

Hybrid Renewable Electric Energy Power Purchase Agreement

This Hybrid Renewable Electric Energy Power Purchase Agreement (“PPA” or “Agreement”) is made and entered into as of this 20th day of June, 2023 (the “Effective Date”), between BC&E, USA Colusa 1 LLC, a California limited liability company (“Provider”), and The City of Colusa, CA., (“Purchaser” or “City”) and, together with Provider, each, a “Party” and together, the “Parties”).

RECITALS:

The following Recitals are a substantive part of this PPA.

WHEREAS, Purchaser acknowledges that Provider will install, own and operate a hybrid renewable electric energy system (the “System”) at either the 2861 Niagara Ave. Colusa, CA 95932 or a neighboring parcel (the “Premises”) for the purpose of providing Hybrid Renewable Electric Energy (as hereafter defined) to begin to meet 100% of Purchaser’s electric consumption needs for the Consumers of the City of Colusa, CA., and Provider is willing to do the same;

WHEREAS, Purchaser and Provider acknowledge that Provider will be producing hybrid renewable electric energy in excess of Provider’s needs and it is acknowledged that Purchaser will purchase all excess electricity at a rate set in Schedule 2 attached herein.

WHEREAS, the Parties acknowledge and agree that, should it be required, a future Grid Access Agreement providing access by and between the Parties to the PG&E 3700 amp service panel at the Premises will be executed by the Parties and that Provider will have unlimited backfeed capacity to feed into the PG&E grid with the exception of mechanical or electrical constraints or PG&E rules and regulations.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Term. This PPA will commence on the Date Provider receives a Notice To Operate and all obligations and work to be completed by Provider set forth in the companion cooperation agreement have been fulfilled and completed and will terminate 15 years from the date of first electric energy is delivered to Purchaser by the HREE System and billed to Purchaser unless the PPA is terminated earlier as set forth herein. Provider shall provide no less than three (3) business days written notice prior to the Service Commencement Date to Purchaser, stating that the System is ready for operation and has successfully completed all performance testing in accordance with Prudent Industry Practice (as defined below) and that service under this PPA will begin on the date certain

indicated in the notice (the “Service Commencement Date”). The delivery of energy from the System as part of the commissioning and testing process shall not constitute the commencement of service. At any time prior to the end of the Term, the Parties may meet and negotiate the terms and conditions on which this PPA may be extended in their respective sole and absolute discretion. For purposes of this paragraph, “Prudent Industry Practice” shall mean the practices, methods and acts engaged in or approved by a significant portion of the hybrid renewable electric energy industry that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that reasonably should have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy and expedition.

2. Purchase Option. Purchaser has a right, but no obligation, to purchase BC&E USA Colusa 1 LLC at any time after the end of the 5th year of the Term for an amount to be determined by an appraisal obtained by the Parties within six months of the proposed purchase date, and by a process mutually agreed upon by both parties in writing,.
3. Schedules. The following Schedules attached hereto and incorporated herein set forth more specific terms and conditions of this Agreement.

Schedule 1 Description of the Premises &

System Schedule 2 kWh Rate

Schedule 3 Estimated Annual Production

Schedule 4 Notice Information

4. Compliance with Laws. Provider shall ensure that the System conforms with all Applicable Laws (as defined in Paragraph 6 below), regulations and orders, including, without limitation, obtaining all permits or approvals required by any governmental entity. At no expense to Purchaser, Purchaser shall reasonably cooperate with Provider in obtaining any and all permits or approvals required by any Governmental Authority.
5. Delivery of Electricity to Purchaser. Provider shall provide all wiring from the System to the point at which the System connects to the Purchaser’s electrical system (“Connection Point”) as identified in Exhibit “B” attached hereto and incorporated herein. Custody, control and ownership of electricity shall transfer from the Provider to the Purchaser at the Connection Point. The parties shall mutually agree upon the method and metering device/s which shall meter and measure the quantity and time of delivery of all electric energy sold hereunder as set forth in Section 13 herein.
6. Interruptions in Delivery of Electricity. Provider may interrupt, reduce or discontinue the delivery of electricity for purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of electricity. No such interruption shall last more than twenty-four (24) hours except for extraordinary or unanticipated repairs without the prior consent of Purchaser, which consent will not be unreasonably withheld, conditioned or delayed. Provider shall use reasonable best efforts to give written notice to Purchaser of any

expected interruption of delivery of electricity at least five (5) business days prior to the date of any interruption and shall use its reasonable best efforts to inform Purchaser of the expected length of any interruption and to schedule such interruption to minimize disruption to Purchaser. Provider reserves the right to curtail the delivery of electricity if so directed by authorized governmental authorities, electric utilities or as necessitated by an emergency or immediate risk to the health and safety of persons or destruction of property. Provider shall use reasonable care to ensure the operation of the System and supply of electricity. However, the Parties explicitly acknowledge and understand that the System is comprised of intermittent generation facilities and may not provide Purchaser with an uninterrupted supply of electricity at all times.

7. Conditions to Provider's Obligations. Subject to the terms and conditions of this PPA, each of the following conditions precedent shall be met prior to Provider's obligations to:
 - (a) commence construction and installation of the System; and (b) commence the delivery of electricity to Purchaser:
 - a) Necessary Governmental Approvals. Provider shall have received and retained where necessary, all applicable and material federal, state and local approvals, permits, licenses and authorizations necessary: (a) for the construction and installation of the System, prior to the commencement of construction and installation of the System; and (b) for the generation and sale of electricity to the Purchaser under this PPA, prior to the commencement of delivery of electricity to Purchaser.
 - b) Additional Consents and Approvals. Provider shall have obtained from all Parties any necessary easements, leases/leasebacks, licenses, consents and approvals and other rights Provider reasonably deems necessary or desirable for the construction and installation of the System, the production and delivery of electricity to the Connection Point, and the operation and maintenance of the System under this PPA.
8. Changes in Applicable Law. Provider will not be entitled to any adjustment in the Energy Price as a result of a change in Applicable Law which alters the value or applicability of the Renewable Energy Credits and Environmental Financial Attributes and accepts all risk associated with same. As used in this PPA, "Applicable Law" shall mean, with respect to Governmental Authority (defined as any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government), any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such Governmental Authority, enforceable at law or in equity, along with the interpretation and administration thereof by any Governmental Authority.
9. Purchase and Sale of Electricity. In accordance with the terms and conditions herein, commencing on the Service Commencement Date (as defined in Section 1 herein) and continuing throughout the remainder of the Term (as defined in Section 1 herein), Provider shall deliver to the Purchaser at the Connection Point, and Purchaser shall accept delivery from Provider at the Connection Point, all electrical energy generated by the System. The amount of electrical power delivered to the Connection Point from the System ("System Output") shall be in whole kWh and determined in accordance with the provisions of Section 13 herein below.

10. Payments. Provider will invoice Purchaser each month in the manner set forth in Exhibit "C". Purchaser shall pay the full Monthly Payment or any amounts owed pursuant to Section 13 within thirty (30) days of the invoice date from Provider for the prior month ("Due Date"). Purchaser shall, at Purchaser's option, (a) cause a check to be drawn in the undisputed amount due made payable to the Provider, or (b) pay such amount via wire transfer to Provider's bank account. Unless otherwise directed by Provider, all payments must be made payable to BC&E, USA Colusa 1 LLC.
11. Energy Credits and Environmental Financial Attributes. The Provider shall own all "Renewable Energy Credits" and all "Environmental Financial Attributes" relating to the System or the electricity generated by the System. "Renewable Energy Credits" shall mean those certificates (including Tradable Renewable Certificates), green-e tags, pollution credits, carbon offset credits, or other transferable indicia used to control pollution by providing economic incentives for achieving reductions in the emissions of pollutants, or indicating generation of a particular quantity of energy from a renewable energy source by a renewable energy facility attributed to the electricity during the Term created under a renewable energy, emission reduction, or other reporting program adopted by a governmental authority, or for which a registry and a market exists (including but not limited to, as of the Effective Date are certificates issued by Green-e in accordance with the Green-e Renewable Electric Certification Program, National Standard Version 1.3 administered by the Center of Resource Solutions) or for which a market may exist at a future time. "Environmental Financial Attributes" shall mean all of the following financial rebates and incentives that is in effect as of the Effective Date or may come into effect in the future, excluding, however, any Renewable Energy Credits: (i) performance-based incentives, incentive tax credits or other tax benefits, and accelerated depreciation (collectively, "allowances"), howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the sale of Energy generated by the System; and (ii) all reporting rights with respect to such allowances. In addition, Provider shall retain any resource adequacy credits or benefits and any capacity credits that may be available to independent power producers, and shall have the right to sell or monetize such attributes.
12. Provider Representations. Provider hereby represents to Purchaser that:
- a) Due Authorization. Provider is duly authorized and empowered to enter into this PPA;
 - b) No Conflict. This PPA is enforceable according to its terms and does not conflict with or violate the terms of any other material agreements to which it is a party;
 - c) Accuracy of Information. The information provided pursuant to this PPA as of the Effective Date is true and accurate in all material respects; and
 - d) Ability to Perform. Provider has no knowledge of any facts or circumstances that, but for the passage of time, would materially adversely affect either Party's ability to perform its respective obligations hereunder.
13. Metering.
- a) Metering Equipment. The Parties acknowledge and agree that Provider shall, or shall cause a third party to, provide, install, own, operate and maintain a meter on the Property with real time digital access that is accessible by Provider and

Purchaser, and Provider shall, or shall cause a third party to, exercise reasonable care in the installation, operation, and maintenance of the meter so as to assure to the maximum extent reasonably practical an accurate determination of such quantities. The location of the meter shall be approved by Purchaser prior to its installation and shall be used for the purpose of measuring the System Output.

- b) Meter Reading. Readings of the meter shall be conclusive as to the amount of electricity generated by the System; provided that if the meter is out of service, is discovered to be inaccurate pursuant to subsection 13.c), or registers inaccurately, measurement of electricity generated by the System shall be determined by estimating by reference to quantities measured during periods of similar conditions when the meter was registering accurately. Provider shall use the data taken from the meter readings on a monthly basis to calculate a Monthly Payment under this PPA.
- c) Testing and Correction. The following steps shall be taken to resolve any disputes regarding the accuracy of the meter:
 - i. If either Party disputes the accuracy or condition of the meter, such Party shall advise the other Party in writing.
 - ii. Provider shall, within fifteen (15) business days after receiving such notice from Purchaser or issuing such notice to Purchaser, advise Purchaser in writing as to Provider's position concerning the accuracy of such meter and Provider's reasons for taking such position.
 - iii. If the Parties are unable to resolve the dispute through reasonable negotiations, then Provider may cause a neutral, unrelated third party having considerable experience testing such meters and acceptable to Purchaser (whose consent shall not be unreasonably withheld) to test the meter.
 - iv. If the meter is found to be inaccurate by not more than 2%, any previous recordings of the meter shall be deemed accurate, and the Party disputing the accuracy or condition of the meter shall bear the cost of inspection and testing of the meter.
 - v. If the meter is found to be inaccurate by more than 2% or if such meter is for any reason out of service or fails to register, then (a) Provider shall promptly cause any meter found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (b) Provider will pay the cost of inspection and testing of the meter; and (c) the Parties shall estimate the correct amounts of electricity delivered, based on usage during the previous calendar year, for no more than the preceding six (6) months and Provider shall either invoice or credit Purchaser for the correct amounts of electricity delivered.

14. Insurance.

- a) General Liability Coverage. From the Effective Date until termination or expiration of the Term, Provider and its contractors and subcontractors and Purchaser each agree to maintain or cause to be maintained General Liability insurance against claims for bodily injury, loss of life or property damage occurring on the Property (including within the buildings thereon); and on the portion of the street and the sidewalks adjacent thereto with bodily injury, loss of life and property damage

coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence. Such insurance may be in the form of blanket liability coverage applicable to the Property and to other property owned or occupied by Purchaser or Provider, as applicable. The other Party shall be named under the applicable policy as Additional Insureds.

- b) Automobile Coverage. Provider and its contractors and subcontractors, as applicable, shall carry a business automobile policy with a combined single limit of not less than One Million Dollars (\$1,000,000). Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 (ed. 6/92) covering automobile liability, Code 1 (any auto). The automobile liability program may utilize deductibles, but not a self-insured retention, subject to written approval by the Purchaser.
- c) Workers Compensation Coverage. Provider, its contractors and subcontractors as applicable, shall carry Workers' Compensation insurance during the full term or duration of the PPA, to insure statutory liability for injury to its employees in the State of California. The policy should have limits as follows: Bodily injury by accident, \$1,000,000 each accident, and each employee a \$1,000,000 policy limit.
- d) Property Damage. Provider will carry all-risk coverage for property damage in an amount equivalent to the full replacement value of the System. Purchaser will carry all-risk coverage for property damage in an amount equivalent to the full replacement value of any improvements located on the Site, excluding the System.
- e) All Policies. All insurance, including Workers Compensation coverage, shall include an insurer's Waiver of Subrogation in favor of the other Party and will be in a form and with insurance companies acceptable to the other Party. All insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. The workers' compensation and employer's liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the other Party.
- f) Evidence Required. Insurance certificates for all coverages required by the PPA shall be provided by each Party to the other Party within twenty (20) business days after the Effective Date, prior to the construction of the System and during the term of this Agreement as requested in writing by the other Party. All insurance policies shall contain a provision that such policies shall not be canceled or terminated without thirty (30) days prior notice from the insurance company to the other Party.

15. Taxes.

- a) Sale of Energy. In the event that any state or local taxes are assessed against the consumption of energy, Purchaser shall either pay or reimburse Provider for all such amounts due, including any taxes assessed thereon except any federal or state income taxes imposed on Provider based on such sales.
- b) Real Estate or Property Taxes. Provider will pay and hold harmless Purchaser from ad valorem and related property tax, if any, assessed on (i) the System; (ii) Provider's ownership, installation or use of the System; or (iii) any other aspect of this PPA.
- c) Other Taxes. Provider will pay and hold harmless Purchaser from any federal, state or local taxes imposed upon Purchaser arising from this PPA, other than as set forth in subsection a) above, including but not limited to Provider's manufacture, installation and acquisition of the System.

16. Default.

- a) Events of Defaults. Any one or more of the following events shall constitute an event of default ("Event of Default"): (a) Purchaser fails to pay an invoice within sixty (60) days of the date of the invoice; (b) Purchaser materially interferes with or damages the System; (c) Either Party fails to observe or perform any other material term or condition in this PPA; (d) Either Party (i) voluntary or involuntarily files or has filed a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or other relief of the same or different kind under any provisions of the bankruptcy laws that is not dismissed within sixty (60) days of the initial filing, (ii) makes an assignment for the benefit of creditors, (iii) has a receiver appointed with respect to the business property or assets of such Party on the Property, or (iv) otherwise is unable to pay its debts as they become due; (e) Either Party misrepresents a material fact contained in this PPA as of the Effective Date; and (f) Either Party violates or fails to enforce any applicable law, regulation or ordinance related to the use or occupancy of the Property.
- b) Right to Cure. Either Party shall, after notice, promptly and diligently commence curing a Default and shall have thirty (30) days after notice is given to complete the cure of said Default; provided, however, that if the nature of the defaulting Party's failure is such that more than thirty (30) days are reasonably required for its cure, then such Party shall not be in Default if the defaulting Party begins such cure within the thirty (30) day period described in the preceding sentence, provides notice to the non-defaulting Party of the extended time required for performance, within such thirty (30) day period, and, thereafter, diligently prosecutes such cure to completion.
- c) Notice of Default. A Party shall not be considered to be in default under this PPA unless (i) the non-defaulting Party has given written notice specifying the default; and (ii) the defaulting Party has failed to cure the default in accordance with provisions of subsection b) above.
- d) Remedies.
 - i. If the defaulting Party has failed to cure as set forth herein, the non-defaulting Party shall have right to terminate this PPA by giving written notice to the defaulting Party on a date specified in such notice.
 - ii. Termination of the PPA pursuant to this Section shall not be deemed to limit the non-defaulting Party's right to pursue any other remedy given under this PPA or now or hereafter existing at law or in equity or otherwise.

17. Termination for Failure to Construct. Should Provider fail to construct the System and begin delivery of electricity to Purchaser within 24 months from the date this PPA is approved by the Colusa City Council, the City may terminate this PPA in the sole discretion of the Colusa City Council.

18. Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

19. Severability. If any term, provision, covenant or condition of this Agreement shall be

determined invalid, void or unenforceable, then that term, provision, covenant or condition of this Agreement shall be stricken and the remaining portion of this Agreement shall remain valid and enforceable if that stricken term, provision, covenant or condition is not material to the main purpose of this Agreement, which is to allow the delivery of electricity to the City from the System; otherwise, this Agreement shall terminate in its entirety, unless the parties otherwise agree in writing, which agreement shall not be unreasonably withheld.

20. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning, to achieve the objectives and purposes of the parties hereto. The rule of construction, to the effect that ambiguities are to be resolved against the drafting party or in favor of the non-drafting party, shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.
21. Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
22. Singular and Plural. As used herein, the singular of any word includes the plural.
23. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.
24. Waiver. Failure of a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.
25. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit for the parties and their respective successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.
26. Force Majeure. Notwithstanding any provision to the contrary herein, neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, other acts of God, fires, rains, winds, wars, terrorism, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), moratoriums, public health orders and regulations or other government actions and regulations (other than those of the City), court actions (such as restraining orders or injunctions), or other causes beyond the party's reasonable control. If any such events shall occur the term of this Agreement then the time for performance shall be extended for the duration of each such event, provided that the Term of this Agreement shall not be extended under any circumstances for more than five (5) years beyond the date it would have otherwise expired, and further provided that if such delay is longer than six (6) months, Provider may terminate this Agreement upon written notice to the City and the City shall return to Provider any portion of the Mitigation Fee paid for any period after the effective date of such termination.

27. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.
28. Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.
29. Litigation. Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Colusa, State of California, or such other appropriate court in said county. Service of process on the City shall be made in accordance with California law. Service of process on Provider shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between the City and Provider seeking enforcement of any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party is entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorneys' fees.
30. Covenant Not To Sue. The parties to this Agreement, and each of them, agree that this Agreement and each term hereof are legal, valid, binding, and enforceable. The parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any other party to this Agreement, in law or in equity, which is based on an allegation, or assert in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.
31. System as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the construction and operation of the System is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The City agrees that by its approval of, and entering into, this Agreement, that it is not taking any action which would transform this private development into a "public work" development, and that nothing herein shall be interpreted to convey upon Provider any benefit which would transform Provider's private development into a public work project, it being understood that this Agreement is entered into by the City and Provider upon the exchange of consideration described in this Agreement, including the Recitals to this Agreement which are incorporated into this Agreement and made a part hereof, and that the City is receiving by and through this Agreement the full measure of benefit in exchange for the burdens placed on Provider by this Agreement.
32. Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other

party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

33. **Cooperation with Financing.** Purchaser acknowledges that Provider will be financing the acquisition of the System and Purchaser agrees that it shall cooperate with Provider and its financing parties in connection with such financing of the System. Such cooperation shall include (a) the furnishing of such Purchaser information reasonably requested by Provider's lender, (b) the giving of such usual and customary estoppel certificates, (c) instruments in commercially reasonable form that provide Provider's lender the right to secure and gain access to the System, (d) accommodating reasonable requests by the financing party for clarifications regarding the rights and duties of the Parties under this PPA; provided, however, in no event will Purchaser be obligated to materially change any rights or benefits, or materially increase any burdens, liabilities or obligations of Purchaser under this PPA (except for providing notices and additional cure periods to the financing parties with respect to Events of Defaults with respect to Provider as a financing party may reasonably request).

34. **Amendments in Writing/Cooperation.** This Agreement may be amended only by written consent of both parties specifically approving the amendment (which approval shall not be unreasonably withheld, conditioned or delayed). The parties shall cooperate in good faith with respect to any amendment proposed in order to clarify the intent and application of this Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters. Minor, non-material modifications may be approved on behalf of the City by the City Manager upon reasonable approval by the City Attorney.

35. **Assignment.** Provider shall have the right to transfer or assign its rights and obligations under this Agreement (collectively, an "Assignment") to any person or entity (an "Assignee") in connection with a transfer or assignment of all of Provider's interest in the PPA without the prior approval of the City; provided that, (a) Provider shall notify City in writing of such proposed Assignment at least thirty (30) days prior to the effective date of any proposed Assignment, and (b) Provider and Assignee shall enter into a written assignment and assumption agreement, executed in recordable form, pursuant to which Assignee shall agree to assume all duties and obligations of Provider under this PPA remaining to be performed at the time of the Assignment.

36. **Corporate Authority.** The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

37. **Notices.** All notices under this Agreement shall be effective when delivered by United States Postal Service mail, registered or certified, postage prepaid return receipt

requested, and addressed to the respective parties as set forth below, or to such other address as either party may from time to time designate in writing by providing notice to the other party:

If to the City Purchaser:
City of Colusa
425 Webster St.
Colusa, CA 95932
Attn: City Manager

If to Provider:
BC&E USA Colusa 1 LLC and or its successors or assigns
802 N Irwin Street, Suite 204
Hanford, Ca. 93230

Attn:

38. Nonliability of City Officials. No officer, official, member, employee, agent, or representatives of the City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.
- 39.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Provider and Purchaser have executed this Agreement as of the Effective Date.

Provider

Purchaser

By: _____

By: _____

Robert L Norman, Managing Member

Jesse Cain, City Manager – Colusa

SCHEDULES

I. Schedule 1: Description of Premises and System

HREEPPA Premises: 2861 Niagara Ave. Colusa, CA 95932

Hybrid Renewable Electric Energy output: 0-5MW

Scope: Design and supply grid-interconnected renewable electric energy from Biomass Conversion, Solar, Wind, Battery storage.

NOTE: Provider and Purchaser may jointly elect that energy production take place off-site via a neighboring parcel but maintain Grid Access to 3700 amp electrical panel on Premises. Access to 3700 amp electrical panel will be granted regardless of Provider location- on Premises or on neighboring parcel. Access granted to Provider not to exceed 1800 amps of consumption but does not limit Provider for production of energy into the PG&E grid via the 3700 amp electrical panel on Premises. Provider agrees to install separate or sub-metering system if necessary.

II. Schedule 2: kWh Rate

The kWh Rate with respect to the System under the Agreement shall be in accordance with the following schedule: The electric production will be metered and billed monthly due within 45 days of billing.

Year of System Term	kWh Rate [*] (\$ / kWh)	Year of System Term	kWh Rate [*] (\$ / kWh)
1	.16	11	Year 11-20
2	.16	12	To be

3	.16*	13	negotiated
4	.16*	14	U p o n e a c h
5	.16*	15	5 year
6	.16*	16	extensio n
7	.16*	17	
8	.16*	18	
9	.16*	19	
10	.16*	20	

[*Calculated based on the year 1 kWh Rate multiplied by [X%] CPI inflation factor each year.]

III. Schedule 3 – Estimated Annual Production

Estimated Annual Production commencing on the Commercial Operation Date with respect to the Hybrid Renewable Energy System under the Agreement shall be as follows:

Year of System Term	Estim ated Producti on (kWh)	Year of Syste m Term	Es ti m at ed Pr od
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			uc tio n (k W h)
1	18,500,000 (1.5MW/hr, 330d/yr)	11	Same as year 5
2	31,680,000 (4MW/hr, 330d/yr)	12	Same as year 5
3	35,640,000 (4.5MW/hr, 330d/yr)	13	Same as year 5
4	35,640,000 (4.5MW/hr, 330d/yr)	14	Same as year 5
5	35,640,000 (4.5MW/hr 330d/yr)	15	Same as year 5
6	Same as year 5	16	Same as year 5
7	Same as Year 5	17	Same as year 5
8	Same as Year 5	18	Same as year 5
9	Same as Year 5	19	Same as year 5
10	Same as Year 5	20	Same as year 5

The values set forth in the table above are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

Schedule 4 – Notice Information

Purchaser:

The City of Colusa and or its successors or assigns.
425 Webster Street
Colusa, CA 95932

Attn: Jesse Cain City Manager
530-682-2933

Provider:

BC&E USA Colusa 1 LLC and or its successors or assigns
802 N Irwin Street, Suite 204
Hanford, Ca. 93230

Wayne Herling
760-214-1367

Robert Norman, CPA
559-816-8651

Brian Halloran Legal Counsel
303-641-3841