

Technical Committee Special Meeting
Friday, September 16, 2022
8:30 A.M.

This Meeting will be conducted via teleconference pursuant to the requirements of [Assembly Bill No. 361](#). By using teleconference for this meeting, MCE continues to promote social distancing measures recommended by local officials.

Members of the public who wish to observe the Meeting and/or offer public comment may do so telephonically via the following teleconference call-in number and meeting ID:

For Viewing Access Join Zoom Meeting:

<https://us02web.zoom.us/j/89419575289?pwd=SXg4V0xSSit5cklEb3dXb3pWVGJGQT09>

Passcode: 241936

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1. Roll Call/Quorum
2. Board Announcements (Discussion)
3. Public Open Time (Discussion)
4. Report from Chief Executive Officer (Discussion)
5. Consent Calendar (Discussion/Action)
 - C.1 Approval of 7.7.22 Meeting Minutes
 - C.2 Proposed License and Software Services Agreement with Power Settlements Consulting and Software, LLC
 - C.3 First Amendment to First Agreement with Willdan Energy Solutions

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6. Master Services Agreement with Sacramento Municipal Utility District (SMUD) and Schedule A.1 Statement of Work for Data Management and Billing Services (Discussion/Action)
7. Draft Electric Schedule VPPT - Virtual Power Plant Tariff (Discussion/Action)
8. Follow-up on VAMO (Discussion)
9. Committee Matters & Staff Matters (Discussion)
10. Adjourn

The Technical Committee may discuss and/or take action on any or all of the items listed on the agenda irrespective of how the items are described.

DISABLED ACCOMMODATION: If you are a person with a disability which requires an accommodation, or an alternative format, please contact the Clerk of the Board at (925) 378-6732 as soon as possible to ensure arrangements for accommodation.

MCE TECHNICAL COMMITTEE MEETING MINUTES
Thursday, July 7, 2022
8:30 A.M.

The Technical Committee Meeting was conducted pursuant to the requirements of [Assembly Bill No. 361](#) (September 16, 2021) which allows a public agency to use teleconferencing during a Governor-proclaimed state of emergency without meeting usual [Ralph M. Brown Act](#) teleconference requirements. Committee Members, staff and members of the public were able to participate in the Committee Meeting via teleconference.

Present: Gina Dawson, City of Lafayette
Ford Greene, Town of San Anselmo (Chair)
Kevin Haroff, City of Larkspur
Devin Murphy, City of Pinole
Teresa Onoda, Town of Moraga

Absent: John Gioia, Contra Costa County
Katy Miessner, City of Vallejo
Scott Perkins, City of San Ramon
Katie Rice, County of Marin

**Staff
& Others:** Jesica Brooks, Assistant Board Clerk
Darlene Jackson, Board Clerk
Vicken Kasarjian, Chief Operating Officer
Ami Kundaria, Internal Operations Assistant
Dawn Weisz, Chief Executive Officer

1. Roll Call

Chair Greene called the regular Technical Committee meeting to order at 8:30 a.m. with quorum established by roll call.

2. Board Announcements (Discussion)

There were no announcements.

3. Public Open Time (Discussion)

Chair Greene opened the public comment period and there were no comments.

4. Report from Chief Executive Officer (Discussion)

CEO Dawn Weisz, reported the following:

- MCE approved as project partner in \$5 Million CEC grant for the Advanced Energy Communities in Richmond to develop a Virtual Power Plant.
- There have been favorable responses to Federal meetings attended a few months ago. Earmark requests are moving along to expand MCE's EV program, Green and Healthy Homes, and possibly storage for critical facilities. We are looking forward to receiving final funding information later this year.
- Marin Community Funding (MCF) approved funding to expand MCE's EV program in Marin County.
- Battery storage program went live at Point Reyes Medical Clinic.
- MCE's Certify & Amplify virtual workshop was a huge success. Kudos to all who worked on the project.

5. Consent Calendar (Discussion/Action)

C.1 Approval of 5.5.22 Meeting Minutes

C.2 Master Services Agreement with Anew EV, LLC

Chair Greene opened the public comment period and there were no comments.

Action: It was M/S/C (Onoda/Dawson) to **approve Consent Calendars C.1 and C.2.** Motion carried by unanimous roll call vote. (Absent: Directors Gioia, Miessner, Perkins, and Rice).

6. Committee & Staff Matters (Discussion)

There were none.

7. Adjournment

Chair Greene adjourned the meeting at 8:39 a.m. to the next scheduled Technical Committee Meeting on August 4, 2022.

Ford Greene, Chair

Attest:

Dawn Weisz, Secretary



September 16, 2022

TO: MCE Technical Committee

FROM: Lindsay Saxby, Director of Power Resources

RE: Proposed License and Software Services Agreement with Power Settlements Consulting and Software, LLC (Agenda Item #05_C.2)

ATTACHMENTS: A. Proposed License and Software Services Agreement with Power Settlements Consulting and Software, LLC
B. Addendum to Settlecore License and Software Services Agreement for MCE Sublicense

Dear Technical Committee Members:

Summary:

MCE's Power Resources team spends a significant amount of time manually extracting data, validating contract terms, and reporting relevant information from multiple spreadsheets to accurately process monthly energy contract invoices. A software platform would automate data extraction, validate accuracy, and streamline the workflow to expedite invoice processing.

MCE conducted an informal solicitation for a cloud-based contract billing module platform and received six responses, which were evaluated by MCE staff and ranked according to evaluation criteria. The evaluation criteria included workflow, robustness of the calculation engine, automation of market data, ease of the module integration, software cost, and vendor customer service. Four providers were then selected for a shortlist, and each subsequently provided in-depth demonstrations of the software functionality. After evaluating all of these factors, MCE selected the Settlecore Contract Billing Module ("Billing Module") from Power Settlements Consulting and Software, LLC ("Power Settlements") as the preferred platform.

A cloud-based software platform would benefit MCE by allowing staff to run reports that would quickly produce contract settlements and provide business insights essential for informing energy contracting needs. In addition, dashboards and reports would enable workflows to be created that would provide better oversight of MCE's energy contracts and reduce the risk of administrative error. Staff would be able to produce automated reports that capture data required for compliance reporting to the California Public Utilities Commission, the California Energy Commission, and other regulatory bodies, rather than managing it manually. The data management improvements and workflow automation would allow the Power Resources staff to scale efficiently and mitigate risks associated with hard-to-find information, inconsistencies, and errors from the manual manipulation of multiple large data sets in spreadsheets.

The proposed License and Software Services Agreement with Power Settlements Consulting and Software, LLC ("Proposed Agreement") would provide the cloud-based software platform and specific Billing Module solution MCE is seeking. To reduce costs and duplicative infrastructure, MCE would build out the Billing Module in the existing software environment provided by ZGlobal Inc. ("ZGlobal"), MCE's scheduling coordinator agent. MCE would leverage ZGlobal's existing software license with Power Settlements via the Addendum to the Settlecore License and Software Services Agreement for MCE Sublicense ("Addendum"). The Addendum, attached hereto, is currently being negotiated by MCE, ZGlobal and Power Settlements, and should be ready for execution by mid-September. The initial build-out of the Billing Module would take 6-12 months and cost approximately \$130,000; this includes all implementation costs and the first year of the license fee. After year one, there are no additional build-out costs. The initial term of the Agreement is one year and will renew on an annual basis unless MCE elects to terminate the agreement 120-days before the effective date of any renewal term. The maximum license fee of the Billing Module for year one is \$60,000 and escalates at 3% per year. The Addendum would not incur any additional costs to MCE. Staff recommends full implementation of the Power Settlements Billing Module software and the associated annual license fees.

Fiscal Impacts:

Costs arising from the Proposed Agreement are included in the Fiscal Year (FY) 2022/23 Operating Fund Budget. Costs arising from the Proposed Agreement that would occur beyond FY 2023/24 would be included in subsequent MCE budgets.

Recommendations:

- 1) Approve the proposed License and Software Services Agreement with Power Settlements Consulting and Software, LLC;
- 2) Authorize the CEO to approve any order forms related to auto renewals of the software license following the initial one-year term; and
- 3) Authorize the MCE Executive Team to finalize and execute the Addendum to the Settlecore License and Software Services Agreement for MCE Sublicense with ZGlobal Inc.

LICENSE AND SOFTWARE SERVICES AGREEMENT (NON-EXCLUSIVE)

THIS LICENSE AND SOFTWARE SERVICES AGREEMENT (this “Agreement”) is made and entered into this 1st day of October, 2022, by and between Power Settlements Consulting and Software, LLC (hereinafter “Power”), a California limited liability company; and Marin Clean Energy (hereinafter “MCE” or “Licensee”), a not-for-profit joint powers authority in accordance with the laws of the State of California. Power and Licensee may be referred to individually as a “Party” and collectively as the “Parties” within this Agreement.

RECITALS

WHEREAS, Power is the owner of all right, title and interest in and to the Software, Documentation, Code, Maintenance Modifications, Enhancements, and related information, including the intellectual property rights embodied therein, which is altogether known as the CAISO SettleCore System (collectively the “Software”) and as further defined in Section 1.1, below; and

WHEREAS, pursuant to the Addendum to the Settlecore License and Software Services Agreement effective as of January 1, 2021, among Power, ZGlobal Inc., Power Engineering and Energy Solutions (as Sublicensor), and MCE (as Sublicensee) (the “MCE Sublicensee Addendum”), MCE has a revocable, non-transferable, non-sublicenseable, non-exclusive right and sublicense to use and operate the ISO Downloader Module, Settlements Analyzer Module, Shadow Settlements Module, Allocations Module, Deal Capture Module (read-only access and only to power deals), and Visual Analytics Module of the Software for MCE’s CAISO assets and load within the ZGlobal environment;

WHEREAS, MCE desires to install and operate the Contract Billing Module of the Software pursuant to the rights and licenses granted herein for managing its bilateral settlements with counterparties; and

WHEREAS, MCE desires that Power provide additional daily processing and support and maintenance services to remotely operate the Contract Billing Module as the Software Services further described in Article 4 below and in Exhibit A, attached hereto and incorporated by reference herein; and

WHEREAS, Power is willing to grant such rights and licenses to the Contract Billing Module under the terms and conditions of this Agreement;

WHEREAS, nothing herein shall amend, modify, expand, or supersede MCE’s rights and obligations with respect to the ISO Downloader Module, Settlements Analyzer Module, Shadow Settlements Module, Allocations Module, Deal Capture Module (read-only access and only to power deals), and Visual Analytics Module of the Software, which shall continue to be governed by the MCE Sublicensee Addendum; and

NOW, THEREFORE, the Parties hereto, intending to be legally bound, hereby agree as follows:

Article 1

DEFINITIONS

When used in this Agreement the capitalized terms listed below shall have the following meanings:

- 1.1 **“Software.”** Software means “CAISO SettleCore Software”.
- 1.2 **“CAISO SettleCore Software.”** The CAISO SettleCore Software system is various modules, including the Contract Billing Module. The SettleCore system is further described in Exhibit A, and is used to interface with the CAISO. Software is comprised of Object Code and Documentation that is installed on a server(s) and accessed by the users on client computers.
- 1.3 **“Contract Billing Module.”** The functionality within the SettleCore System that is used to independently provide an estimate and/or validation of defined Licensee’s bilateral contracts, power purchase agreements, and/or transmission settlements (“CBM Contracts”), using those custom contract-specific formulas provided by Licensee to generate an invoice with supporting contract settlement data that can be provided to Licensee’s customers. A single CBM Contract comprises the unique combination of a single contract for a single counterparty.
- 1.4 **“Code.”** Computer programming code. If not otherwise specified, Code shall include both Object Code and Source Code. Code shall include Maintenance Modifications and Enhancements thereto if, when, and to the extent that such Maintenance Modifications and/or Enhancements are delivered to Licensee by Power under this Agreement or under any other agreement or arrangement between the Parties.
- 1.5 **“Source Code.”** Code in programming languages such as “C#” and “JavaScript”, including all database operations and procedures such as “SQL” and “SQL stored procedures”, plus all related development documents such as flow charts, schematics, statements of principles of operations, end-user manuals, architectural standards, and any other specifications that are used to create or that constitute the Software. Source Code shall also include the database tables and their design and layout, which are used by the Software.
- 1.6 **“Object Code.”** Code in machine-readable form generated by compilation of Source Code and contained in a medium that permits it to be operated by Licensee. Includes the database and database design and layout provided in the Software.
- 1.7 **“Documentation.”** User manuals and other written materials that relate to particular Object Code, including materials useful for operation (for example, user guides and training materials). Documentation shall include Maintenance Modifications and

Enhancements thereto if, when, and to the extent that such Maintenance Modifications and/or Enhancements are delivered to Licensee by Power under this Agreement or under any other agreement or arrangement between the Parties.

- 1.8 “Maintenance Modifications.”** Modifications, updates, or revisions made by Power to Code or Documentation that correct errors, support new releases of operating systems, or support new models of input-output ("I/O") devices with which the Code is designed to operate.
- 1.9 “Enhancements.”** Modifications, additions, or substitutions, other than Maintenance Modifications, made by Power to Code or Documentation that accomplish incidental, performance, structural, or functional improvements. Enhancements may consist of Basic Enhancements or Major Enhancements, as defined below:
- a. “Basic Enhancements.”** Enhancements that result from warranty or maintenance services or that otherwise accomplish incidental, structural, functional, or performance improvements for which Power does not generally impose a separate charge on Licensee. Enhancements relating to future CAISO market changes that affect the existing Software are Basic Enhancements.
 - b. “Major Enhancements.”** Enhancements that result in substantial performance, structural, or functional improvements or additions, including substantial redesign or replacement of any parts of the Source Code, for which Power does generally impose a separate charge on Licensee, but which Licensee has the option of rejecting and not receiving the substantial enhancement and the additional charge.
- 1.10 “Dollars.”** Dollars means U.S. Dollars.

Article 2

LICENSE

- 2.1 Grant.** In consideration of the fees payable to Power pursuant to Article 5 hereof, and subject to the terms and conditions of this Agreement, Power hereby grants to Licensee a non-sublicensable, non-transferable (except in compliance with Section 12.14), non-exclusive limited right and license (the “License”) during the Term to use and operate the Contract Billing Module of the Software (the “Licensed Module”).
- 2.2 Restrictions.** Licensee agrees to the following restrictions on the Licensed Module. Failure to adhere to these restrictions may result in termination of this Agreement at Power’s sole and reasonable discretion as set forth in Section 9.3:
- a.** The Licensed Module will be installed for Licensee’s use at only one site within a production environment determined and controlled by ZGlobal Inc., Power

Engineering and Energy Solutions (“ZGlobal”), to be approved in writing in advance by Power. Such installation may be on ZGlobal’s network or in an off-premise hosted environment, such as through Microsoft Azure or another hosting provider. MCE acknowledges that ZGlobal will determine and control MCE’s access to the Software, and as a consequence the Licensed Module, on the ZGlobal production environment as provided in that separate agreement between ZGlobal and Licensee (the “ZGlobal Agreement”) and agrees that Power shall not have any responsibility or liability to Licensee, including, but not limited to, refund of any fees paid hereunder, with respect to any restriction on or termination of MCE’s access to the Licensed Module and/or the ZGlobal production environment by ZGlobal.

- b. Licensee may not reproduce or transfer the Licensed Module, or any copy, adaptation, transcription, or merged portion thereof, except as expressly permitted in writing by Power. Licensee’s rights are non-exclusive and non-assignable, except as expressly provided in this Agreement. If Licensee validly transfers possession of any copy, adaptation, transcription, or merged portion of the Licensed Module to any other Party, including, but not limited to, a successor in interest of Licensee’s business that assumes all of the Licensee’s obligations with respect to the Licensed Module, Licensee’s rights therein are automatically terminated except as expressly permitted in writing by Power (so as to avoid both Licensee and transferee having rights to the Licensed Module).
- c. Reserved.
- d. **Licensee does not and will not have or acquire under or in connection with this Agreement any ownership interest in the Software, including without limitation the Licensed Module. Power is and will remain the sole and exclusive owner of all right, title, and interest in and to the Software and all modifications, customizations, and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto and/or any rights in derivative works or improvements relating thereto), subject only to the rights and privileges expressly granted by Power hereunder.**
- e. By accessing the Licensed Module, Licensee acknowledges that Power claims and reserves all rights and benefits that are afforded under federal copyright law in such Licensed Module.
- f. The Source Code for the Software including without limitation the Licensed Module (and the information therein, excluding all of Licensee’s data imported into the Software, to the extent not otherwise apparent in the Object Code and the Documentation) is a trade secret of Power. Licensee is not entitled to receive Source Code, and under no circumstances may Licensee reverse-compile or reverse-assemble the Object Code.
- g. Licensee’s obligations hereunder remain in effect for as long as it continues to possess or use the Licensed Module.

- h.** Licensee shall not modify, correct, adapt, translate, enhance or otherwise prepare derivative works or improvements of any Software, including without limitation the Licensed Module, nor make any updates to the database used by the Software or Licensed Module, including but not limited to updates to the data, tables, layouts, or schema, as long as the Term of this Agreement is in effect. However, at any time during or after the Term of the Agreement, Licensee is permitted to add additional tables to the database, using the customer's schema which does not overlap with the Software's database schemas.
- i.** Licensee agrees that only employees of the Licensee or Licensee's affiliates, and those contractors of Licensee to whom Power agrees (and Power shall not withhold such agreement unless the contractor is in Direct Competition with Power), shall be permitted to operate the Licensed Module and to access the database used by the Licensed Module. Any requests to operate the Licensed Module, or to access the database used by the Licensed Module, by non-employees of the Licensee (including but not limited to consultants or other agents), must be approved by Power in writing (with email being acceptable). For purposes of this section, "Direct Competition" means that the vendor owns and offers for sale its software product or software service that provides substantially similar features or functionality as the Software provides and is provided by the vendor for the same intended use. Direct Competition includes but is not limited to the following companies: Power Costs Inc. (www.powercosts.com), Open Access Technology International, Inc. (www.oati.com), Adapt2 Solutions (www.adapt2solutions.com), Hartigen (www.hartigen.com), MCG Energy Solutions (www.mcgenenergy.com), and Czarnecki-Yester Consulting Group (www.cycg.com).
- j.** Licensee agrees that Licensee's users will not share Software accounts with any other individuals. Each of Licensee's users shall have their own login and password.
- k.** Licensee acknowledges that ZGlobal may terminate Licensee's access to the Software, and, as a consequence, Licensee's access to the Licensed Module, as provided in the ZGlobal Agreement. Licensee further acknowledges and agrees that if the Agreement expires or is terminated, as provided in Section 9.2, that the license described in this Article 2 is immediately revoked as of the expiration or termination date, and that the Licensee must permit Power to immediately uninstall the Licensed Software, including any and all copies made.
- l.** Licensee may access its data through either the screens and reports accessible to Software users through the web-browser user interface or through the APIs as described in the Software Documentation.
- m.** Licensee must abide by the terms in the Software Documentation for querying or submitting data using the Software APIs.

- 2.3 Feedback.** If Licensee or any of its employees or contractors sends or transmits any communications or materials to Power by mail, email, telephone, or otherwise, suggesting or recommending changes to the Software, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“Feedback”), Power shall be the sole and exclusive owner of any Software rights in and to such Feedback and is free to use such Feedback without compensating or crediting Licensee or the individual providing such Feedback, except to the limited extent that Feedback constitutes or reflects Licensee's Confidential Information

Article 3

CONTRACT BILLING MODULE MAINTENANCE

- 3.1 Reserved.**
- 3.2 Bugs Identified by the Licensee.** As indicated in Exhibit B, each time that the Licensee reports an error in the functionality of the Licensed Module (“Bug”), Power will classify, prioritize, and use its best efforts to address each Bug in accordance with the table set forth in Exhibit B.
- 3.3 Bugs Identified by Other Customers of Power.** From time to time, Power shall issue updated versions of the Licensed Module which include Bug fixes identified by customers other than the Licensee identified in this Agreement.
- 3.4 Training.** Prior to the completion of the initial installation of the Licensed Module, remotely or at the ZGlobal’s site, Power shall provide the Licensee with the level of training reasonably required by Licensee to operate the Licensed Module.
- 3.5 Delivery of Maintenance Modifications and Basic Enhancements.** Power shall deliver to Licensee, when and as prepared by Power in the course of its business, all Basic Enhancements and Maintenance Modifications arising from time to time, for inclusion in the Licensed Module. However, Major Enhancements will not be included within the Licensed Module or Software Services.

Article 4

SOFTWARE SERVICES

- 4.1 Software Services.** As further described in Exhibit A, Power shall provide the following Software Services to the Licensee on each business day during regular business hours from 8:00 a.m. to 6:00 p.m. Pacific Prevailing Time, excluding federal, CAISO, and Power

recognized holidays: ensure that all required CAISO files are loaded into the Licensed Module. Power is not required to perform a minimum number of hours to complete the Software Services, and is not required to perform Software Services with respect to any module of the Software other than the Licensed Module. The Software Services shall also include the following:

- a. Power shall perform the Software Services, offsite, through a secure VPN, white-listed URL, or through a Citrix connection.
- b. Power shall perform all Licensed Module upgrades and patches (i.e., new versions of the Licensed Module) for Licensee unless Licensee elects in writing to have its internal IT group perform such Licensed Module upgrades and patches.
- c. **Reserved.**
- d. Additional Customization Hours. Licensee requires Power to provide the option for Licensee to use Power's services for additional report development related to Licensee's data in the Licensed Module. This service shall be available to Licensee at the rate of Two Hundred and no/100 (\$200.00) per hour. Licensee may procure additional customization hours in bundles of Ten (10) Customization Hours. This service shall be utilized only by the following steps: (a) Licensee requests an estimate from Power for the number of hours to complete the requested deliverable(s), (b) Power shall provide an estimate of the number of hours of development work that is estimated to be required to complete the deliverable(s), and (c) Licensee at its sole discretion may authorize Power to proceed with the development, with the understanding that the actual number of hours of development by Power may be more or less than the estimated number of hours. Furthermore, it is agreed by the Licensee, that any customizations or enhancements made by Power, are solely owned by Power and may be incorporated into versions of the Licensed Module which is distributed to other customers of Power.
- e. **Reserved.**
- f. Power is responsible for configuring the first seventy-five (75) CBM Contracts in the Licensed Module. Licensee is responsible for configuring the contract formulas in the Contract Billing Module after the go-live of the Software, which includes adding new contracts, formulas, and counterparties, editing existing contracts and formulas, and removing contracts.

In the event that Licensee requires support from Power after go-live for updating the CBM Contracts because Licensee opts not to perform the configuration themselves, then Power shall provide a service to Licensee whereby this service shall be available to Licensee at the rate of a one-time fee in the amount of Ten Thousand and no/100 (\$10,000.00) per each group of five (5) CBM Contracts. In order to utilize this service, Licensee shall send an email from Licensee's authorized point of contact authorizing Power to proceed with a group of five (5) CBM contracts at the one-time fee of Ten

Thousand and no/100 (\$10,000.00).

Article 5

PAYMENTS

- 5.1 License Fee.** The license fee that is assessed by Power to Licensee for the license of the Licensed Module (the “License Fee”) will not be assessed by Power to Licensee in consideration of the Software Services Fee.
- 5.2 Implementation Fee.** In consideration of the implementation of the Licensed Module, as described in Exhibit C, a one-time Implementation Fee will be assessed by Power to Licensee in the total amount of Sixty Thousand and no/100 Dollars (\$60,000.00).
- 5.3 Software Services Fee.** For the Term of the Agreement and any subsequent extensions to the Term of the Agreement, Licensee shall pay an annual Software Services Fee.

Software Services Fee. Licensee shall pay an annual Software Services Fee to Power in the amount of Sixty Thousand and no/100 Dollars (\$60,000.00), the “Software Services Fee”. This Software Services Fee is inclusive of the discount provided in Section 5.7(a) and is subject to Licensee’s ongoing compliance with those Sections. The Software Services Fee includes all maintenance and service support of the Licensed Module as described in Article 3 and 4.1 above, and the functionality further described in Exhibit A.

- a. Inflation.** This fee will increase each year on the anniversary date of the Term by (i) three percent (3%) plus (ii) the CPI Index (Consumer Price Index), as published by the United States Bureau of Labor Statistics. For the purposes of reporting the annual CPI index, the annual inflation value as populated by the <http://www.usinflationcalculator.com/inflation/current-inflation-rates/> site or a successor or similarly agreed upon website will be used. For illustration purposes, using prior years as an example, the 2019 inflation increase would have been 4.8% (3% plus CPI of 1.8%) and the 2020 inflation increase would have been 4.2% (3% plus CPI of 1.2%)
- b.** The Software Services Fee includes up to the first seventy-five (75) CBM Contract monthly invoices that are generated in the Licensed Module, or some portion thereof. Thereafter, the Software Service Fee will increase by an additional Ten Thousand and no/100 Dollars (\$10,000.00) for each increase in the CBM Contract monthly invoices that are generated in the Licensed Module in groups of ten (10) contracts. For illustrative purposes, in example one, if Licensee requires that eighty (80) CBM Contract monthly invoices that are generated in the Licensed Module then the increase in the Software Services Fee would be an additional Ten Thousand and no/100 Dollars (\$10,000.00). In example two, if Licensee requires that ninety-five (95) CBM Contract

monthly invoices are generated in the Licensed Module then the increase in the Software Services Fee would be an additional Twenty Thousand and no/100 Dollars (\$20,000.00). The Software Services Fee shall be based upon the highest monthly count of CBM Contract monthly invoices that are generated in the Licensed Module in a single calendar month during a year within the Term.

- c. **After-hours Support.** In the event that Licensee determines it requires 24x7x365 support (“After-hours Support”) instead of general support occurring during the normal business hours between 8:00 a.m. through 6:00 p.m. Pacific Prevailing Time, Licensee will notify Power in writing, and the Software Services Fee will increase every year by an additional Fifty Thousand and no/100 Dollars (\$50,000.00), to be assessed on January 24th of each year of the Term, and to increase annually by the inflation adder described in Section 5.3(a).
- d. In consideration of the Software Services Fee paid by Licensee to Power pursuant to Section 5.3, the Licensed Module may be used by a maximum of ten (10) named users of Licensee. Additional named users may be added at the rate of Four Thousand and no/100 Dollars (\$4,000.00) per year to the Software Services Fee, for each additional one (1) named user. Any such change shall be evidenced by a service order, change order, or similar writing, agreed and signed by both Parties. In the event that Licensee reaches fifty (50) named users, then no additional fees will be assessed by Power to Licensee for additional named users thereafter.

5.4 Intentionally Omitted.

5.5 Medium of Payment. All payments are payable in Dollars.

5.6 Payment Due Dates; Late Fees; Interest.

a. Section Not Used.

- b. **Implementation Fee.** Licensee shall pay to Power a one-time Implementation Fee for implementation services further described in Exhibit C attached hereto and incorporated herein by reference, which such Implementation Fee shall be due and payable pursuant to the following table:

Milestone	Fee	Due Date
<i>Contract Signing</i>	<i>\$20,000.00</i>	<i>October 1, 2022</i>
<i>The first 5 CBM Contracts are available for Licensee to test</i>	<i>\$20,000.00</i>	<i>30 days after Power deploys the first 5 CBM Contracts in the Licensed Module for Licensee to test</i>
<i>Production Use</i>	<i>\$20,000.00</i>	<i>The earlier of a) the go-live of the first 25 CBM Contracts where they are used in</i>

		<i>production use by Licensee or are used by Licensee to verify their counterparties' production invoices or b) October 1, 2022.</i>
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- c. Software Services Fees.** Licensee shall pay to Power an annual Software Services Fee as described in Section 5.3. The first year's prorated annual Software Services Fee as described in Section 5.3, will be due as a single payment on the earlier of a) the go-live of the first 25 CBM Contracts where they are used in production use by Licensee or are used by Licensee to verify their counterparties' production invoices or b) October 1, 2022. The second Software Services fee will be due on October 1, 2023. Subsequent annual Software Services Fee payments will be due on October 1st of each year of the Term, adjusted for inflation as described in Section 5.3(a).
- c. Fees for Additional Customization Hours.** Any Additional Customization Hours utilized by Licensee pursuant to Section 4.1(d) will be invoiced at the end of each calendar month in which Power performs the development of the Additional Customization Hours. Payment is due within 15 calendar days of invoicing.
- d. Interest.** In the event that any payment due to Power is not paid within fifteen business days after its due date, interest at the rate of three percent (3%), or the greatest amount authorized by applicable law, per annum shall accrue on the unpaid payment from the date due until paid.
- e. Hosting Costs.** Licensee has elected to have the Licensed Module deployed in an on-premise or cloud-hosted production environment maintained by ZGlobal. Licensee acknowledges and agrees that ZGlobal may assess to Licensee additional fees and costs, including without limitation hosting costs, related to such election that are not governed by this Agreement. Licensee further acknowledges and agrees that Power shall not have any responsibility or liability to Licensee with respect to any such fees or costs assessed to Licensee by ZGlobal.
- 5.7 Discount to the Payment.** The annual Software Services Fee, described in Section 5.3, includes a discount of Fifteen Thousand and No/100 Dollars (\$15,000); however, such discount is contingent upon Licensee's current and continuing compliance with both of the following conditions (collectively, the "Discount Conditions"):
- a. Customer Quote.** Licensee shall provide a customer quote, attributed to Licensee, regarding the benefits of the SettleCore System and shall provide Power express written consent to post such customer quote on Power's website within fifteen (15) days of executing this Agreement. The content of Licensee's customer quote shall be subject to any applicable law, including any limitations or guidelines related to the giving of endorsements. Licensee retains the right to revoke Power's use of Licensee's customer quote at any time with notice to Power. Power will remove Licensee's customer quote from its website within five days of termination of this Agreement or notice by Licensee.

Power's use of Licensee's customer quote does not create any ownership right therein and all rights not granted to Power are reserved by Licensee.

- b. Logo.** Licensee shall provide its logo and shall provide Power express written consent to permit Power to disclose Licensee as Power's customer by posting Licensee's logo on Power's website within fifteen (15) days of executing this Agreement.

In the event that either of the Discount Conditions is not satisfied within fifteen (15) days of executing this Agreement, or if Licensee becomes out of compliance with either of the Discount Conditions at any time thereafter including Licensee's revocation of Licensee's authorization for Power to post Licensee's Customer Quote or Logo, then Power shall reverse the discount discussed in this Section and annually invoice Licensee Fifteen Thousand and no/100 Dollars (\$15,000.00), which payment of such invoice shall be due from Licensee to Power on October 30, 2022, and annually thereafter on October 1st of each year of the Term. In no case may the discount described in this Section, nor Licensee's compliance or noncompliance with the Discount Conditions, result in any payments due from Power to Licensee.

Licensee retains the right to revoke Power's use of Licensee's logo at any time with notice to Power. Power will remove Licensee's name and logo from its website within five days of termination of this Agreement or notice by Licensee. Power's use of the name and logo does not create any ownership right therein and all rights not granted to Power are reserved by Licensee.

- 5.8 Travel Costs.** When traveling to Licensee's office, Power will charge the actual travel costs incurred without any markup. These fees include but are not limited to airfare, hotel, car rental, taxi service, parking, and a daily per diem fee of \$55 per person. Power will only incur travel related expenses after receiving written approval via email from Licensee for travel to Licensee's office. Licensee will be responsible for the payment of the travel costs within thirty (30) days of being invoiced by Power.

- 5.9 Reserved.**

- 5.10 Sales Tax.** In the event that a municipal, county, state, or federal instrumentality or agency levies a sales or use tax on software or services provided by Power to Licensee under this Agreement, then Licensee shall be responsible for the payment of all such sales or use taxes. To the extent that sales or use tax on software or services provided by Power to Licensee under this Agreement is levied, if and only if Power collects sales or use tax in the state of the license, then Power will bill same to Licensee and separate out the sales or use tax on the invoice and Licensee will pay the sales or use tax amount to Power, and Power will then remit the same amount to the instrumentality or agency that levies the sales or use tax. If Power is not registered in the state of the license to collect sales or use tax then Licensee will remit the sales or use tax directly to the applicable governmental authority.

- 5.11 Reserved.**

Article 6

AUDITS

- 6.1 Audit Procedure.** Power may, upon Power's request and with reasonable notice, inspect and audit Licensee's use of the Licensed Module under this Agreement at any time during the Term. Licensee shall make available all such equipment, information and personnel, and provide such cooperation and assistance, as may reasonably be requested by Power with respect to such audit. All audits will be conducted during regular business hours and no more frequently than once in any 12 month period, and in a manner that does not unreasonably interfere with Licensee's business operations. Power shall only examine information directly related to Licensee's use of the License Module.
- 6.2 Results of Audit.** If the audit determines that Licensee's use of the Licensed Module does not comport with the usage permitted by this Agreement and/or Licensee's obligations under this Agreement as set forth in Exhibit A, Licensee shall take immediate steps to bring itself into compliance with the Agreement.

Article 7

CONFIDENTIAL INFORMATION

- 7.1 Confidential Information.** The term "Confidential Information" means all information in the possession of and being disclosed by a Party (the "Disclosing Party") pursuant to this Agreement to the other Party (the "Receiving Party"), which has value to the Disclosing Party (or to a third party to whom the Disclosing Party in possession owes a duty of confidentiality), which is not generally known in the industry, and which is known or should be known to the Receiving Party to be of a confidential nature. By example and without limitation, Confidential Information includes any and all information concerning teaching techniques, processes, software, database designs, formulas, trade secrets, inventions, discoveries, improvements, research or development and test results, specifications, data, know-how, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics, and agreements.
- 7.2 Non-Confidential Information.** Notwithstanding the other provisions of this Agreement, nothing received by Receiving Party from the Disclosing Party will be considered to be Confidential Information if (i) it has been published or is otherwise readily available to the public other than by a breach of this Agreement; (ii) it has been rightfully received by the Receiving Party from a third party without confidential limitations or (iii) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement.

- 7.3 Protection of Confidential Information.** During the Term of this Agreement and for five (5) years thereafter, each Party agrees to take all steps reasonably necessary to hold in trust and confidence the Disclosing Party's Confidential Information. Each Party agrees to hold such Confidential Information in strict confidence, not to disclose it to third parties or to use it in any way, commercially or otherwise, other than as permitted under this Agreement. Except as set forth in Section 7.2, each Party agrees not to allow any unauthorized person access to such Confidential Information, either before or after termination of this Agreement, without the prior written consent of the Disclosing Party and without court order or regulatory requirement. Each Party agrees to limit the disclosure of Confidential Information to employees or independent contractors with a need to know, who have been advised of the confidential nature thereof, and have acknowledged in writing the express obligation to maintain such confidentiality. Receiving Party further agrees to promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and to take all reasonable steps in cooperation with the Disclosing Party to prevent further unauthorized use or disclosure.

Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Article 7 with respect to any Confidential Information that constitutes a trade secret under any applicable law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable laws other than as a result of any act or omission of the Receiving Party or any of its representatives.

- 7.4 Compelled Disclosures.** If either Party or any of its Representatives is compelled by applicable law or regulatory requirement to disclose any Confidential Information of the other Party then, to the extent permitted by applicable law, the receiving Party shall: (a) promptly, and prior to such disclosure, notify the disclosing Party in writing of such requirement so that the disclosing Party can seek a protective order or other remedy or waive its rights under Section 7.3; and (b) provide reasonable assistance to the disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the disclosing Party waives compliance or, after providing the notice and assistance required under this Section 7.4, the receiving Party remains required by law to disclose any Confidential Information, the receiving Party shall disclose only that portion of the Confidential Information that the receiving Party is legally required to disclose.

Article 8

REPRESENTATIONS AND WARRANTIES

- 8.1 Mutual Representations and Warranties.** Each Party represents, warrants and covenants to the other Party that:

(a) it is duly organized, validly existing and in good standing as a corporation or other

entity under the laws of the jurisdiction of its incorporation or other organization;

- (b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under this Agreement;
- (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and
- (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

8.2 Power's Representations and Warranties.

a. Right and Authority. Power represents, warrants, and covenants to Licensee, with respect to the Licensed Module, that:

(i) it is and throughout the Term will remain the sole and exclusive legal and beneficial owner of the entire right, title and interest in and to the Software and Documentation (including all intellectual property rights therein under copyright, patent, trademark, trade secret, and other applicable law);

(ii) it has and throughout the Term will retain the unconditional and irrevocable right, power and authority to grant and perform the rights and licenses granted herein;

(iii) INTENTIONALLY OMITTED;

(iv) neither its grant of the license, nor the Software Services or any other performance by or on behalf of Power under this Agreement does or will at any time: (x) conflict with or materially violate any applicable law; or (y) require the consent, approval, or authorization of any governmental or regulatory authority or other third party;

(v) use by the Licensee of the Software or Documentation in accordance with this Agreement and the Documentation, or as otherwise authorized by Power, does not and will not infringe on any copyright, other intellectual property right, or other right of any third party and

(vi) Power shall take commercially reasonable efforts, at least satisfying the industry standard, to ensure that the Software does not or will not at any time during the Term contain any (x) virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (y) time bomb, drop-dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any person or

entity, or otherwise deprive Licensee of its lawful right to use the Software.

b. Adequacy of Software and Documentation. Power represents and warrants that:

(i) the Software and Documentation are and shall be reasonably understandable and reasonably usable by the Licensee's users.

c. Conformity, Performance, and Compliance. Power represents and warrants that throughout the Term:

(i) the Licensed Module to be delivered by Power hereunder have been prepared in a workmanlike manner and with professional diligence and skill,

(ii) such Licensed Module will reasonably function on the machines and with operating systems for which they are designed, as further explained in Exhibit A, and

(iii) such Licensed Module conforms to the specifications and functions relating thereto.

8.4. Limitation of Warranties. Power shall not be deemed to make, or to have made, any express or implied warranties of any kind, character or description, including, but not limited to, fitness for a particular purpose or the warranty of merchantability concerning the Software or the Software Services, except as expressly stated in this Agreement.

Article 9

TERM

9.1 Term of Agreement. The initial term ("**Initial Term**") of this Agreement shall commence on October 1, 2022 ("Effective Date") and shall continue until September 30, 2023. Subject to Section 9.2, after the end of the Initial Term, and after the end of each subsequent one (1) year period (each a "**Renewal Term**"), this Agreement will automatically renew for an additional Renewal Term unless either party provides written notice of non-renewal to the other party at least one hundred twenty (120) days prior to the expiration of the then-current term. Notwithstanding the previous sentence, Power cannot exercise its right to cause a non-renewal prior to October 1, 2023. The Initial Term and each Renewal Term collectively make up the "**Term**" of this Agreement. Except as expressly provided in this Section 9.1 and in Section 9.2(d), the Implementation Fee and the Software Services Fees provided for under this Agreement are fully earned by Power when due and payable hereunder and is not subject to refund or offset notwithstanding the early termination of this Agreement pursuant to Section 9.2 and/or any restriction on or termination of MCE's access to the Licensed Module by ZGlobal. Within ten (10) business days after the effective date of any termination of this Agreement, except in the case when Power terminates the Agreement for cause, Power will refund to Licensee a pro rata share of the

Software Services Fees pre-paid for the Initial Term or the then-current Renewal Term, as the case may be, which share will correspond to the percentage of the Initial Term or then-current Renewal Term, as the case may be, remaining after the effective date of such termination (the “**Refund**”). In the case when Power terminates this Agreement for cause, any and all Software Services Fees provided for under this Agreement shall be deemed fully earned by Power when due and payable hereunder and shall not be subject to refund or offset.

9.2 Termination. This Agreement may be terminated upon the occurrence of any of the following events:

- a. Termination At Will. Licensee may terminate this Agreement without cause upon Ninety (90) days written notice to Power.
- b. Termination by Mutual Agreement. Licensee and Power may terminate or modify the terms of this Agreement by written agreement executed by both Parties.
- c. Termination For Cause. In addition to the foregoing, a Party may terminate this Agreement, or modify the Agreement, at any time for just cause, herein defined as the happening of any of the following occurrences or acts:
 - (i) A receiver for a Party is appointed or applied for, or a petition under any bankruptcy chapter is filed by or against a Party, or a Party becomes insolvent or makes an assignment for the benefit of creditors, or is unable to pay its debts as they become due, or, if there is any levy, attachment or similar action that is not vacated or removed by payment or bonding within ten (10) days of such levy or attachment; or
 - (ii) A Party is charged with unethical or illegal practices or acts thereby jeopardizing, in the reasonable opinion of the other Party, that other Party’s good name and good will; or
 - (iii) A Party fails to perform a material condition or delegation of this Agreement that adversely and substantially affects the interests of the other Party.

Termination For Cause may be effected through written notice to the breaching party, specifically identifying the breach on which termination is based and such termination shall be effective (a) immediately if it is incapable of cure; or (b) if capable of cure, such breach remains uncured 30 days after written notice thereof.

- d. Special Early Termination Right by Licensee. Notwithstanding the other termination rights described in Section 9.2(a), Section 9.2(b), and Section 9.2(c), this Section 9.2(d) shall apply in the event that Licensee is unsatisfied with the user acceptance testing described in Exhibit C. During the Testing Period (defined below), Licensee may provide written notice to Power if Licensee is dissatisfied with any of its user acceptance testing (a “**Nonconformance Notice**”). Upon receipt

of a Nonconformance Notice, Power shall have thirty (30) days to work diligently in good faith with Licensee to resolve the issues identified in the Nonconformance Notice (the “**Nonconformance Cure Period**”). If Power and Licensee are unable to resolve the issues identified in the Nonconformance Notice prior to the conclusion of the Nonconformance Cure Period, in the reasonable discretion of Licensee, then, upon the conclusion of the Nonconformance Cure Period, Licensee may, by written notice to Power, terminate this Agreement, and in such case, Power shall refund to Licensee two-thirds of the Implementation Fee paid by Licensee to Power pursuant to Section 5.6(b). For purposes of this Agreement, the “**Testing Period**” shall be the period of time beginning on October 1, 2022, and ending on the later of (i) March 1, 2023, or (ii) forty-five days after Power has delivered the implementation milestone “The first 5 CBM Contracts are available for Licensee to test” per Section 5.6(b).

- 9.3 Survival.** In the event of the expiration or termination of this Agreement, in whole or in part, the provisions of this Section 9.3 and Articles 7, 8, 10, 11 and 12, the Refund and any other right or obligation of the Parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, shall survive and continue in effect.

Article 10

LIMITATIONS ON LIABILITY

- 10.1 Exclusion of Consequential Damages, Etc.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 10.3, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO (a) FAILURES OR LIMITATIONS OF THE SOFTWARE, THE LICENSED MODULE, OR SOFTWARE SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL, (b) MICROSOFT AZURE OUTAGES OR AUTH0 OUTAGES, OR (c) OTHER LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, INCLUDING WITHOUT LIMITATION LOSS OF PROFIT, DATA AND PROGRAMS, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY.
- 10.2 Limit on Damages.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 10.3, EACH PARTY’S AGGREGATE AND CUMULATIVE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF SOFTWARE SERVICES FEES PAID BY LICENSEE TO POWER DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE SUCH CLAIM AROSE.

10.3 Exceptions. THE FOREGOING LIMITATIONS OF LIABILITY STATED IN SECTIONS 10.1 AND 10.2 SHALL NOT APPLY TO EACH PARTY'S (A) INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 11, AND (B) CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 7. EACH PARTY'S AGGREGATE AND CUMULATIVE LIABILITY UNDER THIS AGREEMENT WITH RESPECT TO THEIR CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 7 SHALL BE LIMITED TO THE GREATER OF (X) THE SOFTWARE SERVICES FEES PAID BY LICENSEE TO POWER DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE PRECEDING THE EVENT GIVING RISE TO LIABILITY, OR (Y) THE AMOUNT POWER RECOVERS UNDER ITS INSURANCE COVERAGE IN CONNECTION WITH THE CLAIM(S) ASSOCIATED WITH THE EVENT GIVING RISE TO LIABILITY.

Article 11

INDEMNIFICATION

11.1 Indemnification by Licensee. Licensee shall indemnify, defend, and hold harmless Power and its officers, directors, shareholders, members, employees, agents, representatives, and customers (collectively, "Power Indemnitee") against all liability, losses, claims, costs, damages, actions, judgments, settlements, interest, awards, penalties, fines or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, incurred by Power Indemnitee relating to or arising from: (a) a claim that Licensee's use or combination of the Licensed Module with any hardware, software, system, network, service or other matter whatsoever that is neither provided by Power nor authorized by Power in this Agreement (including the Documentation) or otherwise in writing, infringes any patent, copyright, trademark, trade secret, or other proprietary right of a third party; (b) a breach by Licensee of any representation, warranty, covenant or obligation under this Agreement; (c) negligence, abuse, misapplication, misuse or more culpable act or omission (including recklessness or willful misconduct) by or on behalf of Licensee or any of its Representatives with respect to the Licensed Module or Documentation or otherwise in connection with this Agreement, including without limitation failure to appropriately service, support, or maintain the Licensed Module after the term of this Agreement; or (d) use of the Licensed Module or Documentation by or on behalf of Licensee or any of its Representatives that is outside the purpose, scope or manner of use authorized by this Agreement or the Documentation, or in any manner contrary to Power's written instructions. Notwithstanding the foregoing, Licensee will have no obligation under this Agreement to indemnify or defend a Power Indemnitee to the extent any such claim relates to or arises from Power's negligence or willful misconduct. In regard to the ZGlobal Agreement, MCE shall indemnify and defend Power and its officers, directors, shareholders, members, and employees against all liability, losses, claims, costs, penalties or expenses, including reasonable attorneys' fees, incurred by Power relating to or arising from: the ZGlobal Agreement, including, but not limited to, expiration of the ZGlobal Agreement or Licensee's inability to access the License Module due to its relationship with ZGlobal.

- 11.2 Indemnification by Power.** Power shall indemnify, defend, and hold harmless Licensee and its officers, directors, shareholders, members, employees, agents, representatives, and customers (collectively, “Licensee Indemnitee”) against all liability, losses, claims, costs, damages, actions, judgments, settlements, interest, awards, penalties, fines or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, incurred by Licensee Indemnitee relating to or arising from: (a) a claim that the Licensed Module or the Documentation, or any use of the Licensed Module or the Documentation in accordance with this Agreement (including the Documentation), infringes any patent, copyright, trademark, trade secret, or other proprietary right of a third party; (b) a breach by Power of any representation, warranty, covenant or obligation under this Agreement; (c) negligence, abuse, misapplication, misuse or more culpable act or omission (including recklessness or willful misconduct) by or on behalf of Power or any of its Representatives with respect to the Licensed Module or Documentation or otherwise in connection with this Agreement, including without limitation failure to appropriately service, support, or maintain the Licensed Module during the term of this Agreement.

Notwithstanding the foregoing, Power will have no obligation under this Agreement to indemnify or defend a Licensee Indemnitee against an intellectual property infringement claim relating to or arising from: (a) incorporation by the Licensed Module of, or combination, operation or use of the Licensed Module in or with, any technology (including any software, hardware, firmware, system or network) or service not provided by Power or specified for Licensee's use in the Documentation or this Agreement, unless otherwise expressly permitted by Power in writing; (b) modification, support, or maintenance of the Licensed Module other than: (i) by Power in connection with this Agreement; or (ii) with Power's express written authorization and in strict accordance with Power's written directions and specifications; (c) failure to timely implement any Maintenance Release, modification, update or replacement of the Licensed Module made available to Licensee by Power; (d) use of the Licensed Module after Power's notice to Licensee of such activity's alleged or actual infringement, misappropriation or other violation of a third party's rights; (e) negligence, abuse, misapplication or misuse of the Licensed Module or Documentation by or on behalf of Licensee; (f) use of the Licensed Module or Documentation by or on behalf of Licensee that is outside the purpose, scope or manner of use authorized by this Agreement or in any manner contrary to Power's instructions; or (g) any modules of the Software sublicensed by Licensee under the MCE Sublicensee Addendum.

- 11.3 Indemnification Procedure.** Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 11.1 or Section 11.2. The Party seeking indemnification (the “Indemnitee”) shall cooperate with the other Party (the “Indemnitor”) and the Indemnitor's sole cost and expense. The Indemnitor may in its sole discretion take control of the defense and investigation of such action and employ counsel of its choice to handle and defend the same. The Indemnitee may participate in and observe the proceedings at its own cost and

expense with counsel of its own choosing. The Indemnitor shall not settle any action on any terms or in any manner that adversely affects the rights of any Indemnatee without the Indemnatee's prior written consent. If the Indemnitor fails or refuses to assume control of the defense of such action, the Indemnatee shall have the right, but no obligation, to defend against such action, including settling such action after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnatee may deem appropriate. The Indemnatee's failure to perform any obligations under this Section 11.3 will not relieve the Indemnitor of its obligations under this Article 11, except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

Article 12

MISCELLANEOUS

- 12.1 Freedom of Action.** This Agreement shall not be construed to limit Licensee's right to obtain services or software programs from other sources, nor shall this Agreement be construed to limit Power's right to grant others any further non-exclusive right or license of the Licensed Module and Documentation. This Agreement alone establishes the rights, duties, and obligations of Licensee and Power with respect to the subject matter hereof. Licensee shall have no right or interest whatsoever in any software of Power other than the rights and licenses in the Licensed Module and Documentation granted herein, whether such software is conceived or developed by Power before, during, or after the course of Power's performance of this Agreement.
- 12.2 Relationship of the Parties.** The relationship of the Parties established under this Agreement is that of independent contractors and neither Party is a partner, employee, agent, or joint venture partner of or with the other, and, except as expressly set forth in this Agreement, neither Party has the right or authority to assume or create any obligation on behalf of the other Party.
- 12.3 Rights and Obligations After Notice of Termination.** If Power gives notice of termination of this Agreement, or if it becomes known that this Agreement will otherwise terminate in accordance with its provisions, Licensee shall return to Power all Software, Documentation, and other items of property owned by Power forthwith.
- 12.4 Notices.** Unless otherwise stated herein, all notices or other communications required or permitted hereunder shall be in writing including email form, and shall be personally delivered including through email or sent by registered or certified mail, postage prepaid, return receipt requested, delivered or sent by overnight courier and shall be deemed received upon the earlier of: (i) If personally delivered or delivered through email, the date of delivery to the address of the person to receive such notice; (ii) If mailed, three (3) business days after the date of posting by the United States post office; and (iii) If sent by overnight courier, when delivered to the specified address.

To Power: Power Settlements Consulting and Software, LLC
2011 East Financial Way
Suite # 116
Glendora, CA 91741
Telephone Number: (626) 676-9387
Facsimile: N/A
Electronic Mail: david.dan@powersettlements.com

To Licensee: **Marin Clean Energy**
Attn: Contracts Manager
1125 Tamalpais Ave
San Rafael, CA 94901
Telephone Number: (925) 378-6767
Electronic Mail: contracts@mcecleanenergy.org

Notice of change of address shall be given by written notice in the manner detailed in this section. Rejection or other refusal to accept, or the inability to deliver because of changed address of which no notice was given, shall be deemed to constitute receipt of the notice, demand, request or communication.

- 12.5. Required Actions of Power and Licensee.** Power and Licensee agree to effectuate the intent of this Agreement. The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Agreement.
- 12.6 Captions.** Any captions to, or headings of, the section or subsections of this Agreement are solely for the convenience of the Parties hereto, are not a part of this Agreement and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.
- 12.7 No Obligations to Third Parties.** Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the Parties hereto, to any person or entity other than the parties hereto.
- 12.8 Amendment.** The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the Parties hereto.
- 12.9 Waiver.** The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- 12.10 Applicable Law; Venue.** The terms and provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflicts of laws' provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of California in each case

located in Marin County, California, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

- 12.11 Entire Agreement.** Except for the MCE Sublicensee Addendum, which remains in force and valid, this Agreement, together with any other documents incorporated herein by reference and all Exhibits, supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between Power and Licensee as to the subject matter hereof. No subsequent agreement, representation or promise made by either Party hereto, or by or to any employee, officer, agent or representative of either Party shall be of any effect unless it is in writing and executed by the Party to be bound thereby.
- 12.12 No Presumption.** Each provision of this Agreement has been independently and freely negotiated by both Parties as if this Agreement were drafted by both Parties. In the event of any ambiguity in this Agreement, the parties waive any presumption or rule requiring or permitting interpretation of said ambiguity against or in favor of either Party.
- 12.13 Severability.** If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.
- 12.14 Attorney's Fees.** If any legal action is taken to enforce the terms of this Agreement by any Party, the prevailing Party shall be entitled to recover reasonable attorney fees and other costs and expenses incurred in connection with that legal action.
- 12.15 Binding on Successors; Assignment.** This Agreement will bind and inure to the benefit of each Party's permitted successors and assigns. Neither Party may assign this Agreement without the advance written consent of the other Party, except that either Party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such Party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section will be null and void.
- 12.16 Force Majeure.** In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, other potential disaster(s) or catastrophe(s), such as epidemics, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo (each, a "**Force Majeure Event**"). The affected party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized and shall resume performance of its obligations as soon as reasonably practicable after the removal of the cause.

- 12.17 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one and the same agreement. This Agreement may be executed via facsimile or electronic transmission.
- 12.18 No Recourse Against Constituent Members of Customer.** Licensee is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.). Pursuant to Licensee's Joint Powers Agreement, Licensee is a public entity separate from its constituent members. Licensee shall solely be responsible for all debts, obligations, and liabilities accruing and arising out of this Agreement. Power shall not have rights and nor shall Power make any claims, take any actions, or assert any remedies against any of Licensee's constituent members in connection with this Agreement.
- 12.19 Diversity Survey.** Pursuant to Senate Bill 255 which amends Section 366.2 of the California Public Utilities Code, Licensee is required to submit to the California Public Utilities Commission annual reports for increasing procurement from women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises ("WMDVLGBTBE"). Consistent with these requirements, Power agrees to provide information to Licensee regarding Power's status as a WMDVLGBTBE and any engagement of WMDVLGBTBEs in its provision of Services under this Agreement. Concurrently with the execution of this Agreement, Power agrees to complete and deliver Licensee's Supplier Diversity Survey, found at the following link: <https://forms.gle/DUBkcdFCskb7NNcA8> (the "**Diversity Survey**"). Because Licensee is required to submit annual plans and/or because the Diversity Survey may be updated or revised during the term of this Agreement, Power agrees to complete and delivery the Diversity Survey, an updated or revised version of the Diversity Survey or a similar survey at the reasonable request of Licensee and to otherwise reasonably cooperate with Licensee to provide the information described above. Power shall provide all such information in the timeframe reasonably requested by Licensee.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

POWER:

Power Settlements Consulting and Software, LLC

By: _____
David Dan, President

LICENSEE:

Marin Clean Energy

By: _____

Printed Name: _____

Title: CEO

By: _____

Printed Name: _____

Title: Technical Committee Chair

EXHIBIT A

Article 1

SOFTWARE SERVICES

- 1.1 Power shall provide the Software Services described below to the Licensee on each business day, excluding federal, CAISO, and Power recognized holidays:
- 1.2 **Limitation of the Software Services.** Power shall provide the Software Services within the following manner:
 - a. Power is not required to perform a minimum number of hours to complete the Software Services.
 - b. Power shall perform the Software Services, offsite, through a secure VPN or Citrix connection.
 - c. Power is not required to perform Software Services with respect to any module of the Software other than the Licensed Module.
- 1.3 **Software Service Software Maintenance and Support.** Power shall provide the Software Maintenance Software Services, as described below:
 - a. Power shall perform, or provide to Licensee's IT group if preferred by Licensee if the Software is installed onsite at Licensee's premises, all Software Maintenance Modifications (i.e., updated versions of the Software, which are issued to the customers of Power; include bug fixes) for the Licensee, including updates to the Software that are required after CAISO market changes which are considered Basic Enhancements; and
 - b. Power shall only perform the Software Maintenance Modifications in one production environment.
 - c. Power shall only perform Software maintenance (including Maintenance Modifications) with respect to the Licensed Module.

Article 2

OBLIGATIONS OF THE LICENSEE FOR THE SOFTWARE SERVICES AND SOFTWARE

2.1 Obligations of the Licensee. In order for Power to perform the Software Services and for the Software to function as required, the Licensee shall be required to fulfill the following obligations. Failure of the Licensee to meet the obligations below, (1) may result in adverse performance of the Software and Software Services, and (2) shall not relieve the Licensee of any obligations of payment for the Software License Fee and/or Software Services Fees for the Term.

- a. If the Software is deployed on Licensee's site, Licensee shall be responsible for providing a production environment, which the Software will be installed on, which is comprised of:
 - Each client that accesses the server with the Software shall have the following hardware: (1) a processor, which shall be a dual-core processor or a higher version, (2) have a minimum of eight gigabytes of RAM, and (3) a hard drive with at least twenty gigabytes of free space.
 - Each client terminal that accesses the server with the Software shall have the following software: (1) an operating system that is one of the following: Microsoft Windows 2016 or Windows 10 or higher, (2) the Microsoft .Net Framework version 6.0 or a higher version, (3) a Chromium browser.
- b. Licensee shall be responsible for installing and maintaining a secure VPN (virtual private network) or for providing a secure Citrix connection, or white-listing for Power to provide the Software Services.
- c. Licensee shall be responsible for providing a minimum bandwidth of 0.5 Mbps on the VPN, or Citrix connection, at all times.
- d. Licensee shall be responsible for providing that the VPN or Citrix connection is secure.
- e. Licensee shall be responsible for ensuring that Power has access through the VPN or Citrix connection during normal business hours, five days a week.
- f. Licensee shall be responsible for providing the certificates required by the CAISO to access the files that are downloaded by the CAISO SettleCore Software.
- g. Power shall be reasonably available to provide support to Licensee during normal business hours between 7:00 a.m. through 6:00 p.m. Pacific Prevailing Time on all business days excluding federal and CAISO holidays.

- (1) During normal business hours, Power shall be available for Licensee's users via email at support@powersettlements.com.
- (2) During normal business hours, Power shall be available for Licensee's users via telephone at Power's office phone number 626.385.6893 extension 1.

EXHIBIT B

SERVICE LEVEL AGREEMENT

All issues with the Licensed Module that are reported by Licensee shall be classified in good faith by Licensee's representative who reports the Error, based on the severity level definitions set forth below. After acknowledgment of the Error, Power and Licensee may mutually agree to assign a different severity level. If there is no Error, but another issue is impacting the Licensed Module, then Power and Licensee will cooperate to resolve such issue in an expedited manner.

“Resolution” means any modification of the Licensed Module that is a final solution to prevent the recurrence of the reported Error and which does not cause a different Error.

Severity Level of Error	Description	Response Time to Begin Working on Issue	Resolution Time	Target Metric Based On Resolution Time
Full System Crash/ Disaster Recovery	Full system crash/failure which requires reinstallation and reconfiguration of all applications.	<p>Within 60 minutes from time reported to Power support during normal business hours</p> <p>Within 90 minutes after normal business hours, through email to Power support and phone call to Power support after hours mobile numbers</p>	<ul style="list-style-type: none"> • Within 24 hours 	<ul style="list-style-type: none"> • 100% <p><i>Notes: 1, 2</i></p>
Critical Priority Errors	<p>All users are unable to access SettleCore or are unable to perform mission critical business functions that are highly time sensitive</p> <p>Example: Unable to log into the application. All CAISO data is not importing.</p>	<p>Within 60 minutes from time reported to Power support during normal business hours</p> <p>Within 90 minutes after normal business hours, through email to Power support and phone call to Power support after hours mobile numbers</p>	<ul style="list-style-type: none"> • Within 4 hours 	<ul style="list-style-type: none"> • 100% <p><i>Notes: 1, 2</i></p>

Severity Level of Error	Description	Response Time to Begin Working on Issue	Resolution Time	Target Metric Based On Resolution Time
High Priority Errors	<p>An individual is unable to access SettleCore or is unable to perform mission critical business functions that are highly time sensitive, or all or multiple users are affected, but a workaround is available</p> <p>Example: A user is unable to log in into SettleCore while other users are able to log in; CAISO ADS data is not importing into SettleCore, etc.</p>	<p>Within 90 minutes from time reported to Power support during normal business hours</p> <p>Within 120 minutes from the time reported to Power support after normal business hours, through email to Power support and phone call to Power support after hours mobile numbers</p>	<ul style="list-style-type: none"> Within 36 hours 	<ul style="list-style-type: none"> 90% <p><i>Notes: 1, 2</i></p>
Medium Priority Errors	<p>One or more users' ability to perform a SettleCore function may be negatively impacted or inconvenienced, but the issue is not highly time sensitive or a workaround exists.</p> <p>Example: A non-critical report is timing out, etc.</p>	<p>Within 8 hours from time reported to Power support during normal business hours</p> <p>Not supported after normal business hours</p>	<ul style="list-style-type: none"> Inclusion in a Software release within the next 2 months. 	<ul style="list-style-type: none"> 70% <p><i>Notes: 1, 2</i></p>

Severity Level of Error	Description	Response Time to Begin Working on Issue	Resolution Time	Target Metric Based On Resolution Time
Low Priority Errors	<p>An issue exists that is inconsequential or unusually time insensitive.</p> <p>Example: A misspelling is found in SettleCore, etc.</p>	<p>Within 48 hours from time reported to Power support during normal business hours</p> <p>Not supported after normal business hours</p>	<ul style="list-style-type: none"> Inclusion in a Software release within the next 4 months. 	<ul style="list-style-type: none"> 75% <p><i>Notes: 1, 2</i></p>

Notes:

- (1) The time to provide a Resolution does not begin until all requested information for troubleshooting purposes has been provided from Licensee to Power support personnel.
- (2) Metric excludes items that require a new version of the Software or that require assistance from Licensee's IT or the CAISO.

EXHIBIT C

Includes a fixed-fee implementation, which will be performed remotely, for the period of October 1, 2022 to up to September 30, 2023. Includes project management, discovery and design, system installation, setup, configuration, testing support, and go-live support, and post go-live support. Includes 40 hours of custom interfaces or custom reports.

OBJECTIVES AND SUMMARY

Power and Licensee will jointly commence an approximate 6 to 12 month project to implement the Contract Billing Module. This project will enable Licensee to:

- Create bilateral settlement counterparty invoice templates with the supporting detail for Licensee's counterparties to validate
- Enable Licensee to import counterparty invoice data into the Contract Billing Module.
- Note: Licensee is required to provide the counterparty invoice data in the invoice template format supplied by Power, and Power is not required to conform to the counterparty invoice template formats from Licensee's counterparties.

PROJECT PHASES

The following are the high-level activities within the project schedule.

- Discovery and Design
 - Weekly meetings to define the project scope.
 - Licensee to identify all required interfaces and data points.
 - Licensee to provide all contract formulas in the Power-provided template format.
- Customization and Coding
 - Power implements the Licensee configurations
 - Power implements the interfaces
 - Licensee provides bilateral data to be configured
- User Acceptance Testing
 - Licensee performs daily testing of the SettleCore System
 - Note: Formal use cases will not be utilized. Rather an informal parallel operations will be used by Licensee to compare SettleCore System results to the counterparty invoice template results
- Go-Live date
 - Phase 1 – First 25 CBM Contracts
 - Phase 2 – Second batch of Contracts

PROJECT TIMING

Note: The following is a ballpark timeline that is subject to change.

- 10-01-2022: Contract Signing
- 10-17-2022: Begin the project
- 12-01-2022: Training
- 12-12-2022: Licensee begins Testing the first 5 CBM Contracts
- 03-01-2023: Phase #1 Go-Live
- 05-01-2023: Licensee begins Testing Phase #2
- 07-01-2023: Licensee begins Parallel Operations
- 09-01-2023: Phase #2 Go-Live

SettleCore™ Solution

Includes an Azure cloud-hosted deployment of the CAISO SettleCore Software, deployed on the ZGlobal environment with the pre-existing deployment of several modules of the SettleCore system, which is supported and maintained remotely by Power Settlements to minimize the need for internal IT support of the system. Power will configure the SettleCore System. Power will perform 100% of the SettleCore system maintenance and support remotely via a VPN. Please note that the Contract Billing Module will be deployed in the browser-based version of the SettleCore system.

Power will implement the following SettleCore System modules for Licensee:

- Contract Billing Module

POWER SETTLEMENTS DELIVERY TEAM

Power Settlements will use a highly accomplished delivery team on this project.

David Dan, the President of Power Settlements, will lead the project as the senior vendor project manager. A primary project manager will be provided by Power as will a technical project lead.

INTEGRATION WITH LICENSEE'S OTHER SYSTEMS

An integral portion of our solution for Licensee includes the integration of the SettleCore System with Licensee's various systems. Power Settlements understands the importance of system integration and has successfully integrated at many customers and will do so to meet Licensee's requirements as described in the specifications provided during the Discovery and Design Phase.

CUSTOMIZATION HOURS

1) Customization hours:

- a. Includes 40 one-time pre-go-live customization hours for interface development, and custom reports..
- b. Licensee may purchase additional One-time Customization Hours at the rate of \$200 per hour.

DELIVERABLES TO BE PROVIDED BY POWER TO LICENSEE

The Deliverable(s):

- Power will set up the SettleCore System in one environment
- Power will configure the SettleCore System
- Power will perform system training for the Licensee users
- Power will provide a project manager
- Power will lead weekly meetings
- Power will provide business analysts and software developers to staff the project
- Power will be available for daily communications and bug fixes
- Power will provide support for user acceptance testing (to fix bugs and configuration issues)

LICENSEE'S RESPONSIBILITIES

Licensee will be responsible for the following in order to ensure that Power may deliver the Scope of Work.

- Licensee is responsible for assigning a project manager that is involved with weekly meetings and correspondence
- Licensee is responsible for providing enough time for the Licensee users to adequately perform during the project, including in requirements scoping (Discovery and Design), providing contract formulas, testing, weekly meetings, and daily correspondence
- Licensee is responsible for providing all of the bilateral contract formulas and data
- Licensee is responsible for identifying the data points and interfaces in the Contract Billing Module formulas if not sourced with CAISO data

CONTRACT BILLING MODULE CONFIGURATION

The SettleCore – Contract Billing Module requires that Licensee's bilateral settlements and invoicing calculations be configured. Please note:

- Power will configure the SettleCore – Contract Billing Module prior to Go-Live using a portion of the pre-go live One-time Customization Hours

- After go-live, Licensee may (a) self-configure the Contract Billing Module contract for new contracts and changes to existing contracts or (b) pay \$200 per hour for additional Customization Hours to have Power configure the Contract Billing Module contracts for new contracts and changes to existing contracts

**ADDENDUM TO SETTLECORE LICENSE AND SOFTWARE SERVICES
AGREEMENT (NON-EXCLUSIVE)**

This Addendum to the Settlecore License and Software Services Agreement (this “MCE1 Addendum” or “MCE1 Sublicense”) is agreed to and made effective as of September __, 2022 (“Effective Date”) by and between ZGlobal Inc., Power Engineering and Energy Solutions, a California Company duly authorized and existing under the laws of the State of California (hereinafter, “Sublicensor”) and and Marin Clean Energy (“Sublicensee” or “MCE1” and, together with Sublicensor, the “Parties”), a California Company duly authorized and existing under the laws of the State of California.

WHEREAS, Power Settlements Consulting and Software, LLC (“Power”) is the owner of all right, title and interest in and to the software, documentation and related information, including the intellectual property rights embodied therein, comprising and known as the SettleCore System (collectively, the “Software”);

WHEREAS, Power has granted to Sublicensor a limited license to the Software pursuant to a license agreement dated [] (the “Agreement”);

WHEREAS, Sublicensee, a customer of Sublicensor, wishes to obtain a sublicense to the Software through the Agreement as described herein, and Power and Sublicensor are willing to grant such sublicense under the terms and conditions of this MCE1 Sublicense;

NOW, THEREFORE, the Parties hereto, intending to be legally bound, hereby agree as follows:

1. Sublicense.

a. Grant of Sublicense to MCE1. Sublicensor hereby grants to Sublicensee a revocable, non-transferable, non-sublicenseable, non-exclusive right and sublicense to use and operate the ISO Downloader Module, Settlements Analyzer Module, Shadow Settlements Module, Allocations Module, Deal Capture Module (read-only access and only to power deals), and Visual Analytics Module of the Software for Sublicensee’s CAISO assets and load.

b. Restrictions. Sublicensee agrees to the following restrictions on the Software. Failure to adhere to these restrictions may result in the revocation of the MCE1 Sublicense at the sole and unilateral discretion of Power with notice to Sublicensee, except as specifically set forth herein:

- i. Sublicensee may not reproduce or transfer the Software to any other party.
- ii. Sublicensee does not and will not have or acquire under or in connection with this MCE1 Sublicense any ownership interest in the Software. Power is and will remain the sole and exclusive owner of all right, title, and interest in and to the Software and all modifications, customizations, and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto and/or any rights in derivative works or improvements relating thereto), subject only to the rights and privileges expressly granted by Power hereunder.
- iii. By accepting delivery of the Software, Sublicensee acknowledges that Power claims and reserves all rights and benefits that are afforded under federal copyright law in the Software.
- iv. The source code for the Software is a trade secret of Power. Sublicensee is not entitled to receive source code, and under no circumstances may Sublicensee reverse-compile or reverse-engineer.
- v. Sublicensee shall not modify, correct, adapt, translate, enhance or otherwise prepare derivative works or improvements of any Software, nor make any updates to the database used by the Software, including but not limited to updates to the data, tables, layouts, or schema, as long as this MCE1 Sublicense is in effect.
- vi. Sublicensee agrees that only employees of the Sublicensee shall be permitted to operate the Software and to access the database used by the Software unless agreed to by Power.
- vii. Sublicensee shall be responsible for maintaining its hardware and software on client computers and ensuring that they are in proper working order.
- viii. Sublicensee agrees that if the Agreement expires or is terminated that this MCE1 Sublicense is immediately revoked as of the Agreement's termination date, and that the Sublicensee will not be permitted to access the Software.
- ix. Sublicensee agrees that Sublicensee's Software users will not share Software accounts with any other individuals. Each Software user shall have their own login and password.
- x. Sublicensee will only be able to view the scheduling coordinator data for Sublicensee through user roles and companies, as configured by the Licensee or Power.
- xi. Sublicensee is permitted to have no more than five (5) named users, who must be employees of Sublicensee, access the Software.

2. **Software Installation and Configuration for MCE1.** Licensee has elected to have the Software deployment on an offsite hosted provider, specifically with Microsoft Azure.
3. **Additional Payments for License to MCE1.** In addition to the payments contemplated in Article 6 of the Agreement, Licensee shall pay the following amounts for the Term of the MCE1 Addendum:
 - a. Licensee shall pay Power monthly installments of REDACTED. In addition, Licensee or MCE1 shall be responsible for payment of the hosting fees to the third-party host which will be due and payable to the third-party host without oversight by Power.
 - b. Such monthly payments to Power are due to Power within ten (10) days after receipt of an invoice. Power will provide wiring instructions for their financial institution with each invoice. The first invoice will be provided upon execution of this MCE1 Addendum, with the first payment due ten (10) days thereafter. Invoices shall be sent to:

ZGlobal Inc.
604 Sutter Street, Suite 250
Folsom, CA 95630
ziad@zglobal.biz; shawna@zglobal.biz

4. **Representations and Warranties of Sublicensor and Sublicensee; Disclaimer of Warranties by Power; Limitation of Liability.**
 - a. In addition to the representations and warranties set forth in Article 9 of the Agreement, Sublicensor represents and warrants that it shall be responsible for ensuring Sublicensee's compliance with the terms of the Agreement and this MCE1 Sublicense thereto, including without limitation all obligations with respect to Power Confidential Information pursuant to Article 8 of the Agreement. Notwithstanding anything to the contrary in Article 11 of the Agreement, Sublicensor further assumes all responsibility and liability to Sublicensee for the MCE1 Sublicense, even if Power provides direct support to Sublicensee's users of the Software. Power's responsibilities for the MCE1 Sublicense are solely to Sublicensor and may not be assigned by Sublicensor.
 - b. Sublicensee represents, warrants and covenants to Power and Sublicensor that: (i) it is duly organized, validly existing and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization; (ii) it has the full right, power and authority to enter into and perform its obligations under this MCE1 Sublicense; (iii) the execution of this MCE1 Sublicense by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate or organizational action of Sublicensee; and (iv) when executed and delivered by

Sublicensee, this MCE1Sublicense will constitute the legal, valid and binding obligation of Sublicensee, enforceable against Sublicensee in accordance with its terms.

c. Sublicensee further represents and warrants that it has reviewed, understands, and undertakes the obligations of the Licensee specified in, and will be responsible for its own compliance with, the following provisions of the Agreement excerpted as Exhibit A hereto: Article 7 (Audits); Article 8 (Confidential Information); and Sections 12.1 and 12.3 (Indemnification).

d. Sublicensee further understands and agrees that, notwithstanding anything to the contrary in the Agreement:

(i) THE SOFTWARE SUBLICENSED PER THIS SUBLICENSE IS PROVIDED TO SUBLICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, POWER EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND ANY ACCOMPANYING DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, POWER PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SUBLICENSED SOFTWARE WILL MEET THE SUBLICENSEE'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED;

(ii) IN NO EVENT SHALL POWER BE LIABLE TO SUBLICENSEE FOR ANY (a) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY OR (b) CONSEQUENTIAL, INDIRECT, SPECIAL, OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT OR THIS MCE1 SUBLICENSE, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, DATA AND PROGRAMS, FAILURES OR LIMITATIONS OF THE SOFTWARE OR SOFTWARE SERVICES OR MICROSOFT AZURE OR HOSTING RELATED OUTAGES THAT AFFECT THE HOSTED SOFTWARE, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE; and

(iii) TO THE MAXIMUM EXTENT PERMITTED BY LAW, POWER SHALL HAVE NO MONETARY LIABILITY TO SUBLICENSEE ARISING OUT OF OR RELATED TO THE AGREEMENT OR THIS MCE1 SUBLICENSE, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY

5. Term and Termination of MCE1 Sublicense.

- a. The Term of this MCE1 Sublicense shall begin on the Effective Date and shall continue until the earlier of termination or expiration of (i) the Agreement, in which case Sublicensor shall provide notice to Sublicensee of such termination or expiration within five (5) days thereof, or (ii) this MCE1 Sublicense, pursuant to Section 5(b), below.
- b. Any of Sublicensor, Sublicensee, or Power may terminate this MCE1 Sublicense at any time for any reason upon written notice to the other Parties.
- c. In the event of expiration or termination of the Agreement or this MCE1 Sublicense, all support and maintenance of the Software within the MCE1 Sublicense shall discontinue, and Sublicensee will not be permitted access to the Software.

6. Further Indemnification by Sublicensor. In addition to the indemnification provided for in the Agreement, Sublicensor shall indemnify, defend, and hold harmless the Power Indemnitees against (i) all liability, claims, costs, damages, and expenses incurred by the Power Indemnitees (as defined in the Agreement) relating to or arising out of the willful misconduct or sole negligence of Sublicensee from or concerning the Software, and (ii) all liability, claims, costs, damages, and expenses incurred by the Power Indemnitees relating to or arising out of Sublicensee's use of the Software and/or the MCE1 Sublicense. Sublicensor agrees to reimburse Power for any amounts owed hereunder immediately upon demand, or alternatively, at the election of Power, to promptly and directly pay any such amounts with respect to any matter for which Power is indemnified pursuant to the Agreement and/or this MCE1 Sublicense (including attorneys' fees by Power in defense or prosecution of any claim to which the Agreement and/or this MCE1 Sublicense applies) to such person or entity as Power designates. Any amount to be paid by Sublicensor shall be paid to Power or designee, within a reasonable time following written demand therefore by Power..

7. Miscellaneous.

- a. The parties agree and acknowledge that Power is a third-party beneficiary to this MCE1 Sublicense.
- b. This MCE1 Sublicense supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between any of Sublicensor, Sublicensee, and/or Power as to the subject matter hereof. No subsequent agreement, representation or promise made by either party hereto, or by or to any employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.
- c. Relationship of the Parties. The relationship between the Parties, vis-à-vis one another and vis-à-vis Power, is that of independent contractors. Nothing contained in this MCE1 Sublicense will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties and/or Power, and neither Party shall have authority to contract for or bind the other Party and/or Power in any manner whatsoever.

d. Amendment. The terms of this MCE1 Sublicense may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

e. Waiver. The waiver or failure to enforce any provision of this MCE1 Sublicense shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

f. Applicable Law. The terms and provisions of this MCE1 Sublicense shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflicts of laws' provisions.

g. Severability. If any provision of this MCE1 Sublicense is held invalid or unenforceable, the remainder of this MCE1 Sublicense shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

IN WITNESS WHEREOF, the parties hereto have executed this MCE1 Sublicense as of the day and year first above written.

SUBLICENSOR:

ZGlobal Inc., Power Engineering and Energy Solutions

By: _____

Printed Name: _____

Title: _____

SUBLICENSEE:

Marin Clean Energy

By: _____

Printed Name: _____

Title: _____

ACCEPTED AND AGREED:

POWER:

Power Settlements Consulting and Software, LLC

By: _____

David Dan, President

**EXHIBIT A TO SUBLICENSE TO SETTLECORE LICENSE AND SOFTWARE
SERVICES AGREEMENT (NON-EXCLUSIVE) (MCE1 SUBLICENSE)**

**EXCERPTS OF LICENSE AND SOFTWARE SERVICES AGREEMENT (NON-
EXCLUSIVE) BETWEEN POWER AND SUBLICENSOR, DATED 11**

Article 7

AUDITS

- 7.1 Audit Procedure.** Power may, upon Power's request and with reasonable notice, inspect and audit Licensee's use of the Software under this Agreement at any time during the Term. Licensee shall make available all such equipment, information and personnel, and provide such cooperation and assistance, as may reasonably be requested by Power with respect to such audit.
- 7.2 Results of Audit.** If the audit determines that Licensee's use of the Software does not comport with the usage permitted by this Agreement and/or Licensee's obligations under this Agreement as set forth in Exhibit A, Licensee shall take immediate steps to bring itself into compliance with the Agreement. Licensee's failure to do so will constitute grounds for Power to terminate the Agreement for cause as set forth in Article 10.

Article 8

CONFIDENTIAL INFORMATION

- 8.1 Confidential Information.** Confidential Information means all information in the possession of Power or Licensee (each individually for purposes of this Article a "Party") which has value to that Party (or to a third Party to whom the Party in possession owes a duty of confidentiality), which is not generally known in the industry, which is kept reasonably confidential by the Party in possession and which is known or should be known to the other Party to be of a confidential nature. By example and without limitation, Confidential Information includes any and all information concerning teaching techniques, processes, software, database designs, formulas, trade secrets, inventions, discoveries, improvements, research or development and test results, specifications, data, know-how, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics, and agreements.

- 8.2 Non-Confidential Information.** Notwithstanding the other provisions of this Agreement, nothing received by either Party from the other Party will be considered to be Confidential Information if (i) it has been published or is otherwise readily available to the public other than by a breach of this Agreement; or (ii) it has been rightfully received by the non-disclosing Party from a third party without confidential limitations.
- 8.3 Protection of Confidential Information.** During the term of this Agreement and for five (5) years thereafter, each Party agrees to take all steps reasonably necessary to hold in trust and confidence the other Party's Confidential Information. Each Party agrees to hold such Confidential Information in strict confidence, not to disclose it to third parties or to use it in any way, commercially or otherwise, other than as permitted under this Agreement. Each Party agrees not to allow any unauthorized person access to such Confidential Information, either before or after termination of this Agreement, without the prior written consent of the other Party and without court order. Each Party agrees to limit the disclosure of Confidential Information to employees or independent contractors with a need to know, who have been advised of the confidential nature thereof, and who have acknowledged in writing the express obligation to maintain such confidentiality. Each Party further agrees to promptly notify the other Party of any unauthorized use or disclosure of Confidential Information and to take all reasonable steps in cooperation with the other Party to prevent further unauthorized use or disclosure.

Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Article 8 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives

- 8.4 Compelled Disclosures.** If either Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information of the other Party then, to the extent permitted by applicable Law, the receiving Party shall: (a) promptly, and prior to such disclosure, notify the disclosing Party in writing of such requirement so that the disclosing Party can seek a protective order or other remedy or waive its rights under Section 8.3; and (b) provide reasonable assistance to the disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the disclosing Party waives compliance or, after providing the notice and assistance required under this Section 8.4, the receiving Party remains required by Law to disclose any Confidential Information, the receiving Party shall disclose only that portion of the Confidential Information that the receiving Party is legally required to disclose.

Article 12

INDEMNIFICATION

12.1 Indemnification by Licensee. Licensee shall indemnify, defend, and hold harmless Power and its officers, directors, shareholders, members, employees, agents, representatives, and customers (collectively, “Power Indemnatee”) against all liability, claims, costs, damages, and expenses incurred by Power Indemnatee relating to or arising from: (a) a claim that Licensee’s use or combination of the Software with any hardware, software, system, network, service or other matter whatsoever that is neither provided by Power nor authorized by Power in this Agreement (including the Documentation), infringes any patent, copyright, trademark, trade secret, or other proprietary right of a third party; (b) a breach by Licensee of any representation, warranty, covenant or obligation under this Agreement; (c) negligence, abuse, misapplication, misuse or more culpable act or omission (including recklessness or willful misconduct) by or on behalf of Licensee or any of its Representatives with respect to the Software or Documentation or otherwise in connection with this Agreement, including without limitation failure to appropriately service, support, or maintain the Software after the term of this Agreement; or (d) use of the Software or Documentation by or on behalf of Licensee or any of its Representatives that is outside the purpose, scope or manner of use authorized by this Agreement or the Documentation, or in any manner contrary to Power’s instructions.

12.3 Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 12.1 or Section 12.2. The Party seeking indemnification (the “Indemnatee”) shall cooperate with the other Party (the “Indemnitor”). The Indemnitor may in its sole discretion take control of the defense and investigation of such Action and employ counsel of its choice to handle and defend the same. The Indemnatee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.



September 16, 2022

TO: MCE Technical Committee

FROM: Alice Havenar-Daughton, Director of Customer Programs

RE: First Amendment to First Agreement with Willdan Energy Solutions (Agenda Item #05_C.3)

ATTACHMENTS: A. Proposed First Amendment to First Agreement with Willdan Energy Solutions
B. First Agreement with Willdan Energy Solutions

Dear Technical Committee Members:

Summary:

The proposed amendment to the First Agreement with Willdan Energy Solutions (Proposed Amendment) is a contract continuing services in support of electrifying water heaters at municipal sites across MCE's service area. MCE originally entered into an agreement with Willdan Energy Solutions in May 2022 to provide up to \$95,000 in incentive funding. The Proposed Amendment would increase the maximum incentive budget by \$100,000 to \$195,000.

Background:

Since May 2022, MCE has partnered with Willdan Energy Solutions to provide funding and project planning assistance to municipal sites in MCE's service area to replace existing gas water heaters with electric heat-pump water heaters (HPWHs). HPWHs provide multiple benefits that align with MCE's mission including lowering greenhouse emissions and eliminating on-site air pollution from gas water heaters.

The initiative is jointly funded by MCE and Pacific Gas and Electric Company's (PG&E) Government and Schools K-12 Program (GK-12). GK12 serves local government, federal agencies, and educational facilities of all sizes in PG&E's four distribution regions. To enable the GK12 program to serve more customers in MCE's service area, MCE supplements the incentive paid by the program by \$3,000 per water heater. This

amount goes toward the installation cost of small (typically 50-80 gallon) HPWHs, and the GK12 program provides the remainder to fully cover the installation cost. The average cost to the customer for HPWH installations currently averages \$6,000.

To date, this initiative has served 15 MCE customers with \$45,000 in incentives and there are enough additional prospects to fully exhaust the original \$95,000 contract. If approved, the Proposed Amendment would add \$100,000 to the incentive budget.

Fiscal Impacts:

The proposed \$100,000 addition to the incentive budget would be paid out of the Local Program and Renewable Energy Development Fund and is included in the Fiscal Year (FY) 2022/2023 budget.

Recommendation:

Approve the Proposed First Amendment to the First Agreement with Willdan Energy Solutions.

FIRST AMENDMENT TO FIRST AGREEMENT BY AND BETWEEN MARIN CLEAN ENERGY AND WILLDAN ENERGY SOLUTIONS

This FIRST AMENDMENT is made and entered into on September 16, 2022, by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and WILLDAN ENERGY SOLUTIONS (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and Contractor entered into an agreement on May 13, 2022 to provide direct install heat pump water heater services ("Agreement"); and

WHEREAS, Section 3 and Exhibit B to the Agreement provided for Contractor to be compensated in an amount not to exceed \$95,000 for the direct install services described within the scope therein; and

WHEREAS, the parties desire to amend the Agreement to increase the contract amount by \$100,000 for total consideration not to exceed \$195,000;

NOW, THEREFORE, the parties agree to modify Section 3 and Exhibit B as set forth below.

AGREEMENT

1. Section 3 is hereby amended to read as follows:

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the Services to be provided herein exceed the maximum sum of **\$195,000**.

2. The last sentence of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the Services provided herein exceed the maximum sum of \$195,000 for the term of the Agreement.

3. Except as otherwise provided herein all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this FIRST AMENDMENT on the day first written above.

MARIN CLEAN ENERGY:

CONTRACTOR:

By:

By:

Date:

Date:

Chairperson:

By:

Date:

MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT
FIRST AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND WILLDAN ENERGY SOLUTIONS

THIS FIRST AGREEMENT ("Agreement") is made and entered into on May 13, 2022 by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and WILLDAN ENERGY SOLUTIONS a California corporation with principal address at: 2401 E. Katella Avenue, Suite 300, Anaheim, CA 928064 (hereinafter referred to as "Contractor") (each, a "Party," and, together, the "Parties").

RECITALS:

WHEREAS, MCE desires to retain Contractor to provide the services described in **Exhibit A** attached hereto and by this reference made a part hereof ("Services");

WHEREAS, Contractor desires to provide the Services to MCE;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the Services in accordance with the terms and conditions of this Agreement. "Services" shall also include any other work performed by Contractor pursuant to this Agreement.

2. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing Services under this Agreement shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Agreement ("Term"). Contractor shall provide MCE with Contractor's Federal Tax I.D. number prior to submitting the first invoice. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE on a monthly basis for any Services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond ninety (90) days will not be reimbursable. The final invoice must be submitted within thirty (30) days of completion of the stated scope of services or termination of this Agreement. MCE will process payment for undisputed invoiced amounts within thirty (30) days.

3. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the Services to be provided herein exceed the maximum sum of **\$95,000**.

4. TERM OF AGREEMENT:

This Agreement shall commence on **May 16, 2022** ("Effective Date") and shall terminate on **May 16, 2023**, unless earlier terminated pursuant to the terms and conditions set forth in Section 12.

5. REPRESENTATIONS; WARRANTIES; COVENANTS:

5.1. CONTRACTOR REPRESENTATIONS AND WARRANTIES. Contractor represents, warrants and covenants that (a) it is a corporation duly organized, validly existing and in good standing under the laws of the State of **California**, (b) it has full power and authority and all regulatory authorizations required to execute, deliver and perform its obligations under this Agreement and all exhibits and addenda and to engage in the business it presently conducts and contemplates conducting, (c) it is and will be duly licensed or qualified to do business and in good standing under the laws of the State of California and each other jurisdiction wherein the nature of its business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder, (d) it is qualified and competent to render the Services and possesses the requisite expertise to perform its obligations hereunder, (e) the execution, delivery and performance of this Agreement and all exhibits and addenda hereto are within its powers and do not violate the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, (f) this Agreement and each exhibit and addendum constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, and (g) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

5.2. COMPLIANCE WITH APPLICABLE LAW. At all times during the Term and the performance of the Services, Contractor shall comply with all applicable federal, state and local laws, regulations, ordinances and resolutions ("Applicable Law")

5.3. LICENSING. At all times during the performance of the Services, Contractor represents, warrants and covenants that it has and shall obtain and maintain, at its sole cost and expense, all required permits, licenses, certificates and registrations required for the operation of its business and the performance of the Services. Contractor shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.

5.4. NONDISCRIMINATORY EMPLOYMENT. Contractor shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, gender identity, age or condition of disability. Contractor understands and agrees that Contractor is bound by and shall comply with the nondiscrimination mandates of all federal, state, and local statutes, regulations, and ordinances.

5.5. PERFORMANCE ASSURANCE; BONDING. At all times during the performance of the Services, Contractor represents, warrants and covenants that it has and shall obtain and maintain, at its sole cost and expense, all bonding requirements of the California Contractors State License Board ("CSLB"), as may be applicable. Regardless of the specific Services provided, Contractor shall also maintain any payment and/or performance assurances as may be requested by MCE during the performance of the Services.

5.6. SAFETY. At all times during the performance of the Services, Contractor represents, warrants and covenants that it shall:

- a) abide by all applicable federal and state Occupational Safety and Health Administration requirements and other applicable federal, state, and local rules, regulations, codes and ordinances to safeguard persons and property from injury or damage;
- b) abide by all applicable MCE security procedures, rules and regulations and cooperate with MCE security personnel whenever on MCE's property;
- c) abide by MCE's standard safety program contract requirements as may be provided by MCE to Contractor from time to time;
- d) provide all necessary training to its employees, and require Subcontractors to provide training to their employees, about the safety and health rules and standards required under this Agreement;
- e) have in place an effective Injury and Illness Prevention Program that meets the requirements all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code. Additional safety requirements (including MCE's standard safety program contract requirements) are set forth elsewhere in the Agreement, as applicable, and in MCE's safety handbooks as may be provided by MCE to Contractor from time to time;
- f) be responsible for initiating, maintaining, monitoring and supervising all safety precautions and programs in connection with the performance of the Agreement; and
- g) monitor the safety of the job site(s), if applicable, during the performance of all Services to comply with all applicable federal, state, and local laws and to follow safe work practices.

5.7. BACKGROUND CHECKS.

- a) Contractor hereby represents, warrants and covenants that any employees, members, officers, contractors, Subcontractors and agents of Contractor (each, a "Contractor Party," and, collectively, the "Contractor Parties") having or requiring access to MCE's assets, premises, customer property ("Covered Personnel") shall have successfully passed background screening on each such individual, prior to receiving access, which screening may include, among other things to the extent applicable to the Services, a screening of the individual's educational background, employment history, valid driver's license, and court record for the seven (7) year period immediately preceding the individual's date of assignment to perform the Services.
- b) Notwithstanding the foregoing and to the extent permitted by applicable law, in no event shall Contractor permit any Covered Personnel to have one or more convictions during the seven (7) year period immediately preceding the individual's date of assignment to perform the Services, or at any time after the individual's date of, assignment to perform the Services, for any of the following ("Serious Offense"): (i) a "serious felony," similar to those defined in California Penal Code Sections 1192.7(c) and 1192.8(a), or a successor statute, or (ii) any crime involving fraud (such as, but not limited to, crimes covered by California Penal Code Sections 476, 530.5, 550, and 2945, California Corporations Code 25540), embezzlement (such as, but not limited to, crimes covered by California Penal Code Sections 484 and 503 et seq.), or racketeering (such as, but not limited to, crimes covered by California Penal Code Section 186 or the Racketeer Influenced and Corrupt Organizations("RICO") Statute (18 U.S.C. Sections 1961-1968)).
- c) To the maximum extent permitted by applicable law, Contractor shall maintain documentation related to such background and drug screening for all Covered Personnel and make it available to MCE for audit if required pursuant to the audit provisions of this Agreement.
- d) To the extent permitted by applicable law, Contractor shall notify MCE if any of its Covered Personnel is charged with or convicted of a Serious Offense during the term of this Agreement. Contractor shall also immediately prevent that employee, representative, or agent from performing any Services.

5.8. FITNESS FOR DUTY. Contractor shall ensure that all Covered Personnel report to work fit for their job. Covered Personnel may not consume alcohol while on duty and/or be under the influence of drugs or controlled substances that impair their ability

to perform the Services properly and safely. Contractor shall, and shall cause its Subcontractors to, have policies in place that require their employees, contractors, subcontractors and agents to report to work in a condition that allows them to perform the work safely. For example, employees should not be operating equipment under medication that creates drowsiness.

5.9. QUALITY ASSURANCE PROCEDURES. Contractor shall comply with the Quality Assurance Procedures identified in Exhibit A (if any) (the "Quality Assurance Procedures"). Additionally, Quality Assurance Procedures must include, but are not limited to: (i) industry standard best practices; (ii) procedures that ensure customer satisfaction; and (iii) any additional written direction from MCE.

5.10. ASSIGNMENT OF PERSONNEL. The Contractor shall not substitute any personnel for those specifically named in its proposal, if applicable, unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

5.11. ACCESS TO CUSTOMER SITES. Contractor shall be responsible for obtaining any and all access rights for Contractor Parties, from customers and other third parties to the extent necessary to perform the Services. Contractor shall also procure any and all access rights from Contractor Parties, customers and other third parties in order for MCE and CPUC employees, representatives, agents, designees and contractors to inspect the Services.

6. INSURANCE:

At all times during the Term and the performance of the Services, Contractor shall maintain the insurance coverages set forth below. All such insurance coverage shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, directors, officers, and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of Services. Certificate(s) of insurance must be current as of the Effective Date, and shall remain in full force and effect through the Term. If scheduled to lapse prior to termination date, certificate(s) of insurance must be automatically updated before final payment may be made to Contractor. Each certificate of insurance shall provide for thirty (30) days' advance written notice to MCE of any cancellation or reduction in coverage. Insurance coverages shall be payable on a per occurrence basis only.

Nothing in this Section 6 shall be construed as a limitation on Contractor's indemnification obligations in Section 17 of this Agreement.

Should Contractor fail to provide and maintain the insurance required by this Agreement, in addition to any other available remedies at law or in equity, MCE may suspend payment to the Contractor for any Services provided during any period of time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required insurance coverage.

6.1. GENERAL LIABILITY. The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than **one million dollars (\$1,000,000) with a two million dollars (\$2,000,000)** aggregate limit. "Marin Clean Energy" shall be named as an additional insured on the commercial general liability policy and the certificate of insurance shall include an additional endorsement page (see sample form: ISO - CG 20 10 11 85).

6.2. AUTO LIABILITY. Where the Services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor in order to perform said Services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000).

6.3. WORKERS' COMPENSATION. The Contractor acknowledges that the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If Contractor has employees, it shall comply with this requirement and a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to MCE prior to commencement of Services.

6.4. INTENTIONALLY OMITTED

7. FINANCIAL STATEMENTS:

Contractor shall deliver financial statements on an annual basis or as may be reasonably requested by MCE from time to time. Such financial statements or documents shall be for the most recently available audited or reviewed period and prepared in accordance with generally-accepted accounting principles.

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior, written approval of MCE, except for any subcontract work expressly identified herein in Exhibit A. If Contractor hires a subcontractor under this Agreement (a "Subcontractor"), Subcontractor shall be bound by all applicable terms and conditions of this Agreement, and Contractor shall ensure the following:

- 8.1.** Subcontractor shall comply with the following terms of this Agreement: Sections 9, 10, Exhibit A.
- 8.2.** Subcontractor shall provide, maintain and be bound by the representations, warranties and covenants of Contractor contained in Section 5 hereof (as may be modified to be applicable to Subcontractor with respect to Section 5.1(a) hereof) at all times during the Term of such subcontract and its provision of Services.
- 8.3.** Subcontractor shall comply with the terms of Section 6 above, including, but not limited to providing and maintaining insurance coverage(s) identical to what is required of Contractor under this Agreement, and shall name MCE as an additional insured under such policies. Contractor shall collect, maintain, and promptly forward to MCE current evidence of such insurance provided by its Subcontractor. Such evidence of insurance shall be included in the records and is therefore subject to audit as described in Section 9 hereof.
- 8.4.** Subcontractor shall be contractually obligated to indemnify the MCE Parties (as defined in Section 17 hereof) pursuant to the terms and conditions of Section 17 hereof.
- 8.5.** Subcontractors shall not be permitted to further subcontract any obligations under this Agreement.

Contractor shall be solely responsible for ensuring its Subcontractors' compliance with the terms and conditions of this Agreement made applicable above and to collect and maintain all documentation and current evidence of such compliance. Upon request by MCE, Contractor shall promptly forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the Parties shall create any legal or contractual relationship between MCE and any Subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor's obligation to pay its Subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any monies to any Subcontractor.

9. RETENTION OF RECORDS AND AUDIT PROVISION:

Contractor shall keep and maintain on a current basis full and complete records and documentation pertaining to this Agreement and the Services, whether stored electronically or otherwise, including, but not limited to, valuation records, accounting records, documents supporting all invoices, employees' time sheets, receipts and expenses, and all customer documentation and correspondence (the "Records"). MCE shall have the right, during regular business hours, to review and audit all Records during the Term and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted on Contractor's premises or, at MCE's option, Contractor shall provide all records within a maximum of fifteen (15) days upon receipt of written request from MCE. Contractor shall refund any monies erroneously charged. Contractor shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

10. DATA, CONFIDENTIALITY AND INTELLECTUAL PROPERTY:

- 10.1. DEFINITION OF "MCE DATA"**. "MCE Data" shall mean all data or information provided by or on behalf of MCE, including but not limited to, customer Personal Information; energy usage data relating to, of, or concerning, provided by or on behalf of any customers; all data or information input, information systems and technology, software, methods, forms, manuals, and designs, transferred, uploaded, migrated, or otherwise sent by or on behalf of MCE to Contractor as MCE may approve of in advance and in writing (in each instance); account numbers, forecasts, and other similar information disclosed to or otherwise made available to Contractor. MCE Data shall also include all data and materials provided by or made available to Contractor by MCE's licensors, including but not limited to, any and all survey responses, feedback, and reports subject to any limitations or restrictions set forth in the agreements between MCE and their licensors.

"Confidential Information" under this Agreement shall have the same meaning as defined in the Marin Clean Energy Non-Disclosure Agreement between the Parties dated **May 13, 2022**.

- 10.2. DEFINITION OF "PERSONAL INFORMATION"**. "Personal Information" includes but is not limited to the following: personal and entity names, e-mail addresses, addresses, phone numbers, any other public or privately-issued identification numbers, IP addresses, MAC addresses, and any other digital identifiers associated with entities, geographic locations, users, persons, machines or networks. Contractor shall comply with all applicable federal, state and local laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

10.3. MCE DATA SECURITY MEASURES. Prior to Contractor receiving any MCE Data, Contractor shall comply, and at all times thereafter continue to comply, in compliance with MCE's Data security policies set forth in MCE Policy 009 (available upon request) and MCE's Advanced Metering Infrastructure (AMI) Data Security and Privacy Policy ("Security Measures") and pursuant to MCE's Confidentiality provisions in Section 5 of the Marin Clean Energy Non-Disclosure Agreement between the parties dated **May 13, 2022** and as set forth in MCE Policy 001 - Confidentiality. MCE's Security Measures and Confidentiality provisions require Contractor to adhere to reasonable administrative, technical, and physical safeguard protocols to protect the MCE's Data from unauthorized handling, access, destruction, use, modification or disclosure.

10.4. CONTRACTOR DATA SECURITY MEASURES. Additionally, Contractor shall, at its own expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures consistent with the sensitivity of Personal Information and Confidential Information including, but not limited to, measures designed to (1) prevent unauthorized access to, and otherwise physically and electronically protect, the Personal Information and Confidential Information, and (2) protect MCE content and MCE Data against unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

10.5. RETURN OF MCE DATA. Promptly after this Agreement terminates, (i) Contractor shall securely destroy all MCE Data in its possession and certify the secure destruction in writing to MCE, and (ii) each Party shall return (or if requested by the disclosing Party, destroy) all other Confidential Information and property of the other (if any), provided that Contractor's attorney shall be permitted to retain a copy of such records or materials solely for legal purposes.

10.6. OWNERSHIP AND USE RIGHTS.

- a) **MCE Data.** Unless otherwise expressly agreed to in writing by the Parties, MCE shall retain all of its rights, title and interest in MCE's Data.
- b) **Intellectual Property.** Unless otherwise expressly agreed to in writing by the Parties, any and all materials, information, or other intellectual property created, prepared, accumulated or developed by Contractor or any Contractor Party under this Agreement ("Intellectual Property"), including finished and unfinished inventions, processes, templates, documents, drawings, computer programs, designs, calculations, valuations, maps, plans, workplans, text, filings, estimates, manifests, certificates, books, specifications, sketches, notes, reports, summaries, analyses, manuals, visual materials, data models and samples, including summaries, extracts, analyses and preliminary or draft materials developed in connection therewith, shall be owned by MCE. MCE shall have the exclusive right to use Intellectual Property in its sole discretion and without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide Intellectual Property to MCE or to any party MCE may designate upon written request. Contractor may keep one file reference copy of Intellectual Property prepared for MCE solely for legal purposes and if otherwise agreed to in writing by MCE. In addition, Contractor may keep one copy of Intellectual Property if otherwise agreed to in writing by MCE.
- c) **Intellectual Property shall be owned by MCE upon its creation.** Contractor agrees to execute any such other documents or take other actions as MCE may reasonably request to perfect MCE's ownership in the Intellectual Property.
- d) **Contractor's Pre-Existing Materials.** If, and to the extent Contractor retains any preexisting ownership rights ("Contractor's Pre-Existing Materials") in any of the materials furnished to be used to create, develop, and prepare the Intellectual Property, Contractor hereby grants MCE on behalf of its customers and the CPUC for governmental and regulatory purposes an irrevocable, assignable, non-exclusive, perpetual, fully paid up, worldwide, royalty-free, unrestricted license to use and sublicense others to use, reproduce, display, prepare and develop derivative works, perform, distribute copies of any intellectual or proprietary property right of Contractor or any Contractor Party for the sole purpose of using such Intellectual Property for the conduct of MCE's business and for disclosure to the CPUC for governmental and regulatory purposes related thereto. Unless otherwise expressly agreed to by the Parties, Contractor shall retain all of its rights, title and interest in Contractor's Pre-Existing Materials. Any and all claims to Contractor's Pre-Existing Materials to be furnished or used to prepare, create, develop or otherwise manifest the Intellectual Property must be expressly disclosed to MCE prior to performing any Services under this Agreement. Any such Pre-Existing Material that is modified by work under this Agreement is owned by MCE.

10.7. EQUITABLE RELIEF. Each Party acknowledges that a breach of this Section 10 would cause irreparable harm and significant damages to the other Party, the degree of which may be difficult to ascertain. Accordingly, each Party agrees that MCE shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of MCE Data or Personal Information, in addition to any other rights and remedies that it may have at law or otherwise; and Contractor shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of Contractor's Pre-Existing Materials, in addition to any other rights and remedies that it may have at law or otherwise.

11. FORCE MAJEURE:

A Party shall be excused for failure to perform its obligations under this Agreement if such obligations are prevented by an event of Force Majeure (as defined below), but only for so long as and to the extent that the Party claiming Force Majeure ("Claiming Party") is actually so prevented from performing and provided that (a) the Claiming Party gives written notice and full particulars of such

Force Majeure to the other Party (the "Affected Party") promptly after the occurrence of the event relied on, (b) such notice includes an estimate of the expected duration and probable impact on the performance of the Claiming Party's obligations under this Agreement, (c) the Claiming Party furnishes timely regular reports regarding the status of the Force Majeure, including updates with respect to the data included in Section 10 above during the continuation of the delay in the Claiming Party's performance, (d) the suspension of such obligations sought by Claiming Party is of no greater scope and of no longer duration than is required by the Force Majeure, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the Force Majeure; (f) the Claiming Party shall exercise commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the Affected Party; (g) when the Claiming Party is able to resume performance of the affected obligations under this Agreement, the Claiming Party shall give the Affected Party written notice to that effect and promptly shall resume performance under this Agreement. "Force Majeure" shall mean acts of God such as floods, earthquakes, fires, orders or decrees by a governmental authority, civil or military disturbances, wars, riots, terrorism or threats of terrorism, utility power shutoffs, strikes, labor disputes, pandemic, or other forces over which the responsible Party has no control and which are not caused by an act or omission of such Party.

12. TERMINATION:

- 12.1.** If the Contractor fails to provide in any manner the Services required under this Agreement, otherwise fails to comply with the terms of this Agreement, violates any Applicable Law, makes an assignment of any general arrangement for the benefit of creditors, files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it, otherwise becomes bankrupt or insolvent (however evidenced), or becomes unable to pay its debts as they fall due, then MCE may terminate this Agreement by giving five (5) business days' written notice to Contractor.
- 12.2.** Either Party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days' written notice to the other Party. Notice of termination shall be by written notice to the other Party and be sent by registered mail or by email to the email address listed in Section 19.
- 12.3.** In the event of termination not the fault of the Contractor, the Contractor shall be paid for Services performed up to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s). Notwithstanding anything contained in this Section 12, in no event shall MCE be liable for lost or anticipated profits or overhead on uncompleted portions of the Agreement. Contractor shall not enter into any agreement, commitments or subcontracts that would incur significant cancellation or termination costs without prior written approval of MCE, and such written approval shall be a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12. Also, as a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12, Contractor shall have delivered to MCE any and all Intellectual Property (as defined in Section 10.6(b)) prepared for MCE before the effective date of such termination.
- 12.4.** MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.
- 12.5.** Without limiting the foregoing, if either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the parties cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only, and the remaining provisions will remain in full force and effect.
- 12.6.** Upon termination of this Agreement for any reason, Contractor shall and shall cause each Contractor Party to bring the Services to an orderly conclusion as directed by MCE and shall return all MCE Data (as defined in Section 10.1 above) and Intellectual Property to MCE.
- 12.7.** Notwithstanding the foregoing, this Agreement shall be subject to changes, modifications, or termination by order or directive of the California Public Utilities Commission ("CPUC"). The CPUC may from time to time issue an order or directive relating to or affecting any aspect of this Agreement, in which case MCE shall have the right to change, modify or terminate this Agreement in any manner to be consistent with such order or directive.
- 12.8.** Notwithstanding any provision herein to the contrary, Sections 2, 3, 8.4, 9, 10, 12, 15, 16, 17, 18, 19, 20, 21, 22, 24 and Exhibit B of this Agreement shall survive the termination or expiration of this Agreement.

13. ASSIGNMENT:

The rights, responsibilities, and duties under this Agreement are personal to the Contractor and may not be transferred or assigned without the express prior written consent of MCE.

14. AMENDMENT; NO WAIVER:

This Agreement may be amended or modified only by written agreement of the Parties. Failure of either Party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

15. DISPUTES:

Either Party may give the other Party written notice of any dispute which has not been resolved at a working level. Any dispute that cannot be resolved between Contractor's contract representative and MCE's contract representative by good faith negotiation efforts shall be referred to Legal Counsel of MCE and an officer of Contractor for resolution. Within 20 calendar days after delivery of such notice, such persons shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If MCE and Contractor cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Contractor shall have the right to pursue all rights and remedies that may be available at law or in equity. All negotiations and any mediation agreed to by the Parties are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

16. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the Parties hereto agree that venue shall be in Marin County, California.

17. INDEMNIFICATION:

To the fullest extent permitted by Applicable Law, Contractor shall indemnify, defend, and hold MCE and its employees, officers, directors, representatives, and agents ("MCE Parties"), harmless from and against any and all actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, litigation costs, attorney's fees and costs, physical damage to or loss of tangible property, and injury or death of any person) arising out of, resulting from, or caused by: a) the negligence, recklessness, intentional misconduct, fraud of all Contractor Parties; b) the failure of a Contractor Party to comply with the provisions of this Agreement or Applicable Law; or c) any defect in design, workmanship, or materials carried out or employed by any Contractor Party. The terms of this indemnification section shall not extend to actions, claims, liabilities, losses, costs, damages, or expenses to the extent that they result from or are caused by the sole negligence or willful misconduct of the MCE Parties.

18. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.). Pursuant to MCE's Joint Powers Agreement, MCE is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations, and liabilities accruing and arising out of this Agreement. No Contractor Party shall have rights and nor shall any Contractor Party make any claims, take any actions, or assert any remedies against any of MCE's constituent members in connection with this Agreement.

19. INVOICES; NOTICES:

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted by email to:

Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

Contract Manager: Troy Nordquist

MCE Address: 1125 Tamalpais Avenue
San Rafael, CA 94901

Email Address: contracts@mcecleanenergy.org

Telephone No.: (925) 378-6767

Notices shall be given to Contractor at the following address:

Contractor:	Lou Jacobson
Address:	44 Montgomery Street, Suite 1500 San Francisco, CA 94104
Email Address:	ljacobson@willdan.com
Telephone No.:	707.273.2036

20. ENTIRE AGREEMENT; ACKNOWLEDGMENT OF EXHIBITS:

This Agreement along with the attached Exhibits marked below constitutes the entire Agreement between the Parties. In the event of a conflict between the terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement shall govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR'S INITIALS</u>	<u>MCE'S INITIALS</u>
<u>EXHIBIT A.</u>	X	Scope of Services	^{DS} JE	^{DS} DW
<u>EXHIBIT B.</u>	X	Fees and Payment	^{DS} JE	^{DS} DW

21. SEVERABILITY:

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

22. INDEPENDENT CONTRACTOR:

Contractor is an independent contractor to MCE hereunder. Nothing in this Agreement shall establish any relationship of partnership, joint venture, employment or franchise between MCE and any Contractor Party. Neither MCE nor any Contractor Party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided for herein.

23. TIME:

Time is of the essence in this Agreement and each and all of its provisions.

24. THIRD PARTY BENEFICIARIES:

The Parties agree that there are no third-party beneficiaries to this Agreement either express or implied.

25. FURTHER ACTIONS:

The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Agreement.

26. PREPARATION OF AGREEMENT:

This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and this Agreement shall not be construed against either Party as a result of the manner in which this Agreement was prepared, negotiated or executed.

27. DIVERSITY SURVEY:

Pursuant to Senate Bill 255 which amends Section 366.2 of the California Public Utilities Code, MCE is required to submit to the California Public Utilities Commission an annual report regarding its procurement from women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises ("WMDVLGBTBE"). Consistent with these requirements, Contractor agrees to provide information to MCE regarding Contractor's status as a WMDVLGBTBE and any engagement of WMDVLGBTBEs in its provision of Services under this Agreement. Concurrently with the execution of this Agreement, Contractor agrees to complete and deliver MCE's Supplier Diversity Survey, found at the following link: <https://forms.gle/DUBkcdFCskb7NNcA8> (the "Diversity Survey"). Because MCE is required to submit

annual reports and/or because the Diversity Survey may be updated or revised during the term of this Agreement, Contractor agrees to complete and deliver the Diversity Survey, an updated or revised version of the Diversity Survey or a similar survey at the reasonable request of MCE and to otherwise reasonably cooperate with MCE to provide the information described above. Contractor shall provide all such information in the timeframe reasonably requested by MCE.

28. COUNTERPARTS:

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY**MARIN CLEAN ENERGY:**

DocuSigned by:
By: Dawn Weisz
A59878416EBC4F8...
Name: Dawn Weisz

Title: CEO

Date: 5/16/2022

CONTRACTOR:

DocuSigned by:
By: Jim Zaniboni
8D00B8BE32B04A0...
Name: Jim Zaniboni

Title: Executive Vice President

Date: 5/17/2022

MODIFICATIONS TO STANDARD SHORT FORM

☒ Standard Short Form Content Has Been Modified

List sections affected: Section 17

Approved by MCE Counsel:

DocuSigned by:
Catalina Murphy
0CC3FD724F79482...

5/13/2022
Date: _____

EXHIBIT A SCOPE OF SERVICES

Contractor shall provide the following Services under the Agreement as requested and directed by MCE Customer Programs staff, up to the maximum time/fees allowed under this Agreement:

Background

Contractor offers direct install heat pump water heaters ("HPWH") in MCE's service area as part of the Government and K-12 Schools Program ("GK12") through Pacific Gas and Electric Company ("PG&E"). The GK12 provides technical assistance and incentives to customers in the PG&E territory who pursue energy efficiency upgrades at their facilities. GK12 serves local government, federal agencies, and K-12 (such as public-school and County Office of Education) facilities of all sizes in PG&E's four distribution regions.

Equipment Specification Requirements

Contractor will provide no or low-cost replacements of gas-fired hot water heaters with electric HPWHs to customers with eligible facilities. Contractor will target customers with existing gas units for replacement HPWHs that meet the requirements as detailed in the applicable CPUC-approved workpapers. As of May 2022, the current CPUC-approved workpapers include SWWH027 and SWWH028 (as found on the California Technical Forum Measure Catalog¹). Contractor will install CTA-2045, or equivalent controllers, on all HPWH replacements which will be capable of integrating with MCE's Distributed Energy Resource Management System ("DERMS"). Each CTA-2045 or equivalent controller will have a cellular backhaul communication service.

Customers Served

County governments, municipalities, community service districts, joint powers authorities, other special districts, and local educational agencies will be targeted.

To be eligible, the customer must:

1. Be an MCE ratepayer.
2. Be a verifiable publicly-funded local government, educational or federal agency with North American Industry Classification System ("NAICS") two-digit sector-level identifiers 61, 62, 81, 91 or 92. Additional identifiers are subject to PG&E program manager NAICS code approval. As of May 2022, current PG&E Program Manager's approved six-digit national industry-level identifiers include: 221300, 221320, 445310, 447100, 485000, 485410, 493100, 493110, 493190, 519120, 521110, 531123, 531191, 541310, 541990, 551114, 562000, 562920, 711110, 711310, 712110, 712190, 713930, 713940, 713990, 721211, 722000, and 722310.
3. Have an operable natural gas hot water heater that meets the base case requirements set forth in the applicable workpapers SWWH027, SWWH028 or any subsequent revisions or additions to the governing documents as presented by the California Technical Forum.
4. Be willing to participate in a future MCE demand response program.
5. Have not and will not apply for an additional GK12 incentive / rebate (aside from the incentives provided by PG&E and MCE through the GK12 program) in another California energy efficiency program.

Tasks

Contractor will install up to 31 units. Contractor will complete the following tasks as part of this scope of services:

Task 1 Conduct outreach to eligible MCE ratepayers

- a) Contractor will develop MCE | GK12 co-branded marketing materials; marketing materials are subject to MCE Public Affairs Team's written approval.
- b) Lead outreach and recruitment meetings with MCE and local government partners.
- c) Per the MCE Service Level Agreement as provided to Contractor, Lead outreach and recruitment with assistance from MCE staff on potential participants.

¹ <https://www.caetrm.com/>

Task 2 Identify eligible projects and project costs

- a) Meet with potential participants to confirm project eligibility.
- b) Complete all required documentation for incentives.
- c) Conduct on-site assessments to document scope and cost estimates.

Task 3 Provide up to 31 HPWH direct install services to MCE ratepayers.

- a) Assign projects to direct install contractors.
- b) Install controllers that would integrate with MCE's DERMS.
- c) Manage no-cost contracting between the customer and installing contractor.
- d) Manage project implementation.

Task 5 Provide custom electrification project services to MCE ratepayers through PG&E approved delivery channels, including:

- a) Technical support and specifications,
- b) Turnkey project delivery, or construction oversight as needed on a project-by-project basis.

Task 6 If MCE develops HPWH Demand Response offerings, Contractor will support MCE's development of HPWH Demand Response offerings.

- a)
- b) The cost of DERMS integration with HPWH units will be covered by Contractor for one year per unit
- c) Collaborate with MCE to develop specific Demand Response offerings.
- d) Upon MCE's request, review, agree to, and implement any subsequent task order that supports Demand Response program development, product integration, testing and/or scheduling.

Task 7 Submit a monthly accruals report ("Report") and related invoices by the 15th of month according to work performed the month prior.

- a) Contractor will provide MCE a Report. This report will include projected funding for both Contractor and MCE's budgeting and programmatic purposes. The report will include both invoiced and committed projects.
- b) Accruals reports shall contain previously invoiced projects and sold projects that have not yet been installed. Details such as: customer name, address, scope, estimated PG&E incentive, MCE supplemental incentive, and total project cost shall be included.
- c) Invoices will include customer name, date installation completed, installed quantity, unit size, project completion certification, total customer installed cost and requested gap funding.

EXHIBIT B
FEES AND PAYMENT SCHEDULE

For Services provided under this Agreement, MCE shall pay Contractor in accordance with the amount(s) and the payment schedule as specified below:

MCE will provide a \$3,000 incentive payment to Contractor for eligible installed HPWH.

If MCE develops a DERMS service, the cost of DERMS integration with HPWH units will be covered by Contractor for one year per unit.

Any additional costs associated with the ability to integrate, test, and schedule the HPWHs with MCE's DERMS will require written pre-approval from MCE Customer Programs staff.

After the first year of DERMS integration, MCE may, at MCE's sole discretion, elect to cover additional years of DERMS integration at the cost of \$35/year/unit.

Contractor shall bill MCE monthly for projects completed during the month prior. Contractor shall provide a Report as well as an itemized monthly invoice with a list of installed projects and the amount of DERMS funding, if applicable, applied to each as stated in Task 6.b. Payment of the itemized invoice is subject to MCE Customer Programs staff's written approval.

In no event shall the total cost to MCE for the services provided herein exceed the **maximum sum of \$95,000** for the term of the Agreement.

September 16, 2020

TO: MCE Technical Committee

FROM: Alexandra McGee, Manager of Strategic Initiatives

RE: Draft Electric Schedule VPPT - Virtual Power Plant Tariff
(Agenda Item #07)

ATTACHMENTS: A. Draft Electric Schedule VPPT – Virtual Power Plant Tariff
B. Commercial & Industrial Brochure
C. Residential Brochure for ZNCR Homebuyers
D. Residential Brochure for Richmond Homeowners

Dear Technical Committee Members:

BACKGROUND:

On May 26th 2022, MCE was approved to join the implementation of a \$4,998,555 Electric Program Investment Charge (EPIC) grant from the California Energy Commission (CEC) to develop an Advanced Energy Community (AEC).¹ With MCE's participation, the scope of work has been augmented to develop a pilot Virtual Power Plant (VPP) within the City of Richmond. This grant was initially awarded in 2020 to a network of partners including the Zero Net Energy Alliance (ZNEA), the City of Richmond, the Richmond Community Foundation, EcoShift Consulting, and Energy Solutions.

The grant partners will install a suite of privately-owned distributed energy resources (DERs) to be dispatched into the VPP- such as rooftop solar, heat pump water heaters, smart thermostats, smart plugs, electric vehicles, and energy storage. These will send data directly to MCE and can be remotely controlled and operated together to pull power to and from the grid at strategic times, creating pockets of power to support and decarbonize the grid.

The goal of Richmond Advanced Energy Community is to connect 120 sites to the VPP including 10 rehabilitated homes, 90 homes occupied by low-to-middle income residents (which have already received solar systems from GRID Alternatives), 18 commercial sites, and 2 industrial sites. Combined, the 120 sites are expected to contribute 1MW of solar, 2MWh of energy storage, and 1.5MW of flexible load by December 2024.

A social impact bond is being used to buy, rehabilitate, and modernize 10 abandoned houses to become zero-net carbon ready (ZNCR) with modern DERs installed on-site. The homes will be sold at below market rates to first-time low-to-medium income homeowners without resale restrictions, making this effort a powerful tool in righting the imbalance and inequities of inter-generational wealth unfortunately prevalent in our communities. To date four homes have already been purchased, and on average, these homes have sold \$100,000 below market.

¹ The CEC uses the term, "Advanced Energy Community" (AEC) to describe communities that meet all 9 criteria outlined on page 17 of the following source. These are broadly categorized as those that can strengthen local grid resiliency while benefiting residents and reducing greenhouse gasses. <https://www.energy.ca.gov/sites/default/files/2021-05/CEC-500-2019-010.pdf>

To minimize or eliminate the upfront costs of installing customer-owned DERs, Richmond Advanced Community Energy will leverage CEC funds, MCE's existing program incentives, California's Self-Generation Incentive Program (SGIP), and low-to-no interest financing options through MCE's partnership with the National Energy Improvement Fund (NEIF).

The VPP will allow MCE to aggregate and dispatch DERs to manage critical peak loads, minimize procurement costs, and - as market opportunities evolve - generate value in wholesale markets. The VPP will also:

- Increase the deployment of DERs to align with local energy management plans,
- Relieve local grid congestion,
- Reduce load,
- Mitigate the need for future gas-fired peaker plants and other non-renewable generation
- Provide direct device-level data to evaluate effectiveness of automated versus behavioral solutions
- Increase demand-side management,
- Increase efficiency through envelope measures (e.g. enhanced home insulation and solar) coupled with high performance equipment and appliances,
- Increase clean backup power and resiliency that enables local grid management
- Provide valuable services to MCE such as flexible ramping and peak shifting, and Lower costs for participating VPP customers through automated load shaping, minimizing the grid's dependency on behavioral change.

The buildout and operation of MCE's Virtual Power Plant will take place in three phases.

1. **Phase 1:** The first two years of the pilot will build and test the structure necessary for energy data from customer-owned DERs to move through the grant partners MCE to our scheduling coordinators. With assistance from forecasting models and artificial intelligence, MCE could then automate or send dispatch signals that shape on-site load to save the customer money by shifting load to off-peak hours, proactively reduce local grid strain, and reduce carbon intensity of the grid. **The proposed Draft Electric Schedule VPPT is specific to this phase of the program implementation.**
2. **Phase 2:** Determined by the success of the first phase, the Tariff would be updated to allow MCE to bid the aggregated load into the California Independent System Operator (CAISO) marketplace. Financial benefits of this participation would be shared with the customer. The second phase of this tariff will require approval from the Board or a Committee.
3. **Phase 3:** Determined by the success of the second phase, the VPP would expand outside of Richmond to include MCE's full service area, opening up participation to the existing suite of DERs including roughly 55,000 solar systems and 7,000 battery energy storage systems.

The Technical Committee approved implementation of an energy storage tariff, Electric Schedule PBST (Pilot Battery Storage Tariff) in late 2016 which was then superseded by the approved Electric Schedule EST (Energy Storage Tariff) in late 2020. The proposed Draft Electric Schedule VPPT - Virtual Power Plant Tariff (Attachment A) would build upon these tariffs to provide VPP participants with monthly bill credits in exchange for remote control and dispatch capability.

SUMMARY:

Participating customers would be billed in accordance with their otherwise-applicable MCE rate schedule. DER equipment would be required to maintain a connection to the VPP so that MCE can remotely monitor, manage, and dispatch the technologies according to the Tariff. Participants may not be enrolled in other DER aggregation or demand response programs.

In addition, participants served under this Tariff would receive a monthly credit on their billing statement determined as follows.

Residential Credits

Monthly credits will vary depending on the number and type of DERs installed, as outlined in the Residential Monthly Advanced Payment (RMAP) Product Menu – ranging from \$2 to \$20 per device per month. This is capped at either \$40 or \$50 monthly credits, depending on whether or not customers are enrolled in the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) discount programs.

Commercial and Industrial (C&I) Credits

Commercial Monthly Advanced Payment (CMAP) bill credits would be calculated with the Load Reduction Calculation methodology described in the Tariff and capped at \$300 for commercial customers and \$750 for industrial customers.

The CMAP calculation was developed to protect against overpayment until actual data is received and reconciled, providing more certainty in the reliability of DER dispatchability.

If participating C&I customers generate more credit during the program year than has been paid through the monthly CMAP credits, they can receive an annual true-up bill credit of the balance owed, measured by the total kWh of flexible load delivered over the course of the previous year. There is no penalty if participants generate less credit than has been paid in the CMAP.

The proposed Draft Electric Schedule VPPT includes three special conditions in which MCE would modify operations in response to outages and loss of connectivity. These conditions are inherited from Electric Schedule EST.

FISCAL IMPACTS: The maximum cost of bill credits provided by this Tariff would be approximately \$240,000 annually in the two years of phase one. Billing system development and testing costs would be a one-time cost estimated to be no more than \$10,000.

RECOMMENDATION: Approve Electric Schedule VTTP – Virtual Power Plant Tariff.



Initial Electric Schedule for Pilot Virtual Power Plant Tariff (VPPT)

APPLICABILITY: The Virtual Power Plant Tariff (VPPT) is available only to City of Richmond MCE customers that have executed the MCE Virtual Power Plant Agreement (VPPA), and that have installed one or more qualified and fully operational distributed energy resource (DER) using an MCE-authorized Designee, with remote monitoring and dispatchable direct load control capabilities, behind the customer's utility electric meter, as verified by MCE. Customers that participate in MCE's Virtual Power Plant (VPP) Pilot can reduce their annual electricity costs, increase their resiliency, contribute to improving the health of their local grid conditions, support the advancement of cutting-edge innovative energy technology, while also earning valuable monthly bill credits for participation through this pilot tariff.

SERVICE AREA: This schedule is available to MCE customers in the City of Richmond.

SUBSCRIPTION LIMIT: Subscription to this schedule is limited to 200 customers.

ELIGIBILITY: This optional schedule is available to MCE customers that meet the conditions detailed below.

To be eligible for the VPPT, a customer must meet and maintain the following requirements:

1. Customers must have an active MCE residential, commercial, or industrial account with a Richmond service address, that is in good standing.
2. The customer account may not be enrolled in utility or third-party demand response programs or other behind-the-meter DER aggregations, including MCE's programs like Peak FLEXmarket. Accounts that are enrolled in a utility or other third-party demand response program or aggregation must disenroll in the third-party program prior to enrolling in the Pilot. Enrollment can be determined using a standard form, the Customer Information Service Request (CISR) form.
3. Customers participating in the Pilot must comply with the terms and conditions described in their governing VPPA, and have installed a qualified and fully operational DER compatible for monitoring and dispatchability by MCE pursuant to this tariff.
4. Customer DER installations must be compliant with the rules, stipulations, and restrictions of all manufacturer warranties and state and local codes and regulations, including applicable interconnection requirements. By enrolling in the Pilot, customers warrant that they have all necessary authorizations and authority to enroll, and have provided any necessary notices to property owners, managers, or other stakeholders.
5. Customers must be enrolled in one of the following rate schedules:
 - a. Residential: E-TOU-A, E-TOU-B, E-TOU-C, E-TOU-D, EV2, E-6 and EM-TOU.
 - b. Commercial: B-1, B1-ST, B-6, B-10, B-19, B-20, BEV and SB.

Other rate schedules as determined by MCE will be noted at www.mcecleanenergy.org/rates

6. Customers who change onto an ineligible rate schedule will be removed from the Pilot and VPPT, and monthly bill credits will be discontinued immediately.
7. Customers must have an installed revenue grade meter, such as an AMI Meter (aka- "Smart Meter"), MV-90 Meter, or equivalent load meter capable of providing 15-minute interval data.
8. Customers must provide any information reasonably requested by MCE or its authorized designees that is necessary for MCE to administer this VPPT, such as specifications for pre-existing DER installations.
9. If a participating customer opts-out of MCE service, the customer will be immediately removed from the VPPT on the effective date of the optout and will be ineligible for further bill credits, as well as any applicable Program Year True-Up Payment, as defined below.
10. All customers taking service under the VPPT must have their DER located behind the utility electric meter and the enrolled DERs must be fully operational for as long as they remain on the VPPT. If the customer anticipates that the DER will become non-operational for any reason for a period longer than 30-days, the customer must notify MCE at least 30-days prior to the start of the period of non-operation and provide MCE with the expected start and end dates of the non-operation. In such instances, and subject to MCE's verification and approval, MCE may suspend bill credits for up to 90-days. If the DER becomes non-operational for longer than 30-days, and the customer has not received approval for a temporary suspension of the bill credits, the customer may be removed from this VPPT and the bill credits will be discontinued immediately. If a DER unexpectedly becomes unresponsive, the customer may receive a notice via email from MCE or an MCE-authorized designee alerting them to the malfunction. Notified customers will have 30 days from the date of their notice to reconnect the unresponsive DER before MCE may disenroll the customer from the Pilot and terminate future bill credits.
11. Customers participating in the Pilot and who have completed a VPPA, agree to allow MCE and its authorized designees, to operate the DER consistent with this tariff and the Pilot rules and guidelines contained in the VPPA. A participating customer shall allow MCE to operate the DER at MCE's discretion, subject to the following limitations:
 - a. MCE may, at its discretion, dispatch the DERs (i.e., charge, discharge, load shift, load shed, load shape, load shimmy, and/or otherwise affect asset behavior), no more than recommended by the applicable DER vendor and/or manufacturer's warranty, except as outlined in the Special Conditions a and b below.
 - b. MCE and partners intend to program the DERs to shift customer load to non-peak hours to reduce cost and reliance on fossil fuel, except as described in Special Condition a below.
 - c. If connectivity to MCE's VPP is lost (including due to unplanned outages, emergencies, or other instance), DERs will be preprogrammed to go into an autonomous, self-operating mode until the situation is resolved and connectivity is resumed; see Special Conditions a, b, and c below.

16. MCE reserves the right to withhold incentives for any participating customers determined to be violating the rules of the Pilot and/or the terms and conditions of the governing VPPA.
17. Customers may elect to disenroll from the Pilot and stop participation in VPPT at any time by contacting MCE at: virtualpowerplant@mcecleanenergy.org. All applicable terms and conditions of the governing VPPA will apply to any withdrawal. Termination of participation in VPPT, and the credits for participation, will be effective at the end of the customer's current billing cycle.
18. All customers participating in the Pilot may elect to continue service under the VPPT upon expiration of their existing VPPA, through execution of a new VPPA.

Special Conditions for Customers Participating in the Pilot:

- a) Public Safety Power Shutoffs. In the event that PG&E calls a pending Public Safety Power Shutoff event (PSPS) in the vicinity of a customer, MCE will attempt to charge the participating energy storage system (ESS) that are expected to be impacted by the outage to full capacity in advance of the PSPS event. If necessary, MCE may charge the ESS to full capacity during any time of day, including "peak" periods, to maximize resiliency benefits for customers. Once the PSPS event has been resolved, and power has been restored, MCE will resume its normal dispatching of all DERs.
- b) Unplanned Grid Outages. MCE will instruct the participating DERs to operate independently in the event of an unplanned outage of the electric grid. If the DER is an ESS, it will be charged using on-site generation resources if available, and only discharged to provide power for on-site usage. Once grid power has been restored, MCE will resume its normal dispatching of the DER.
- c) Loss of Connectivity. It is the customer's responsibility to ensure continued connectivity of the DERs to the MCE VPP. If MCE loses connectivity to a DER, such as due to interruption of internet or cellular connection, the DER will revert to autonomous control until connectivity is restored.

RATES AND INCENTIVES:

Rate Schedule: All usage billed under this schedule will be in accordance with the customer's otherwise-applicable MCE rate schedule.

Monthly Bill Credits: In addition, customers served under this schedule will receive a performance payment in the form of a monthly bill credit. The monthly bill credit amount will be determined as follows:

Residential MCE VPP Customer

Residential customers are compensated for participation in the MCE VPP Pilot based upon the number and type of DER devices enrolled by the customer in the Pilot, as detailed below. Equipment specifications (including make, model, etc.) will be detailed in the customer agreement. This Residential Monthly Advanced Payment (RMAP) will be paid monthly, subject to the maximum credit amount listed below, in the form of a bill credit. The monthly bill credit amount will be based on the RMAP Product Menu below.

RMAP Product Menu:

- \$2/month per enrolled smart major appliance (limited to eligible washers, dryers, dishwashers, refrigerators, freezers, and smart outlets with \geq 1kW load)

- \$5/month per enrolled eligible HAN/Smart Gateway
- \$5/month per enrolled eligible smart thermostat (limited to all-electric HVAC systems)
- \$5/month per enrolled eligible Mini-split air conditioner
- \$5/month per enrolled eligible heat pump hot water heater
- \$10/month per enrolled eligible Level 2 EV charger
- \$20/month per enrolled eligible bi-directional (i.e., V2B, V2G, V2X) Level 2 electric vehicle charger
- \$10/month per enrolled eligible battery energy storage system under 20 kWh
- \$20/month per enrolled eligible battery energy storage system over 20 kWh

The maximum RMAP bill credit for an eligible Residential California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) customers is \$50. The maximum RMAP bill credit for all other eligible Residential customers (i.e., who are not on a CARE or FERA rate schedule) is \$40.

Commercial or Industrial MCE VPP Customer

Commercial and Industrial customers are paid a Commercial Monthly Advanced Payment (CMAP) in the form of a bill credit as well as an annual performance payment of \$0.11 per kWh of measured load flexibility shift that is delivered to MCE's VPP annually. The monthly bill credit amount will be based on the CMAP Load Shift Calculation methodology and subject to the maximum credit amount. CMAP will be calculated for the Program Year (January 1st through December 31st) in which a customer is enrolled in the Pilot.

At the end of a Program Year, if the customer has generated more credit during the Program Year than has been paid to the customer through their CMAP for that Program Year, the customer is eligible to receive the balance owed, subject to the maximum bill credit amounts listed below (Program Year True-Up Payment). The Program Year True-Up Payment will be paid out as an additional bill credit prior to March 31st of the following Program Year. The calculation, as detailed below, is based on the total kWh of flexible load delivered to MCE's VPP, using MCE's Measurement and Verification (M&V) method and independently validated through third-party audit (as detailed in the VPPA).

CMAP Load Shift Calculation:

- FIRST PROGRAM YEAR:** In the First Program Year that the customer enrolls in the Pilot, MCE and/or MCE Authorized Designee will provide an Estimated Annual kWh of Load Shift for the proposed installations. Customer will receive a monthly bill credit valued at 33% of the Estimated Annual kWh Shift multiplied by \$0.11, then divided by 12, subject to the maximum bill credit listed below.
- AFTER THE FIRST PROGRAM YEAR:** For each Program Year thereafter, the previous Program Year's actual verified kWh of Load Shift, as validated annually through MCE's M&V method, will be used to set the Delivered kWh of Load Shift Amount. Customer will receive a monthly bill credit valued at 50% of the DKRA multiplied by \$0.11, then divided by 12, subject to the maximum bill credit listed below.

The maximum CMAP bill credit for an eligible commercial customer to receive is \$300. The maximum CMAP bill credit for an eligible industrial customer to receive is \$750.

Richmond Advanced Energy Community

Help for your business to

avoid the highest energy costs,

modernize your facilities,

and make Richmond's energy
cleaner and more reliable
for everyone.



CITY OF
Richmond CALIFORNIA

Project made possible in part by:



Taking advantage of available energy programs doesn't have to be a chore. The Richmond Advanced Energy Community can help you get **low-cost** or even **no-cost** equipment for your business that helps you reduce and manage your energy use.

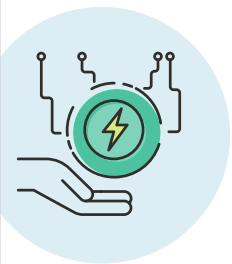


We provide end-to-end financial and technical support to design a solution that fits your needs—from identifying and securing all available incentives, to contracting, installing, and commissioning your equipment. As part of MCE's Virtual Power Plant, you can not only save on your energy costs but also earn bill credits and revenue for optimizing your energy use.

MCE Virtual Power Plant

The Richmond Advanced Energy Community is powered by MCE's Virtual Power Plant (VPP), a program that connects buildings equipped with smart devices to manage and balance grid operations. MCE's VPP provides cleaner and reliable energy for the community, and cost savings for customers by make slight shifts to energy use to take advantage of lower-cost electricity prices throughout the day – without sacrificing your business's productivity or comfort.

- ▶ **Reduce your energy costs** by automatically taking advantage of lower-cost times of the day
- ▶ **Earn credits** on your energy bill
- ▶ **Get paid** for reducing your energy use during peak demand times
- ▶ **Enhance resiliency** during power outages with onsite battery storage
- ▶ **Lower your business's carbon footprint** and **make your community healthier and safer**
- ▶ **Support a more reliable, lower-cost grid** for the City of Richmond



The Richmond Advanced Energy Community Grant combines with other program incentives to minimize your equipment cost and maximize your energy savings.

We'll leverage all available programs to bring your costs down:

- MCE Rebate & Energy Programs
- PG&E Business and Industry Rebate Programs
- BayREN
- And other utility, non-profit, and state programs



You're helping to make your community's energy supply safer, cleaner, and more reliable for your business and your neighbors.



Your Exclusive Invitation

Your business has been hand-picked to be a part of the Richmond Advanced Energy Community because, based on your typical energy usage, you are poised to receive the most dramatic financial benefits from participating in the program. We will create a package tailored to the needs of your business and help you find cost-saving incentives on equipment that is right for you.

Including:

- Battery storage system
- Electric vehicle charger
- Gateway interface
- Universal controller
- Smart thermostat
- Load monitoring equipment
- Additional equipment as needed

It's easy to get started:

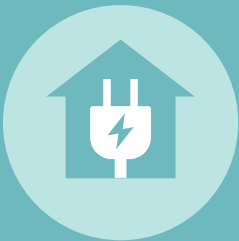


Contact virtualpowerplant@mceCleanEnergy.org
to schedule a consultation.

Projects are available for a limited time, while funding lasts.

First Time
Homebuyer
Program

Your home can help save the planet



HOME. It means comfort, safety and security. The dream of home ownership is within your reach. What if you could go even further? With the Richmond Advanced Energy Community Project, your first home can have the latest in clean energy technology, which is better for you, your family, and our environment.

Learn more about Advanced Electric Homes ►

What is an Advanced Electric Home?



An Advanced Electric Home has modern, high-performance electric heating and cooling systems, as well as appliances that make it safer, healthier, and more comfortable while using less energy than other homes of the same size.

Because an Advanced Electric Home doesn't burn gas, the home has cleaner and healthier indoor air and is friendlier to the environment.

Advanced Electric Homes are:



Efficient. The walls, windows, roof, and appliances are designed to make the home comfortable while using less energy and water than other homes of the same size.



Outage-prepared. The homes will be able to have emergency electricity during power outages with a battery for critical needs such as lighting, WiFi, medical equipment, and refrigeration. The roofs are equipped with solar panels that can recharge the battery each day to maintain emergency power during longer outages.



Safe & Healthy. All-electric home design helps make these homes safer, have cleaner indoor air, and be friendlier to the environment. Configurations will vary by home, but all will have smart thermostats and state-of-the-art all-electric appliances such as induction stoves and heat pumps for water heating, clothes drying, and space conditioning.



Electric Vehicle-Ready. Homes will come with a Level 2 EV charger to accommodate high-speed charging.

Advanced Electric Homes will be part of MCE's **Virtual Power Plant (VPP)**. The VPP, made up of a wide range of buildings with smart devices, will allow MCE to shape electrical load during critical times, reducing the need to add electricity from actual power plants and making the grid cleaner and more reliable. And, it can save money by getting you lower prices and credits on your electric bill.

Features

In addition to the benefits listed, many of these installations will lower your utility bills and contribute to your monthly bill credits.

Induction stove

- ✓ Faster heating
- ✓ Safer cooking—lower risk of burns
- ✓ Reduces risk of home fire
- ✓ Cleaner indoor air
- ✓ Keeps homes cooler in summer

Smart thermostat

- ✓ Automatic temperature control
- ✓ Key to heating and cooling at least expensive times

Solar panels

- ✓ Clean, on-site energy
- ✓ Potential to make power during blackouts

Battery

- ✓ Automatically charged from solar panels to store energy for use during outages and at specified times
- ✓ When grouped with other batteries in the VPP, can provide power to the grid at critical times to improve reliability
- ✓ Homeowner gets monthly bill credits for providing battery access to MCE

Electric vehicle charger

- ✓ Level 2 for faster charging
- ✓ Automatically charges when power is least expensive

Homes will also come with:

Heat Pump Water Heater (Electric)

- ✓ 3–4x more efficient than gas water heaters
- ✓ Lower fire risk

Space Heating (Electric)

- ✓ Cleaner indoor air
- ✓ Lower fire risk

High Efficiency Dryer & Washer

- ✓ Lower fire risk

Insulation

- ✓ Increased comfort and efficiency
- ✓ Better indoor air quality
- ✓ Easier to heat or cool home

Energy-Efficient Windows

- ✓ Increased comfort and noise control

The Richmond Advanced Energy Community is a group of homes and municipal and commercial buildings in Richmond that are connected to MCE's Virtual Power Plant. When these buildings reduce their load as a group, they help reduce electric bills, greenhouse gases, and the risk of outages.

BENEFITS FOR THE COMMUNITY

- Balancing the demand for energy can prevent power outages and the need for rolling blackouts
- Better utilization of renewable energy sources contributes to cleaner energy for everyone
- Reduces pollution and greenhouse gas emissions

BENEFITS FOR THE HOMEOWNER

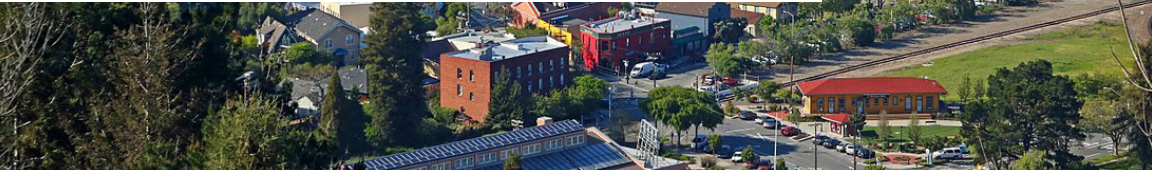
- Clean, on-site energy
- Optimized energy usage for lower energy rates
- Savings and electric bill credits through participation in MCE's Virtual Power Plant

About

The Richmond Community Foundation's Housing Renovation Program secures properties in Richmond through a social impact bond funded by Mechanics Bank. It aims to create clean, safe, and affordable homes that are energy-efficient. Homeowner financial support to join the Advanced Electric Homes program is funded by the California Energy Commission.

Building a More Vibrant Community

By restoring blighted and abandoned homes, the program strives to reinvigorate neighborhoods, make homeownership a possibility for more residents and—through local workforce development—provide training and jobs to the community it serves.

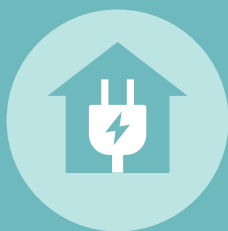


Made possible in part by:



To learn more, email virtualpowerplant@mceCleanEnergy.org

Your home can help save the planet



HOME. It means comfort, safety, and security. But what if you could go even further? The City of Richmond has partnered up with MCE and others to offer you a suite of home appliances so your home can contribute to a clean and sustainable energy grid for your entire community—and save you money. We'll help you access the latest in home technologies that are better for you, your family, and our environment.

[Learn more ▶](#)

The Richmond Advanced Energy Community

The Richmond Advanced Energy Community is a group of homes and buildings that have teamed up to lower pollution and the risk of power outages through small and automated energy-saving actions. It's powered by **MCE's Virtual Power Plant (VPP)**, a program that coordinates the community's smart devices so they can work together. This allows electricity to be distributed more efficiently, which can help the environment and reduce the risk of grid outages.

By participating, you'll get bill credits for every eligible device you connect. MCE's VPP will make automatic, slight shifts to your home's energy usage, allowing you to take advantage of lower-cost electricity prices throughout the day—without sacrificing convenience or comfort.

A Solution Tailored to You

We provide financial and technical support to design a solution that fits your needs—from identifying and securing the right technologies for your home, to contracting and installing them. We'll work with you to create a custom **no- or low-cost** package. These packages can range from self-installed devices to full electrification with solar panels, heat pump appliances, and more.



Packages may include:

- Smart home energy monitor
- Smart plugs
- Smart thermostat
- Heat pump water heater
- Heat pump space conditioner
- Electrical panel upgrades
- Rooftop solar panels
- Battery storage system
- Electric vehicle charger
- Gas capping for home electrification

Benefits

- ✓ Automatic load-shifting takes advantage of lower-cost times of the day, which can reduce your energy costs
- ✓ Monthly credits on your energy bill
- ✓ Enhanced resiliency during power outages with onsite battery storage installation
- ✓ A lower home carbon footprint
- ✓ A more reliable, lower-cost grid for the City of Richmond

Load-shifting programs like MCE's Virtual Power Plant help to limit the usage of back-up power sources called "**peaker plants**," most of which are gas- or oil-fueled, expensive to maintain and operate, and expose nearby communities to high levels of pollution. By drawing from several clean energy sources and responding quickly to demand during periods of high energy usage, these programs can result in lower energy costs and cleaner air for everyone.



How It Works



step 1

Schedule a home visit to discuss your custom no-/low-cost equipment package



step 2

We'll help secure and install your equipment and connect you to MCE's Virtual Power Plant



step 3

Get bill credits for helping to strengthen your local energy grid and reduce carbon emissions



It's easy to get started:

Contact virtualpowerplant@mceCleanEnergy.org to learn more and schedule a site visit. During our consultation, we'll discuss which equipment best suits your needs.

Projects are available for a limited time, while funding lasts. The first phase of this roll-out is limited to 100 homes. Preference will be given to income-qualified households that have worked with GRID Alternatives to install solar panels.



Project made possible in part by the California Energy Commission