**IMPORT RESOURCE ADEQUACY CAPACITY
CONFIRMATION LETTER
BETWEEN
[SELLER]
AND****CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**

This confirmation letter (“Confirmation”) confirms the Transaction between **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (“Seller”) and **Clean Power Alliance of Southern California**, a California joint powers authority (“Buyer”), each individually a “Party” and together the “Parties,” dated as of \_\_\_\_\_\_\_\_\_\_\_, 2018 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the EEI Master Power Purchase and Sale Agreement dated as of \_\_\_\_\_\_\_\_\_\_\_, 2018, together with any and all exhibits, schedules or supplements thereto or incorporated therein by reference, each in force and effect from time to time between the Parties (collectively, the “Master Agreement”), as amended and supplemented by this Confirmation, under the following terms and conditions. The definitions and provisions contained in this Confirmation, the Master Agreement, the RA Rules (as defined herein), and in the tariffs and/or protocols of the California Independent System Operator (“CAISO”) as amended from time to time (the “CAISO Tariff” or the “Tariff”), shall apply to this Confirmation and are incorporated by reference; provided that, to the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder. Consistent with Section 2.2 of the Master Agreement, this Confirmation, together with all other transactions, confirmations and the Master Agreement, form a single integrated agreement between the Parties and are not separate contracts. This Confirmation supersedes and replaces any prior oral or written confirmation or agreement, including broker confirmations, regarding this Transaction.

**ARTICLE 1**

**DEFINITIONS**

* 1. “Import Resource Adequacy (RA) Capacity Product” or “Import RA Capacity” means the qualified and deliverable capacity from the System Resource that can be counted toward Buyer’s RAR as described in the applicable RA Rules, and all other resource adequacy requirements established by any other regional entity responsible for RAR. Import RA Capacity does not confer to Buyer any right to the Contract Quantity of Seller’s System Resource other than the right to count such Contract Quantity toward Buyer’s RAR during the Delivery Term. Specifically, no energy associated with Seller’s System Resource is required to be made available to Buyer as part of this Import RA Capacity sale obligation, and Buyer shall in no way be responsible to compensate Seller for any commitments to CAISO as set forth in this Transaction.
	2. “Contract Quantity” means the amount of Import RA Capacity stated in megawatts (“MW”), made available twenty-four hours per day, seven days per week, to the RA Capacity Delivery Point through transmission service that is not recallable for economic reasons, and which is backed by operating reserves in the originating control area, delivered to the RA Capacity Delivery Point as set forth in this Transaction.
	3. “RA Capacity Delivery Point” means the CAISO Scheduling Point \_\_\_\_\_\_\_\_\_\_\_\_\_ which maps to the CAISO Branch Group \_\_\_\_\_\_\_\_\_ where Buyer holds intertie import capability, or another location as agreed to in writing by the Parties.
	4. “Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for Buyer by the California Public Utilities Commission (“CPUC”) pursuant to the RA Rules, or by any other governmental body having jurisdiction.
	5. “RA Rules” means orders of the California Public Utilities Commission (CPUC) as contained in D.04-01-050, D.04-10-035, D.05-10-042, D.06-04-40, D.06-06-064, D.06-07-031, D. 06-12-037, D.07-06-029, D.08-06-031, D.09-06-028, D.10-06-036, D.10-12-038, D.11-06-022, D.11-10-003, D.12-06-025, D.13-06-024, D.14-06-050, D.15-06-063, D.16-06-045, and any other existing, subsequent, or modifying decisions, resolutions, orders or rulings issued by the CPUC from time to time in the Resource Adequacy phases of Rulemaking R.04-04-003, R.05-12-013, R.08-01-025, R.09-10-032, R.11-10-023, R.14-02-001, R.14-10-001, and R.17-09-020 or by any applicable successor proceeding.
	6. “System Resource” means one or more of a group of resources located outside of the CAISO Control Area capable of providing Energy and/or Ancillary Services to the RA Capacity Delivery Point. System Resource does not include any energy source with an e-tag from a source point associated with a nuclear or coal-fired generating facility.

**ARTICLE 2**

**FURTHER ASSURANCES; REPRESENTATIONS AND WARRANTIES**

1. Throughout the Delivery Term, Seller and Buyer shall take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for the sole benefit of Buyer's or subsequent purchaser’s RAR in accordance with Section 8 herein consistent with the Tariff and RA Rules. Such commercially reasonable actions may include but are not limited to the following:
2. Meeting requirements established by the Tariff and CPUC in its RA counting protocols, including demonstration of the ability to deliver the Contract Quantity over all hours of the Delivery Term required for full RAR eligibility, and demonstrating that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to “deliverability” standards established by the CPUC or other regional entity or entities responsible for RA administration, and provision of a Supply Plan to the CAISO by Seller’s Scheduling Coordinator and sufficient information to allow for the submission of a complete Resource Plan by Buyer’s Scheduling Coordinator;
3. Negotiating in good faith to make necessary amendments, if any, to this Transaction to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC or regional entity or entities responsible for RA administration, so as to maintain the benefits of the bargain struck by the Parties; and
4. At all times using “Good Utility Practice”as defined in the Tariff.
5. Seller represents and warrants that throughout the Delivery Term:
6. Buyer or subsequent purchaser has the exclusive right to count the Contract Quantity of Import RA Capacity from Seller’s System Resource toward Buyer’s or subsequent purchaser’s RAR;
7. No portion of the Contract Quantity of Import RA Capacity has been committed by Seller to any third party in order to satisfy RAR or analogous capacity obligations in other markets; and
8. Seller shall abide by all applicable CAISO Tariff provisions and procedures approved by the Federal Energy Regulatory Commission (“FERC”), and RA Rules approved by the CPUC as they apply to the Import RA Capacity.

**ARTICLE 3**

**CAISO DISPATCH REQUIREMENTS**

Unless the System Resource is affected by an event of force majeure that results in a partial or full transmission outage reducing the amount of Contract Quantity, Seller shall commit the full Contract Quantity to the CAISO in compliance with the applicable provisions of the Tariff implementing the RA Rules, including, without reservation, section 40.6 of the Tariff. Buyer shall have no liability for the failure of Seller to comply with such Tariff provisions, including any penalties or fines imposed on Seller for such noncompliance.

**ARTICLE 4**

**CONTRACT QUANTITY AND DELIVERY TERM**

1. **Contract Quantity** **and Delivery Term**
2. Delivery Term: \_\_\_\_\_\_\_\_\_\_\_\_ through \_\_\_\_\_\_\_\_\_\_\_\_, inclusive.
3. Contract Quantity: \_\_\_\_ MW
4. Intertie Resource ID: \_\_\_\_\_\_\_\_

**ARTICLE 5**

**MONTHLY IMPORT RA CAPACITY PAYMENT**

With respect to each Showing Month, Buyer shall make a Monthly Import RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. The Parties hereby agree that all invoices under this Confirmation shall be due and payable on the twenty-third (23rd) day of the month following the month in which Seller delivered such invoice, provided that if such day is not a Business Day, then such invoice will be due and payable on the next Business Day that occurs after the twenty-third (23rd) day of the month. Each Unit’s Monthly Import RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places).

Contract Price: $\_\_\_\_/kW-month

Buyer shall pay the Contract Price to Seller in accordance with the Master Agreement.

**ARTICLE 6**

**BUYER’S AND SELLER’S SCID**

Buyer: LLACC

Seller: \_\_\_\_\_\_\_

**ARTICLE 7**

**CAISO REVENUES**

Seller shall retain any and all revenues received from the CAISO in relation to this Transaction.

**ARTICLE 8**

**RESALE OF IMPORT RA CAPACITY**

* 1. Buyer may re-sell all or a portion of the Contract Quantity and any associated rights, in each case, acquired under this Transaction. In the event Buyer re-sells all or a portion of the Contract Quantity of Import RA Capacity and any associated rights acquired under this Transaction (“Resold Import RA Capacity”) Seller agrees to follow Buyer’s instructions with respect to providing such Resold Import RA Capacity to subsequent purchasers of such Resold Import RA Capacity. Seller further agrees to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Import RA Capacity, provided the foregoing shall not require Seller to enter into any agreements or transactions directly with any such subsequent purchaser. Seller acknowledges and agrees that with respect to any Resold Import RA Capacity, if Buyer incurs any liability to any purchaser of such Resold Import RA Capacity due to the failure of Seller to comply with the terms of this Transaction, and Seller would have had liability to Buyer under this Transaction for such failure had Buyer not sold the Resold Import RA Capacity to a subsequent purchaser, then Seller shall be liable to Buyer under this Confirmation to the extent it would have been liable to Buyer had such Resold Import RA Capacity not been sold to a subsequent purchaser.
	2. Seller’s obligations under this Section 8 are contingent on Buyer notifying Seller with the information required by this Section 8 no later than two (2) Business Days prior to the deadline for filing the Supply Plan for the Resold Import RA Capacity. Further, any resale of Import RA Capacity by Buyer to a subsequent purchaser must be permitted under the Tariff, CAISO business practices and applicable law, and Seller shall not be required to take any action hereunder or execute any documents or instruments that would not be permitted under the Tariff, CAISO business practices or applicable law.
	3. In the event there is any Resold Import RA Capacity, Buyer agrees to notify Seller that such a sale has occurred and agrees to provide Seller with the information specified below promptly following such sale (and any other information reasonably requested by Seller so that Seller may perform its obligations in this Section 8) and promptly notify Seller of any subsequent changes to such information with respect to any particular sale:
		1. Benefitting load serving entity SC identification number (SCID),
		2. Volume (in MW) of Resold Import RA Capacity,
		3. Subsequent Sale delivery period for Resold Import RA Capacity.

**ARTICLE 9**

**INDEMNITY**

To the extent that Seller fails to fulfill its obligations under this Confirmation and such failure is not excused under this Confirmation or the Master Agreement or by Buyer’s failure to perform, then Seller agrees to indemnify Buyer for:

1. monetary penalties, directly resulting from Seller’s nonperformance hereunder, assessed against Buyer by the CPUC and the CAISO, as applicable, pursuant to the RA Rules or Tariff as applicable as of the date of this Confirmation, but only to the extent such penalties could not be avoided by Buyer, acting reasonably, following notice from Seller of its nonperformance; and
2. costs of any RA Capacity incurred by Buyer to address a deficiency hereunder, using reasonable efforts to procure a product similar in price to Import RA Capacity, in such quantity equal to the Contract Quantity less the quantity of Import RA Capacity provided to Buyer by Seller hereunder. At Seller’s discretion, in lieu of reimbursing Buyer for the costs set out in this Section 9.(b), Seller may provide RA Capacity, provided such RA Capacity meets the requirements of the RA Rules and the Tariff.

Notwithstanding the foregoing, if approved by the CPUC and/or the CAISO, Seller may replace any Product necessary for Buyer to make its equivalent RA demonstration with another System Resource. For purposes of this Section 9, the term “Buyer” shall include any third party entity to which Buyer resells any of the Contract Quantity.

**Acknowledged and agreed to as of** **the Confirmation Effective Date.**

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| **[SELLER]**  | **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
| Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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| Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |