

This Exclusivity Agreement may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute but one and the same agreement. Facsimiles or email copies of original signatures shall have the same force and effect as original signatures.

This Section IV shall survive the Termination Date.

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties have executed this Exclusivity Agreement by and through their duly authorized representatives, as of the day first above written.

|  |  |
| --- | --- |
| **[COMPANY],** a [state, type of entity]By: Name: Title:  | **CALIFORNIA COMMUNITY POWER,**a California joint powers authorityBy: Name: Title: **Approved as to form:**By: Name: Title:  |