

**GOVERNMENT OF PUERTO RICO  
PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**NEPR**

**Received:**

**Oct 11, 2023**

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**IN RE:** AMENDMENT TO POWER  
PURCHASE OPERATING AGREEMENT  
BETWEEN PREPA AND CIRO ONE  
SALINAS LLC

**CASE NO.:** NEPR-AP-2021-0001

**SUBJECT:** Petition for Approval of  
Amendment to Power Purchase Operating  
Agreement Between the Puerto Rico Electric  
Power Authority and CIRO One Salinas LLC

**PETITION FOR APPROVAL OF AMENDMENT TO POWER PURCHASE  
OPERATING AGREEMENT BETWEEN THE PUERTO RICO ELECTRIC  
POWER AUTHORITY AND CIRO ONE SALINAS LLC**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

**COMES NOW** the Puerto Rico Electric Power Authority (PREPA), through its counsel  
of record, and respectfully submits and prays as follows:

**I. INTRODUCTION**

PREPA is responsible for providing and ensuring reliable electric power service, both short-term and long-term, to all Puerto Ricans at the lowest possible cost. Likewise, PREPA has the responsibility to contribute to the general well-being and sustainable future of the people of Puerto Rico, maximizing the benefits and minimizing the social, environmental and economic impacts of its services. One of PREPA's commitments is to advance Puerto Rico's public energy policy by complying with increasing renewable energy production requirements.

With this petition, PREPA presents to the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a request to amend a power purchase and operating agreement by which PREPA will purchase energy produced by renewable resources to increase the net electrical output that PREPA will purchase. This increase means that Puerto Rico's

generation from renewable sources will increase, thus, advancing the transition from fossil fuels to renewable energy.

Wherefore, in compliance with Section 6.32(a) of Act 57-2014, PREPA requests the Energy Bureau to evaluate and approve the Proposed Amendment to the CIRO One Salinas LLC (“CIRO One”) Power Purchase and Operating Agreement (PPOA).

## **II. RELEVANT FACTS**

In early 2019, PREPA determined that to achieve the objectives provided by Law 17-2019 and comply with the financial requirements established in the Fiscal Plan, the renegotiation of some of the approximately fifty (50) PPOAs was necessary. Between 2009 and 2014, PREPA signed and renegotiated several PPOAs for the development of renewable energy projects. A group of these projects had not yet reached commercial operation in 2019.

On June 19, 2020, PREPA presented to the Energy Bureau its *Petition for Approval of Amendments to Renewable Energy Purchase Contracts: Non-Operational Project[s]*, in which it requested the regulatory entity the approval of amendments to sixteen (16) PPOAs whose renewable energy projects had not yet reached commercial operation. Among the sixteen (16) PPOAs was the one signed between CIRO One and the PREPA.<sup>1</sup> CIRO One and PREPA had signed a PPOA for the development of a 77 MW photovoltaic renewable energy project. Under the terms of the contract, CIRO One would sell PREPA 77 MW of renewable energy capacity for \$15.0 c/kWh along with a charge of \$3.5 c/kWh for RECs. At the date of the renegotiation, CIRO One had not managed to bring its project to commercial operation. After some procedural steps, on September 10, 2020, the Energy Bureau issued a *Resolution and Order* giving its conditional approval to the Amended PPOA between CIRO One and PREPA. After the Energy Bureau had

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<sup>1</sup> Renewable Power Purchase and Operating Agreement between CIRO One Salinas, LLC and PREPA, dated October 25, 2010.

given its approval to the amended PPOA, PREPA presented it to the Financial Oversight and Management Board for Puerto Rico (“FOMB” or “Oversight Board”) for evaluation in accordance with its contract review policy. On August 17, 2020, the Oversight Board informed PREPA that the total renewable energy that it had to develop using as a basis the prices that PREPA managed to renegotiate in the agreements should not exceed 150 MW. On September 22, 2020, PREPA filed a *Motion to Report Withdrawal of Amendment to the Power Purchase Contract Without Prejudice to Subsequent Filing* (“Withdrawal Motion”). Through the Withdrawal Motion, PREPA informed the Bureau of what was expressed by the Oversight Board in its letter and that, in compliance with the directive given, it would proceed to reevaluate the amended PPOAs in order to make the requested ranking and recommend the PPOAs that should be selected to comply with the approved 150 MW of production. PREPA also reported that, for the reasons explained therein, it was withdrawing the request for approval of the amended PPOAs, including the amended PPOA between CIRO One and PREPA. By *Resolution and Order* issued on December 8, 2020, the Energy Bureau accepted the Withdrawal Motion as a request for withdrawal and decreed the filing and closure of case no. NEPR-AP-2020-0008. The Energy Bureau further indicated that any future petition regarding PPOAs would be evaluated as a new case and would be considered with the circumstances prevailing at the time of its presentation.

Thereafter, on March 17, 2021, PREPA submitted to the Energy Bureau a document titled *Petición de Aprobación de Enmienda a Contrato de Compraventa de Energía Renovable con Ciro One Salinas*, whereby PREPA requested that certain amendments to the CIRO One PPOA. Through the Petition, PREPA stated that it managed to renegotiate the CIRO One PPOA, which resulted in a reduction in the price of kilowatt-hour (kwh) at a cost of \$0.0989/kWh and, if approved, the project would enter into commercial operation two (2) years after the beginning of

its construction, contributing as well as the requirements of the Renewable Energy Portfolio (“RPS”). On June 10, 2021, the Energy Bureau issued a Resolution and Order, approving the CIRO One PPOA.

Accordingly, PREPA and CIRO One Salinas, LLC (CIRO One) signed an Amended and Restated Power Purchase and Operating Agreement (PPOA) on July 14, 2021. The CIRO PPOA was denominated as "Shovel ready" and was approved by Energy Bureau and the Financial Oversight and Management Board for Puerto Rico (FOMB). The resulting PPOA was under evaluation by LUMA Energy, LLC (LUMA) to finalize the interconnection agreement through the construction by CIRO One of a sectionalizer.

Similar to Tranche I projects, in order to reduce the impact of the global and market conditions affecting the project feasibility CIRO One’s representatives have requested from PREPA a capacity increase without having to increase the contract price not any other term or condition in the CIRO One PPOA. CIRO One cited a number of challenges including, but not limited to, process delays, supply chain issues (including reduced manufacturing capacity, higher demand and shortages on available inventory, as well as increased freight costs); severe inflation and political risks; coupled with uncertainty of the impact of the anti-inflation act and tax equity guidelines applicable to Puerto Rico and insurance premium increases after hurricane Ian and Fiona, among others, have deeply affected the estimated construction costs and, therefore, impacted the feasibility of projects at a local level.

On May 24 2023, PREPA’s Governing Board met and determined to allow PREPA’s management to execute an amendment to the CIRO One PPOA to increase the Project capacity. The authorized amendment is to increase the project capacity by 50 MW, representing an increase from 90 MW to 140 MW, under the same terms and conditions as set forth in the Amended and

Restated PPOA executed on July 14, 2021, subject to the approval of the Energy Bureau, FOMB and other stakeholders. *See*, Resolution 5054, *Approval of Amendments to the Power Purchase and Operating Agreement with CIRO One Salinas, LLC* dated May 24, 2023, attached as Annex A.

Wherefore, in compliance with Resolution 5054 of the PREPA Governing Board, PREPA herein submits for the evaluation and approval of the Energy Bureau a proposed draft amendment to the CIRO One PPOA (“Proposed Amendment”) by which the latter and PREPA have agreed to increase the Project capacity by 50 MWac, for a total capacity of 140MWac. *See*, Annex B. The increase in the Project capacity is the only modification the parties seek with the Proposed Amendment; thus, the remainder of the terms under the CIRO One PPOA would remain as executed July 14, 2021, and, therefore, unaffected.

### **III. STATEMENTS OF LAW**

The Energy Bureau has the power to implement the regulations and regulatory actions necessary to guarantee the capacity, reliability, safety, efficiency and reasonableness in rates of the Puerto Rico electricity system. Section 6.3 of Act 57-2014. One of the venues through which an electric service company may provide such guarantees is through the purchase of power and storage through the execution of power purchase agreements.

The Energy Bureau has the power and exclusive jurisdiction to evaluate and approve all agreements between electric power service companies, including independent power producers, before the execution thereof. Act 57-2014 at Sec. 6.32(a). This includes, but shall not be limited to, the evaluation and approval of power purchase agreements whereby an independent power

producer shall provide energy to the electric power service company responsible for operating the Electrical System. *Id*; *see also*, Act 17-2019 at Sec. 1.11.

Power purchase agreements shall be awarded considering the goals and mandates established in the Renewable Portfolio Standards, which compel the transition from energy generation from fossil fuels to an aggressive integration of renewable energy as provided in Act No. 82-2010. *Id*. According to several laws, the goal of the energy public policy is to reduce and eventually eliminate electric power generation from fossil fuels by integrating orderly and gradually alternative renewable energy while safeguarding the stability of the Electrical System and maximizing renewable energy resources in the short-, medium-, and longterm. Act no. 17-2019 at Section 1.6. For such purpose, a Renewable Portfolio Standard is established to achieve a minimum of forty percent (40%) on or before 2025, sixty percent (60%) on or before 2040, and one hundred percent (100%) on or before 2050. *Id*.

Per Act 57-2014, the Energy Bureau oversees processes like procurement or renewable energy and storage. It has the power to establish the guidelines, standards, practices and processes to be followed for the processes that PREPA carries out concerning the purchase of energy from other electric service companies. In addition, the Energy Bureau has the power to establish by regulation the rules of public policy regarding electric service companies, as well as any transaction, action or omission that affects the electric grid and electrical infrastructure in Puerto Rico, and implement said public policy rules. The Bureau must apply public policy rules consistent with the public energy policy declared by legislation. Following this mandate, the CIRO One PPOA was executed.

As mentioned above, PREPA and CIRO One have agreed in principle to increase the capacity of the Project. Pursuant to the applicable laws and regulations, this agreement, which is reflected in the Proposed Amendment, must be approved by the Energy Bureau.

#### **IV. ARGUMENT AND REQUEST**

The CIRO One PPOA was executed after a rigorous process approved by the Energy Bureau and the FOMB. The CIRO One PPOA, along with the other legacy renewable project and the projects selected according to the results of the Tranche 1 RFP, will help PREPA further the goals of the Puerto Rico energy public policy, thus moving away from fossil fuels and transitioning to renewable energy resources and storage systems. After thoroughly evaluating CIRO One's arguments, PREPA determined to enter into an agreement in principle with CIRO One for the Proposed Amendment. PREPA understands that the increase in the Project capacity is in Puerto Rico's and its customers' best interests and is aligned with the applicable laws and regulations. In compliance with the above laws and regulations, PREPA requests the Energy Bureau to evaluate and approve the Proposed Amendment to the CIRO One PPOA and approve the capacity increase of the project.

**WHEREFORE**, for the reasons stated above, PREPA respectfully requests that the Energy Bureau **evaluate** and **approve** the Proposed Amendment.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on the 11<sup>th</sup> day of October 2023.

/s Joannely Marrero-Cruz

Joannely Marrero-Cruz

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## **CERTIFICATE OF SERVICE**

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>.

In San Juan, Puerto Rico, on the 11<sup>th</sup> day of October 2023.

/s Joannely Marrero-Cruz  
Joannely Marrero-Cruz

## Annex A



# GOVERNMENT OF PUERTO RICO

PUERTO RICO ELECTRIC POWER AUTHORITY

Governing Board | jgob@prepa.com

## RESOLUTION 5054

### Approval of the Amendment to the Power Purchase and Operating Agreement with CIRO One Salinas, LLC

WHEREAS: The Puerto Rico Electric Power Authority (PREPA) is a public corporation and an instrumentality of the Government of Puerto Rico created by Act 83 of May 2, 1941, as amended (Act 83). PREPA was created to provide electrical energy in a reliable way contributing to the general welfare and sustainable future of the people of Puerto Rico, maximizing benefits and minimizing social, environmental, and economic impacts. In addition, PREPA provides a service based on affordable, fair, reasonable, and non-discriminatory costs that is consistent with environmental protection, non-profit, focused on citizen participation and its clients.

WHEREAS: Act 83 authorizes PREPA to grant contracts and formalize all the instruments that are necessary or convenient in the exercise of any of its powers.

WHEREAS: On July 14, 2021, PREPA and CIRO One Salinas, LLC (CIRO One) signed an Amended and Restated Power Purchase and Operating Agreement (PPOA). The subject project was denominated "Shovel ready" and was approved by the Puerto Rico Energy Bureau (PREB) and the Financial Oversight and Management Board for Puerto Rico (FOMB). The resulting PPOA was under evaluation by LUMA Energy, LLC (LUMA) to finalize the interconnection agreement through the construction by CIRO One of a sectionalizer. *allc*

WHEREAS: As stated by Mr. Mario Tomasini, President of CIRO One, to reduce the impact of the global and market conditions affecting the project feasibility, CIRO One is proposing to amend the current PPOA to increase by 50 MW the already approved 90 MW project without having to increase the contract price nor any other term or condition as set forth in the PPOA.

WHEREAS: Although the CIRO One project is not part of the Tranche 1 projects, the reasons for price increases requested by Tranche 1 proponents were stated in the May 9, 2022 letter sent to Mr. Edison Aviles-Deliz, Chairman of the PREB, as part of the lessons learned from Tranche 1 process. The reasons set out for the higher pricing request included factors that neither PREPA nor PREB control.



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WHEREAS: The above-mentioned factors are no longer speculative, as they might sound at the time of the issuance of the letter to Mr. Aviles-Deliz. CIRO group is undertaking the construction of CIRO One, a previously approved 90 MW PPOA, and is facing the constraints mentioned in their request for the increment in MWs.

WHEREAS: According to CIRO One development team, the impact on construction cost on CIRO One would be mitigated with a 50 MWac increase from the 90 MWac as set forth in the current PPOA. The CIRO One development team has already paid for the interconnection assessment fees quoted by LUMA, and a determination was made to undertake the construction of a sectionalizer to interconnect the project. The parties are working on some matters regarding the fees for oversight imposed by LUMA. With the expanded capacity, the development team will include an increase in the Battery Energy Storage System (BESS) for minimum technical requirements (MTR) compliance.

THEREFORE: In accordance with Act 83, PREPA's Governing Board resolves to approve and authorize:

1. The Amendment to the CIRO One PPOA to increase the project capacity by 50 MWac, representing an increase from 90 MW to 140 MW, under the same terms and conditions as set forth in the Amended and Restated PPOA executed on July 14, 2021.
2. The submission of the proposed CIRO One PPOA Amendment for the approval of the PREB, FOMB, and other stakeholders as required by law.
3. Following such approvals, finalization, and execution of the CIRO One PPOA Amendment by PREPA's Executive Director.
4. The execution of such ancillary documentation and carrying out such other steps as reasonably necessary to undertake the foregoing.

Approved in San Juan, Puerto Rico, on the twenty-fourth day of May two thousand twenty-three.

  
Astrid I. Rodríguez-Cruz  
Corporate Secretary

## Annex B

**AMENDMENT NO. 1  
TO THE  
AMENDED AND RESTATED  
POWER PURCHASE AND OPERATING AGREEMENT  
BETWEEN  
CIRO ONE SALINAS LLC  
AND  
THE PUERTO RICO ELECTRIC POWER AUTHORITY**

This Amendment No. 1 to the Amended and Restated Power Purchase and Operating Agreement (this “**Amendment**”) is entered into as of [●], 2023 (the “**First Amendment Effective Date**”), by and between the Puerto Rico Electric Power Authority (“**PREPA**”) and CIRO ONE SALINAS LLC (“**SELLER**”). PREPA and Resource Provider are herein individually referred to as a “**Party**” and collectively referred to as “**Parties**.” All capitalized terms used in this Amendment and not otherwise defined shall have the meaning given to them in the Agreement (defined below).

**RECITALS**

WHEREAS, the Parties entered into that certain Amended and Restated Power Purchase and Operating Agreement, dated July 14, 2021 (the “**Agreement**”);

WHEREAS, as of the date hereof, construction of the Facility has advanced significantly;

WHEREAS, pursuant to Resolution 5054 of May 24, 2023, PREPA’s Governing Board authorized an increase of 50,000 kW to the Nominal Capacity of the Facility under the same economic terms of the July 14, 2021 Agreement;

WHEREAS, pursuant to the Resolution and Order of [●], 2023, in Case No. NEPR-AP-2023-[●], the Puerto Rico Energy Bureau authorized said increase in the Nominal Capacity of the Facility to 140,000 kW and this Amendment;

WHEREAS, SELLER will construct the Facility in phases, with Phases 1 and 2 comprising a capacity of up to 90 MWac and 50 MWac, respectively (“**Phase 1**” and “**Phase 2**,” respectively); and

WHEREAS, the Parties now desire to amend certain provisions of the Agreement in accordance with the terms of this Amendment,

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

**SECTION A. Amendments**

1. In Article 1.1 (*Definitions*), the following defined terms and their corresponding definitions are hereby deleted from such section: “**Guaranteed FNTF Date**”.
2. In Article 1.1 (*Definitions*), the following defined terms and corresponding definitions are hereby amended and restated in their entirety:

“**Additional Interconnection Facilities**” means all equipment and facilities, located on SELLER’s side of the Interconnection Point (including the Phase 1 or Phase 2 meter and



SELLER's back-up meters and metering devices, if any), constructed and installed for the purpose of interconnecting the remainder of the Facility with the Grid System, as further described in Appendix B.

**“Continuous Operation Date”** means, after the Commercial Operation Date, the first Day following the date on which SELLER has certified to PREPA, in accordance with Article 12.2(d), that (a) Phase 2 (i) has been installed, completed, tested, and commissioned, together with the PREPA Interconnection Facilities, (ii) has demonstrated a Generating Capacity (as adjusted for Ambient Conditions at the time of testing in accordance with the Testing Protocol and without exceeding the limits of the Approved Design) that meets no less than eighty-five percent (85%) of the Nominal Capacity (or, to the extent that the Generating Capacity is less than eighty-five percent (85%) of the Nominal Capacity, the Parties have amended the Nominal Capacity in accordance with Article 12.2(c)), (iii) is capable of providing Net Electrical Output to PREPA at the Interconnection Point, and (iv) is available for continuous operation by SELLER, in each case, in accordance with Prudent Electrical Practices and this Agreement, including the provisions of Article 4, Article 9, and Article 12, and (b) SELLER has obtained, and maintains in force, all material Permits required for the construction and operation of Phase 2

**“Facility”** means the photovoltaic solar energy system located at the Site, capable of delivering Net Electrical Output at the Interconnection Point, including the Additional Interconnection Facilities and any energy storage system, approved capacity expansion or other upgrades to such solar energy system from time to time; provided that before the Continuous Operation Date, the term Facility shall refer solely to Phase 1 thereof.

**“First Amendment Effective Date”** shall have the meaning provided in the introductory paragraph of this Amendment.

**“Initial Synchronization Date”** means, for Phase 1 or Phase 2, as may be applicable, the first date when SELLER's electricity generating equipment is synchronized with the Grid System.

**“Legal Challenge”** means any action, suit or proceeding brought or commenced by a third party (excluding any Affiliate of a Party) seeking to contest the validity of this Agreement, any Permits or the development, construction or operation of Phase 1 or Phase 2, as may be applicable, or the PREPA Interconnection Facilities which materially impairs the ability of the Parties to perform their respective obligations hereunder or delays the development, construction or operation of Phase 1 or Phase 2, as may be applicable, or the PREPA Interconnection Facilities.

**“Nominal Capacity”** means 90,000 kW for Phase 1; 50,000 kW for Phase 2; and as the context may require and after the Continuous Operation Date, 140,000 kW for the Facility.

**“Permits”** means all permits, licenses, approvals, authorizations, consents, variances or waivers issued by federal, Commonwealth of Puerto Rico and local agencies, commissions, authorities, and regulatory bodies with jurisdiction over SELLER and the Facility which are necessary for the development, construction, ownership, operation, maintenance or financing of Phase 1 or Phase 2 and the Interconnection Facilities.

**“Phase 1”** shall have the meaning provided in the preamble.

“Phase 2” shall have the meaning provided in the preamble.

“PREPA interconnection Facilities” or “PIF” means all equipment and facilities, located on PREPA’s side of the Interconnection Point, constructed and installed or upgraded for the purpose of interconnecting Phase 1 or Phase 2, as may be applicable, with the remainder of the Grid System, as further described in Appendix B, and not to include communication, control and protection equipment for which this Agreement assigns responsibility to SELLER.

3. The last sentence of Article 4.1 (*Preliminary Information*) is hereby amended to read in its entirety as follows: “SELLER shall submit progress reports to PREPA on the development, construction, permitting, third-party contracting and financing of Phase 1 and Phase 2, as may be applicable, along with other matters relating thereto and reasonably requested by PREPA, with copy to the PREB, by the fifth (5<sup>th</sup>) Business Day of every Month commencing on the first Month following the Effective Date until the Commercial Operation Date.” The following provision is hereby inserted immediately afterwards: For Phase 2, SELLER shall submit to PREPA the information required under (a), (b), (c), (d) and (e) of this Article 4.1 within one hundred eighty (180) Days of the First Amendment Effective Date.
4. The last sentence of Article 4.3 (*Changes to Nominal Capacity*) is hereby amended to read in its entirety as follows: “PREPA shall have the right to approve or reject such request in its sole discretion, and if PREPA approves such request, then the Parties shall amend the Nominal Capacity and the Energy Yield Assessment Report.” The following provision is hereby inserted immediately afterwards: For Phase 2, SELLER shall pay PREPA the amount of [\$●] to account for PREPA’s costs to perform the evaluations and studies as per Article 4.2, which payment shall accompany the information submitted by SELLER under said Article 4.2 for Phase 2.
5. The first sentence of Article 4.4(a) (*Performance*) is hereby deleted.
6. In Article 4.5 (*Extensions of Time*), the following phrase is hereby deleted: “(including any extensions on the Guaranteed FNTF Date that would reasonably be expected to extend the same)”.
7. The first sentence of Article 4.7 (*Synchronization*) is hereby amended to read in its entirety as follows: “SELLER shall notify PREPA in writing of the proposed Initial Synchronization Date (the “Proposed Initial Synchronization Date”) and the start-up and testing schedule for Phase 1 or Phase 2, as may be applicable, and the PREPA Interconnection Facilities not later than sixty (60) Days prior to such Proposed Initial Synchronization Date.”
8. The second sentence of Article 6.2 (*Compliance with Law*) is hereby amended to read in its entirety as follows: “SELLER shall complete all environmental impact studies necessary for the design, construction, operation and maintenance of Phase 1, Phase 2 and the PREPA Interconnection Facilities.”
9. Article 9.1 (*General*) is hereby amended to read in its entirety as follows: “PREPA agrees to allow Phase 1 and Phase 2 to interconnect to the Grid System at the Interconnection Point in accordance with the terms of this Agreement, including Article 9.5. Appendix B sets forth: (a) a description of the Interconnection Facilities; (b) a specification of the Interconnection Point; and (c) the information required for the Interconnection Study needed to interconnect Phase 1 and Phase 2 to the Grid System.”



10. The first sentence of Article 9.3 (*Voltage Schedule*) is hereby amended to read in its entirety as follows: “PREPA shall prepare and submit to SELLER a written voltage schedule or Phase 1 or Phase 2, as may be applicable, no later than thirty (30) Days prior to the Proposed Initial Synchronization Date.”
11. All instances in Article 9.4 (*Final Design*) in which the phrase “the Facility” is used are hereby replaced by the phrase “Phase 1 or Phase 2, as may be applicable, ...”
12. All instances in Article 9.5 (*Interconnection Facilities*) in which the phrase “the Facility” is used are hereby replaced by the phrase “Phase 1 or Phase 2, as may be applicable, ...” Article 9.5(d) is hereby amended to read in its entirety as follows: “SELLER shall provide PREPA with as-built drawings of the Interconnection Facilities and of Phase 1 within ninety (90) Days after the Commercial Operation Date, and of Phase 2 within ninety (90) Days after the Continuous Operation Date, and within ninety (90) Days after any material modification of the Interconnection Facilities or remainder of the Facility to the extent the information in such as-built drawings are affected.”
13. All instances in Article 12.2 (*Testing*) in which the phrase “the Facility” is used are hereby replaced by the phrase “Phase 1 or Phase 2, as may be applicable, ...” The term “Commercial Operation Date” used in sub-paragraphs (c) and (d) of Article 12.2 is hereby replaced by the phrase “Commercial Operation Date or Continuous Operation Date, as may be applicable.”
14. The term “Commercial Operation Date” in sub-paragraphs (a) and (b) of Article 12.3 (*Completion of PREPA Interconnection Facilities*) is hereby amended to read “Continuous Operation Date”. All instances in Article 12.3 in which the phrase “the Facility” is used are hereby replaced by the phrase “Phase 1 or Phase 2, as may be applicable, ...”
15. Sub-paragraph (d) of Article 16.1 (*Termination Date*) is hereby deleted and substituted by the phrase “Intentionally omitted.” The phrase “The deadlines in sub-paragraphs (c) and (d) shall ...” is hereby amended to read “The deadline in sub-paragraph (c) shall ...”
16. Sub-paragraph (b) of Article 17.3 (*Operation Security*) is hereby amended to read in its entirety as follows: “Upon commencing construction of Phase 2, SELLER agrees to increase the Operation Security by the amount equal to the product of \$30.00/kW multiplied by the increase of the Nominal Capacity attributable to Phase 2.”
17. A new sup-paragraph (i) is hereby added to Article 19.1 (*Insurance Requirements*) as follows:
  - (i) Notwithstanding the foregoing, in the event any insurance (including the limits or deductibles thereof) required to be maintained by this Article 19.1, other than insurance required to be maintained by Law, is not available on commercially reasonable terms in the commercial insurance market, PREPA (acting upon consultation with an independent insurance consultant), shall not unreasonably withhold its agreement to waive (or modify) such requirement to the extent the required insurance is not so available and/or, to the extent feasible, may allow SELLER to obtain the best available insurance comparable to insurance meeting the requirements of this Article 19.1 on commercially reasonable terms then available in the commercial insurance market (as determined by an independent insurance consultant); provided that (i) SELLER shall first request any such waiver (or modification) in writing, which request shall be accompanied by written reports prepared by SELLER and an independent insurance consultant, satisfactory to PREPA, certifying that such insurance is not available on commercially reasonable

terms in the commercial insurance market for solar energy generation projects of similar type and capacity (and, in any case where the required amount is not so available, certifying as to the maximum amount which is so available) and explaining in detail the basis for such conclusions and the form and substance of such reports to be satisfactory to PREPA; (ii) at any time after the granting of any such waiver (or modification), but not more often than once annually, PREPA may request, and SELLER shall furnish to PREPA within fifteen (15) days after such request, supplemental reports satisfactory to PREPA updating the prior reports and reaffirming such conclusion; and (iii) any such waiver (or modification) shall be effective only for so long as such insurance shall not be available on commercially reasonable terms in the commercial insurance market (as determined by an independent insurance consultant), it being understood that the failure of SELLER to timely furnish any such supplemental report shall be conclusive evidence that such waiver (or modification) is no longer required because such condition no longer exists.

18. Appendix B (*Interconnection*) and Appendix B-1 (*Electrical Interconnection Single-Line*) of the Agreement are hereby amended and restated in their entirety as shown in **Appendix B** and **Appendix B-1** attached hereto. [Original Appendix B and B-1 refer to an interconnection point at Aguirre.]

## **SECTION B. Representations and Warranties**

1. PREPA hereby represents and warrants to SELLER that: (a) the execution and delivery by PREPA of this Amendment has been duly authorized by PREPA's Governing Board; and (b) this Amendment is a legal, valid, and binding obligation of PREPA, enforceable against PREPA in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally, and subject to the approvals required by the Conditions Subsequent as defined therein.
2. SELLER hereby represents and warrants to PREPA that: (a) the execution, delivery, and performance by SELLER of this Amendment (i) have been duly authorized, (ii) do not and will not require any additional internal consent or approval of SELLER and (iii) do not and will not violate any provision of SELLER's certificate of formation or operating agreement, or any material indenture, contract or agreement to which it is a party or by which it or its properties may be bound, or any law, ordinance, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect; and (b) this Amendment is a legal, valid and binding obligation of SELLER, enforceable against SELLER in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.

## **SECTION C. Miscellaneous**

1. Information for Controller's Office. PREPA will charge all payments that it owes under the Agreement, as amended by this Amendment, to PREPA's budget account number [●] and estimates that its costs under the Agreement will not exceed [\$●]. For the avoidance of doubt, the Parties have set out the expected account number and estimate of costs for informational purposes to satisfy the requirements of the Puerto Rico Controller. This paragraph does not bind the Parties or modify any other provision of the Agreement.
2. Headings. The headings in this Amendment are for reference only and do not affect the interpretation of this Amendment.

3. No Implied Waiver. This Amendment shall be limited precisely as written and does not modify any provisions of the Agreement except as specifically amended above. This Amendment shall not be deemed to be a consent granted pursuant to, or a waiver or modification of, any other term or condition of the Agreement, whether or not known to the Parties, or to prejudice any other right or rights which the Agreement may now have or have in the future.
4. Counterparts. This Amendment may be executed in any number of counterparts with the same effect as if both Parties had signed the same document. All counterparts shall be construed together and shall constitute one instrument.
5. Entire Agreement. The Parties intend the Agreement, as amended by this Amendment, as the final expression of their agreement and also as a complete and exclusive statement of the terms of their agreement with respect to the subject matter thereof that supersedes all prior written and oral understandings between the Parties with respect thereto.
6. Governing Law. This Amendment shall be governed by, construed, and enforced in accordance with the Laws of the Commonwealth of Puerto Rico without regard to any contrary result required under applicable conflicts of laws rules. The Parties herein agree that all Disputes arising hereunder shall be resolved pursuant to Article 21 (*Dispute Resolution*) of the Agreement.

*[Signatures appear on the following page.]*

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed by their respective officers as of the date first above written.

**PUERTO RICO ELECTRIC POWER AUTHORITY**

By: \_\_\_\_\_  
Name:  
Title:

**CIRO ONE SALINAS LLC**

By: \_\_\_\_\_  
Name:  
Title: