

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

NEPR

Received:

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IN RE: LUMA'S ACCELERATED
STORAGE ADDITION PROGRAM
("ASAP")

CASE NO.: NEPR-MI-2024-0002

**MOTION IN PARTIAL COMPLIANCE WITH RESOLUTION AND ORDER OF OCTOBER 23,
2026 AND REQUEST FOR BRIEF EXTENSION OF TIME**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal counsel and respectfully informs and requests as follows:

1. On October 16, 2026, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") *Motion for Approval of the Proposed First Amended and Restated EcoEléctrica BESS Standard Offer Agreement, Request for Confidential Treatment and Memorandum of Law in Support of Confidential Treatment* ("October 16 Motion"), whereby it requested approval of the proposed First Amended and Restated BESS Standard Offer Agreement ("Proposed Amended Agreement") between PREPA and EcoEléctrica BESS LLC ("EcoEléctrica").

2. On October 23, 2026, the Energy Bureau issued a *Resolution and Order* ("October 23 Order") directing PREPA to submit the following information and documentations concerning the Proposed Amended Agreement within five (5) days of notification of the October 23 Order, that is, on or before October 28, 2026:

Request No. 1: Executed ESSA. A complete copy of the BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026, in PDF

format, duly executed by the parties, including all exhibits, schedules, and attachments, as well as a complete editable version of the same agreement in native Microsoft Word format.

Request No. 2: Supporting Documentation. All studies, analyses, evaluations, and other substantive documents prepared, exchanged, reviewed, or relied upon by PREPA, LUMA, or EcoEléctrica in connection with the evaluation, negotiation, or justification of the modifications included in the Proposed Amended Agreement. This requirement includes substantive documents exchanged among the parties that support the proposed amendments but does not require the production of routine administrative correspondence unrelated to the substantive evaluation of the proposed changes.

Request No. 3: Price Parity Provision. With respect to the proposed provision allowing an increase in the Storage Capability Payment Price based on an Energy Bureau approved price increase under another amended and restated ASAP agreement, PREPA shall explain the legal, commercial, and financial justification for incorporating such a mechanism into the existing agreement including why PREPA considers this provision reasonable and advantageous to PREPA and its customers.

Request No. 4: Minor Technical Adjustments. With respect to the proposed provision allowing the Parties to amend the Agreement to reflect minor technical adjustments to the Storage Facility, including changes to the Design Storage Capability, PREPA shall explain the scope of such provision, including whether such adjustments could have any direct or indirect financial impact on PREPA, even if they do not expressly modify the Storage Capability Payment Price or other pricing provisions of the Agreement. PREPA shall also clarify whether the intent of this provision is to allow such modifications without prior review and approval by the Energy Bureau and, if so, provide the legal basis and justification for such an arrangement.

Request No. 5: Tested Storage Capability. With respect to the proposed modifications concerning the calculation of Tested Storage Capability, including the use of expanded capacity and discharge periods exceeding four (4) hours, PREPA shall explain the technical justification for such modifications, whether the resulting Tested Storage Capability may exceed the capacity that the Storage Facility can actually deliver during a four (4) -hour discharge period, and whether these modifications could have any direct or indirect financial impact on PREPA or affect the Resource Provider's contractual performance obligations.

Request No. 6: Insurance and Tariff Pass-Through Cost Adjustments. With respect to the proposed provisions and procedures governing insurance-related and

tariff related pass-through cost adjustments, including Exhibits 25 and 26 of the Proposed Amended Agreement, PREPA shall provide the following information:

- a. Explain the justification for incorporating these procedures into the existing Agreement, particularly considering PREPA's existing discretionary authority to approve or reject additional costs. PREPA shall identify whether the proposed procedures modify or limit such authority and explain why their incorporation is considered reasonable and advantageous to PREPA and its customers.
- b. With respect to Exhibit 25 (Pass-Through Cost Adjustment- Insurance), explain the scope of the insurance costs eligible for recovery, including whether the proposed mechanism permits recovery of premiums or other costs already contemplated in the existing contractual price, and identify the safeguards against duplicative recovery or unwarranted increases in costs.
- c. With respect to Exhibit 26 (Pass-Through Cost Adjustment - Tariffs), explain the legal, commercial, and financial justification for the proposed adjustment methodology, including the application of the 114% factor to increased tariff costs, the selection of November 1, 2024, as the reference date, and the treatment of any applicable tax benefits, credits, or offsets. PREPA shall explain why this methodology is reasonable and advantageous to PREPA and its customers.
- d. Explain the differences between the procedures established in Exhibits 25 and 26 concerning the Energy Bureau's review and approval of cost adjustments, particularly the treatment of adjustments above and below \$1 million. PREPA shall clarify whether either procedure is intended to permit adjustments to the Monthly Payment without prior Energy Bureau approval and, if so, provide the legal basis and justification for such an arrangement.

Request No. 7: BESS Operating Procedures - Exhibit 6. PREPA shall submit a complete version of Exhibit 6 (BESS Operating Procedures), with all missing information, incomplete provisions, and blank sections duly completed.

Request No. 8: Other Material Modifications. PREPA shall identify any other proposed modifications that materially affect its existing contractual rights, financial obligations, or allocation of risks, including, as applicable, those concerning interconnection-related conditions precedent, order of precedence, and Tested Storage Capability. For each such material modification, PREPA shall provide a brief explanation of the reasons for the proposed change, its anticipated consequences, and the benefits expected to result from its adoption.

3. In partial compliance with the October 23 Order, particularly Request No. 1, PREPA hereby submits the required BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026, in PDF format, including all exhibits, schedules, and attachments. See **Exhibit A** - BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026. PREPA also submits the required complete editable version of the same agreement in native Microsoft Word format. Because the Energy Bureau's filing system does not support native Microsoft Word documents, PREPA will submit the native version of the document via email to the Clerk of the Energy Bureau.

4. The information and documentation responsive to Requests Nos. 2 through 8 of the October 23 Order must be provided by LUMA to PREPA to enable PREPA to comply with the Energy Bureau's directives.

5. On October 26, 2026, PREPA promptly requested that LUMA provide its responses to each of these requests, together with all supporting documentation and relevant technical and commercial analyses necessary to ensure a complete and accurate submission to the Energy Bureau.

6. On that same date, LUMA informed PREPA that, following a careful review of the scope of the requested information and documentation, including the supporting materials and technical and commercial analyses required to fully address each request, it had determined that compliance with the existing deadline would not be practicable without compromising the completeness and accuracy of its responses.

7. Accordingly, LUMA informed PREPA that it would be unable to provide the requested information and documentation within the deadline established by the Energy Bureau and that it would require an additional five (5) calendar days to complete and deliver its responses to PREPA.

8. In light of LUMA's representation that it requires an additional five (5) calendar days to provide PREPA with the requested information and documentation, and given that PREPA's compliance with Requests Nos. 2 through 8 of the October 23 Order depends on receiving such materials from LUMA, PREPA respectfully requests a six (6)-day extension of time, until **November 3, 2026**, to comply with those requests. The additional day will afford PREPA a reasonable opportunity to review and organize the information and documentation received from LUMA and prepare the corresponding submission to the Energy Bureau.

WHEREFORE, PREPA respectfully requests that the Energy Bureau **TAKE NOTICE** of the foregoing; **ACCEPT** the BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026, attached hereto as **Exhibit A** in PDF format and notified to the Clerk of the Energy Bureau in its native Microsoft Word format, and **GRANT** PREPA an extension of six (6) calendar days, until November 3, 2026, to submit the remaining information and documentation responsive to Requests Nos. 2 through 8 of the Resolution and Order of October 23, 2026.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on the 28th day of October 2026.

CERTIFICATE OF FILING AND SERVICE: It is hereby certified that this document was filed with the Office of the Clerk of the Energy Bureau through its electronic filing

system, available at <https://radicacion.energia.pr.gov/login>. It is further certified that a file-stamped copy of the foregoing document was served upon the parties in the above-captioned proceeding, through their counsels of record, at the following email addresses: LUMA Energy, LLC and LUMA Energy ServCo, LLC: laura.rozas@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com.

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Exhibit A - BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026 (PDF)

2026-P00076

BESS STANDARD OFFER AGREEMENT

By and between

PUERTO RICO ELECTRIC POWER AUTHORITY

AND

ECOELÉCTRICA BESS LLC

Dated: April 7, 2026

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BESS STANDARD OFFER AGREEMENT

THIS BESS STANDARD OFFER AGREEMENT (this "Agreement") is made as of April 7, 2026 (the "Agreement Date")

between:

A. **PUERTO RICO ELECTRIC POWER AUTHORITY** (including any successor thereto, "PREPA"), a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of the Legislative Assembly of Puerto Rico, enacted on May 2, 1941, represented in this act by Mary C. Zapata Acosta; and

B. **ECOELÉCTRICA BESS LLC** ("Resource Provider"), a corporation organized under the laws of the Commonwealth of Puerto Rico, represented in this act by Carlos A. Reyes Berríos (collectively, the "Parties" and each a "Party").

RECITALS

WHEREAS, PREPA and EcoEléctrica, L.P. ("Generation Facility Owner") are party to that certain Power Purchase and Operating Agreement, dated as of March 27, 2020 (the "PPOA");

WHEREAS, Generation Facility Owner owns, operates and maintains an approximately five hundred and forty-five (545) MW cogeneration facility in Peñuelas, Puerto Rico, which operates on natural gas as primary fuel and diesel fuel oil as backup fuel (the "Generation Facility");

WHEREAS, LUMA Energy ServCo, LLC, a Puerto Rico limited liability company ("LUMA") was retained by PREPA and the Puerto Rico Public-Private Partnerships Authority ("P3A"), under the Operation and Maintenance Agreement dated as of June 22, 2020, as may be amended from time to time and in accordance with its terms (the "OMA"), pursuant to which LUMA provides certain services as more specifically set out therein;

WHEREAS, LUMA on behalf of PREPA, submitted, and the Puerto Rico Energy Bureau (the "Energy Bureau") approved (with P3A expressing support), the Accelerated Storage Addition Program ("ASAP") pursuant to docket NEPR-MI-2024-0002 in order to add battery energy storage systems ("BESS") at existing independent power provider locations on an accelerated basis;

WHEREAS, this Agreement is part of the implementation of the ASAP as detailed in docket NEPR-MI-2024-0002;

WHEREAS, the Parties agree that the Storage Facility and Generation Facility will use the same Interconnection Point to the Grid System, though Resource Provider will enter into the Interconnection Agreement for the Storage Facility as provided herein; and

NOW THEREFORE, in consideration of these premises and of the mutual covenants and agreements set forth herein, the Parties, intending to be legally bound, hereby agree to the following:

1. DEFINITIONS & INTERPRETATION

1.1 Definitions

Unless otherwise required by the context in which any capitalized term appears, initially capitalized terms used in this Agreement shall have the following meanings:

"AC" means alternating electrical current.

"Additional Discretionary Augmentation Costs" has the meaning set forth in Section 3 (*Discretionary Augmentation Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Additional Interconnection Costs" has the meaning set forth in Section 2 (*Additional Interconnection Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Agreed Operating Procedures" or "AOP" means a set of procedures to assist Resource Provider and T&D Operator in the day-to-day management of the Storage Facility, including the scheduling and dispatch of the Storage Facility prepared in accordance with Section 3.7b (*Protocols, Procedures and MTRs; AOP*), which shall be attached hereto as Exhibit 8 (*Agreed Operating Procedures*).

"Affected Party" has the meaning set forth in Section 14.1 (*General*).

"Affiliate" means, with respect to a Person, any other Person that, directly or indirectly, through one or more intermediaries, Controls (e.g., a parent or grandparent company), is Controlled by (e.g., a subsidiary company), or is under common Control (e.g., a sister company) with, such Person.

"Agreement" has the meaning set forth in the Preamble of this Agreement.

"Agreement Date" has the meaning set forth in the Preamble of this Agreement.

 "Agreement Year" means each period of twelve (12) consecutive Months, provided that (a) the first such period shall begin on the Commercial Operation Date, (b) each such subsequent year shall begin on the corresponding anniversary of such earlier date, and (c) the last such period shall expire at the end of the Term.

"Annual Degradation Rate" means the applicable annual degradation rate set forth in Exhibit 6 (*BESS Operating Procedures*).

 "Applicable Law" means, with respect to any Person, any constitution, treaty, statute, law, rule, regulation, ordinance, judgment, order, decree, governmental consent or approval or any published directive, guideline, requirement or other governmental restriction, which has the force of law, or any determination, or interpretation of any of the foregoing, by any judicial authority, which legally binds such Person or its property whether in effect as of the Agreement Date or thereafter.

"Applicable Standards" means the BESS MTRs, the PREPA Transmission and Distribution Standards, any other applicable PREPA standards that PREPA has made available or identified to Resource Provider as applicable to Resource Provider's performance of its obligations under this Agreement, and any other codes, standards or requirements set forth in any Applicable Law, including any applicable federal, state or local code, the latest standards of the Institute of Electrical and Electronic Engineers (IEEE), National Electrical Manufacturer's Association (NEMA), American Concrete Institute (ACI), American National

Standards Institute (ANSI), International Code Council Code (ICC), National Fire Protection Association and the North American Electric Reliability Corporation (NERC), as well as the latest editions of the National Electrical Code and the National Electrical Safety Code (NESC), to the extent not inconsistent with the foregoing, in each case as modified from time to time.

"Arbitration Rules" has the meaning set forth in Section 21.11c (*Dispute Resolution*).

"Arbitrator" has the meaning set forth in Section 21.11c (*Dispute Resolution*).

"ASAP" has the meaning set forth in the Recitals of this Agreement.

"Bankruptcy Refinancing Adjustment" or "BRA" has the meaning set forth in Section 6 (*Bankruptcy Refinancing Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"BESS" has the meaning set forth in the Recitals of this Agreement.

"BESS MTR Compliance Adjustment" or "BMTRCA" has the meaning set forth in Section 8 (*BESS MTR Compliance Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"BESS MTR Non-Compliance Notification" has the meaning set forth in Section 8 (*BESS MTR Compliance Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"BESS MTRs" means the minimum technical requirements applicable to the Storage Facility for connection of the Storage Facility to the Grid System set forth in Exhibit 7 (*Minimum Technical Requirements*), as PREPA may modify or replace from time to time after the Closing Date in accordance with Section 4.1 (*Modifications*).

 **"BESS Operating Procedures"** means the procedures for the Storage Facility's operation and integration into the Grid System, as set out in Exhibit 6 (*BESS Operating Procedures*).

"Billing Period" means a Month, provided that (a) the first such period shall begin on the Initial Synchronization Date and end on the final Day of the Month in which the Initial Synchronization Date occurs, and (b) the last such period shall begin on the first Day of the Month in which the Supply Period will expire and end on final Day of the Supply Period.

"BRA Savings" has the meaning set forth in Section 6 (*Bankruptcy Refinancing Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

 **"Business Day"** means a Day other than (a) a Saturday, a Sunday or a Day on which commercial banks in San Juan, Puerto Rico are required or authorized to close, or (b) any other Day recognized as a holiday by PREPA as listed on Exhibit 20 (*Holidays*) hereto or notified to Resource Provider from time to time.

"Change of Law" means the enactment, approval or issuance of Applicable Law after the Agreement Date.

"Charge Duration" means the period of time required for the Storage Facility to increase the State of Charge from zero percent (0%) to one hundred percent (100%) when charging at C^{max} as evidenced by Performance Tests.

"Charge Energy" means the amount of Energy withdrawn from the Grid System by the Storage Facility for storage as measured by the Main Meters, net of Station Use.

"Charge Mode" means the mode of operation whereby the Storage Facility increases the State of Charge by accepting Charge Energy at the Interconnection Point.

"Charge Notice" means the operating instruction, and any subsequent updates, given by PREPA to Resource Provider, directing the Storage Facility to operate in Charge Mode, using Charge Energy, at a specified megawatt output.

"Claims" means all claims, actions, suits, or proceedings brought by any Person for liabilities, judgments, losses, costs and expenses (including court costs, attorneys' fees and costs of investigation), fines, penalties and damages of whatsoever kind or nature, arising in contract, tort, or otherwise.

"Closing Date" has the meaning set forth in Section 2.3 (*Initial Effectivity & Closing Date*).

"C^{max}" means the maximum steady-state power the Storage Facility can continuously employ to progress from zero percent (0%) State of Charge to one hundred percent (100%) State of Charge, measured by the Main Meters at the Interconnection Point.

"C^{max} Duration" means the amount of time the Storage Facility is able to charge at C^{max}.

"C^{min}" means the minimum steady-state power the Storage Facility can continuously employ to maintain a charge, and below which the Storage Facility cannot charge on a sustained basis, measured by the Main Meters at the Interconnection Point.

"Commercial Operation" means satisfaction of the requirements set forth in a certificate issued by Resource Provider, in accordance with Section 5.3e (*Initial Performance Tests*), in the form set forth in Exhibit 15 (*Form of Commercial Operation Date Certificate*) and countersigned by PREPA.

"Commercial Operation Date" means the date when Resource Provider first achieves Commercial Operation of the Storage Facility.

"Conditions Precedent" has the meaning set forth in Section 2.3 (*Initial Effectivity & Closing Date*).

"Control" means (a) the ownership (whether directly or indirectly) of more than fifty percent (>50%) of the total issued voting share capital or other voting interest of that company (including a limited liability company) or corporation, or (b) the ability to unilaterally appoint a majority of the board directors or equivalent body of that company or corporation through the ownership of securities with voting power or otherwise, without the need of the vote or approval of another, or (c) the ability to unilaterally direct the business affairs and/or operations of that company or corporation, without the need of the vote or approval of another; and the terms **"Controls," "Controlled,"** and **"Controlling"** shall have a corresponding meaning. For the avoidance of doubt, if a company or corporation is owned by two (2) shareholders or members at exactly fifty percent (50%) each, then that company or corporation shall not be considered under the control of either shareholder or member.

"COR3" means the Central Recovery and Reconstruction Office of Puerto Rico.

"Day" means a period of twenty-four (24) consecutive Hours, beginning at 00:00 Hours on any Gregorian calendar day and ending at 24:00 Hours on such day Puerto Rico time.

"DC" means direct electrical current.

"Default" has the meaning set forth in Section 16.1 (Definition) of this Agreement.

"Derating" means Resource Provider's inability or failure to (a) make Discharge Energy at $D^{\max}$ available at the Interconnection Point, or (b) accept Charge Energy at $C^{\max}$ at the Interconnection Point, other than in the case of an Outage.

"Design Charge Duration" has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design Charge Energy" has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design $C^{\max}$ " has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design $C^{\max}$ Duration" has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design $C^{\min}$ " has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design Discharge Duration" has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design $D^{\max}$ " has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design $D^{\max}$ Duration" has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Design $D^{\min}$ " has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

 "Design Duration Energy" means the Discharge Energy the Storage Facility can deliver when discharging at the Design $D^{\max}$ during the Design $D^{\max}$ Duration as set forth in Exhibit 6 (BESS Operating Procedures).

"Design Storage Capability" means Design $D^{\max}$, Design $C^{\max}$, and Design Storage Energy, as applicable (in each case, calculated to be a MW value over the applicable period of time); provided, however, in no event shall PREPA be responsible to pay for (or otherwise be responsible for, or Resource Provider get the benefit of) more than the Design Storage Capability (as of the Commercial Operation Date) for all purposes hereunder.

"Design Storage Energy" has the meaning set forth in Exhibit 6 (BESS Operating Procedures).

"Designated Person" has the meaning set forth in Section 21.11b (Dispute Resolution).

 "Development Abandonment" means the permanent cessation by Resource Provider of the development and construction of the Storage Facility or the PREPA Interconnection Facilities prior to the Commercial Operation Date, as demonstrated by Resource Provider's or its construction contractors' personnel having withdrawn from the Storage Facility Site or Resource Provider having otherwise ceased development and construction activities related to the Storage Facility for more than one hundred twenty (120) consecutive Days for any reason other than as a result of Force Majeure affecting Resource Provider or a PREPA Risk Event.

"Discharge Duration" means the shortest period of time required by the Storage Facility to reduce the State of Charge from one hundred percent (100%) to zero percent (0%) when discharging at $D^{\max}$ as evidenced by the Performance Tests.

"Discharge Energy" or "DE" means, for any period of time, the quantity of Energy delivered by the Storage Facility at the Interconnection Point, while operating in Discharge Mode (expressed in MWh) during such period, as measured in accordance with Section 8.4 (Meter Reading).

"Discharge Mode" means the mode of operation whereby the Storage Facility decreases the State of Charge by delivering Discharge Energy to, or making available Storage Facility Ancillary Services at, the Interconnection Point.

"Disclosing Party" has the meaning set forth in Section 12.6a (Confidentiality).

"Discretionary Augmentation" has the meaning set forth in Section 3 (Discretionary Augmentation Adjustment) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

"Discretionary Augmentation Adjustment" or "DAA" has the meaning set forth in Section 3 (Discretionary Augmentation Adjustment) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

"Dispatch Notice" means the operating instruction, and any subsequent updates, given by PREPA to Resource Provider, directing the Storage Facility to operate in Discharge Mode, using Discharge Energy, at a specified megawatt output.

"Dispute" has the meaning set forth in Section 21.11a (Dispute Resolution).

"Dispute Notice" has the meaning set forth in Section 21.11a (Dispute Resolution).

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"Dispute Resolution Procedure" has the meaning set forth in Section 21.11a (Dispute Resolution).

"D^{max}" means the maximum quantity of steady-state power which the Storage Facility can continuously deliver as Discharge Energy at the Interconnection Point to reduce the State of Charge from one hundred percent (100%) to zero percent (0%), expressed in MWh, as evidenced by the Performance Tests.

"D^{max} Duration" means the duration of time during which the Storage Facility can continuously deliver Discharge Energy at D^{max} on a sustained basis to the Interconnection Point.

"D^{min}" means the minimum steady-state power the Storage Facility can continuously discharge, and below which the Storage Facility cannot discharge on a sustained basis, measured by the Main Meters at the Interconnection Point.

"Dollars" and "\$" means United States dollars.

CL
"Early Commercial Operation Date Bonus" has the meaning set forth in Section 5.3f.

"Emergency" means an operational condition or situation affecting the Grid System (including system security and reliability or a declaration of an emergency event under Applicable Law or by any Governmental Authority) or the Storage Facility, which has resulted in, or will likely result in, imminent significant disruption of service to a significant number of customers or will likely endanger life or property.

"Emergency Response Plan" means that certain emergency response plan filed under the Energy Bureau Docket NEPR-MI-2019-0006.

"Energy" means three-phase, 60-cycle AC electric energy, measured in MWhs.

"Energy Bureau" has the meaning set forth in the Recitals of this Agreement.

"Energy Storage Services" means, collectively or individually, the acceptance of Charge Energy at the Storage Facility, the storing of Energy in the Storage Facility, and the delivery of Discharge Energy from the Storage Facility at the Interconnection Point, all in accordance with the terms of this Agreement.

"Environmental Costs" means any and all fixed and variable costs incurred by Resource Provider resulting from the imposition or assessment on, or as a result of the ownership or operations of, the Storage Facility by Applicable Law relating to the environment, issued by a Governmental Authority.

"Equity Transfers" has the meaning set forth in Section 19.4 (*Restrictions on Equity Transfers*).

"Equivalent Outage Hour" has the meaning set forth in Section 5 (*Storage Facility Availability Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Facilities Study" means, pursuant to the Interconnection Agreement, an engineering study to determine required modifications to the Grid System, including the cost and scheduled completion date for such modifications, required to provide grid support services needed to integrate the Storage Facility into the Grid System.

"First Party" has the meaning set forth in Section 21.11c (*Dispute Resolution*).

"FOMB" means the Financial Oversight and Management Board for Puerto Rico, or any successor thereto.

"Force Majeure" has the meaning set forth in Article 14 (*Force Majeure*).

"GAAP" means generally accepted accounting principles, as promulgated by the Financial Accounting Standards Board or its predecessors or successors.

"Generation Facility" has the meaning set forth in the Recitals of this Agreement.

"Generation Facility Interconnection Agreement" means the Large Generator Interconnection Agreement to be entered into between Generation Facility Owner and PREPA for the purpose of identifying and maintaining the interconnection of the Generation Facility with the Grid System.

"GGCA Savings" has the meaning set forth in Section 7 (*Government Grant or Credit Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculations Formula*).

"Government Grant or Credit Adjustment" or "GGCA" has the meaning set forth in Section 7 (*Government Grant or Credit Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculations Formula*).

"Governmental Authority" means any court, tribunal or governmental or quasi-governmental body, regulatory body, agency, authority, office, department, commission, board, bureau, public corporation, municipality or instrumentality, in each case at any federal, state, Commonwealth of Puerto Rico, county, municipal, or local level, having jurisdiction over a Party, the Storage Facility, the Storage Facility Site, or the PREPA Interconnection Facilities and includes FOMB and the Energy Bureau.

"Green Credits" means "renewable energy certificates" and "environmental and social attributes," as such terms are defined in the Green Energy Incentives Act of Puerto Rico (Act No. 83 of July 19, 2010), renewable energy credits, environmental attributes, emissions reductions, offsets, allowances or benefits however entitled (or payments in lieu thereof), whether monetary, fiscal or in the form of physical property, which are now or in the future may be available to the Storage Facility, as a facility that generates or produces electricity by means of "green energy" (as such term is defined in Act No. 83 of July 19, 2010), or from renewable or non-polluting resources, granted or available to Resource Provider as the owner or operator of the Storage Facility or otherwise, in each case, from any Governmental Authority or third party, including renewable energy credits established pursuant to Act No. 83 of July 19, 2010, but shall exclude (a) any Tax Credits and grants in lieu thereof, (b) other tax benefits or credits, (c) any accelerated depreciation, and (d) proceeds from (a) through (c), in each case, associated with the Storage Facility or otherwise available to Resource Provider, each of which (a) through (c) are expressly reserved to Resource Provider.

"Grid System" means the interconnected network of high voltage transmission lines, low voltage distribution lines, and associated electric substations owned by PREPA (including the PREPA Interconnection Facilities, after handover on the Commercial Operation Date in accordance with Article 12 (Representations, Warranties, & Covenants)), which transmit and distribute electricity to users of electricity in the Commonwealth of Puerto Rico.

"Guaranteed Storage Facility Availability" or "GSFA" has the meaning set forth in Section 5 (Storage Facility Adjustments) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

 **"Hour"** means each period of sixty (60) consecutive minutes, with the first such period for any Day beginning at 00:00 (Puerto Rico Time) and including each sixty (60)-minute interval thereafter.

"IF Completion Notice" has the meaning set forth in Section 4.4c (Pre-Synchronization testing).

"Indemnified Party" has the meaning set forth in Section 13.1 (General).

"Indemnitees" means, with respect to either PREPA or Resource Provider, (a) permitted successors and assigns, and (b) as to both the Party and its permitted successors and assigns, their respective lenders, Affiliates, directors, officers, equity-holders, partners, employees, representatives, agents and contractors, and each of their respective heirs, successors and assigns.

"Initial Performance Tests" has the meaning set forth in Section 5.3a (Initial Performance Tests).

"Initial Synchronization" means the first time that Resource Provider synchronizes the Storage Facility with the Grid System.

 **"Initial Synchronization Date"** means the date on which Initial Synchronization occurs.

"Insolvency Event" means any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding with respect to Resource Provider or any of its respective properties or creditors, or any action taken by any trustee or receiver of Resource Provider or by any court in any such proceeding.

"Investment Tax Credits" or "ITCs" means the investment tax credits established pursuant to Section 48 of the Internal Revenue Code or the clean electricity investment tax credit pursuant to Section 48E of the Internal Revenue Code, as the same may be amended from time to time, and any successor provision or

technology-neutral clean electricity investment tax credits for which the Storage Facility or any portion thereof qualifies under any section of the Internal Revenue Code.

"Interconnection Adjustment" has the meaning set forth in Section 2 (*Interconnection Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Interconnection Agreement" means the interconnection agreement entered into between Resource Provider and PREPA, which sets out the terms upon which the Storage Facility and the PREPA Interconnection Facilities will connect and remain connected to the Grid System.

"Interconnection Facilities" means the PREPA Interconnection Facilities and the Resource Provider Interconnection Facilities.

"Interconnection Point" means the physical point at which the Storage Facility connects to the Grid System, as specified in Section 1 (*Description of the Interconnection Facilities*) of Exhibit 4 (*Interconnection Description and Specifications*).

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"Interest" means the compensation for the accrual of monetary obligations under this Agreement computed Monthly and prorated daily from the time each such obligation is past due based on an annual interest rate equal to the lesser of: (a) (i) for payments due during the first five (5) Days after such a payment is due, in each case, the Prime Commercial Lending Rate as set by Citibank N.A., New York, New York or any other bank as mutually agreed by the Parties or any other equivalent rate as mutually agreed by the Parties (for the purposes of this definition, the **"Prime Rate"**), and (ii) for payments due beginning on the sixth (6th) Day after such a payment is due, the Prime Rate plus five percent (5%); and (b) the maximum rate allowable under Article 1169 of the Puerto Rico Civil Code or successor statute applicable to past due amounts. The provisions of this definition shall not be construed to limit the applicable rate of interest on the project debt.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as the same may be amended from time to time.

"kW" means kilowatt.

"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 the Storage Facility or the PREPA Interconnection Facilities which materially impairs the ability of the Parties to perform their respective obligations hereunder or exercise their rights and remedies hereunder or delays the development, construction or operation of the Storage Facility or the PREPA Interconnection Facilities.

Chf
"Long-Stop Date" means January 1, 2028, which date shall not be extended for any reason whatsoever, including Force Majeure, other than by mutual written agreement of the Parties.

"LUMA" has the meaning set forth in the Recitals of this Agreement.

"Main Meters" has the meaning set forth in Section 8.1a (*Metering*).

"Maximum Storage Energy" means the quantity of Energy which the Storage Facility makes available at the Interconnection Point while operating in Discharge Mode from one hundred percent (100%) State of Charge to zero percent (0%) State of Charge.

"Module" means a segregable component of the Storage Facility which may be operated independently of other components of the Storage Facility to provide Energy Storage Services, as more particularly described in Exhibit 6 (BESS Operating Procedures), and all appurtenant facilities and equipment, from which Resource Provider has agreed to provide the Energy Storage Services to PREPA pursuant to this Agreement, as further described in Exhibit 6 (BESS Operating Procedures).

"Month" means a calendar month, which shall begin at 00:00 on the first Day of such calendar month and end at 00:00 on the first Day of the next calendar month.

"Monthly Payment" has the meaning set forth in Section 1 (Monthly Payment) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

"Monthly Payment Pass-Through Component" has the meaning set forth in Section 1 (Monthly Payment) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

"MW" means megawatts.

"MWh" means megawatt-Hours.

"Negotiation Period" has the meaning set forth in Section 21.11b (Dispute Resolution).

"Non-Affected Party" has the meaning set forth in Section 14.1d (General).

"Non-PREPA Charge" has the meaning set forth in Section 7.6a (Non-PREPA Charge).

"Non-Scheduled Derating" means a Derating other than a Scheduled Derating.

"Non-Scheduled Outage" means an Outage other than a Scheduled Outage.

"Other Minimum Acceptance Criteria" means collectively the BESS MTRs, BESS Operating Procedures and any other criteria set out in the Testing Protocol.

"Outage" means, for any period of time, Resource Provider's failure or inability to make available Energy Storage Services and/or Storage Facility Product at the Interconnection Point.

"P3A" has the meaning set forth in the Recitals of this Agreement.

"Party" and **"Parties"** has the meaning set forth in the Preamble of this Agreement.

"Pass-through Cost Adjustment" or **"PCA"** has the meaning set forth in Section 4 (Pass-through Cost Adjustments) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

"Pass-Through Costs" has the meaning set forth in Section 4 (Pass-through Cost Adjustment) of Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

"Performance Tests" means tests which verify that (a) the Storage Facility can accept Charge Energy and deliver Discharge Energy and Storage Facility Ancillary Services in accordance with the BESS Operating Procedures, and (b) the Storage Facility complies with each of the Other Minimum Acceptance Criteria, in each case in accordance with the Testing Protocol.

"Permits" means all permits, licenses, approvals, authorizations, consents, variances or waivers issued by Governmental Authorities with jurisdiction over Resource Provider and/or the Storage Facility and which Resource Provider or its contractors will require for the development, construction, ownership, operation, maintenance or financing of the Storage Facility and/or the Interconnection Facilities, including those set out in Exhibit 1 (*Resource Provider Permits*).

"Person" means an individual, partnership, corporation, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, or a government or agency or political subdivision thereof.

"PPOA" has the meaning set forth in the Recitals of this Agreement.

"PREPA" has the meaning set forth in the Preamble of this Agreement.

"PREPA Interconnection Facilities" means all equipment and facilities (including the Main Meters) located on PREPA's side of the Interconnection Point, constructed and installed or upgraded for the purpose of interconnecting the Storage Facility with the Grid System, as further described in Exhibit 4 (*Interconnection Description and Specifications*) and not to include communication, control and protection equipment for which this Agreement assigns responsibility to Resource Provider.

"PREPA Risk Event" means any of the following events:

- a. Force Majeure or a Legal Challenge in each case solely affecting PREPA;
- b. PREPA's failure to make Charge Energy available to Resource Provider at the Interconnection Point; or
- c. a (i) breach, delay or failure by PREPA in performing any material obligation under this Agreement or the Interconnection Agreement or (ii) breach, delay or failure by T&D Operator in performing any material obligation under the Interconnection Agreement,

which, in each case, did not result from an act or omission of Resource Provider, Force Majeure affecting Resource Provider or the circumstances described in Section 7.2 (*Curtailment for Breach*).

"PREPA Transmission and Distribution Standards" means the rules, regulations, codes and/or standards relating to operation of and interconnection with the Grid System which PREPA shall have made available or identified to Resource Provider as being applicable to Resource Provider's performance of its obligations under this Agreement, as such may be modified from time to time.

"PROMESA Court" means the United States District Court for the District of Puerto Rico.

"Proposed Initial Synchronization Date" has the meaning set forth in Section 5.1 (*Scheduling Synchronization*).

"Prudent Utility Practices" means those practices, methods, conduct and actions (including the practices, methods, conduct and acts engaged in or approved by a significant portion of the power industry in the United States) that, at a particular time, in the exercise of commercially reasonable discretion at the time a decision was made, could have been expected to accomplish the desired result in a manner consistent with Applicable Law and Applicable Standards for reliability, safety and economy.

"PSS/E" means power system simulation for engineering, a commercial software product developed by Siemens PTI Inc.

"Qualified Operator" means (a) Resource Provider, (b) an Affiliate of Resource Provider, or (c) if a third-party contractor of Resource Provider or its Affiliate, (i) a Person with at least two (2) years' experience operating facilities of a similar type and size as the Storage Facility or (ii) another qualified and experienced operator reasonably acceptable to PREPA.

"Qualified Transferee" means a Person that has satisfied the Transfer Requirements.

"Receiving Party" has the meaning set forth in Section 12.6a (*Confidentiality*).

"Registry" has the meaning set forth in Section 9.4 (*Green Credits*).

"Resource Provider" has the meaning set forth in the Preamble of this Agreement.

"Resource Provider Augmentation" has the meaning set forth in Section 4.7 (*Resource Provider Augmentation*).

"Resource Provider Interconnection Facilities" means all equipment and facilities (including Resource Provider's meters and metering equipment), located on Resource Provider's side of the Interconnection Point, constructed and installed for the purpose of interconnecting the Storage Facility with the Grid System, as further described in Exhibit 4 (*Interconnection Description and Specifications*).

mcg
"Resource Provider Liability Cap" means Five Hundred Thousand Dollars (\$500,000) per MW multiplied by the D^{max} (as of the Commercial Operation Date calculated as a MW value over the applicable time period) set forth in Exhibit 6 (*BESS Operating Procedures*).

"Resource Provider Performance Test" has the meaning set forth in Section 6.9e (*Supply Period Tests*).

"SCADA" means the Storage Facility's supervisory control and data acquisition system, which may include equipment installed by Resource Provider in accordance with PREPA requirements.

"Scheduled Derating" means a planned Derating that Resource Provider has coordinated in advance with PREPA with a mutually agreed commencement date, time and duration, and set out in the Scheduled Maintenance Program pursuant to Article 6 (*Operation Of The Storage Facility*).

"Scheduled Maintenance Program" has the meaning set forth in Section 6.3b (*Scheduled Maintenance*).

"Scheduled Outage" means a planned Outage that Resource Provider has coordinated in advance with PREPA with a mutually agreed commencement and duration, and set out in the Scheduled Maintenance Program pursuant to Article 6 (*Operation Of The Storage Facility*).

Chg
"Shareholder" means, for any time of determination, any direct holder of capital stock in Resource Provider at such time.

"Sponsor" means, for each Shareholder of, or a Person holding a partnership or membership interest in, Resource Provider on the Agreement Date, each ultimate parent company of such Shareholder or Person which owns or controls, whether directly or indirectly, an equity ownership interest in such Shareholder or Person.

"Stand-by Energy Consumption" means the average Hourly consumption of Energy by the Storage Facility, measured over twenty-four (24) consecutive Hours while the Storage Facility operates in Storage Mode.

"Stand-by Self Discharge" means the difference between a starting SOC at seventy-five percent (75%) and the ending SOC at the conclusion of a twenty-four (24) Hour period while the Storage Facility stands idle but ready for immediate operation, as set forth in Exhibit 6 (*BESS Operating Procedures*).

"State of Charge" or "SOC" means for any time of determination, the amount of Stored Energy at such time expressed as a percent of the Maximum Stored Energy.

"Station Use" means the electrical load of the Storage Facility's auxiliary equipment that is necessary for operation of the Storage Facility as set forth in Exhibit 6 (*BESS Operating Procedures*). The auxiliary equipment includes forced and induced draft fans, air conditioner systems, heating systems, cooling towers, plant lighting and control systems, telecommunications, any heating or cooling equipment and control systems necessary to keep energy storage componentry within their normal operating temperatures, any motors or pumps required for moving material within the energy storage system, and any other electrical loads required in order for the Storage Facility to provide Energy Storage Services.

"Station Use Meters" has the meaning set forth in Section 8.1b (*Meter Ownership & Maintenance*).

"Storage Capability" means the D^{max} , C^{max} , and the Maximum Storage Energy which the Storage Facility can achieve or make available.

Mcga
"Storage Capability Payment Price" or "SCPP" has the meaning set forth in of Section I (*Monthly Payment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Storage Facility" means the energy storage facility known as ECOELÉCTRICA BESS LLC (with an expected Design Storage Capability of twenty (20) MW) located at the Storage Facility Site, which is capable of accepting Charge Energy and delivering Discharge Energy and Storage Facility Ancillary Services at the Interconnection Point, including the Resource Provider Interconnection Facilities and any generation system, capacity expansion or other upgrades to such energy storage facility from time to time, as further described in Exhibit 6 (*BESS Operating Procedures*).

"Storage Facility Ancillary Services" means any services required by the BESS MTRs or otherwise capable of being made available to the Grid System by the Storage Facility, including automatic generation control, energy storage or spinning reserve, synchronous condenser mode, reactive power support, operating reserve, frequency control, ramp rate control, voltage control, black start capability, voltage support, emergency stand-by support, or others, as applicable.

Ab
"Storage Facility Availability" or "SFA" has the meaning set forth in Section 5 (*Storage Facility Availability Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Storage Facility Availability Adjustment" or "SFAA" has the meaning set forth in Section 5 (*Storage Facility Availability Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Storage Facility Design" means the design of the Storage Facility formulated by Resource Provider (or its contractors) in accordance with Section 3.2a (*Resource Provider Development Obligations*).

"Storage Facility Lenders" means any Person (other than an Affiliate of Resource Provider) providing, arranging, insuring or guaranteeing all or part of the construction or permanent financing or other funding, including any tax equity financing, for the Storage Facility, the PREPA Interconnection Facilities or any portion thereof, or any agent, trustee or other Person representing or acting on behalf of any such Person.

"Storage Facility Product" means all Storage Capability, Discharge Energy, Storage Facility Ancillary Services and Green Credits made available from or otherwise derived in connection with the operation of the Storage Facility.

"Storage Facility Site" means the approximately point eight (0.8) acres of land located in Peñuelas, Puerto Rico, as further described in Exhibit 3 (*Storage Facility Site*).

"Storage Mode" means a mode of operation whereby the Storage Facility stands idle but ready for immediate operation as set forth in Exhibit 6 (*BESS Operating Procedures*).

"Stored Energy Level" or "SEL" means, at a particular time, the amount of electrical energy in the Storage Facility, expressed in MWh.

"Substantial Completion Notice" has the meaning set forth in Section 4.4f (*Pre-Synchronization Testing*).

"Supply Period" means the period that commences on the Commercial Operation Date and expires on the twentieth (20th) anniversary thereof, as the same may be extended pursuant to Section 2.4 (*Extension*).

Mcga
"System Impact Study" means, pursuant to the Interconnection Agreement, a study that will, at a minimum, (a) determine the power capabilities of the major interconnection equipment required to complete the Interconnection Facilities, (b) specify the maximum fault currents necessary to specify short circuit duty and interrupting ratings for the electrical equipment, (c) approve or disapprove generator step-up (GSU) transformer impedance and reactive compensation equipment for proper control of voltage and reactive power flow, (d) quantify the impact to the Grid System and the actions required to mitigate such impact, and (e) specify the design requirements for the Storage Facility and the PREPA Interconnection Facilities.

"System Operation Principles" has the meaning set forth in the Interconnection Agreement.

"T&D Operator" means LUMA, acting in its capacity as the operator of the Grid System pursuant to the OMA.

"Tax Credits" means the production or investment tax credits (including the ITC and any grants or payment in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or other Applicable Law available as a result of the ownership and operation of the Storage Facility or the output generated by the Storage Facility (including tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

Ch
"Taxes" means any and all taxes, fees or other charges (such fees and charges associated with taxes), including income taxes and repatriation (tollgate) taxes now or hereafter, imposed or assessed by a Governmental Authority responsible for implementing Applicable Law relating to such taxes, fees, or other charge on or as a result of the ownership or operations of the Storage Facility.

"Term" has the meaning set forth in Section 2.2 (*Term*).

"Termination Date" means the date of the earliest to occur of any of the events set forth in Section 15.1 (*Termination Date*).

"Tested Storage Capability" has the meaning set forth in Section 6.9a (*Supply Period Performance Tests*).

"Testing Protocol" means PREPA's standard protocols for testing and commissioning of energy storage facilities set forth in Exhibit 9 (*Testing Protocol*).

"Total Annual Outage and Derating Hours" has the meaning set forth in Section 5 (*Storage Facility Availability Adjustment*) of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*).

"Transfer" has the meaning set forth in Section 19.2 (*PREPA's Right to Assign*).

"Transfer Requirements" means, in respect of a Person, that Resource Provider has provided to PREPA (a) copies of such Person's audited financial statements prepared in accordance with GAAP, demonstrating that such Person has a tangible net worth of at least Twenty-Five Million Dollars (\$25,000,000) (or that its ultimate parent having a direct or indirect majority ownership interest in such Person has a tangible net worth of at least Seventy-Five Million Dollars (\$75,000,000)), (b) evidence reasonably acceptable to PREPA that such Person is or has engaged a Qualified Operator, (c) the certifications and documentation required by Exhibit 21 (*Signing Conditions*), but construing references to Resource Provider therein as references to such Person, and (d) certification by such Person (for itself and all Affiliates of such Person) that it is not in breach of an agreement or other instrument, in litigation or in other dispute resolution proceeding, in each case, with PREPA or any of its Affiliates or any of their respective agents or representatives (other than litigation or dispute resolution initiated by such Person prior to the Agreement Date in connection with the PREPA proceeding pursuant to PROMESA Court Case No. 17-4780).

"Wholly-Owned Affiliate" means, with respect to a Shareholder, any Person that:

- a. owns directly or indirectly one hundred percent (100%) of the issued share capital and voting rights of such Shareholder;
- b. has one hundred percent (100%) of its issued share capital and voting rights owned directly or indirectly by such Shareholder; or
- c. has one hundred percent (100%) of its issued share capital and voting rights owned directly or indirectly by another Person which owns directly or indirectly one hundred percent (100%) of the issued share capital and voting rights of such Shareholder.

"Year" means a calendar year, which shall be the twelve (12) Month period beginning 00:00 on January 1 and ending at 00:00 on the subsequent January 1.

1.2 Rules of Interpretation

The rules of interpretation listed below shall be followed when interpreting this Agreement:

- a. Words importing the singular also include the plural and vice versa.
- b. References to natural persons or parties include any person having legal capacity.

- c. References to a Person include such Person's successors and assigns; provided that with respect to a Party and its rights and obligations under this Agreement, references to a Party shall only include such Party's successors and assigns if such successors and assigns are permitted by this Agreement.
- d. Words importing one gender include the other gender.
- e. The words "include" and "including" mean "including, but not limited to" and corresponding grammatical variants.
- f. Except as otherwise expressly stated herein, all references in this Agreement to this Agreement (including the Exhibits hereto) or to contracts, agreements, or other documents shall be deemed to mean this Agreement (including the Exhibits hereto) and such contracts, agreements or other documents, as the same may be modified, supplemented, or amended from time to time.
- g. Except as otherwise expressly stated herein, all references to Sections, Articles, and Exhibits in this Agreement are references to the Sections, Articles, and Exhibits of this Agreement.
- h. Words and abbreviations not defined in this Agreement which have generally accepted technical or design, engineering, or construction industry meanings are used in this Agreement in accordance with such recognized meanings.
- MCS i. The terms "hereof," "herein," "hereto," "hereunder" and words of similar or like import, refer to this entire Agreement, together with its Exhibits, and not any one particular Article, Section, Exhibit, or other subdivision of this Agreement.
- j. The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.
- k. References to PREPA in the definition of Dispatch Notice, Charge Notice and Section 6.6 (Restoration of the Storage Facility), Section 7 (Dispatching & Charging Obligations), Section 8.5 (Data), Section 9.1 (General), and Section 7.7 (Storage Facility Ancillary Services) include its dispatching center(s) and the T&D Operator, as applicable.
- l. Terms used in the present tense may be interpreted as referring to the past tense and vice versa.
- AKS m. Nothing contained in this Agreement shall be construed or interpreted to limit in any way the Energy Bureau's power and authority under the laws of the Commonwealth of Puerto Rico.

2. TERM, EFFECTIVENESS.

2.1 Signing Conditions

The Parties have completed their respective obligations set out in Exhibit 21 (Signing Conditions) prior to the execution of this Agreement. Resource Provider recognizes that submittal of the certifications and documents set out in Exhibit 21 (Signing Conditions) constitute an essential condition of this Agreement.

2.2 Term

This Agreement will become effective on the Agreement Date. The term of this Agreement and, subject to Section 2.3 (Term), the rights and obligations of the Parties hereunder (the "Term") shall begin with the Agreement Date and continue until the expiration of the Supply Period or any earlier termination in accordance with the terms of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, all of the provisions in this Agreement shall automatically terminate, be null and void and of no force and effect effective as of the Hour ending at 2400 on the last day of the Supply Period.

2.3 Initial Effectivity & Closing Date

 The rights and obligations of the Parties under Article 1 (Definitions & Interpretation), this Article 2 (Term, Effectiveness), Article 11 (Liability), Article 12 (Representations, Warranties, & Covenants), Article 14 (Force Majeure), Article 15 (Termination), Article 19 (Assignment & Transfer), Article 20 (Notices) and Article 21 (Miscellaneous Provisions), shall enter into full force and effect on the Agreement Date. The remaining provisions of this Agreement shall become effective on the date as of which the Parties jointly sign a certificate, in the form set forth in Exhibit 23 (Form of Conditions Precedent Certificate), confirming the satisfaction or waiver of each of the conditions precedent set out in Exhibit 22 (Conditions Precedent) (the "Conditions Precedent") (the "Closing Date"). The Parties shall issue such certificate within five (5) Business Days after the occurrence of such satisfaction or waiver. Each Party shall use its commercially reasonable efforts to satisfy their respective Conditions Precedent and cause the Closing Date to occur no later than thirty (30) Days after the Agreement Date. If the Closing Date does not occur for any reason within one hundred eighty (180) Days after the Agreement Date, then this Agreement shall automatically terminate, be null and void and of no force and effect effective as of the Hour ending at 2400 on such one hundred eightieth (180th) Day without action by either Party and without either Party incurring any liability to the other Party.

2.4 Extension

 The Parties may agree to extend the Supply Period, with approval from the Energy Bureau, for up to two (2) consecutive periods of five (5) Agreement Years each, following the expiration of the initial Supply Period or the first extended Supply Period, if any. Either Party may notify the other of its desire to extend the Supply Period in writing as provided for under this Section 2.4 (Extension) not less than eighteen (18) Months prior to the expiration of the initial Supply Period or first extended Supply Period, if any, as the case may be. During any extension of the Supply Period in accordance with this Section 2.4 (Extension), all provisions contained herein shall remain in effect unless otherwise agreed in writing by the Parties.

3. PRE-OPERATION PERIOD

3.1 LUMA as Authorized Agent of PREPA; Technical Review

a. The Parties acknowledge and agree that, pursuant to the OMA, LUMA shall administer this Agreement on behalf of PREPA. In accordance with the foregoing, PREPA appoints LUMA, and Resource Provider so acknowledges, as its authorized agent, to act for and on behalf of PREPA under this Agreement, and any approval, communication, notification or other action issued or taken by LUMA in relation to this Agreement prior to the expiration or early termination of the OMA shall be deemed an approval, communication, notification or other action issued or taken by PREPA under this Agreement. PREPA acknowledges further that, as long as the OMA is in effect, all references in this Agreement to PREPA taking any action, performing any obligation, exercising any right, receiving or providing any notice or disclosure (including the termination of this Agreement), making any determination or otherwise referencing PREPA as beneficiary of the terms and conditions of this Agreement, shall be understood to refer to LUMA, unless otherwise disclaimed or distinguished.

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b. Without limiting the generality of the foregoing, LUMA shall also act as PREPA's agent to review technical matters and assist in the resolution of technical issues, and monitor the works undertaken by, or on behalf of, Resource Provider (a) for the design, construction and commissioning of the Storage Facility, and (b) the operation and maintenance of the Storage Facility and the PREPA Interconnection Facilities during the Supply Period. Notwithstanding anything to the contrary contained herein, nothing in this Agreement will be construed to require PREPA (or its representatives) to monitor Resource Provider's development, design, financing, construction, installation, testing or commissioning of the Storage Facility or to review, comment on, or approve any documentation or any contract between Resource Provider and another person, and PREPA (or any of its representatives) shall not have any liability to Resource Provider for failing to advise it of any condition, damage, circumstance, infraction, fact, act, omission or disclosure discovered or not discovered by PREPA (or its representatives) with respect to the development, design, financing, construction, installation, testing and commissioning of the Storage Facility. In addition, PREPA (or any of its representatives) shall not be liable to Resource Provider or any other person (and Resource Provider shall not otherwise be relieved of its obligations under this Agreement) by reason of PREPA's (or its representative's) review or approval pursuant to this Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review) or any other Section of this Agreement.

3.2 Resource Provider's Development Obligations

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a. Resource Provider (or its contractors) shall develop, design, finance, permit, construct, install, test, and commission the Storage Facility and achieve Commercial Operation no later than the Long-Stop Date, at its own cost, in accordance the requirements of all Permits (including the schedule set out in Exhibit 1 (Resource Provider Permits)), this Agreement, the BESS MTRs, the BESS Operating Procedures, the BESS Testing Protocol, the Interconnection Agreement, Prudent Utility Practices, Applicable Law and the Applicable Standards (the "**Storage Facility Design**"). Resource Provider shall provide PREPA with as-built drawings of the Storage Facility within sixty (60) Days after the Commercial Operation Date and within sixty (60) Days after any material modification of the Storage Facility permitted pursuant to this Agreement to the extent that such modification affects such as-built drawings.

b. Resource Provider agrees that the works required as part of the Interconnection Facilities that will be performed within PREPA's active system (including, for example, work conducted at a PREPA substation or to interconnect such facilities) may, at PREPA's election, be executed by PREPA and its contractor or by Resource Provider (in any case, at Resource Provider's cost and as described in the Facilities Study). If PREPA elects to perform, or have its contractor perform, such work inside PREPA's

active system, then Resource Provider shall reimburse PREPA or directly fund all amounts invoiced by its contractors for the cost to complete such work pursuant to the Interconnection Agreement.

c. Resource Provider shall develop, design, construct and install the Storage Facility to have a Storage Capability equal to or in excess of the Design Storage Capability.

d. Resource Provider shall acquire (or lease) all land parcels, easements, rights-of-way and other real property rights required to construct, test, commission, own, operate, maintain and repair the Storage Facility in its own name and at its own cost, and maintain such rights until the expiration of the Term.

3.3 Regular Updates

Resource Provider shall submit progress reports to PREPA on the development, design, financing, permitting, construction, installation, testing and commissioning of the Storage Facility and PREPA Interconnection Facilities no later than the fifth (5th) Business Day of every Month, commencing on the first Month following the Closing Date and continuing until the Commercial Operation Date. Resource Provider acknowledges that PREPA may keep the Energy Bureau and other Governmental Authorities apprised of its progress, including at least (a) any significant developments or delays in achieving Commercial Operation by the Commercial Operation Date, (b) the percentage completion of the Storage Facility and the PREPA Interconnection Facilities and (c) a brief summary of construction activity during the prior three (3) months and contemplated for the next three (3) months.

3.4 Exchange of Information

Each Party agrees to cooperate reasonably and in good faith and to provide the other Party and their respective representatives reasonable and timely access to relevant personnel, advisors (including environmental consultants), properties, and books and records, provided the information is not privileged, confidential or protected under other agreements with third parties or by law or regulation, as such other Party may reasonably request in connection with the performance of its obligations hereunder. Subject to the conditions stated in the previous sentence, each Party hereby agrees to cooperate and exchange information necessary to develop, design, finance, permit, construct, install, test, commission, and operate the Storage Facility. Notwithstanding anything in this Agreement to the contrary, Resource Provider shall remain solely responsible for the development, design, financing, permitting, construction, installation, testing, commissioning, and operating the Storage Facility.

3.5 Cooperation

To the extent legally permitted and at the written request of Resource Provider, PREPA agrees, at Resource Provider's cost, to cooperate reasonably and in good faith with Resource Provider to obtain for Resource Provider (a) control of, or other required access and rights to, the real property upon which the Storage Facility will be located, (b) financing for the Storage Facility, and (c) all necessary Permits for siting and construction of the Storage Facility. Notwithstanding anything in this Agreement to the contrary, Resource Provider shall remain solely responsible for obtaining the items set out in subparagraphs (a) through (c) of this Section 3.5 (Cooperation). Upon reasonable prior notice and subject to the prudent written safety requirements of Resource Provider, and Applicable Law relating to workplace health and safety, Resource Provider will provide T&D Operator and its representatives with reasonable access to the Storage Facility, including with respect to the following: (w) for the purpose of reading or testing metering equipment; (x) as necessary to witness any testing associated with the Storage Facility, including as provided in the Testing Protocol; (y) for other reasonable purposes at the reasonable request of T&D Operator, consistent with the

terms and conditions of the Interconnection Agreement; and (z) as otherwise necessary for PREPA or its representatives (including T&D Operator) to exercise its rights or perform its obligations under this Agreement or under the Interconnection Agreement.

3.6 Interconnection Agreement

Resource Provider shall comply with all terms and conditions contained in the Interconnection Agreement. PREPA shall bear no responsibility, liability or cost under this Agreement related to interconnection or electric distribution or transmission service for the Storage Facility and the PREPA Interconnection Facilities.

3.7 Protocols, Procedures and MTRs; AOP

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a. No later than two hundred seventy (270) Days after the Closing Date, the Parties shall agree upon any adjustments or additions to the Testing Protocol (including in respect of the Performance Tests), BESS MTRs and BESS Operating Procedures (which will be consistent with the Storage Facility Design) applicable to the Storage Facility, taking into consideration Prudent Utility Practices, the Storage Facility Design, equipment supplier and manufacturer recommendations set forth in their operating manuals, and the terms and conditions of this Agreement. The Testing Protocol, BESS MTRs and BESS Operating Procedures shall only be modified with the written consent of both Parties. Resource Provider acknowledges and agrees that (a) its compliance with the BESS Operating Procedures, BESS MTRs or Testing Protocol does not relieve Resource Provider from any liability that it would otherwise have under this Agreement, and (b) pursuant to Section 3.1 (*LUMA as Authorized Agent of PREPA; Technical Review*), PREPA shall not be liable to Resource Provider or any other person (and Resource Provider shall not otherwise be relieved of its obligations under this Agreement) by reason of PREPA's (or its representatives') review of the BESS Operating Procedures, BESS MTRs or Testing Protocol, or any consent to any modification thereof.

b. No later than two hundred seventy (270) Days after the Closing Date, the Parties shall mutually agree on the Agreed Operating Procedures for the Storage Facility, which shall be attached as Exhibit 8 (Agreed Operating Procedures) hereto.

c. If each of the Parties agrees, such agreement to be in each Party's sole discretion, that it would be beneficial to have Charge Energy sourced from the Generating Facility, then the Parties shall work in good faith to make such mutually agreeable amendments to this Agreement and/or the Agreed Operating Procedures as would allow such Charge Energy to be sourced from the Generation Facility, including changes regarding energy accounting and metering requirements.

3.8 Resource Provider Utilities

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Resource Provider shall procure at its own cost its own electricity prior to the Initial Synchronization Date, which it may obtain from PREPA through a separate agreement, and shall procure at its own cost all of its water, fuel and other utilities during the Term. From and after the Initial Synchronization Date until the Commercial Operation Date, PREPA agrees to backfeed electricity to Resource Provider as requested by Resource Provider at the most advantageous published rate available to Resource Provider, based on PREPA's approved tariff which shall conform with rates PREPA charges to similar customers. From and after the Commercial Operation Date, PREPA shall have responsibility for delivery to Resource Provider at the Interconnection Point of such quantities of Charge Energy as may be specified in Charge Notices, in accordance with Section 7.4 (Charge Energy Obligations), at no cost to Resource Provider.

4. MODIFICATIONS; PRE-SYNCHRONIZATION ACTIVITIES

4.1 Modifications

a. Each Party shall notify the other in advance of, and Resource Provider shall not carry out without PREPA's prior written consent, which PREPA may withhold in its sole discretion, any changes to its system and facilities, and the reasons for those changes, that would reasonably require modification or expansion of the BESS MTRs or BESS Operating Procedures; affect the coordination of protective devices between Resource Provider and the PREPA interconnected systems; or otherwise affect either Party's Interconnection Facilities. Resource Provider shall not carry out any changes to its system or facilities that will, or may be reasonably expected to, impair or limit the Storage Facility's performance or its ability to comply with the BESS Operating Procedures or the Storage Facility's ability to provide the Energy Storage Services and Storage Facility Ancillary Services to PREPA in accordance with this Agreement, including the addition of energy discharge capacity expansions or other upgrades, in each case, without PREPA's prior written consent, which PREPA may withhold in its sole discretion. The Parties acknowledge and agree that any modifications pursuant to this Section 4.1 (Modifications), require the Energy Bureau's approval.

b. PREPA reserves the right to modify or expand the BESS MTRs, or its requirements for protective devices in the Interconnection Facilities, in each case from time to time in accordance with Prudent Utility Practices, and in such case, Resource Provider shall implement such change and assume the cost of such implementation and such change shall be subject to the Discretionary Augmentation Adjustment or Pass-Through Cost Adjustment in Exhibit 2 (Components of Monthly Payment and Calculation Formula), as applicable.

c. Resource Provider's obligation to comply with such modifications or expansions of the BESS MTRs or requirements for protective devices shall not become effective with respect to the Storage Facility until Resource Provider has had a reasonable period of time to create and submit to PREPA a plan to comply with any such modifications, expansions or requirements (such plan to be provided to PREPA no later than twelve (12) months after notice of such modifications, expansions or requirements). Resource Provider will coordinate with PREPA to ensure such plan will allow Resource Provider to comply with such modifications, expansions or requirements, and PREPA shall approve such plan in its reasonable discretion. Resource Provider shall implement such plan no later than twelve (12) months after PREPA's acceptance of such plan and thereafter Resource Provider shall comply with such modifications or expansions of the BESS MTRs or requirements for protective devices in accordance with such plan.

4.2 Technology Upgrades.

From and after the Initial Synchronization Date, Resource Provider shall not carry out any technology upgrades to the Storage Facility that will, or may be reasonably expected to, impair or limit the Storage Facility's performance or its ability to comply with the BESS Operating Procedures or the Storage Facility's ability to provide the Energy Storage Services and Storage Facility Ancillary Services to PREPA in accordance with this Agreement, including the addition of energy discharge capacity expansions or other upgrades, in each case, subject to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review), without PREPA's prior written consent, which PREPA may withhold in its sole discretion.

4.3 Modeling

Resource Provider agrees to keep the PSS/E mathematical models (as provided pursuant to Section 2.1 (Signing Conditions) and Exhibit 21 (Signing Conditions)) current with the future versions of the PSS/E program, and shall provide updated PSS/E mathematical models to PREPA not later than sixty (60) Days

after a PSS/E version upgrade. Resource Provider shall submit to PREPA a report from Siemens PTI or another third-party engineering consultant that validates and certifies the PSS/E mathematical model as accurate, including the subsequent revisions performed to keep the mathematical model current with the future version of the PSS/E program.

4.4 Pre-Synchronization Testing

a. Prior to the Initial Synchronization Date, Resource Provider shall retain a contractor, approved in writing by PREPA (which approval PREPA shall not unreasonably withhold after Resource Provider has submitted to PREPA information about the experience of such contractor), to perform the acceptance testing of the Interconnection Facilities, in accordance with the Testing Protocol. Resource Provider shall provide to PREPA no less than ten (10) Days' prior written notice of such testing and PREPA shall have a representative witness and evaluate the testing.

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b. Subject to Section 3.1 (*LUMA as Authorized Agent of PREPA; Technical Review*), no later than fifteen (15) Business Days following completion of such testing and submission to PREPA of the testing book prepared by the testing contractor, PREPA shall review such testing book and notify Resource Provider in writing whether PREPA (i) accepts such testing book, or (ii) declines to accept such testing book, in which case PREPA shall simultaneously deliver to Resource Provider a written and detailed description of PREPA's objections to such testing book and PREPA's required modifications thereto which Resource Provider shall jointly work with the testing contractor to incorporate in good faith. If PREPA has provided required modifications to the testing book, then no later than five (5) Business Days following Resource Provider's delivery to PREPA of a revised testing book consistent with such modifications, PREPA shall review such revised testing book and notify Resource Provider in writing either of PREPA's approval or that PREPA continues to require modifications thereto. The Parties shall repeat the foregoing process until PREPA approves the testing book, which approval PREPA shall not unreasonably withhold. PREPA shall have the right to finally determine whether the Interconnection Facilities have been adequately designed, constructed and tested and that such facilities comply with the Storage Facility Design and PREPA's other requirements. PREPA shall use commercially reasonable efforts to accept Resource Provider's testing book within fifteen (15) Business Days after Resource Provider's delivery to PREPA of a revised testing book, after Resource Provider has received PREPA's objections to the testing book for the first time.

c. Upon completion of the pre-synchronization testing of the Interconnection Facilities, Resource Provider shall provide written notice (which shall include a copy of the red line drawing used for the construction of the Interconnection Facilities) to PREPA that Resource Provider has substantially completed and tested the Interconnection Facilities in accordance with Sections 4.4a and 4.4b (*Pre-Synchronization Testing*), in the form set forth in Exhibit 18 (*Form of Completion Notice*) (the "IF Completion Notice").

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d. Following receipt of the IF Completion Notice, PREPA (or its representatives) shall inspect such Interconnection Facilities and the Storage Facility to confirm that they were constructed in accordance with the Storage Facility Design, which inspection and confirmation shall be completed promptly, but in any case within five (5) Business Days following PREPA's receipt of the IF Completion Notice.

e. If PREPA (or its representatives) determines in its sole discretion that the Interconnection Facilities of the Storage Facility have not been constructed in accordance with the Storage Facility Design, and that such deviation would impair, or limit the Storage Facility's performance or its ability to comply with BESS Operating Procedures or the Storage Facility's ability to provide the Energy Storage Services and Storage Facility Ancillary Services to PREPA in accordance with this Agreement, including the

addition of energy discharge capacity expansions or other upgrades, and/or if such deviation would adversely affect the operations of the Grid System, PREPA shall so advise Resource Provider in writing within five (5) Business Days following PREPA's inspection of the Interconnection Facilities or the Storage Facility, as applicable, and Resource Provider shall correct or mitigate any such deviation prior to interconnecting the Storage Facility to the Grid System and resubmit the IF Completion Notice (in which case Section 4.4d (*Pre-Synchronization Testing*) shall again apply). If PREPA determines in its sole discretion that the Interconnection Facilities or Storage Facility have not been constructed in accordance with the Storage Facility Design after Resource Provider has submitted two (2) IF Completion Notices that PREPA has found to be deficient, then PREPA may refer the matter to dispute resolution pursuant to Section 21.11 (*Dispute Resolution*).

f. If PREPA determines that the Interconnection Facilities and the Storage Facility have been constructed in accordance with this Agreement, then PREPA shall notify Resource Provider thereof (such notification, the "**Substantial Completion Notice**"), in the form set forth in Exhibit 19 (*Form of Substantial Completion Notice*), and the Parties shall proceed with Initial Synchronization and testing pursuant to Article 5 (*Synchronization, Testing & Completion*).

4.5 Protection Relays & Control

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a. Resource Provider shall provide PREPA with the proposed design of the complete protection systems (including relay devices and relay settings), in accordance with Exhibit 11 (*Technical Requirements for Operation, Protection, & Control*), for PREPA's review and inspection not later than sixty (60) Days prior to the Proposed Initial Synchronization Date. Resource Provider shall submit the protection requirements in three stages: (i) design; (ii) protection report (*i.e.*, the settings to be implemented according to the Storage Facility Design); and (iii) the tests to be performed with the approved settings. Once PREPA accepts that the protection system requirements provided in the preceding sentence have been met, Resource Provider shall notify PREPA in writing promptly (but no later than five (5) Business Days) after completion of any changes to the protection systems requirements.

b. If PREPA declines, in its sole discretion, to accept such protection requirements, then Resource Provider agrees to comply with any reasonable request made by PREPA to provide the protection scheme requirements, including acceptable relay settings, prior to the Initial Synchronization Date. PREPA agrees to give any comments or suggested changes pursuant to this Section 4.5 (*Protection Relays & Control*) within thirty (30) Days after Resource Provider submits the protection requirements at each stage to PREPA; provided that PREPA shall have at least ten (10) Days to evaluate each individual submission after receipt. If the Parties cannot reach an agreement within thirty (30) Days after PREPA's receipt of the complete set of protection requirements, including relay settings, then the Parties shall resolve such dispute in accordance with Section 21.11 (*Dispute Resolution*).

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c. Resource Provider further agrees that control and protection scheme parameters such as ramp rates, frequency fluctuations, overvoltage or low voltage ride-through, voltage support and dynamic power factor, will align in all material respects with the BESS MTRs. Resource Provider shall procure equipment with electrical capabilities to comply with the above-mentioned parameters.

4.6 Voltage Schedule

PREPA shall prepare and submit to Resource Provider a written voltage schedule for the Storage Facility no later than thirty (30) Days prior to the Proposed Initial Synchronization Date. From and after the Commercial Operation Date, PREPA may change such voltage schedule upon thirty (30) Days' prior written notice, or in accordance with the BESS Operating Procedures, provided that such voltage schedule

complies with the BESS MTRs. Resource Provider shall use such voltage schedule in the operation of its Storage Facility. PREPA shall base the voltage schedule on the normally expected operating conditions for the Storage Facility and the reactive power requirements of the Grid System.

4.7 Resource Provider Augmentation

If at any time after the Commercial Operation Date, the Tested Storage Capability is less than the Design Storage Capability (as of the Commercial Operation Date), then subject to the requirements of Section 4.1 (Modifications) and Section 4.2 (Technology Upgrades), Resource Provider, at its sole cost, shall be permitted to modify the Storage Facility after the Commercial Operation Date so as to cause the subsequent Performance Test to reflect that the Tested Storage Capability meets or exceeds the Design Storage Capability as of the Commercial Operation Date (a "**Resource Provider Augmentation**"); provided, however, in no event shall PREPA be responsible to pay for (or otherwise be responsible for, or Resource Provider get the benefit of) Tested Storage Capability in excess of the Design Storage Capability (as of the Commercial Operation Date). Any such Resource Provider Augmentation shall be completed in accordance with Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review) and shall otherwise comply with the terms of this Agreement. For the avoidance of doubt, a Resource Provider Augmentation is separate and distinct from, and does not entitle Resource Provider to, a Discretionary Augmentation Adjustment as described in Section 3 (Discretionary Augmentation Adjustment) of Exhibit 2 (Components of Monthly Payment and Calculation Formula). Notwithstanding the foregoing in this Section 4.7 (Resource Provider Augmentation), if Resource Provider desires to implement any modification or expansion to the Storage Facility that would be considered a Discretionary Augmentation (requiring PREPA's consent in accordance with Exhibit 2 (Components of Monthly Payment and Calculation Formula)), then Resource Provider shall assume the cost of such implementation, subject to the Discretionary Augmentation Adjustment in Exhibit 2 (Components of Monthly Payment and Calculation Formula).

5. **SYNCHRONIZATION, TESTING & COMPLETION**

5.1 Scheduling Synchronization

Resource Provider shall notify PREPA in writing of the proposed Initial Synchronization Date (the "**Proposed Initial Synchronization Date**") and the start-up and testing schedule for the Storage Facility at least ninety (90) Days prior to the Proposed Initial Synchronization Date. Resource Provider shall have the right to postpone or accelerate such date with at least fourteen (14) Days' advance written notice to PREPA. The Parties shall agree on the actual Initial Synchronization Date at least seven (7) Days in advance of such date, which date will enable PREPA (and its representatives) to be present for and approve (in accordance with Section 5.2 (Initial Synchronization)) such synchronization. This provision would also apply to any other subsequent synchronization testing applicable to the Storage Facility after Initial Synchronization, if any.

5.2 Initial Synchronization

Subject to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review), Resource Provider shall not energize, back-feed or synchronize the Storage Facility or Interconnection Facilities without PREPA's prior written approval, which approval PREPA shall not unreasonably withhold. Subject to Resource Provider's compliance with the Interconnection Agreement and this Agreement, PREPA agrees to allow the Storage Facility to interconnect to the Grid System at the Interconnection Point in accordance with the terms of this Agreement from and after the Initial Synchronization Date. PREPA shall have the right to have a representative present at the Storage Facility to witness the synchronization process from and after the Initial Synchronization Date.

5.3 Initial Performance Tests

a. On or promptly after the Initial Synchronization Date, Resource Provider shall conduct the initial performance tests (at Resource Provider's sole cost) on the Storage Facility to, among other things, verify that the Storage Capability of the Storage Facility will meet or exceed the Design Storage Capability, and the provisions of Sections 6.9a and 6.9c (*Supply Period Performance Tests*) shall apply *mutatis mutandis* to such tests (the "**Initial Performance Tests**").

b. Resource Provider warrants that the Initial Performance Tests shall establish that the Storage Capability of the Storage Facility will meet or exceed the Design Storage Capability. If the Initial Performance Tests establish that the Storage Capability of the Storage Facility falls below the Design Storage Capability, then prior to the Long-Stop Date, Resource Provider may, at its election, take corrective actions to increase the Storage Capability of the Storage Facility prior to the Long-Stop Date to meet or exceed the Design Storage Capability.

c. If the Initial Performance Tests establish that the Storage Facility fails to comply with the Other Minimum Acceptance Criteria, then Resource Provider may, at its election:

- i. take corrective actions to improve the performance of the Storage Facility; and
- ii. repeat the Initial Performance Tests to establish that the Storage Facility satisfies the Other Minimum Acceptance Criteria,

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d. Subject to Sections 5.3b and 5.3c (*Initial Performance Tests*), if the Initial Performance Tests do not establish that the Storage Facility meets or exceeds both the Design Storage Capability and Other Minimum Acceptance Criteria at the same time (pursuant to the same Initial Performance Test), then PREPA shall have the right to reject the results of such Initial Performance Tests. If PREPA rejects the results of the Initial Performance Tests, then prior to the Long-Stop Date Resource Provider may perform additional Initial Performance Tests until the Storage Facility meets or exceeds both the Design Storage Capability and the Other Minimum Acceptance Criteria at the same time (pursuant to the same Initial Performance Test), and PREPA accepts the result of such additional Initial Performance Tests.

e. Following the successful completion of the Initial Performance Tests that establish that the Storage Facility meets or exceeds both the Design Storage Capability and Other Minimum Acceptance Criteria at the same time (pursuant to the same Initial Performance Test) and satisfaction of all other criteria to achieve Commercial Operation:

- i. Resource Provider shall notify PREPA in writing of the test results and the Commercial Operation Date by issuing a certificate thereof, in the form set forth in Exhibit 15 (*Form of Commercial Operation Date Certificate*). PREPA shall confirm and countersign such notification, which confirmation PREPA shall not unreasonably withhold.
- ii. Resource Provider shall submit to PREPA a revised PSS/E mathematical model that represents the as-built Storage Facility. This PSS/E model shall include all necessary functionality to properly model the Storage Facility for both steady-state and dynamic simulations. Resource Provider shall also submit a PSS/E validation report for the Storage Facility, which describes how the PSS/E simulation results demonstrate the modeled BESS MTR compliance and performance, based on final adjustment and

parameter settings of BESS MTR and the final successful Initial Performance Tests as required in this Agreement.

f. Early Commercial Operation Date Bonus. If the Commercial Operation Date set forth, confirmed and countersigned by PREPA in Exhibit 15 (Form of Commercial Operation Date Certificate) is (i) on or before March 31, 2026, PREPA shall pay (in installments, as provided below) to Resource Provider a one-time early Commercial Operation Date bonus of Two Hundred Thousand Dollars (\$200,000)/MW, (ii) after March 31, 2026, but on or before June 30, 2026, PREPA shall pay (in installments, as provided below) to Resource Provider a one-time early Commercial Operation Date bonus of One Hundred Fifty Thousand Dollars (\$150,000)/MW, or (iii) after June 30, 2026 but on or before September 30, 2026, PREPA shall pay (in installments, as provided below) to Resource Provider a one-time early Commercial Operation Date bonus of Fifty Thousand Dollars (\$50,000)/MW (the applicable bonus in items (i), (ii), or (iii), the "Early Commercial Operation Date Bonus"). The Early Commercial Operation Date Bonus shall be paid in two (2) installments. The first installment of the Early Commercial Operation Date Bonus shall be paid along with payment of the first (1st) invoice after the Commercial Operation Date and shall be in the amount equal to the applicable Early Commercial Operation Date Bonus multiplied by one half (1/2) of the Tested Storage Capability (which shall not exceed the Design Storage Capability) as determined by the Initial Performance Test on the Commercial Operation Date (which shall not exceed the Design Storage Capability). The second installment of the Early Commercial Operation Date Bonus shall be paid along with payment of the first (1st) invoice after the later of either (i) the date that is six (6) months after the Commercial Operation Date or (ii) the first (1st) annual test performed in accordance with Exhibit 9 (Testing Protocol) and shall be in the amount equal to the applicable Early Commercial Operation Date Bonus multiplied by one half (1/2) of the then Tested Storage Capability (which shall not exceed the Design Storage Capability). For the avoidance of doubt, Resource Provider shall not be entitled to an Early Commercial Operation Date Bonus if the Commercial Operation Date set forth, confirmed and countersigned by PREPA in Exhibit 15 (Form of Commercial Operation Date Certificate) is on or after September 30, 2026.

5.4 Interconnection Facilities. Notwithstanding existing interconnection facilities relating to the Generation Facility and Interconnection Point, which have already been completed pursuant to the PPOA (or the Generation Facility Interconnection Agreement related thereto):

a. On the Commercial Operation Date, Resource Provider shall: (i) transfer good and valid legal title to the PREPA Interconnection Facilities to PREPA free and clear of all liens and any other Claims by third parties, and to the fullest extent allowed by Applicable Law, assign all of the underlying equipment supply contracts and other contracts, and all remaining equipment-supplier warranties in respect of PREPA Interconnection Facilities, to PREPA, in each case in accordance with the Interconnection Agreement to the extent applicable (ii) release and forever discharge PREPA and its respective officers, directors, agents, and employees, and all property connected with or a part of the site of the PREPA Interconnection Facilities, from any and all contractual liens and any other liens arising by operation of Applicable Law or otherwise in connection with, or arising out of, the performance of Resource Provider's obligations under this Agreement, and (iii) specifically waive and release any lien, right, security interest or encumbrance of any kind in connection with this Agreement or Applicable Law, established by Resource Provider, its contractors at any tier, material suppliers, laborers and all other persons or entities furnishing services, labor or materials in connection with Resource Provider's obligations under this Agreement and all other interests therein and all improvements and materials placed on such site or machinery furnished in connection with such work; and

b. Resource Provider shall (or shall cause) design, engineer, procure, construct and complete the PREPA Interconnection Facilities in accordance with the Interconnection Agreement.

c. Resource Provider shall provide PREPA with as-built drawings of the Interconnection Facilities within sixty (60) Days after the Commercial Operation Date and within sixty (60) Days after any material modification of the Interconnection Facilities to the extent that such modification affects such as-built drawings.

d. Resource Provider shall at all times own and be responsible for (at Resource Provider's cost) the safe and adequate operation and maintenance of all Resource Provider Interconnection Facilities, including the transmission line and breaker that interconnect the Storage Facility to the Grid System in accordance with this Agreement. After transfer from Resource Provider, PREPA shall own and be responsible for the safe and adequate operation and maintenance of the PREPA Interconnection Facilities in accordance with the Interconnection Agreement. If PREPA implements any change in the protection system relay settings, equipment, or studies due to any improvement at the Interconnection Facilities required by Resource Provider or as a result of the Storage Facility, Resource Provider shall bear all commercially reasonable costs incurred by PREPA.

6. OPERATION OF THE STORAGE FACILITY

6.1 General

Resource Provider shall:

- a. during each Hour of each Day of each Billing Period:
- i. continuously operate the Storage Facility in Discharge Mode, Charge Mode or Storage Mode without interruption as required by a Dispatch Notice or a Charge Notice;
 - ii. while operating in Discharge Mode, make the Storage Facility available for dispatch by PREPA of (A) a quantity of Energy that corresponds to the Design Duration Energy during the Design Discharge Duration, and (B) Storage Facility Ancillary Services, as applicable, in each case, at the Interconnection Point;
 - iii. while operating in Storage Mode, make the Storage Facility stand idle but ready for immediate operation as set forth in Exhibit 6 (BESS Operating Procedures); and
 - iv. while operating in Charge Mode, make the Storage Facility available to accept at the Interconnection Point a quantity of Energy from PREPA that corresponds to the Design Charge Energy during the Design Charge Duration,

in each case (as applicable to such Hour) and subject to the applicable Annual Degradation Rate;

- b. from the Initial Synchronization Date until the expiry of the Supply Period:
- i. operate, test, maintain, repair and, if necessary, replace the Storage Facility (or any portion thereof) in accordance with (i) the BESS Operating Procedures, (ii) the Testing Protocol, (iii) the BESS MTRs, (iv) Dispatch Notices and Charge Notices, (v) Prudent Utility Practices, (vi) this Agreement, (vii) Applicable Law and applicable Permits, and (viii) Applicable Standards; and
 - ii. ensure that (i) personnel remain on duty at the Storage Facility at the times required to meet Resource Provider's obligations under this Agreement, and (ii) any contractor

that Resource Provider engages for a material portion of the operation, testing, maintenance or repair of the Storage Facility qualifies as a Qualified Operator.

c. For the avoidance of doubt, none of the BESS MTRs, BESS Operating Procedures, or BESS Testing Protocols shall apply to the Generation Facility.

6.2 Electricity Supply to the Facility

For the avoidance of doubt, neither Charge Energy nor Discharge Energy may be used by Resource Provider for any purpose. Charge Energy and Discharge Energy shall never be the property of Resource Provider. Resource Provider shall not be required to pay for Charge Energy and PREPA shall be solely responsible for providing all Charge Energy at its sole cost, except as otherwise provided in this Agreement. From and after the Commercial Operation Date until the expiry of the Supply Period, Resource Provider shall procure at its own cost such Energy as it requires:

a. to return the Storage Facility at the end of an Outage or Derating caused by the acts or omissions of the Resource Provider to a Stored Energy Level equal to the Stored Energy Level immediately prior to such Outage or Derating, as applicable, in accordance with Section 6.6 (Restoration of the Storage Facility);

b. for Station Use in accordance with Section 7.5 (Station Use); and

c. in respect of a Non-PREPA Charge in accordance with Section 7.6 (Non-PREPA Charge),

which PREPA shall supply at the most advantageous published rate available to Resource Provider based on PREPA's approved tariffs, conforming to the rates PREPA charges to similar customers.

6.3 Scheduled Maintenance

a. Resource Provider shall (i) plan its Scheduled Maintenance Program so as to minimize interruptions or reductions to the provision of Energy Storage Services and Storage Facility Ancillary Services, and (ii) cooperate with PREPA to coordinate the Scheduled Outages and Scheduled Deratings with Grid System needs.

b. Resource Provider shall, at least sixty (60) Days prior to the Commercial Operation Date, submit a written schedule of Scheduled Outages and Scheduled Deratings ("**Scheduled Maintenance Program**") for the first Year of the Storage Facility's operations setting forth the proposed Scheduled Outages and Scheduled Deratings periods. Thereafter, Resource Provider shall submit to PREPA, in writing, by July first (1st) of each Year, its proposed Scheduled Maintenance Program for the next two (2) Years in accordance with the original equipment manufacturer's schedule.

c. Resource Provider shall provide the following information for each proposed Scheduled Outage and Scheduled Derating:

- i. description of the work that Resource Provider will perform during such event;
- ii. Expected duration of each Scheduled Outage and Scheduled Deratings, including start date and time and end date and time;
- iii. time to restore the Storage Facility to full operation;

iv. for Scheduled Deratings, Energy Storage Services and Storage Facility Ancillary Services available during such event; and

v. Module(s) to be scheduled out of service.

d. Subject to Section 3.1 (*LUMA as Authorized Agent of PREPA; Technical Review*), PREPA shall have thirty (30) Business Days from receipt of the proposed Scheduled Maintenance Program to notify Resource Provider whether it accepts the program or requires a rescheduling (and to what period when the maintenance can be performed). If PREPA fails to respond during such period, then the Scheduled Maintenance Program shall be deemed accepted.

e. Resource Provider shall only schedule Scheduled Outages and Scheduled Deratings during periods approved by PREPA.

f. Resource Provider shall use commercially reasonable efforts to accommodate any request to reschedule, and if unable to accommodate the request, provide the reasons therefor and alternative dates that it can accommodate. PREPA shall select between the alternative dates proposed to finalize the Scheduled Maintenance Program. If PREPA requests a rescheduling which would result in Resource Provider incurring material incremental costs in excess of what would have been incurred without such rescheduling, then Resource Provider shall provide notice thereof prior to the Scheduled Outage or Scheduled Derating with an estimate of the material incremental costs and PREPA shall be afforded the opportunity to withdraw such rescheduling request. If PREPA proceeds with the rescheduling, then within thirty (30) Days after the rescheduled outage or derating, Resource Provider shall provide reasonable documentation to PREPA of the actual incremental costs incurred (which shall not exceed the estimate provided by Resource Provider) and PREPA shall reimburse Resource Provider therefor.

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g. Resource Provider shall notify PREPA at least seven (7) Days prior to the start of any PREPA-approved Scheduled Outage or Scheduled Derating and shall maintain close coordination as such event approaches.

h. If a condition occurs that causes Resource Provider to revise its Scheduled Maintenance Program, Resource Provider shall promptly notify PREPA of such change (including an estimate of the length of such Scheduled Outage or Scheduled Derating) after the condition causing the change becomes known to Resource Provider and request PREPA's approval, which PREPA shall not unreasonably withhold. If Resource Provider requests a rescheduling which would result in PREPA incurring material incremental costs in excess of what would have been incurred without such rescheduling then PREPA shall provide notice thereof prior to the Scheduled Outage or Scheduled Derating with an estimate of the material incremental costs and Resource Provider shall be afforded the opportunity to withdraw such rescheduling request. If Resource Provider proceeds with the rescheduling, then within thirty (30) days after the rescheduled outage or derating, PREPA shall provide reasonable documentation to Resource Provider of the actual incremental costs incurred (which shall not exceed the estimate provided by PREPA) and Resource Provider shall reimburse PREPA therefor.

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i. Only those Outages or Deratings that (i) meet the submittal timelines in Section 6.3b (*Scheduled Maintenance*), and (ii) PREPA approves in accordance with this Section 6.3 (*Scheduled Maintenance*) shall constitute a Scheduled Outage or Scheduled Derating, respectively.

6.4 Non-Scheduled Outages and Non-Scheduled Deratings

a. If Resource Provider determines that it requires a Non-Scheduled Outage or Non-Scheduled Derating, then Resource Provider shall coordinate the timing of such Non-Scheduled Outage or Non-Scheduled Derating, as applicable, with PREPA.

b. Resource Provider shall use commercially reasonable efforts to notify PREPA of any Non-Scheduled Outage or Non-Scheduled Derating no later than 17:00 Hours (Puerto Rico time) on the third (3rd) Business Day prior to the Day that such Non-Scheduled Outage or Non-Scheduled Derating will occur. In the event of an unexpected Non-Scheduled Outage or Non-Scheduled Derating, Resource Provider shall provide notice to PREPA by telephone or e-mail as soon as reasonably practicable and, in all cases, no more than fifteen (15) minutes following the occurrence of such Non-Scheduled Outage or Non-Scheduled Derating. Thereafter, Resource Provider shall, as soon as reasonably practicable, provide PREPA with a notice that includes (i) the event or condition, (ii) the date and time of such event or condition, (iii) the expected end date and time of such event or condition, (iv) for Non-Scheduled Deratings, the Energy Storage Services and Storage Facility Ancillary Services available during such event or condition, (v) the Stored Energy Level at the time of the Non-Scheduled Outage or Non-Scheduled Derating, and (vi) any other information reasonably requested by PREPA. Resource Provider shall cooperate fully with PREPA's technical team to review the cause and potential remediation required following any Non-Scheduled Outage or Non-Scheduled Derating that creates a material impact on the Grid System, such cooperation to include all of PREPA's documentation and information exchange requirements.

c. Notwithstanding the delivery of a notice of a Non-Scheduled Outage or coordination with PREPA to resolve such event, the Storage Facility shall be deemed unavailable for the duration of a Non-Scheduled Outage for purposes of the calculation of Storage Facility Availability.

6.5 Emergencies

a. No later than the Initial Synchronization Date, each Party shall cooperate with the other in following T&D Operator's Emergency Response Plan, including (i) recovery from a local or widespread electrical blackout, (ii) voltage reduction in order to effect load curtailment, (iii) policies for the delivery by PREPA to Resource Provider of prompt written notice of the occurrence of any Emergency and follow-up, and (iv) frequent status reports on any ongoing Emergency.

b. Resource Provider shall (i) make technical information and data available to PREPA concerning start-up times and black-start capabilities, (ii) promptly inform PREPA of any Emergency at or other material issues with the Storage Facility or the Storage Facility Site, (iii) if requested by PREPA, submit a remediation program setting out the actions Resource Provider shall take to mitigate the Emergency or other material issues at the Storage Facility, and (iv) abide by such program.

c. If the Storage Facility has a Scheduled Outage or Scheduled Derating and such event occurs or would occur coincident with an Emergency, then PREPA may request that Resource Provider make commercially reasonable efforts, consistent with Prudent Utility Practices, to reschedule the Scheduled Outage or Scheduled Derating, as applicable, or if such event has begun, to expedite the completion thereof.

6.6 Restoration of the Storage Facility

a. Following any Emergency, Non-Scheduled Outage or Non-Scheduled Derating, Resource Provider shall provide as much advance notice as reasonably practicable to PREPA of the date and time

that it will bring the Storage Facility back online, provided that Resource Provider shall furnish at least two (2) Days' prior notice for restoration from a Scheduled Outage or Scheduled Derating and at least two (2) Hours' notice for restoration from an Non-Scheduled Outage, Non-Scheduled Derating or Emergency. PREPA shall have the right to rely on such notice for purposes of delivering Dispatch Notices and Charge Notices to Resource Provider.

b. Resource Provider shall return the Storage Facility at the end of an Outage or Derating to a Stored Energy Level equal to the Stored Energy Level immediately prior to such Outage or Derating, and the Outage or Derating shall not end until such amount of Energy has been restored.

c. Resource Provider is responsible for the costs of Energy required to charge and discharge the Storage Facility during an Outage or Derating caused by the acts or omissions of the Resource Provider, including those costs needed to restore the Stored Energy Level to the Stored Energy Level immediately prior to the start of such Outage or Derating.

6.7 Communication

Resource Provider shall provide, install, commission, maintain, repair, and replace (as necessary), at its own cost, the following communication facilities linking the Storage Facility with PREPA:

a. one (1) Remote Terminal Unit ("RTU"), including setup installation and configuration specified by PREPA;

b. two (2) independent telecommunication circuits, including one (1) voice grade to link the SCADA system to the Storage Facility's RTU using LUMA distributed network protocols through a designated PREPA communication node, and a second fiber optic circuit to link PREPA's network to the Storage Facility in order to access protection equipment, revenue meters and the dynamic system monitor through the ruggedcom security device as specified by PREPA;

c. a voice telephone extension for the purpose of communicating with PREPA's Monacillos Transmission Center and the secondary transmission center (which is currently the Ponce Transmission Center);

d. a telephone line and equipment to transmit and receive e-mail messages to confirm oral communication between PREPA and Resource Provider; and

e. dynamic system monitor equipment, components, and system which comply with the requirements of Exhibit 10 (Technical Specifications for the Dynamic System Monitor), for recording the power disturbance caused by electro-mechanic swings and to measure the system response to the swing disturbance.

Subject to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review), PREPA shall have the right to approve items provided by Resource Provider in accordance with this Section 6.7 (Communication), which approval PREPA shall not unreasonably withhold.

6.8 Record Keeping

a. Each Party shall keep complete and accurate books, accounts, records and other data required for the proper administration of all transactions with respect to all matters relating to this Agreement.

b. Resource Provider shall maintain such records and data for a minimum of five (5) Years after the preparation of such records or data and for any additional length of time required by regulatory agencies with jurisdiction over either of the Parties; provided that neither Party shall dispose of or destroy any records without thirty (30) Days' prior written notice to the other Party. Within ten (10) Days after receipt of the notice of intention to destroy or dispose, the other Party shall have the right to require the notifying Party in writing to retain and deliver to it certain records at its sole cost. Any records so notified shall be delivered to the Party requesting their return in no more than ten (10) Days.

c. Resource Provider shall maintain, in physical and electronic copy, (i) as-built drawings, operation and maintenance manuals and other detailed technical documentation for design, engineering, construction, testing, commissioning, operation, maintenance, and repair of the Storage Facility and Interconnection Facilities, and (ii) an accurate and up-to-date operating log at the Storage Facility with records of (A) real and reactive power for each Hour, (B) time-stamped changes in operating status, Outages, Deratings or Emergencies, charging and discharging (including charging and discharging efficiency), Station Use consumption and efficiency, Stored Energy Level, and Storage Facility Availability (including availability to charge and discharge and State of Charge), (C) any unusual conditions found during inspections, (D) any safety incident, accident or other occurrence at the Storage Facility Site that results in injury to persons or damage to property, (E) electrical characteristics of the Storage Facility and settings or adjustments of the Storage Facility's control equipment and protective devices, (F) maintenance performance, (G) all data in relation to Performance Tests and other testing, metering, invoicing, payments, Claims, reimbursements, credits and any other charges to PREPA, and (H) any other significant events related to operation of the Storage Facility.

 d. Either Party shall have the right from time to time, upon fourteen (14) Days' written notice to the other Party and during regular business Hours, to examine the books, accounts, records and other data of the other Party relating to the proper administration of this Agreement any time during the period the records are required to be maintained.

e. Resource Provider shall deliver to PREPA a Monthly operations and maintenance report by the tenth (10th) Day of each Month describing operations and maintenance activities performed in respect of the Storage Facility during the previous Month.

6.9 Supply Period Performance Tests

 a. "Tested Storage Capability" shall be determined as follows: At the Commercial Operation Date, the Tested Storage Capability shall equal to or exceed the Design Storage Capability. After the Commercial Operation Date, the Tested Storage Capability will be adjusted pursuant to the most recent Performance Test in accordance with this Section 6.9 (Supply Period Performance Tests). At the end of each Agreement Year, in accordance with the Testing Protocol, Resource Provider shall conduct at its sole cost a Performance Test to determine the Tested Storage Capability for the following Agreement Year. For the purposes of this Agreement, Tested Storage Capability determined in accordance with the terms of this Agreement shall be effective as of the first Day of the Billing Period following the Billing Period in which such Tested Storage Capability was determined.

b. In addition to the Performance Test performed pursuant to Section 6.9a (Supply Period Performance Tests), during each Agreement Year of the Supply Period, PREPA may request Resource Provider to perform additional Performance Tests, in accordance with the Testing Protocol. The first two (2) such additional Performance Tests shall be performed at Resource Provider's sole cost and thereafter any subsequent additional Performance Test(s) shall be performed at PREPA's sole cost. PREPA's decision to forgo any such test is not a waiver of PREPA's right to require any subsequent Performance Tests.

c. Subject to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review), Resource Provider shall submit to PREPA, for evaluation and approval, all Performance Tests reports (which shall be certified by an experienced and duly qualified independent laboratory or company with specialized expertise in acceptance and other relevant tests of renewable power generating facilities) evidencing that the Storage Facility satisfies the BESS MTRs. Resource Provider's Performance Tests reports shall comply with PREPA's BESS MTR compliance program requirements, including the detail and format requirements therein. PREPA shall have the right to approve such laboratory or company, which approval PREPA shall not unreasonably withhold. For the avoidance of doubt, Resource Provider acknowledges and agrees that PREPA will not accept manufacturers' test reports as evidence of compliance with this requirement.

d. Resource Provider shall coordinate with, and the Performance Tests shall be witnessed by, PREPA (or its representatives). Resource Provider shall provide PREPA with at least thirty (30) Days' advance written notice of all Performance Tests, field tests or other matters that PREPA may witness hereunder. The Parties shall cooperate in good faith to determine mutually acceptable dates for all such Performance Tests, field tests and other PREPA (or its representatives) witnessed matters.

e. Resource Provider may request to perform an additional Performance Test ("**Resource Provider Performance Test**") (i) if, as a result of a Performance Test, the Tested Storage Capability is adjusted downward pursuant to Sections 6.9a or 6.9c (Supply Period Performance Tests), (ii) upon the completion of Scheduled Outage, or (iii) if the results of a Performance Test are outside the ranges specified in the Testing Protocol.

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f. A Resource Provider Performance Test shall be performed at Resource Provider's sole cost in accordance with the Test Protocol, except that (i) Resource Provider shall provide PREPA with notice of its request to test and the proposed starting and end times of the Resource Provider Performance Test no later than three (3) Business Days before it commences, and (ii) PREPA shall evaluate Resource Provider's proposal and, in its sole discretion, either grant such request or identify two (2) alternative start and stop times from which Resource Provider may elect, and to which PREPA will consent. The Tested Storage Capability will be determined in the same manner as through a Performance Test.

7. DISPATCHING & CHARGING OBLIGATIONS

7.1 Dispatching

a. PREPA shall have the right, by providing Dispatch Notices to Resource Provider in accordance with the BESS Operating Procedures, to direct Resource Provider to dispatch the Storage Facility seven (7) Days per week and twenty-four (24) Hours per Day (including holidays) from the Initial Synchronization Date until the expiry of the Supply Period, including the right to require Resource Provider to curtail, reduce or increase the Energy Storage Services or the Storage Facility Ancillary Services, or to disconnect or connect the Storage Facility, in each case, in accordance with:

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- i. Prudent Utility Practices (such as reasons affecting safety margins or reliability levels in the Grid System, power quality problems as well as outages and disconnections ("*vías libres*") of the transmission center or line due to disturbances, maintenance, improvements, and Emergencies);
 - ii. the requirements of Applicable Law and Permits;
 - iii. System Operation Principles;

- iv. the BESS Operating Procedures; and
- v. the Scheduled Maintenance Program.

b. Subject to Section 7.1c (Dispatching), each Dispatch Notice shall remain effective unless and until PREPA modifies such Dispatch Notice by providing Resource Provider with an updated Dispatch Notice. If PREPA cannot issue an electronic submittal for reasons beyond PREPA's control, PREPA may provide Dispatch Notices by (in order or preference, unless the Parties agree to a different order) electronic mail, facsimile transmission or telephonically to Resource Provider's personnel designated in the BESS Operating Procedures to receive such communications.

c. If PREPA submits a Dispatch Notice that does not conform with the BESS Operating Procedures, then Resource Provider shall promptly notify PREPA of the non-conformity and PREPA shall modify its Dispatch Notice to conform to the BESS Operating Procedures. Until such time as PREPA submits a modified Dispatch Notice, Resource Provider shall to the maximum extent possible but consistent with the BESS Operating Procedures, dispatch the Storage Facility in accordance with the original Dispatch Notice.

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d. Notwithstanding any provision to the contrary contained in this Agreement, including Exhibit 4 (Interconnection Description and Specifications), Resource Provider shall not under any circumstance follow, and shall not be liable to PREPA for failure to follow, any Dispatch Notice from PREPA to the extent to which following such Dispatch Notice would cause the Discharge Energy subject to such Dispatch Notice, when combined with any energy generated from the Generation Facility and delivered to the Interconnection Point pursuant to the PPOA, to exceed the interconnection capacity limitations of the Interconnection Point under the Interconnection Agreement. Further, notwithstanding anything herein to the contrary, PREPA agrees and acknowledges that the Storage Facility's right to use its interconnection capacity under the Interconnection Agreement to deliver Discharge Energy to the Interconnection Point will be subordinate to the Generation Facility's rights to use its interconnection capacity under the Generation Facility Interconnection Agreement to deliver energy generated from the Generation Facility to the Interconnection Point at such times and only to the extent delivery of Discharge Energy to the Interconnection Point when combined with any energy generated from the Generation Facility and delivered to the Interconnection Point would exceed the interconnection capacity limitation of the Interconnection Point under the Interconnection Agreement.

e. For the avoidance of doubt, PREPA will not be required to pay for Charge Energy or Discharge Energy hereunder; provided, that PREPA will be responsible for the scheduling and delivery (and the charges related thereto up to the Interconnection Point, with respect to Charge Energy, and at and after the Interconnection Point, with respect to Discharge Energy) of Charge Energy and Discharge Energy in each case, in accordance with Section 7.4 (Charge Energy Obligations).

7.2 Curtailment

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Notwithstanding Section 7.1 (Dispatching), PREPA shall have the additional right to curtail or reduce the Dispatch Notices, or disconnect the Storage Facility, during the Supply Period, and Resource Provider shall have no right to any claim for compensation or receive any payment whatsoever as a result or in connection thereof.

7.3 Charging

a. PREPA will have the right, by providing Charge Notices to Resource Provider in accordance with the BESS Operating Procedures, to provide energy to Resource Provider to charge the Storage Facility seven (7) Days per week and twenty-four (24) Hours per Day (including holidays), from the Initial Synchronization Date until the expiry of the Supply Period in accordance with:

- i. Prudent Utility Practices (such as reasons affecting safety margins or reliability levels in the Grid System, power quality problems as well as outages and disconnections ("vías libres") of the transmission center or line due to disturbances, maintenance, improvements, and Emergencies);
- ii. the requirements of Applicable Law and Permits;
- iii. System Operation Principles;
- iv. the BESS Operating Procedures; and
- v. the Scheduled Maintenance Program.

b. Subject to Section 7.3c (Charging), each Charge Notice shall remain effective unless and until PREPA modifies such Charge Notice by providing Resource Provider with an updated Charge Notice. If PREPA cannot issue an electronic submittal for reasons beyond PREPA's control, PREPA may provide Charge Notices by (in order or preference, unless the Parties agree to a different order) electronic mail, telephonically or by facsimile transmission to Resource Provider's personnel designated in the BESS Operating Procedures to receive such communications.

c. If PREPA submits a Charge Notice that does not conform with the BESS Operating Procedures, then Resource Provider shall promptly notify PREPA of the non-conformity and PREPA shall modify its Charge Notice to conform to the BESS Operating Procedures. Until such time as PREPA submits a modified Charge Notice, Resource Provider shall to the maximum extent possible but consistent with the BESS Operating Procedures, charge the Storage Facility in accordance with the original Charge Notice.

7.4 Charge Energy Obligations

a. Except as set forth in this Section 7.4 (Charge Energy Obligations), Section 6.6 (Restoration of the Storage Facility), Section 7.5 (Station Use) and Section 7.6 (Non-PREPA Charge), or as expressly set forth in this Agreement, during the Supply Period, PREPA shall be responsible for managing, purchasing, scheduling and delivering all of the Charge Energy for the Storage Facility to the Interconnection Point.

b. Resource Provider shall take all actions necessary to accept the Charge Energy at and from the Interconnection Point as part of providing the Energy Storage Services, including maintenance, repair or replacement of equipment in Resource Provider's possession or control used to receive the Charge Energy and deliver the Charge Energy to the Storage Facility, in all cases in accordance with the terms of this Agreement. Resource Provider shall only use the Charge Energy at the direction and for the benefit of PREPA in accordance with the terms of this Agreement.

7.5 Station Use

Resource Provider shall be solely responsible for the purchase and delivery of electricity to satisfy Station Use requirements, it being understood that the Storage Facility will not supply Energy for Station Use.

7.6 Non-PREPA Charge

a. During the Supply Period, Resource Provider shall not charge the Storage Facility nor discharge the Storage Facility other than pursuant to a Charge Notice or Dispatch Notice, as applicable, or in connection with a Performance Test. If Resource Provider (i) charges or discharges the Storage Facility to a Stored Energy Level greater or lesser than the Stored Energy Level provided for in the Charge Notice or Dispatch Notice, as applicable, or (ii) charges or discharges the Storage Facility without a Charge Notice or Dispatch Notice, as applicable, other than in connection with a Performance Test (each, a "**Non-PREPA Charge**"), then (A) Resource Provider shall be responsible for all costs associated with such charging or discharging, including the replacement costs for Charge Energy or Discharge Energy (e.g., charging the battery as directed by PREPA at Resource Provider's sole cost to account for the Discharge Energy improperly discharged hereunder), and (B) PREPA shall be entitled to discharge such Charge Energy and to retain all of the benefits associated with such discharge, without credit to Resource Provider.

b. Resource Provider shall be responsible and pay for any charges, sanction, or penalties associated with a Non-PREPA Charge, any failure to charge or discharge the Storage Facility consistent with a Charge Notice or Dispatch Notice, as applicable, and any deviations from a Charge Notice, Dispatch Notice, or charging or discharging instruction or award.

7.7 Storage Facility Ancillary Services

The Parties acknowledge and agree that PREPA may, from time to time after the Initial Synchronization Date, request Resource Provider to provide PREPA with Storage Facility Ancillary Services by delivering Dispatch Notice thereof to Resource Provider in accordance with this Article 7 (Dispatching & Charging Obligations). Resource Provider shall provide such Storage Facility Ancillary Services in accordance with such Dispatch Notice request, in partial consideration of the Monthly Payments and for no additional cost.

8. **METERING**

8.1 Meter Ownership & Maintenance

a. PREPA shall own and maintain the meters and metering equipment at the PREPA Interconnection Facilities used to measure the delivery and receipt of Discharge Energy and Storage Facility Ancillary Services (the "**Main Meters**"). Resource Provider shall install the Main Meters pursuant to the Interconnection Agreement and shall install all other meters and metering equipment at the Interconnection Point, as well as Resource Provider's back-up meters and metering equipment at the Storage Facility to measure Discharge Energy, Storage Facility Ancillary Services and Charge Energy, in accordance with Exhibit 4 (Interconnection Description and Specifications). The Main Meters must not measure Station Use, which shall be metered separately by Resource Provider in accordance with Section 8.1b (Meter Ownership & Maintenance).

b. Resource Provider shall separately install and meter Station Use with a revenue quality meter or meters, installed in accordance with Exhibit 4 (Interconnection Description and Specifications) and conforming to the electrical service requirements, metering and applicable tariffs applicable to Station Use ("**Station Use Meters**"), or alternatively, compute and report Station Use through the energy

management system of the Storage Facility to PREPA in form and substance reasonably satisfactory to PREPA. PREPA shall own and maintain the Station Use Meters. The Station Use Meters must not measure Discharge Energy and Storage Facility Ancillary Services, which shall be metered separately by Resource Provider in accordance with Section 8.1a (Meter Ownership & Maintenance).

c. Subject to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review), the Main Meters, Station Use Meters and the back-up meters and metering equipment shall meet PREPA's specifications and be subject to PREPA's prior written approval, which approval PREPA shall not unreasonably withhold, and which decision PREPA shall inform Resource Provider of no later than fifteen (15) Days after Resource Provider's notice to PREPA regarding the installation of the proposed meters.

8.2 Meter Inspection

PREPA shall seal the Main Meters and the Station Use Meters. PREPA personnel may only break the seals for inspection, testing or adjustment of the meters performed in accordance with this Agreement. PREPA shall give Resource Provider ten (10) Days' prior written notice thereof and Resource Provider shall have the right to have a representative present during the meter inspection, testing or adjustment. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other Party to coordinate an inspection or test at the earliest convenient date.

8.3 Meter Testing & Calibration

a. At least annually, at PREPA's cost and, in addition from time to time upon two (2) weeks' prior written notice by either Party at the requesting Party's cost (unless the results demonstrate that meters for which PREPA has operation and maintenance responsibility fall outside of the limits established in American National Standard Institute Code for Electricity Metering (ANSI C12.16, latest version: "ANSI C12.16"), in which case PREPA shall bear the cost of such additional tests), PREPA will test and verify the calibration of the meter(s), including backup meters, in accordance with the provisions for meter testing as established by ANSI C12.16. When, as a result of such a test, a meter is found to be within the range specified by the standard, no adjustment will be made to the amount paid on account of such meter's readings. If the meter is found to be outside the range specified by the standard, then (i) the Party owning such defective or inaccurate device shall adjust, repair, replace, and/or recalibrate such device as near as practicable to a condition of zero (0) error (subject to Section 5.4 (Interconnection Facilities)) at that Party's cost, and (ii) the Parties shall use the backup meters to calculate the correct measurements for the actual period during which inaccurate measurements were made.

b. If the Parties cannot determine the actual period during which inaccurate measurements were made, they shall use a period equal to the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. If the backup meters are not available, or if the testing of the backup meters demonstrates that those meters are out of calibration, the Party owning such device shall adjust the meter, and the Parties shall use the corrected meter readings of the most accurate meter for the actual period during which inaccurate measurements were made. If the Parties cannot determine the actual period during which inaccurate measurements were made, the Parties shall use a period equal to one half of the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months.

c. To the extent that the adjustment period covers a period during which a Party has already remitted payment of any amount that was calculated based on an inaccurate measurement, the Parties shall use the corrected measurements as determined in accordance with this Section 8.3 (Meter Testing & Calibration) to recalculate the amount due for the period of the inaccuracy and shall subtract the previous payments by such Party for this period from such recomputed amount. If the difference is a positive number,

the Party which made the payment based on incorrect measurements shall pay the difference to other Party. If the difference is a negative number, the Party which was paid based on incorrect measurements shall pay the difference to other Party, or the other Party may offset such amounts against payments due to the Party which was paid based on incorrect measurements hereunder. The owing Party shall make the payment or credit of such difference no later than thirty (30) Days after the owing Party receives written notice of the amount due, unless the other Party elects payment via an offset. Each Party shall comply with any reasonable request of the other Party concerning the sealing of meters, the presence of a representative of the other Party when the seals are broken and the test is made, and other matters affecting the accuracy of the measurement of electricity delivered from the Storage Facility.

8.4 Meter Reading

During each one (1) Year period from and after the Initial Synchronization Date, PREPA shall read the meters at least twelve (12) times (prorated for any partial Year) to determine the amount of Energy Storage Services provided to PREPA from the Storage Facility for each Billing Period. At PREPA's option, PREPA may choose to read the meters more frequently and total such readings in accordance with the applicable Billing Periods. PREPA shall provide Resource Provider with a written statement containing the reading details and totals within five (5) Days following the end of each Billing Period. PREPA shall notify Resource Provider of any site meter readings and Resource Provider may, at its option, be present for such reading.

8.5 Data

From the Initial Synchronization Date until the expiration of the Supply Period, PREPA shall own all data and information recorded from operation, scheduling, dispatch, testing, and maintenance of the Storage Facility, which data and information PREPA shall license to Resource Provider for the limited purpose of operation, scheduling, dispatch, testing, and maintenance of the Storage Facility during the Supply Period.

9. SALE & PURCHASE

9.1 General

a. Resource Provider agrees to provide and sell Energy Storage Services, including all of the Storage Facility Product produced by the Storage Facility, exclusively to PREPA from the Initial Synchronization Date until the expiration or earlier termination of the Supply Period.

b. PREPA agrees to pay for the Energy Storage Services, including all of the Storage Facility Product produced by the Storage Facility, through Monthly Payments determined in accordance with Exhibit 2 (Components of Monthly Payment and Calculation Formulas), from the Initial Synchronization Date until the expiration or earlier termination of the Supply Period, subject to the terms and conditions of this Agreement.

9.2 Title & Risk of Loss

PREPA shall at all times have title to Charge Energy and Discharge Energy stored and released from the Storage Facility; provided, that all Storage Facility Product made available to PREPA from the Storage Facility will be free and clear of any liens or encumbrances of any kind. Resource Provider will have risk of loss of Storage Facility Product and therefore Resource Provider will be responsible for any damage or injury caused by all Charge Energy at and after the Interconnection Point and all Discharge Energy up to the Interconnection Point. PREPA has risk of loss and will be responsible for any damage or injury caused

by all Charge Energy prior to the Interconnection Point and all Discharge Energy at and after the Interconnection Point. PREPA reserves the right to retain all rights, title, benefits and other interest in, arising out of, or related to the generation, transmission, distribution or supply of such Charge Energy and Discharge Energy that it or any of its Affiliates may realize through its existing or future power generation sources (including the Storage Facility), customer agreements or other projects or improvements to the Grid System.

9.3 Right of Resale

PREPA shall have the sole right to resell all or any portion of the Storage Facility Product purchased under this Agreement, and Resource Provider shall, at no cost to PREPA, take all other actions from and after the Initial Synchronization Date to assist PREPA in receiving, and otherwise ensuring that PREPA can receive and resell the Storage Facility Product, including submission of any reports or filings with applicable Governmental Authorities.

9.4 Green Credits

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If, at any time during the Term, Resource Provider accrues a right to Green Credits associated with the provision of the Energy Storage Services, or otherwise generated in connection with the operation of the Storage Facility, then contemporaneously with the provision of such Energy Storage Services or Storage Facility operation, as applicable, and in partial consideration for the Monthly Payments, Resource Provider shall convey to PREPA, at no additional cost, all such Green Credits. The Parties shall execute all documentation required to confirm the registration of such Green Credits with the North American Renewables Registry or another similar registry acceptable to Resource Provider and PREPA (the "Registry") and the transfer of such Green Credits as reasonably requested by PREPA in accordance with the rules of the Registry, in each case, at Resource Provider's cost. PREPA shall have the sole right to own, market, trade, sell or otherwise transfer such Green Credits available to or in respect of the Storage Facility to any Person, and any Green Credits that are now available or in the future might become available in respect of the Storage Facility shall inure to the benefit of, and the remain the property of, PREPA.

10. **PAYMENT & BILLINGS**

10.1 Invoicing

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a. On or before the fifteenth (15th) Day following the end of each Billing Period, Resource Provider shall provide PREPA with a written invoice for the Monthly Payment and any other amount due to Resource Provider or PREPA under this Agreement relating to such Billing Period. The invoice for each Billing Period shall include the applicable Monthly Payment and any adjustments thereto (as set forth in Exhibit 2 (Components Of Monthly Payment And Calculation Formulas)) for such Billing Period as well as any other charges or credits applicable with respect to such Billing Period. For the avoidance of doubt, such invoice shall reflect an offset for any amounts due and payable by Resource Provider to PREPA with respect to such Billing Period. In addition, the invoice for each Billing Period shall include all information required by this Agreement or otherwise necessary to calculate the Monthly Payment (including the information required to determine the adjustments and calculations set forth in Exhibit 2 (Components of Monthly Payment and Calculation Formulas)) and all components of the Monthly Payment as well as the amount of all Storage Facility Product delivered or made available during such Billing Period, broken down on an hourly basis. For the avoidance of doubt, in no event shall PREPA be responsible to pay for (or otherwise be responsible for, or Resource Provider get the benefit of) more than the Design Storage Capability (as of the Commercial Operation Date) for all purposes hereunder.

b. PREPA shall use commercially reasonable efforts to review each invoice and notify Resource Provider of any issues with respect to the invoice within thirty (30) Days after receipt thereof. Upon PREPA's request, Resource Provider shall furnish, within seven (7) Days, such further information as PREPA may reasonably request in support of the invoice and the amounts due or the amounts of Storage Facility Product delivered or made available, in each case, during such Billing Period.

c. To the extent that an invoice complies with the requirements set forth in this Agreement (including providing all required supporting documentation and certifications with any invoice), and subject to any direct agreement with Storage Facility Lenders, PREPA shall remit payment of undisputed amounts owed under such invoice no later than the forty-seventh (47th) Day after the last day of the previous Billing Period. Resource Provider acknowledges and agrees that PREPA may withhold payment (without accruing Interest) beyond such date if and so long as Resource Provider has failed to provide evidence that it has maintained the insurance policies required by this Agreement.

d. PREPA will charge all payments that it owes under this Agreement to PREPA's budget account number 03-5503-55504-550-340-0000, and estimates that its costs under this Agreement will not exceed One Hundred and Thirty One Million One Hundred and Twenty Six Thousand Four Hundred Dollars (\$131,126,400). 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 Comptroller. This paragraph does not bind the Parties or modify any other provision of this Agreement.

e. All Disputes with respect to invoices shall be resolved in accordance Section 21.11 (*Dispute Resolution*).

f. If agreed by the Parties or determined in accordance with Section 21.11 (*Dispute Resolution*) that PREPA has underpaid an invoice, then Interest shall accrue on the payments due to Resource Provider commencing on the Day after the date on which PREPA had the obligation to remit such payment pursuant to Section 10.1c (*Invoicing*), and continue until, but excluding, the date of payment to Resource Provider.

g. If agreed by the Parties or determined in accordance with Section 21.11 (*Dispute Resolution*) that PREPA has overpaid an invoice, then PREPA shall have the right to deduct the amount of such overpayment plus Interest (from the date of overpayment and continuing until, but excluding, the date PREPA has received full credit for such overpayment) from future payments in the immediately following Billing Period(s) until PREPA has received full credit for such overpayment.

h. On or before the thirtieth (30th) Day following the end of each Billing Period, to the extent applicable, PREPA shall provide Resource Provider with a written invoice for any amount due to PREPA under this Agreement (including to the extent not included and/or offset in Resource Provider's invoice to PREPA pursuant to Section 10.1a (*Invoicing*)) relating to such Billing Period. Resource Provider shall remit payment of all undisputed amounts under such invoice no later than the forty-seventh (47th) Day after the last day of the previous Billing Period.

10.2 Invoice Certification

Resource Provider shall submit all invoices in form acceptable to PREPA and shall include in each such invoice the following certification:

No Interest Certification:

"We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Agreement. The only consideration to be received in exchange for the performance of the Energy Storage Services provided is the agreed-upon price that has been negotiated with an authorized representative of PREPA. The total amount shown on this invoice is true and correct. The Energy Storage Services have been rendered, and no payment has been received."

Resource Provider's Signature

Resource Provider acknowledges that the above certification constitutes an essential requirement of this Agreement, and that PREPA will not process for payment invoices provided without this certification. In order to comply with the certification requirements set forth above, Resource Provider shall require that its contractors also include the certification set forth above in any invoices provided pursuant to this Agreement.

10.3 Payment Set-Off

Notwithstanding the payment requirements set forth in this Article 10 (Payment & Billings), PREPA shall have the right to set off any amounts due and owing to PREPA by Resource Provider pursuant to this Agreement, but which remain unpaid, against the amounts due and owing to Resource Provider by PREPA, provided that (a) such amounts are undisputed, have been determined to be owed to PREPA by a final determination pursuant to Section 21.11 (Dispute Resolution), or are explicitly described in this Agreement, and (b) PREPA has provided Resource Provider with five (5) Business Days' advance written notice describing in reasonable detail the amounts to be set off before effecting any such set off.

10.4 Payment Method

All payments to a Party shall be made by wire transfer to such bank account as such Party shall specify in writing to the other Party prior to the Closing Date, or such other bank account as such Party shall specify in writing to the other Party at least ten (10) Days prior to the date in which payment is due.

11. **LIABILITY**

11.1 General

From and after the Initial Synchronization Date, each Party shall be responsible for the Energy and equipment and facilities located on its respective side of the Interconnection Point. Except as provided in Section 11.2 (Foreseeable Damages), (a) Resource Provider shall have no liability to PREPA for loss or damage to PREPA's generation, transmission, and distribution system, resulting directly or indirectly from the use, misuse or presence of said Energy once it passes to PREPA's side of the Interconnection Point and (b) PREPA shall have no liability to Resource Provider for loss or damage to the Storage Facility or any other equipment or facilities on Resource Provider's side of the Interconnection Point, resulting directly or indirectly from the use, misuse or presence of said Energy once it passes to Resource Provider's side of the Interconnection Point.

11.2 Foreseeable Damages

Each Party shall have liability for all foreseeable damages suffered by the other Party as a necessary consequence of the first Party's negligent acts or omissions or breach of its respective obligations under this Agreement, including during any cure period in accordance with Article 15 (Termination), and as stated under Article 1168 of the Puerto Rico Civil Code, subject to the terms of Section 11.3 (No Liability).

11.3 No Liability

Neither Party nor its officers, directors, agents, employees and representatives shall in any event be liable to the other Party or its officers, directors, agents, employees or representatives for Claims for incidental, consequential or indirect damages to persons or property, whether arising in tort, contract or otherwise, connected with or resulting from performance or non-performance under this Agreement, including Claims made by either Party for lost profits (other than payments expressly contemplated by any provision of this Agreement); provided that (a) third-party indemnity claims (without limiting the carve out in subsection (c) below), (b) the gross negligence, willful misconduct, or fraud of Resource Provider, and (c) Resource Provider's liability for payment or credit of any amounts under Section 13.1 (General), Section 13.3 (Claims Arising from Environmental Harm), or for which Resource Provider receives (or would have received had it complied with the terms of this Agreement) insurance proceeds, shall not be subject to this Section 11.3 (No Liability).

11.4 Obligation to Pay

Nothing in this Article 11 (Liability) shall relieve either Party of its obligation to make payments that become due pursuant to Article 10 (Payment & Billings).

11.5 Resource Provider Liability Cap

Resource Provider's liability to PREPA under this Agreement, whether based on contract, warranty or tort, including errors or omissions, negligence, indemnity (including without limitation the indemnity provisions set forth in Article 13 (Indemnification) hereof), strict liability or otherwise, or any other claim or cause of action, with respect to any and all Claims shall not exceed an amount equal to the Resource Provider Liability Cap; provided, that (a) third-party indemnity Claims (without limiting the carve out in subsection (c) below), (b) the gross negligence, willful misconduct, or fraud of Resource Provider, (c) any adjustments provided for in Exhibit 2 (Components Of Monthly Payment And Calculation Formulas) and (d) Resource Provider's liability for payment or credit of any amounts under Section 13.1 (General), Section 13.3 (Claims Arising from Environmental Harm), or for which Resource Provider receives (or would have received had it complied with the terms of this Agreement) insurance proceeds, shall not be subject to the Resource Provider Liability Cap.

12. **REPRESENTATIONS, WARRANTIES AND COVENANTS**

12.1 Compliance with Law

Resource Provider shall, at all times and in all material respects, comply with Applicable Law, applicable Permits, System Operation Principles, and such other laws applicable to (a) the ownership, development, design, financing, permitting, installation, construction, commissioning, testing, use operation and maintenance of the Storage Facility, and (b) Resource Provider as an Electric Power Company or Electric Power Generation Company (each, as defined under Act 57-2014), as the case may be. Resource Provider shall give all required notices, shall procure and maintain all Permits for the development and construction

of the Storage Facility, and shall pay all charges and fees required in connection therewith. Resource Provider shall complete all environmental impact studies necessary for the design, construction, operation and maintenance of the Storage Facility. Once obtained, Resource Provider shall comply with, and promptly submit to PREPA copies of, all material Permits contemplated by this Section 12.1 (Compliance with Law). Furthermore, pursuant to Section 5(f) of Act 120-2018 and subject to the provisions of this Agreement, Resource Provider shall at all times comply with the public policy and regulatory framework applicable to the Storage Facility.

12.2 Fines & Penalties

Each Party shall have sole responsibility for the payment of any and all fines or other penalties incurred by or imposed upon such Party or its agents, suppliers, employees, contractors for noncompliance by such Party, its agents, employees, suppliers, contractors with Applicable Law to or in connection with, (a) in the case of Resource Provider, the development and construction of the Interconnection Facilities, and the development, construction, ownership, operation, maintenance or repair of the Storage Facility, except to the extent that any act or omission of PREPA or its agents, suppliers, employees, contractors caused such noncompliance, and (b) in the case of PREPA, the proper operation of the Grid System, except to the extent that any act or omission of Resource Provider or its agents, suppliers, employees, contractors caused such noncompliance, in each case, as determined by the applicable Governmental Authority having jurisdiction over the Storage Facility, Interconnection Facilities, Grid System and/or Party, as the case may be, subject to the indemnification provisions of Article 13 (Indemnification).

12.3 Resource Provider Representations and Warranties

Resource Provider represents and warrants to PREPA on the Agreement Date and the Closing Date as follows:

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a. Resource Provider is a corporation, duly organized, validly existing and in good standing under the laws of Puerto Rico and has procured and maintained all necessary authorizations to conduct its business as now conducted in the Commonwealth of Puerto Rico; and Resource Provider has all requisite power and authority to conduct its business as now conducted, to own its properties, and to execute, deliver and perform its obligations under this Agreement;

b. the execution, delivery, and performance by Resource Provider of this Agreement have been duly authorized, and does not and will not (i) require any additional consent or approval of Resource Provider or any other Person; or (ii) violate any provision of Resource Provider'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 Applicable Law, determination or award then in effect;

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c. Resource Provider is not in default under Resource Provider'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, which default could reasonably be expected to have a material adverse effect on the ability of Resource Provider to perform its obligations under this Agreement;

d. this Agreement is a legal, valid and binding obligation of Resource Provider, enforceable against Resource Provider in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally; and

e. except as previously disclosed in writing, there is no pending action or proceeding in which Resource Provider is a party before any Governmental Authority or arbitrator that could reasonably be

expected to materially and adversely affect the financial condition or operations of Resource Provider or the ability of Resource Provider to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Agreement.

12.4 PREPA Representations and Warranties

PREPA represents and warrants to Resource Provider on the Closing Date as follows:

a. pursuant to Act No. 83 of May 2, 1941, as amended, PREPA is a public corporation duly organized and validly existing under the laws of the Commonwealth of Puerto Rico and has all requisite power and authority to conduct its business as now conducted, to own its properties, and to execute, deliver and perform its obligations under this Agreement;

b. the execution, delivery and performance by PREPA of this Agreement has been duly authorized by PREPA's governing board in accordance with Applicable Law, and (i) does not and will not require any additional internal consent or approval of PREPA; and (ii) does not and will not violate any provision of Act No. 83 of May 2, 1941, as amended, or its regulations, or any material indenture, contract or agreement to which it is a party or by which it or its properties may be bound;

c. this Agreement 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;

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d. (i) Resource Provider's right to payment for charges validly incurred in accordance with this Agreement or owed by PREPA under this Agreement arise from a post-petition transaction with PREPA, (ii) the consideration made available by Resource Provider benefits PREPA, and supports PREPA's obligations, under this Agreement, and (iii) as a result of the foregoing, Resource Provider's right to payment for charges validly incurred in accordance with this Agreement or owed by PREPA under this Agreement during the PREPA Bankruptcy constitute reasonable and necessary cost of preserving PREPA and an administrative cost; and

e. other than the PREPA Bankruptcy, except as previously disclosed in writing, there is no pending action or proceeding in which PREPA is a party before any court, governmental agency or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of PREPA or the ability of PREPA to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Agreement as in effect on the date hereof.

12.5 Other Business

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Resource Provider shall not (a) engage in any business activity other than as reasonably required to perform its obligations under this Agreement and the Interconnection Agreement, (b) enter into any merger, consolidation or amalgamation with any entity, or (c) demerge, separate or split into one or more entities, in each case, without PREPA's prior written consent.

12.6 Confidentiality

a. Each Party (the "Receiving Party") agrees that all Agreement terms and information obtained from the other Party (the "Disclosing Party"), which is not otherwise generally available to the public (including any liability the Receiving Party may have to the Disclosing Party for information that becomes generally available to the public through the negligence or willful misconduct of any of the

Receiving Party, its Affiliates or their respective employees, agents and representatives), shall be kept confidential and used solely by the Receiving Party in connection with the performance of its obligations under this Agreement. Disclosure of such information may be made only within the Receiving Party's organization to key personnel, and to third parties serving as the Receiving Party's legal, financial or technical advisors, whose duties justify their need to review and know such material. The Receiving Party shall require each Person (and personnel thereof), except for Receiving Party's legal advisors and attorneys, to agree in writing for the benefit of the Disclosing Party to maintain the confidentiality of such information.

b. To the extent a Receiving Party is required to disclose such information by any Governmental Authority or to the extent necessary to secure Governmental Authority approval or authorization, such Receiving Party shall promptly notify the Disclosing Party and use its commercially reasonable efforts to seek a confidentiality agreement that assures confidential treatment of the information consistent with the terms of this Section 12.6b (Confidentiality). In the event the Receiving Party cannot obtain a confidentiality agreement, such Receiving Party shall use commercially reasonable efforts to obtain through court action the appropriate protective order. Notwithstanding the foregoing and Section 12.6a (Confidentiality), PREPA may disclose the terms and conditions of this Agreement to the (i) FOMB, Energy Bureau, COR3, P3A, the PROMESA Court, and any Governmental Authority for the purposes of obtaining the consents and approvals, together with such additional information as may be required to obtain such consents and approvals, (ii) COR3, P3A, any owner of the Grid System, and any potential or then-existing T&D Operator and their respective advisors and lenders, and (iii) the Puerto Rico Comptroller's Office through the filings required by Applicable Law, which will make this Agreement subject to the open records requirement.

12.7 Local Content

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a. Resource Provider agrees to use its commercially reasonable efforts, when soliciting and obtaining personnel to perform services for the Storage Facility in Puerto Rico, to ensure that individuals who are *bona fide* residents of Puerto Rico as defined in Section 12.7c (Local Content) perform not less than thirty percent (30%) of the total personnel Hours expended in the construction of the Storage Facility (prior to the Commercial Operation Date) and not less than fifty percent (50%) of the total personnel Hours expended in Resource Provider's performance of the Energy Storage Services pursuant to this Agreement (following the Commercial Operation Date).

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b. Resource Provider agrees to use its commercially reasonable efforts, when soliciting and selecting contractors and vendors to perform services for the Storage Facility in Puerto Rico, to ensure that business concerns owned and controlled by one or more individuals, who are *bona fide* residents of Puerto Rico as defined in Section 12.7c (Local Content), perform not less than thirty percent (30%) of the total personnel Hours expended in the construction of the Storage Facility (prior to the Commercial Operation Date), as measured by person-Hours on an annual basis. For purposes of the preceding sentence, "**owned and controlled**" means a business: (i) which is at least fifty-one percent (51%) owned by one or more of such individuals (*e.g.*, in the case of a corporate form of organization such individuals must hold at least fifty-one percent (51%) of all voting stock of the corporation; in the case of a partnership or other form of business concern such individuals must hold at least fifty-one percent (51%) of the beneficial interests in the partnership or business concern); and (ii) whose management and daily business operations are controlled by one or more of such Persons (who need not be owners of the business).

c. For purposes of this Section 12.7c (Local Content), an individual shall be considered a *bona fide* resident of Puerto Rico, if such individual has been a resident of Puerto Rico immediately prior to commencing work on the Storage Facility. To the extent that despite Resource Provider's commercially reasonable efforts Resource Provider has failed to achieve the goals set forth in Sections 12.7a and 12.7b

(Local Content), Resource Provider may for purposes of calculating satisfaction of such percentages of local content, include the services of individuals who at some time prior to commencing work on the Storage Facility, but not necessarily including the period of time immediately prior to commencing work on the Storage Facility, were residents of Puerto Rico for at least five (5) consecutive Years and who relocated to Puerto Rico in order to perform work on the Storage Facility. Resource Provider shall, in good faith, be entitled to rely on the representation of each individual applicant and of each contractor or vendor as to whether such individual, contractor or vendor meets the criteria set forth herein. Resource Provider shall require equivalent undertakings from its contractors.

d. Nothing contained herein shall be interpreted as obligating Resource Provider to take any action which would be in violation of the Applicable Law or any affirmative action program or equal opportunity obligation to which Resource Provider or its Affiliates are or may be bound under Applicable Law.

12.8 Subcontracting

Neither Party shall be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.

12.9 Notice of Monthly Payment Adjustments

Resource Provider shall promptly (but no later than five (5) Business Days) provide written notice to PREPA (or its representatives) of any events or circumstances (and reasonable evidence thereof) that would cause adjustments to the Monthly Payment that Resource Provider receives in accordance with Sections 6 (Bankruptcy Refinancing Adjustment), and 7 (Government Grant or Credit Adjustment) of Exhibit 2 (Components Of Monthly Payment And Calculation Formulas) or with respect to the Monthly Payment Pass-Through Component. With respect to the Monthly Payment Pass-Through Component, Resource Provider shall use commercially reasonable efforts consistent with Prudent Utility Practices to minimize all insurance premiums and Taxes to be recovered thereunder.

12.10 Administrative Expense Treatment

PREPA and Resource Provider stipulate that this Agreement is a post-petition agreement executed after the petition date and entitled to administrative expense treatment under PROMESA and the Bankruptcy Code. Further, PREPA stipulates that all of Resource Provider's costs and obligations owed to Resource Provider under this Agreement will be treated as administrative expenses and will support such recovery in any proceeding before any relevant court.

13. **INDEMNIFICATION**

13.1 General

Subject to the other provisions of this Article 13 (Indemnification), each Party (the "**Indemnifying Party**") shall indemnify and hold harmless the other Party (the "**Indemnified Party**") and each of its Indemnitees from and against any and all Claims by third parties for or on account of injury, bodily or otherwise, or death of persons or for damage to or destruction of third party property, in each case to the extent resulting from or arising out of the Indemnifying Party's violation of law, negligence, willful misconduct or failure to perform under or in breach of this Agreement.

13.2 Notice of Claim

In the event an Indemnified Party receives notice of any Claim for which it elects to assert a right of indemnification under this Article 13 (Indemnification), the Indemnified Party shall give prompt written notice to the Indemnifying Party of such Claim. The Indemnifying Party will have control of the defense of any such Claim (except to the extent prevented by any legal conflict of interest) including the selection of counsel to handle the same. In addition to the counsel so selected, the Indemnified Party shall be entitled to be represented by counsel of its own choosing but, in such event, the cost of said additional counsel shall be borne by such Indemnified Party.

13.3 Claims Arising from Environmental Harm

In addition to and not in any way in limitation of Section 13.1 (General), Resource Provider shall indemnify and hold harmless PREPA from any and all judgments (including costs such as commercially reasonable costs and attorneys' fees) incurred by PREPA as a result of any Claims resulting from any environmental harm due to the actions of Resource Provider or Resource Provider's agents or employees during (a) the design, planning or construction of the Storage Facility or (b) during the operation and decommissioning of the Storage Facility, in each case, arising as a result of the presence at the Storage Facility or Storage Facility Site of pollutants, hazardous substances, materials or wastes in excess of amounts and concentrations permitted by Applicable Law then in effect. In the event Resource Provider fails to reimburse PREPA for such costs within thirty (30) Days of receipt of written notice from PREPA stating that such costs were incurred, PREPA may offset the amount of such costs against amounts due Resource Provider from PREPA under this Agreement. In the event Resource Provider disputes that claimed costs are due to the actions of Resource Provider or Resource Provider's agents or employees, such dispute shall be resolved pursuant to Section 21.11 (Dispute Resolution).

14. **FORCE MAJEURE**

14.1 General

"Force Majeure" means, subject to Section 14.2 (Instances of Force Majeure), any event or circumstance beyond the reasonable control of the affected Party claiming the Force Majeure (the "Affected Party") and not resulting from the fault or negligence of the Affected Party, which wholly or partially prevents the Affected Party from performing any of its obligations under this Agreement, but only if and to the extent that:

a. the Affected Party could not have prevented, avoided or removed such event or circumstance, despite the exercise of reasonable diligence in accordance with and consistent with Prudent Utility Practices;

b. the Affected Party has taken all reasonable precautions, due care and reasonable alternative measures in order to (i) avoid the effect of such event or circumstance on the Affected Party's ability to perform such obligation under this Agreement, and (ii) mitigate the consequences thereof;

c. such event or circumstance did not directly or indirectly arise out of the breach by the Affected Party of any of its obligations under this Agreement or the fault or negligence of the Affected Party; and

d. the Affected Party has given the other Party (the "Non-Affected Party") notice of such event or circumstance in accordance with Section 14.3 (Notice).

Except as provided in Section 14.4 (Consequences), Force Majeure shall excuse the Affected Party from performing the obligation affected by such Force Majeure and the Affected Party shall have no liability for damages or otherwise to the extent caused by such non-performance. The Affected Party shall bear the burden of proving whether Force Majeure has occurred.

14.2 Instances of Force Majeure

Provided that a claim of Force Majeure satisfies the requirements of Section 14.1 (General), Force Majeure may include the following: (a) the act of any Governmental Authority (including any Change of Law) or any failure to act by any Governmental Authority as and when required by Applicable Law; (b) acts of God, strikes, industrial disturbances, acts of public or foreign enemy, war, blockades, boycotts, riots, insurrections, epidemics, earthquakes, storms, sabotage, works to rule, go-slows and other public agitation; (c) invasion, terrorism, rebellion, plague, lightning, hurricane, natural calamity, floods, civil disturbances, lockouts, fires, explosions, interruptions of services due to the act or failure to act as and when required by Applicable Law of any Governmental Authority (other than PREPA); and (d) failure of any contractor or supplier of the Affected Party to perform as a result of an event that would constitute Force Majeure hereunder. Notwithstanding the foregoing, Force Majeure shall expressly not include:

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- i. bankruptcy of a Party or any of its contractors or suppliers at any tier;
 - ii. breakdown or defect of temporary works or the equipment Resource Provider or any of its contractors at any tier, other than breakdown caused by a separate Force Majeure;
 - iii. any changes in prevailing market prices for goods, services, fuel or labor;
 - iv. strikes, lockouts, works to rule, go-slows and other industrial disturbances by personnel of Resource Provider or any of its contractors or suppliers at any tier; or
 - v. any failure by a Party to obtain and/or maintain a Permit.

14.3 Notice

A Party claiming Force Majeure shall, within ten (10) Days after the occurrence of the event(s) or circumstances(s) which forms the basis for such claim, give the Non-Affected Party written notice thereof, describing (a) the particulars of such occurrence, (b) an estimate of the duration of the impact of such event(s) or circumstance(s) on the Affected Party's ability to perform its obligations, and (c) how such claim otherwise satisfies the requirements of Section 14.1 (General), provided that if the Affected Party fails to notify the other Party within such ten (10) Day period, the Affected Party will not be precluded from claiming Force Majeure, but any such Force Majeure will be deemed not to have commenced any sooner than the date on which such notice is given.

14.4 Consequences



Neither Party shall be excused by reason of Force Majeure from the obligation to make any payments, when due, to the other Party or otherwise. Any cost relief associated with a Force Majeure event, including a Change of Law which satisfies the requirements of Section 14.1 (General), may be treated as a cost adjustment pursuant to the appropriate provisions of Exhibit 2.

14.5 Disputes

If a Party Disputes the other Party's claim of Force Majeure, such Dispute shall be resolved pursuant to Section 21.11 (Dispute Resolution).

15. **TERMINATION**

15.1 Termination Date

Subject to Section 15.2 (No Discharge of Obligations), this Agreement shall terminate on the earlier to occur of:

- a. expiration of the Term;
- b. mutual consent of the Parties in writing;
- c. termination of this Agreement identified in a written notice delivered by the non-defaulting Party to the defaulting Party following the occurrence of a Default by the defaulting Party, provided that the termination date occurs no earlier than thirty (30) Days after the issuance of such notice; or
- d. failure of Resource Provider to achieve the Commercial Operation Date by the Long-Stop Date other than with respect to a Development Abandonment.

15.2 No Discharge of Obligations

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Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations incurred prior to, or as a result of, such cancellation, expiration or earlier termination of this Agreement, which by their nature should survive such events, including this Section 15.2 (No Discharge of Obligations), and Article 11 (Liability), Article 13 (Indemnification), Article 14 (Force Majeure), and Article 15 (Termination), Section 6.8 (Record Keeping), Section 12.6 (Confidentiality), Section 16.2 (Certain Material Breaches), Section 18.1 (Resource Provider Requirements), and Article 21 (Miscellaneous Provisions). The Articles, Sections and Exhibits designated in the preceding sentence shall survive the Termination Date, provided that Section 12.6 (Confidentiality) and Article 13 (Indemnification) shall expire on the first (1st) and second (2nd) anniversary of the Termination Date, respectively. Without limiting the foregoing, termination of this Agreement shall not discharge either Party from any Claim or obligation it owes to the other Party under this Agreement by reason of any transaction, loss, cost, damage, or liability which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to the Termination Date. Any such Claim or obligation owed (whether the same shall be known or unknown at termination or whether the circumstances, events or basis of the same shall be known or unknown at termination) shall survive the Termination Date. Except as otherwise expressly contemplated by this Agreement, any indebtedness by either Party to the other shall be considered payable within ninety (90) Days after the Termination Date.

15.3 Removal of Storage Facility & Related Equipment

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Following the Termination Date, Resource Provider shall be entirely responsible (at its sole cost) for owning, operating, maintaining and ultimately removing the Storage Facility and related equipment at the end of their useful lives in accordance with all Applicable Law and PREPA shall have no responsibility with respect to any of the foregoing and Resource Provider shall indemnify and hold harmless PREPA against any liability with respect to any of the foregoing. Prior to the Commercial Operation Date, Resource

Provider shall deliver to PREPA (or its representatives) written copies of its plans for (i) recycling battery energy storage equipment and (ii) fire protection with respect to the Storage Facility, which plans shall be in compliance with all Applicable Law and otherwise in accordance with Prudent Utility Practices. Without limiting its other obligations under this Agreement in any respect, Resource Provider shall operate, maintain and decommission (including removing the Storage Facility and related equipment at the end of their useful lives and restoring the site to a condition that is substantially similar to the condition that existed on the Agreement Date) the Storage Facility in accordance with such plans, all Applicable Law and Prudent Utility Practices and be responsible and liable for all costs associated therewith, including any site remediation. For the avoidance of doubt, Resource Provider acknowledges and agrees that in no event shall PREPA (or its representatives) have any responsibility or liability for any or all costs associated with decommissioning the Storage Facility (including removing the Storage Facility and related equipment at the end of their useful lives and restoring the site to a condition that is substantially similar to the condition that existed on the Agreement Date), recycling any battery energy storage equipment associated with the Storage Facility, or for fire protection with respect to the Storage Facility.

16. DEFAULT

16.1 Definition

The following events shall constitute a "Default" under this Agreement:

- McG*
- a. except as otherwise covered in Section 16.1 (Definition), a materially incorrect or misleading representation or warranty made by a Party under this Agreement or any certification submitted by a Party in connection with the execution, delivery or performance of this Agreement, which in either case remains uncured for a period of at least thirty (30) Days after receipt by such Party of notice thereof from the other Party;
 - b. for Resource Provider as the defaulting Party only, the provision of materially incorrect or misleading information, representation or certification submitted (or made) by Resource Provider in connection with the execution, delivery or performance by Resource Provider of this Agreement, in each case, relating to either (i) corruption or bribery matters, or (ii) a representation made by Resource Provider under Section 16.2 (Certain Material Breaches);
 - c. a Party's failure to remit in full any amount due and payable under this Agreement to the other Party, which remains uncured within sixty (60) Days after the date on which it receives written notice from the other Party of such failure (other than disputed amounts, which the Parties shall resolve in accordance with Section 21.11 (Dispute Resolution));
 - d. for Resource Provider as the defaulting Party only, a default by Resource Provider under Sections 16.2a, 16.2b or 16.2c (Certain Material Breaches);
 - e. except as otherwise covered in Section 16.1 (Definition), default by a Party in the observance or performance of any of the material terms, covenants, or conditions contained in this Agreement (which, for the avoidance of doubt, would include non-compliance with the BESS MTRs as set forth in Exhibit 2 (Components of Monthly Payment and Calculation Formulas) to the extent not remedied as provided therein), which remains uncured for a period of one hundred twenty (120) Days after the date on which it receives written notice from the other Party of such failure, or such longer period (not to exceed an additional cure period of one hundred fifty (150) Days if it can cure such default during such additional cure period and diligently pursues such cure); and
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- f. for Resource Provider as the defaulting Party only:
- i. the termination of the Interconnection Agreement other than due to a "Default" (as defined in the Interconnection Agreement) by PREPA;
 - ii. an Insolvency Event;
 - iii. a Development Abandonment;
 - iv. the Storage Facility Availability falls below seventy percent (70%) in each of two (2) consecutive Agreement Years during the Supply Period; and
 - v. the liability of Resource Provider hereunder exceeds the Resource Provider Liability Cap.

16.2 Certain Material Breaches

a. Pursuant to FOMB's contract review policy (FOMB POLICY: REVIEW OF CONTRACTS, as modified on October 30, 2020), Resource Provider represents and warrants to PREPA on the Agreement Date, and again on the Closing Date, (i) the due execution by Resource Provider and delivery to PREPA of a certification (the "**FOMB Certification**") in the form set out in Exhibit 14 (Form of FOMB Certification), and (ii) the completeness, accuracy and correctness of all information included in such FOMB Certification. As acknowledged, certified and agreed in the FOMB Certification, any misrepresentation, inaccuracy or falseness in such FOMB Certification shall render this Agreement null and void, and Resource Provider shall reimburse PREPA immediately for any amounts, payments or benefits received from PREPA under this Agreement.

b. In accordance with Article 3.4 of Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico of the Commonwealth of Puerto Rico, as amended, Resource Provider acknowledges and agrees that its conviction or guilty plea for any of the crimes as enumerated in Article 3.4 of such Act, in addition to any other applicable liability, shall render this Agreement null and void, and Resource Provider shall reimburse PREPA immediately for any amounts, payments or benefits received from PREPA under this Agreement that directly resulted from the committed crime, but only to the extent required by Act 2-2018.

c. PREPA shall have the right to terminate this Agreement if Resource Provider is convicted in Puerto Rico or United States Federal Court under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

d. Resource Provider acknowledges and agrees that the conditions outlined throughout this Section 16.2 (Certain Material Breaches) constitute essential requirements of this Agreement.

16.3 Remedies & Disputes

Upon the occurrence of a Default, the non-defaulting Party shall have the right to invoke its remedies under this Agreement and/or under Applicable Law. Any Disputes in connection with the existence of a Default shall be resolved pursuant to Section 21.11 (Dispute Resolution).

17. **TAXES & FEES**

17.1 Resource Provider Requirements

Except as provided in Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*), Resource Provider shall bear all Taxes and Environmental Costs applicable to the construction and operation of the Storage Facility. Resource Provider will promptly pay and discharge all Taxes, assessments and governmental charges or levies imposed upon it or in respect of all or any part of its property or business, all trade accounts payable in accordance with usual and customary business terms, and all Claims for work, labor or materials which, if unpaid, might become a lien or charge upon any of its property; provided that Resource Provider shall not be required to pay any such tax, assessment, charge, levy, account payable or Claim if: (a) the validity, applicability or amount thereof is being contested in good faith by appropriate actions or proceedings which will prevent the forfeiture or sale of any property of Resource Provider or any material interference with the use thereof by Resource Provider, and (b) Resource Provider shall set aside on its books reserves deemed by it to be adequate with respect thereto. Resource Provider will retain the exclusive right to all tax attributes associated with the Storage Facility, including Tax Credits, and Resource Provider otherwise bears all risks associated with Resource Provider's or the Storage Facility's eligibility for any such tax attributes (including Tax Credits).

17.2 PREPA Requirements

 PREPA shall pay or cause to be paid all Taxes on or with respect to the purchase of Energy Storage Services and Storage Facility Ancillary Services (including sales tax, excise tax, municipal license tax and value-added tax).

18. **INSURANCE**

18.1 Resource Provider Requirements

Resource Provider shall obtain and maintain in full force and effect from at least thirty (30) days prior the earlier of (a) mobilization at the Storage Facility Site for the commencement of construction; or (b) delivery of equipment or materials to the Storage Facility Site and during the Term of this Agreement and thereafter as provided herein policies of insurance covering all operations engaged in by this Agreement, which shall be formally agreed with an insurance company authorized to do business in Puerto Rico, and to that effect, it shall provide in original certificates of insurance and endorsements as follows:

 a. *Worker's Compensation Insurance*: If at any time Resource Provider has employees, Resource Provider shall procure and maintain Worker's Compensation Insurance as required by the Worker's Compensation Act of the Commonwealth of Puerto Rico. Resource Provider shall also have responsibility for compliance with said Worker's Compensation Act by all its subcontractors, agents, and invitees. Resource Provider shall furnish PREPA a certificate from the State Insurance Fund, in a form reasonably acceptable to PREPA, showing that all personnel employed in the work are covered by the Worker's Compensation Insurance, in accordance with this Agreement. If imported technical personnel are

exempted, as per Act of May 16, 1958, No 16, Resource Provider shall furnish evidence of such exemption and certificate from the insurance carrier covering said personnel.

b. *Commercial General Liability Insurance:* Resource Provider shall procure and maintain Commercial General Liability Insurance with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall include specific coverage for contractual liability, explosion, collapse and underground damages coverage "XCU," sudden and accidental pollution, products, and completed operations liability.

c. *Automobile Liability Insurance:* Resource Provider shall procure and maintain Automobile Liability Insurance with limits of \$1,000,000 combined single limit covering all owned, if any, non-owned, and hired automobiles located in the Commonwealth of Puerto Rico.

d. *Excess Umbrella Liability Insurance:* Resource Provider shall procure and maintain Excess Umbrella Liability Insurance with limits of \$4,000,000 per occurrence and in the aggregate in excess of the limits of insurance provided in Sections 18.1b, 18.1c and 18.1g (Resource Provider Requirements).

e. *All Risk Physical Damage Property Insurance:* Resource Provider shall procure and maintain All Risk Physical Damage Property Insurance, including machinery coverage to cover all real and personal property of Resource Provider (including earthquake and hurricane occurrence) on a replacement cost basis. Resource Provider shall place this insurance policy in effect at the later of the Commercial Operation Date and the termination of the builder's risk insurance policy. The insurance, as required in this Section 18.1e (Resource Provider Requirements), shall, when applicable, cover work at the Storage Facility Site and shall also cover portions of the work located away from the Storage Facility Site and portions of the work in transit. The policy shall include as insured property scaffolding, false work, and temporary buildings located at the Storage Facility Site and, with respect of flood, earthquake and windstorm events, a combined property damage and business interruption limit as may be mutually agreed by the parties from time to time.

f. *Equipment Breakdown Policy:* Unless included in the All Risk Physical Damage Insurance required in Section 18.1e (Resource Provider Requirements), Resource Provider shall procure and maintain an Equipment Breakdown Policy to cover all equipment and machinery of Resource Provider. This insurance shall name PREPA as an additional insured under this policy.

g. *Employer's Liability Insurance:* To the extent that Resource Provider employs employees, Resource Provider shall procure and maintain Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident, covering against the liability imposed by Applicable Law upon Resource Provider as a result of bodily injury, by accident or disease, including death arising out of and in the course of employment, outside of and in the course of employment, and outside of and distinct from any claim under the Worker's Compensation Act of the Commonwealth of Puerto Rico.

h. *Business Interruption Insurance:* Resource Provider shall procure and maintain Business Interruption Insurance, subject to a thirty (30) day waiting period, as it might be reasonable and economically achievable, including a reasonable deductible (which the Parties shall construe as insurance proceeds actually received by Resource Provider for the purposes of this Agreement) with respect to the Storage Facility to include business interruption/loss of income for at least a six (6) Month period of indemnity based on actual loss sustained and contingent business interruption/loss of income subject to a \$10,000,000 sub-limit (or such other sub-limit as may be mutually agreed by the Parties from time to time). Resource Provider shall place this policy into effect on the Commercial Operation Date.

18.2 Requirements for Resource Provider Policies

The Commercial General Liability Insurance and Automobile Liability Insurance required under Section 18.1 (Resource Provider Requirements) shall be endorsed to include:

- a. as Additional Insured:

Puerto Rico Electric Power Authority
Risk Management Office
PO Box 364267
San Juan, PR 00936-4267;

b. a thirty (30) Days' cancellation or nonrenewable notice to be sent by certified mail with return receipt to the above address;

c. an endorsement including this Agreement under contractual liability coverage and identifying it by number, date and the Parties;

- d. a waiver of Subrogation in favor of PREPA; and

e. the breach of any of the warranties or conditions in these policies by Resource Provider shall not prejudice PREPA's rights under this policy, which may be provided by a standard severability of interests/separation of insured's clause.

18.3 Contractor Requirements

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The contractors retained by Resource Provider to construct the Storage Facility shall obtain and maintain in full force and effect at least thirty (30) days prior the earlier of (a) mobilization at the Storage Facility Site for the commencement of construction; or (b) delivery of equipment or materials to the Storage Facility Site, and thereafter as provided herein, policies of insurance covering all construction activities engaged in by them under this Agreement, which shall be formally agreed with insurance companies authorized to do business in Puerto Rico, and to that effect Resource Provider shall provide in the original certificate of insurance and endorsements, as follows:

a. *Workmen's Compensation Insurance:* Resource Provider shall cause its contractors to provide and maintain Workmen's Compensation Insurance as required by the Workmen's Compensation Act of the Commonwealth of Puerto Rico. Resource Provider shall also be responsible for compliance with said Workmen's Compensation Act by all its contractors, agents, and invitees. Resource Provider shall furnish PREPA a certificate from the State Insurance Fund showing that all personnel employed in the work under this Agreement are covered by the Workmen's Compensation Insurance, in accordance with this Agreement. Imported technical personnel are exempted, as per Act of May 16, 1958, No. 16. Resource Provider shall furnish evidence of such exemption and certificate from the insurance carrier covering said personnel.

Chase
b. *Employer's Liability Insurance:* Resource Provider shall cause its contractors to provide and maintain Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident, covering against the liability imposed by law upon Resource Provider as a result of bodily injury, by accident or disease, including death arising out of and in the course of employment and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.

c. *Commercial General Liability Insurance:* Resource Provider shall cause its contractors to provide and maintain Commercial General Liability Insurance ("CGL") with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage. Continuing CGL insurance shall cover liability arising from products completed operations and liability assumed under an insured contract for at least three (3) Years following substantial completion of the work.

d. *Automobile Liability Insurance:* Resource Provider shall cause its contractors to provide and maintain Automobile Liability Insurance with limits of \$1,000,000 combined single limit covering all owned, non-owned and hired automobiles.

e. *Excess Umbrella Liability Insurance:* Resource Provider shall cause its contractors to provide and maintain Excess Umbrella Liability Insurance with limits of \$4,000,000 per occurrence in excess of the limits of insurance provided in this Section 18.3c (Contractor Requirements).

f. *Builder's Risk Insurance:* Resource Provider shall cause its contractors to provide and maintain Builder's Risk Insurance for the entire work. Such insurance shall be written in an amount equal to the total contract sum as well as subsequent modifications of that sum. The insurance shall apply on a replacement cost basis and coverage shall be written on a completed value form as follows:

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- i. The insurance as required above shall be written to cover all risks of physical loss except those specifically excluded in the policy, and shall insure at least against the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft, vehicles, riot, civil commotion, theft, vandalism, malicious mischief, earthquake, and collapse;
 - ii. Any deductible applicable to the insurance purchased in compliance with this requirement shall be paid by Resource Provider; and
 - iii. Resource Provider shall waive all rights against PREPA and its officers, directors, agents, and employees for recovery for damages caused by fire and other perils to the extent covered by builder's risk or property insurance purchased pursuant to the requirements of this Agreement, or any other property insurance applicable to the work.

18.4 Requirements for the Contractor Policies

The Commercial General Liability Insurance and Automobile Liability Insurance required under Section 18.3 (Contractor Requirements) shall be endorsed to include:

- a. as Additional Insured:



Puerto Rico Electric Power Authority
Risk Management Office
PO Box 364267
San Juan, PR 00926-4267;

- b. a thirty (30) Days' cancellation or nonrenewable notice to be sent by certified mail with return receipt to the above address;

c. an endorsement including this Agreement under contractual liability coverage and identifying it by number, date and the Parties;

d. a waiver of Subrogation in favor of PREPA; and

e. the breach of any of the Warranties or Conditions in these policies by the relevant contractor or designer shall not prejudice PREPA's rights under this policy.

18.5 Application of Proceeds

Subject to the terms and conditions of any direct agreement or other similar agreement executed by PREPA, Resource Provider and/or a Storage Facility Lender, Resource Provider shall apply any and all insurance proceeds received in connection with the damage or loss of the Storage Facility toward the repair, reconstruction or replacement of the Storage Facility.

18.6 Unavailability of Insurance on Commercially Reasonable Terms

Notwithstanding the foregoing, in the event any insurance (including the limits or deductibles thereof) required to be maintained by this Article 18 (Insurance), other than insurance required to be maintained by Applicable Law, is not available on commercially reasonable terms in the commercial insurance market, PREPA acting upon consultation with its independent insurance consultant, currently Lockton Companies, or any other such insurance consultant at the time engaged in placing the Property All Risks insurance program of PREPA, shall determine upon notice by Resource Provider the status of the market and shall provide PREPA a report on the commercially reasonable availability of insurance (and benchmarking data to support its decision of whether insurance is unavailable) at commercially reasonable terms, PREPA shall not unreasonably withhold or delay its agreement to waive (or modify) such requirement to the extent the maintenance thereof is not so available and/or, to the extent applicable, may allow Resource Provider (or the Project, as applicable) to obtain the best available insurance comparable to the requirements of this Article 18 (Insurance) on commercially reasonable terms then available in the commercial insurance market (as determined by such independent insurance consultant); provided that (a) Resource Provider shall first request any such waiver (or modification) in writing, which request shall be accompanied by written reports prepared by Resource Provider and its independent insurance consultant, reasonably acceptable to PREPA, confirming that such insurance is not available on commercially reasonable terms in the commercial insurance market for battery energy storage systems 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, with the form and substance of such reports to be reasonably acceptable to PREPA; (b) at any time after the granting of any such waiver (or modification), but not more often than once annually, PREPA may request, and Resource Provider shall furnish to PREPA within sixty (60) days after such request, supplemental reports satisfactory to PREPA updating the prior reports and reaffirming such conclusion; and (c) any such waiver (or modification) shall be effective only so long as such insurance shall not be available on commercially reasonable terms in the commercial insurance market (as determined by PREPA's independent insurance consultant, reasonably acceptable to Resource Provider), it being understood that the failure of Resource Provider to timely furnish any such supplemental report shall be conclusive evidence that such waiver (or modification) is no longer effective because such condition no longer exists.

19. ASSIGNMENT & TRANSFER

19.1 Restriction on Assignment

Except as otherwise provided in this Article 19 (Assignment & Transfer), neither Party shall assign or transfer this Agreement without the prior written consent of the other Party, which consent shall not unreasonably be withheld. Any attempt to assign this Agreement without the prior written consent of the other Party shall be null and void.

19.2 PREPA's Right to Assign

Notwithstanding the provisions of Section 19.1 (Restriction on Assignment), the Parties acknowledge that PREPA is undergoing a transformation process, and therefore agree that, after the front-end transition period of a Partnership Contract, Sale Contract, or any other PREPA Transaction (as these terms are defined in Act 120-2018), PREPA may sell, assign, convey, transfer, pledge, mortgage, sublease, delegate, hypothecate, or otherwise dispose of (each, a "Transfer") any of its rights, title, or interest in this Agreement as permitted by Applicable Law and at any time, without Resource Provider's consent, and without cost or incremental liability to PREPA, to a T&D Operator or to any Governmental Authority of Puerto Rico; provided that PREPA shall notify Resource Provider no later than thirty (30) Days before the effective date of any such Transfer. Unless otherwise agreed by PREPA, following the Transfer, PREPA shall be released from all obligations under this Agreement to the extent such transferee assumes such obligations in writing.

19.3 Resource Provider's Right to Assign

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a. Notwithstanding the provisions of Section 19.1 (Restriction on Assignment), Resource Provider shall have the right, without PREPA's consent, to assign its rights, title and interest under this Agreement to the Storage Facility Lenders (or any agent, trustee or other Person representing the Storage Facility Lenders under the financing documents) as collateral security in order to obtain financing or other funding in respect of the Storage Facility, provided that it shall be a condition precedent to any such assignment that the Storage Facility Lender (or any agent, trustee or other Person representing the Storage Facility Lenders under the financing documents) enter into a direct agreement with PREPA in respect of the collateral assignment of this Agreement substantially and in all material respects in the form of Exhibit 17 (Form of Direct Agreement), provided that Resource Provider shall reimburse PREPA for the actual out-of-pocket cost of negotiating and providing such direct agreement.

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b. Resource Provider shall not have the right to assign its rights, title or interest under this Agreement to any Affiliate of Resource Provider without the prior written consent of PREPA, unless (i) the Storage Facility is also assigned to such Affiliate, (ii) such Affiliate agrees in writing to be bound by the terms of this Agreement and to fully perform the obligations of Resource Provider hereunder (including Exhibit 21 (Signing Conditions)), and (iii) each Sponsor maintains the same percentage of the total equity ownership interest in such Affiliate, whether directly or indirectly, as it owns in Resource Provider at the time of such assignment. Resource Provider shall notify PREPA in writing of Resource Provider's intention to assign this Agreement to an Affiliate at least fifteen (15) Days in advance of any such assignment.

19.4 Restrictions on Equity Transfers

Resource Provider shall ensure that each Sponsor does not assign, sell or transfer (whether directly or indirectly) to any Person all or any portion of its ownership interests in Resource Provider (each, an "Equity Transfer") without the prior written consent of PREPA, not to be unreasonably withheld. Notwithstanding

the foregoing, a Sponsor may, subject to compliance with the last paragraph of this Section 19.4 (Restrictions on Equity Transfers):

a. (i) create a security interest in its ownership interest in Resource Provider in favor of the Storage Facility Lenders, and (ii) PREPA hereby approves any Equity Transfer thereof resulting from the enforcement of such security interests in accordance with the financing documents of the Storage Facility Lenders;

b. (i) prior to the Commercial Operation Date, effect an Equity Transfer solely in connection with a financing transaction involving Tax Credits under Section 48 of the U.S. Internal Revenue Code, provided that such transfer does not result in the Control of Resource Provider or the Storage Facility being transferred to a Person other than a Sponsor or Resource Provider, as applicable; and (ii) at any time after the Commercial Operation Date, effect an Equity Transfer back to Resource Provider or a Sponsor, as applicable, pursuant to the terms of such financing transaction entered into prior to the Commercial Operation Date involving Tax Credits under Section 48 of the U.S. Internal Revenue Code;

c. at any time after the Commercial Operation Date, effect an Equity Transfer to an Affiliate of the Sponsor, provided that such Affiliate remains an Affiliate of the Sponsor at all times after such Equity Transfer; or

d. from and after the second (2nd) anniversary of the Commercial Operation Date, effect an Equity Transfer to a Person, including an Affiliate, provided that such Equity Transfer, when aggregated with all previous Equity Transfers, does not result in a transfer (whether directly or indirectly) of more than forty-nine percent (49%) of the ownership interests in Resource Provider to any Person other than the Sponsor or an Affiliate of the Sponsor.

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If Resource Provider intends to effect an Equity Transfer, then it shall notify PREPA in writing of such intention at least thirty (30) Days in advance of the intended effective date of such Equity Transfer. It shall be a condition precedent of any such Equity Transfer that any regulatory approvals required by Resource Provider and such proposed new owner in connection with the Equity Transfer have been obtained and that the Equity Transfer otherwise complies with Applicable Law.

19.5 Restrictions on Asset Transfers

a. Resource Provider shall not sell or transfer, directly or indirectly, all or any portion of the Storage Facility without PREPA's prior written consent, such consent not to be unreasonably withheld. The foregoing prohibition shall not apply to any such sale or transfer in connection with a permitted assignment by Resource Provider of its rights, title and interest under this Agreement pursuant to Section 19.3 (Resource Provider's Right to Assign).

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b. If Resource Provider intends to sell or transfer the Storage Facility, or any portion of the Storage Facility, pursuant to PREPA's consent under the first sentence of Section 19.5a (Restrictions on Assets Transfers), then it shall notify PREPA in writing of its intention to sell or transfer at least sixty (60) Days in advance of the intended date of such sale or transfer. It shall be a condition precedent to PREPA's consent to any such sale or transfer, that (i) the proposed new owner satisfies the Transfer Requirements, (ii) any regulatory approvals required by Resource Provider and such proposed new owner in connection with the Equity Transfer have been obtained and that the Equity Transfer otherwise complies with Applicable Law, and (iii) if requested by PREPA, Resource Provider enters into an assignment and assumption agreement with PREPA and such proposed new owner in form and substance reasonably acceptable to PREPA pursuant to which Resource Provider shall assign and transfer and such proposed new

owner shall assume all of Resource Provider's rights, obligations and liabilities under this Agreement prior to or on the date of such assignment.

20. NOTICES

20.1 General.

All notices, communications and any other documents to be delivered pursuant to this Agreement shall be in writing, other than dispatch, curtailment or disconnect orders, which may be oral and immediately confirmed via e-mail, and shall be deemed duly given upon receipt after being delivered by hand or sent by e-mail with read receipt confirmation, registered or certified mail, return receipt requested, postage prepaid or by recognized overnight courier service, addressed as follows:

IF TO RESOURCE PROVIDER:

EcoEléctrica BESS LLC.
Road 337, Km 3.7 Bo Tallaboa,
Poniente, Peñuelas PR 00624

Attention: General Manager
Telecopy: (787) 487-6002
Email: creyes@ecoelectrica.com

IF TO PREPA:

Puerto Rico Electric Power Authority
1110 Ponce de León Avenue,
Office #808
San Juan, Puerto Rico

Attention: Jorge Cotto-Perez, Administrator of Operations
E-mail: Jorge.Cotto@prepa.pr.gov
Phone: 787-521-4604

COPY TO LUMA:

LUMA Energy, LLC
P.O. Box 364267
San Juan, P.R. 00936-4267

Attention: Brian Walshe, Director SSCA, Regulatory
E-mail: brian.walshe@lumapr.com

20.2 Change of Address or Persons.

Either Party hereto may change, by notice as above provided, the Persons or addresses to which all such notices are sent.

21. MISCELLANEOUS PROVISIONS

21.1 Waiver & Amendment

This Agreement, including the Exhibits hereto, may be amended or waived only by written agreement between the Parties. A waiver of any Default shall extend only to the particular Default waived and shall not limit or otherwise affect any rights that either Party may have with respect to any other or future Default. The Parties acknowledge and agree that any amendments to the economic or technical terms of this Agreement, or the scope of the Storage Facility, require the Energy Bureau's approval.

21.2 Strict Performance

The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect, unless such waiver is in a written agreement between the Parties.

21.3 No Third-Party Beneficiaries

This Agreement is intended solely for the benefit of the Parties hereto and, solely to the extent rights thereto are provided in this Agreement, for the benefit of the Storage Facility Lenders as third-party beneficiaries. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any Person not a Party to this Agreement.

21.4 Resource Provider Certification Requirement

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The Parties acknowledge that Resource Provider has submitted the certification titled "Contractor Certification Requirement" required in accordance with the Contract Review Policy of the FOMB, effective as of November 6, 2017, and amended on October 30, 2020, signed by Resource Provider's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor Certification Requirement" is included as Exhibit 14 (Form of FOMB Certification) to this Agreement.

21.5 No Sharing of Benefit

No officer, employee, or agent of Resource Provider or PREPA or municipal governments shall be entitled to any share or part of this Agreement or to any benefit that may arise therefrom that would be in violation of any Applicable Law of the Commonwealth of Puerto Rico or policy of PREPA.

21.6 No Association, Joint Venture, or Partnership

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This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as, or be an agent or representative of, or to otherwise bind, the other Party.

21.7 Successors

This Agreement shall inure to the benefit of and be binding upon Resource Provider and PREPA and their respective successors and permitted assigns.

21.8 Complete Agreement

This Agreement is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement with respect to the subject matter hereof and supersedes all prior written and oral understandings between the Parties with respect thereto.

21.9 Severability

If any provision hereof shall be held invalid, illegal or unenforceable by the holding of a Governmental Authority, including an arbitral authority convened pursuant to Section 21.11 (Dispute Resolution), such holding shall not invalidate or render unenforceable any other provision hereof.

21.10 Anticorruption & Antibribery

Resource Provider certifies as of the Closing Date that, to its actual knowledge, it does not receive payment or benefit of any nature for services rendered regularly through an appointment to a Governmental Authority of Puerto Rico.

21.11 Dispute Resolution

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a. *Scope and Commencement of Dispute Resolution.* If a dispute arises between the Parties regarding the application, interpretation, enforceability, validity, performance, or breach of this Agreement or matters arising therefrom or relating thereto, whether sounding in contract, tort, unfair competition, law, equity or any other legal form (a "**Dispute**"), then such Dispute shall be resolved solely by either the agreement of the Parties, or in accordance with the procedures set forth in this Section 21.11 (Dispute Resolution), which shall constitute the sole and exclusive procedures for the resolution of each such Dispute (the "**Dispute Resolution Procedure**"). If a Dispute arises, then either Party may initiate the Dispute Resolution Procedure by giving a written notice of the Dispute to the other Party (each, a "**Dispute Notice**"). The delivery of a Dispute Notice pursuant to this Section 21.11 (Dispute Resolution) shall toll any limitation period imposed by either this Agreement or Applicable Law in respect of a Dispute.

b. *Negotiation.* Upon delivery of a Dispute Notice from a Party, each Party shall nominate a member of its respective senior management, who shall have decision-making authority on behalf of such Party (each, a "**Designated Person**"), and shall cause its Designated Person to promptly meet and negotiate in good faith with the other Designated Person and attempt to resolve the Dispute within thirty (30) days after the date of the delivery of the Dispute Notice, or such longer period as the Designated Persons may otherwise agree in writing (the "**Negotiation Period**").

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c. *Arbitration.* Either Party may initiate mandatory binding arbitration by providing written notice of a demand thereof in accordance with Article 6.33 of Act No. 57 of May 27, 2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act, and the Regulation on Mediation and Arbitration Procedures of the Puerto Rico Energy Commission, Regulation Number 8558 dated February 6, 2015, which shall govern the arbitration proceeding, as supplemented by the Arbitration Rules of the International Chamber of Commerce then in effect (collectively, the "**Arbitration Rules**"). Arbitration shall be conducted before a sole qualified arbitrator (the "**Arbitrator**"). To be qualified as an Arbitrator, the Parties shall select each candidate from the Energy Bureau's list of arbitrators (as supplemented by the list of arbitrators available from the International Chamber of Commerce). The Arbitrator shall be impartial and independent of either Party. The Arbitrator shall not be a past employee or contractor of any of the Parties during the five (5) years prior to an Arbitration conducted pursuant to this Section. Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a

different arrangement, the place of the arbitration will be in San Juan, Puerto Rico. The Arbitrator will have the authority to grant any form of equitable or legal relief a Party might recover in a court action. Each of the Parties (the "First Party") acknowledges and agrees that (i) the other Party would suffer irreparable damage in the event that the First Party fails to perform certain provisions of this Agreement in accordance with the terms of the Agreement, (ii) monetary damages will not provide a sufficient remedy for any breach of these provisions of this Agreement by the First Party, and (iii) the other Party shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of this Agreement by the First Party. Either Party may request the Puerto Rico Court of First Instance, San Juan Superior Court for judgment to be entered confirming the award.

d. *Arbitration Costs & Conclusion.* The Arbitrator shall have discretion to allocate any portion of the costs of the arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs will be borne by such Party), including the fees of the Arbitrators and any expert witnesses, against the Party that the Arbitrator determines did not prevail. Until the Arbitrator renders such award, however, the Parties will share equally in paying the costs of the arbitration. Notwithstanding the foregoing, any costs incurred by a Party in seeking judicial enforcement of any written decision of the Arbitrator shall be chargeable to, and borne exclusively by, the Party against whom such court order is successfully obtained. At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator's decision is based. To the extent possible, with reference to the Arbitration Rules, the Parties agree to the consolidation into a single arbitration of two or more arbitrations pending under the Arbitration Rules and commenced under Section 21.11 (Dispute Resolution) of this Agreement and/or the relevant provisions setting out the arbitration agreement under the PPOA.

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21.12 No Economic Interest

Resource Provider represents, warrants and certifies as of the Closing Date, to its actual knowledge, that no public employee has any personal or economic interest in this Agreement.

21.13 Code of Ethics

Resource Provider agrees to comply with the provisions of Act of June 18, 2002, No. 84, as amended, which establishes a Code of Ethics for the Contractors, Suppliers and Economic Incentive Applicants of the Executive Agencies of the Commonwealth of Puerto Rico.

21.14 Independent Contractor

Resource Provider shall be considered as an independent contractor, for all material purposes under this Agreement, and all Persons engaged or contracted by Resource Provider for the performance of its obligations herein, shall be considered as its employees or agents or those of its contractors, and not as employees or agents of PREPA.

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21.15 Counterparts

This Agreement may be executed in any number of counterparts with the same effect as if both Parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one instrument.

21.16 Governing Law

This Agreement 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 Section 21.11 (*Dispute Resolution*).

[Signature page follows]

McGee

C. H.

IN WITNESS WHEREOF, the Parties hereto have agreed to execute this Agreement as of the Agreement Date.

**PUERTO RICO ELECTRIC POWER
AUTHORITY**

ECOELÉCTRICA BESS LLC

By: 

Mary C. Zapata Acosta
Executive Director
Tax ID: 660-43-3747

By: 

Carlos A. Reyes Berríos
President
Tax ID: 66-1103324
creyes@ecoelectrica.com



EXHIBIT 1
RESOURCE PROVIDER PERMITS

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General Permits and Endorsement Requirements for Accelerated Storage Addition Program

It will be the responsibility of the contractor to obtain all permits and authorizations necessary for the construction and operation of the system. This list reflects permits that may apply to the project. The application of additional permits, endorsements or notifications will depend on the scope of work, location, equipment among other aspects of the project.

Permit Type or Required Processes	Agency	Applicability and Documents Requirements	Responsibility
Categorical Exclusion	General Permit Office (OGPe)	If projects qualify as a categorical exclusion as established in Administrative Order DRNA 2021-02 an environmental recommendation is not required.	Construction Contractor
Environmental Recommendation (SRM)	General Permit Office (OGPe) (Environmental Compliance Division) DECA	Discretionary procedure to consult or inquire an agency as part of the environmental evaluation process.	Construction Contractor
Environmental Recommendation (REA)	General Permit Office (OGPe) (Environmental Compliance Division) DECA	If action does not fall under Administrative Order OGPE-2021-07, this procedure is necessary to collect all concerned agencies' comments when determining whether the proposed action will have a possible significant environmental impact.	Construction Contractor
Environmental Determination	General Permit Office (OGPe) (Environmental Compliance Division) DECA	If a REA needs to be submitted, the next step is the procedure necessary to determine whether the proposed action will have a possible significant environmental impact.	Construction Contractor



Permit Type or Required Processes	Agency	Applicability and Documents Requirements	Responsibility
Historical and Archaeological Preservation	Puerto Rico Culture Institute (ICP)	Required to comply with historical and archaeological preservation public policy established and related to culture and historical sites.	Construction Contractor
Federal historical and archaeological preservation	State Historic Preservation Office (SHPO)	A consultation may be recommended with Inventory and Preservation of historical and archaeological properties. Indicate Applicability. If the land classification is in historical value sites, sonification's	Construction Contractor
Regulation 13 Compliance	Puerto Rico Planning Board (JP)	The Planning Board (JP) acts as an entity designated as the National Flood Insurance Program State Coordinating Agency. This Regulation applies to projects in areas subject to flood	Construction Contractor
	General Permit Office (OGPe)	☐ Elevation Certificate (Must be completed by licensed Surveyor or licensed Engineer with Permanent Registry of Surveying (RPA)). Must comply with <u>Guidelines for Preparation of Elevation Certificate in Puerto Rico FEMA form 086-0-33</u>	
	Department of Environmental and Natural Resources (DENR)	☐ Hydrological and hydraulic Study Endorsement (H-H) Must comply with <u>Puerto Rico H-H Study Elaboration Guidance</u>	
Municipalities Endorsement		Required when we temporarily occupy the municipal road/street right-of-way to perform any work. Required Maintenance of Traffic (MOT) according to the applicable regulation.	Construction Contractor

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Ches



Permit Type or Required Processes	Agency	Applicability and Documents Requirements	Responsibility
Infrastructure Recommendation (SRI)	General Permit Office (OGPe)	Process to consult or inquire into an agency as part of the permit application process. Puerto Rico Electric Power Authority, Puerto Rico Sewer Authority and Department of Transportation.	Construction Contractor
Consolidated Construction Permit (PCOC)	General Permit Office (OGPe)	This permit applies to projects that involve construction, reconstruction, remodeling, demolition, rehabilitation, alterations and extensions that are not exempt from permit. Will require drawing sets and certification of an architect, engineer, or surveyor. Electrical calculations and short-circuit current computations if the project includes electrical systems (PDF)	Construction Contractor
Location Consult (CUB)	OGPe	Request if a variation of place or use is necessary to develop the project.	Construction Contractor
Single Incidental Permit (PUI)	OGPe	<p>Permit to satisfy environmental aspects of the project. If it is necessary to apply will include the following permits:</p> <ul style="list-style-type: none"> ☐ Permit of Incidental Activity to an Authorized Work (POA). ☐ Permits of Incidental Activity to Public Infrastructure Work (PIE). ☐ Authorization of Cutting, Pruning, Transplantation and Planting of Trees (ACP) ☐ Consolidated General Permit (PGC) (mark all applicable): <ul style="list-style-type: none"> ☐ Control Erosion and Sedimentation (CES) Plan ☐ Waste Disposal Permit (DS-3) ☐ Emission Source Permit (PFE) <p>Indicate Applicability: It may be required depending on the activity conducted or any other activity of soil movement only if it exceeds 40 m3 or 900 m2 and/or waste disposal.</p>	Construction Contractor

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Chase



Permit Type or Required Processes	Agency	Applicability and Documents Requirements	Responsibility
Erosion Control and Sedimentation Prevention Plan	LUMA	If work does not exceed 40 cubic meters in an area of more than 900 square meters Management of soil, stormwater, and sedimentation during construction and operations of facilities and electrical infrastructure	Construction Contractor
Spill Prevention Countermeasure	LUMA	Plans are necessary to establish what to do if an oil spill occurs. Each Plan is unique to its facility, but all plans must include the following elements: • Oil handling operations at the facility • Spill prevention practices • Discharge or drainage controls Personnel, equipment, and resources at the facility used to prevent oil spills	Construction Contractor
Waste Disposal	Department of Environmental and Natural Resources (DENR)	Generating Activity of Non-Hazardous Solid Waste Permit for internal work that disposal is contracted.	Construction Contractor
Hazardous Waste and Universal wastes	Department of Environmental and Natural Resources (DENR)	Hazardous waste material will be disposed of following federal and local procedures.	Construction Contractor
National Wide Permit (Joint Permit Application)	Department of Environmental and Natural Resources (DENR) United States Corps of Engineers (USACE) and Puerto Rico Planning Board JP	Apply to projects that affect streams, waterways, waterbodies, wetlands, coastal areas, sources of water, navigable waters, wetland filling, among others.	Construction Contractor



- This list is for informational purposes only.
- A project must comply with these and other applicable permit requirements which may depend on the type of project and its location.
- No project may begin until the permits have been approved by the municipalities or state or federal government agencies

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EXHIBIT 2

COMPONENTS OF MONTHLY PAYMENT AND CALCULATION FORMULAS

1. **Monthly Payment.** For each Billing Period, PREPA shall pay to Resource Provider a Monthly Payment for Energy Storage Service and Storage Facility Products. The Monthly Payment in each Billing Period will be equal to (a) the Storage Capability Payment Price multiplied by the Tested Storage Capability, and adjusted for any Interconnection Adjustment, Discretionary Augmentation Adjustment, Pass-through Cost Adjustment, Bankruptcy Refinancing Adjustment, Government Grant or Credit Adjustment, BESS MTR Compliance Adjustment, and Storage Facility Availability Adjustment plus (b) the Monthly Payment Pass-Through Component, as follows:

$$MP = [(SCPP \times TSC) + IA + DAA + PCA - BRA - GGCA - BMTRCA - SFAA] + MPPTC$$

Where:

MP = Monthly Payment for such Billing Period;

SCPP = Storage Capability Payment Price applicable in such Billing Period shall be Sixteen Thousand Dollars (\$16,000)/MW-month of Tested Storage Capability (with no escalation to such price during the Term), which such price is inclusive of Investment Tax Credits; provided, if Resource Provider determines within a reasonable period of time after the Commercial Operation Date that the Storage Facility fails to qualify for Investment Tax Credits, then Resource Provider shall provide prompt written notice of such failure to PREPA and the Storage Capability Payment Price applicable in such Billing Period shall be Twenty Thousand Six Hundred Dollars (\$20,600)/MW-month of Tested Storage Capability (with no escalation to such price during the Term). If the Storage Capability Payment Price is inclusive of Investment Tax Credits as of the Commercial Operation Date, then the obligations of the Parties hereunder, including those obligations set forth herein regarding the Storage Capability Payment Price to be paid to Resource Provider and the delivery and making available of Storage Facility Product by Resource Provider, shall be effective regardless of whether the delivery of Storage Facility Product from the Storage Facility is eligible for, or receives, or the Storage Facility qualifies for ITCs for Resource Provider's accounting, reporting or tax purposes during the Term.

TSC = Tested Storage Capability (in MW) of the Storage Facility that can be demonstrated over a four (4) hour continuous period pursuant to Section 6.9a (Supply Period Performance Tests) applicable in such Billing Period; provided, that in no event shall PREPA be responsible to pay for (or otherwise be responsible for, or Resource Provider get the benefit of) Tested Storage Capability that exceeds the Design Storage Capability (as of the Commercial Operation Date);

IA = Interconnection Adjustment (as defined in Section 2 (Interconnection Adjustment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas)) in such Billing Period, if any;

- DAA =** Discretionary Augmentation Adjustment (as defined in Section 3 (*Discretionary Augmentation Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) in such Billing Period, if any;
- PCA =** Pass-through Cost Adjustment (as defined in Section 4 (*Pass-Through Cost Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) in such Billing Period, if any;
- BRA =** Bankruptcy Refinancing Adjustment (as defined in Section 6 (*Bankruptcy Refinancing Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) in such Billing Period, if any;
- GGCA =** Government Grant or Credit Adjustment (as defined in Section 7 (*Government Grant or Credit Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) in such Billing Period, if any;
- BMTRCA=** BESS MTR Compliance Adjustment (as defined in Section 8 (*BESS MTR Compliance Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) in such Billing Period, if any; and
- SFAA =** Storage Facility Availability Adjustment (as defined in Section 5 (*Storage Facility Availability Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) in such Billing Period, if any.
- MPPTC =** Monthly Payment Pass-Through Component, which shall equal the actual payment made by Resource Provider (a) in the month prior to a Billing Period occurring after the Commercial Operation Date, in the case of clauses (i) and (ii) below, and (b) in the period between the Agreement Date and the Commercial Operation Date, in the case of clause (iii) below, with respect to (i) insurance premiums (including insurance premiums paid by Resource Provider that are increased incrementally on existing insurance policies) that are reasonably acceptable to PREPA, (ii) sales taxes, and (iii) increased tariff costs reasonably incurred by or on behalf of Resource Provider as a result of an increase in tariffs after the Agreement Date applicable to equipment or other goods incorporated into the Storage Facility and which PREPA otherwise approves, such approval to be in PREPA's sole discretion, in the case of clauses (i), (ii), and (iii), attributable solely to the Storage Facility and the products provided under this Agreement. Resource Provider shall provide reasonable evidence of such payments to PREPA pursuant to Section 12.9 (*Notice of Monthly Payment Adjustments*). In no event will any component of the MPPTC be included in any other adjustment in this formula for the Monthly Payment. The Monthly Payment Pass-Through Component will be converted to an equivalent monthly amount in accordance with Schedule 1 (*Method for Converting Costs to Monthly Payment Adjustments*) to this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*) and that amount added to the Monthly Payment as a Monthly Payment Pass-Through Component.

The Parties acknowledge and agree that any modifications or adjustments to the economic or technical terms of this Agreement (including in this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*)) require the Energy Bureau's approval in order for PREPA to move forward with such modification or adjustment. If Resource Provider disagrees with (i) PREPA's decision not to approve an

adjustment requested by Resource Provider provided for below or (ii) the amount of the adjustment provided for below approved by PREPA, then, in each case, Resource Provider may provide PREPA written notice thereof and together the Parties shall present the matter to the Energy Bureau for determination.

2. **Interconnection Adjustment (IA).** The Interconnection Adjustment, if any, shall be calculated as follows:

- a. If, after the Closing Date, Resource Provider is required to incur costs in connection with the Interconnection Facilities or the interconnection of the Storage Facility, notice of which Resource Provider provides to PREPA, then, the Monthly Payment shall be subject to an adjustment ("**Interconnection Adjustment**") pursuant to this Section 2 (Interconnection Adjustment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) solely in respect of such commercially reasonable costs as are actually incurred by or on behalf of Resource Provider in connection with the Interconnection Facilities or the interconnection of the Storage Facility and that are subject to PREPA's agreement, in PREPA's sole discretion (the "**Additional Interconnection Costs**").
- b. The Additional Interconnection Costs will be converted to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) and that amount added to the Monthly Payment as an Interconnection Adjustment.

3. **Discretionary Augmentation Adjustment (DAA).** The Discretionary Augmentation Adjustment, if any, shall be calculated as follows:

- 
- a. If, after the Closing Date, Resource Provider requests to modify the Storage Facility to increase the Storage Capability above the most recent Tested Storage Capability in a manner that will require an update to the Agreement, including Exhibit 6 (BESS Operating Procedures), then, subject to PREPA's agreement (unless the change is related to Section 4.1(b) (Modifications) of the Agreement, in which case PREPA's agreement shall not be required), such agreement to be in PREPA's sole discretion ("**Discretionary Augmentation**"), the Monthly Payment shall be subject to an adjustment ("**Discretionary Augmentation Adjustment**") pursuant to this Section 3 (Discretionary Augmentation Adjustment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) solely in respect of such commercially reasonable costs as are actually incurred by or on behalf of Resource Provider to make such modification and that are subject to PREPA's agreement, such agreement to be in PREPA's sole discretion (the "**Additional Discretionary Augmentation Costs**").
 - b. The Additional Discretionary Augmentation Costs will be converted to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) and that amount added to the Monthly Payment as a Discretionary Augmentation Adjustment.
 - c. For the avoidance of doubt, a Discretionary Augmentation Adjustment is separate and distinct from a Resource Provider Augmentation as described in Section 4.7 (Resource Provider Augmentation) of the Agreement. A Resource Provider Augmentation does not entitle Resource Provider to a Discretionary Augmentation Adjustment pursuant to this

Section 3 (Discretionary Augmentation Adjustment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas).

4. **Pass-through Cost Adjustment (PCA).** The Pass-Through Cost Adjustment, if any, shall be calculated as follows:

- a. If, after the Closing Date, any costs that Resource Provider incurs with respect to the Storage Facility increase above the operation and maintenance and capital costs that Resource Provider expected to incur with respect to the Storage Facility as of the Closing Date (in all cases, reasonable evidence of which Resource Provider shall provide to PREPA in accordance with Section 12.9 (Notice of Monthly Payment Adjustments) of the Agreement), then, Resource Provider may notify PREPA of the same and, subject to PREPA's agreement (unless the change is related to Section 4.1(b) (Modifications) of the Agreement, in which case PREPA's agreement shall not be required), such agreement to be in PREPA's sole discretion, the Monthly Payment shall be subject to an adjustment (the "**Pass-Through Cost Adjustment**"), pursuant to this Section 4 (Pass-through Cost Adjustment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) solely in respect of such commercially reasonable costs as are actually incurred by or on behalf of Resource Provider in connection with an increase in the expected operation and maintenance and capital costs of the Storage Facility and that are subject to PREPA's agreement, in PREPA's sole discretion (the "**Pass-Through Costs**").
- b. The Pass-Through Costs will be converted to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) and that amount added to the Monthly Payment as a Pass-Through Cost Adjustment.
- c. For the avoidance of doubt, the Pass-Through Cost Adjustment is separate and distinct from the Monthly Payment Pass-Through Component as described in Section 1 (Monthly Payment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas). The use of the Monthly Payment Pass-Through Component does not entitle Resource Provider to a Pass-Through Cost Adjustment pursuant to this Section 4 (Pass-Through Cost Adjustment) of this Exhibit 2 (Components of Monthly Payment and Calculation Formulas).
- d. Notwithstanding the foregoing and without prejudice of any other Pass-Through Cost Adjustment which may be approved in the future, the Parties have agreed, and the Energy Bureau authorized in its Resolution and Order of January 14, 2025 issued in case no. NEPR-MI-2024-0002, the addition of full station black start capability to the Storage Facility, the cost of which shall be recovered by Resource Provider through a Pass-Through Cost Adjustment to be added to the Monthly Payment. The Parties have further agreed that the Pass-Through Cost Adjustment for black start capability shall not exceed \$12,325,000 plus the risk and return assumption of the ASAP Standard Offer pricing model (13.9%), which when converted to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) results in a Pass-Through Cost Adjustment of \$134,360 per month. If the costs incurred by Resource Provider with respect to the addition of full station black start capability are less than \$12,325,000, then a reduced Pass-Through Cost Adjustment shall be computed by (i) subtracting the total

cost of the addition of full station black start capability from \$12,325,000, (ii) multiplying that difference by 75%, (iii) subtracting such product from \$12,325,000, (iv) adding the risk and return assumption of the ASAP Standard Offer pricing model (13.9%), and (v) converting the resulting amount to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) which shall be added instead to the Monthly Payment as the Pass-Through Cost Adjustment for black start capability.

5. **Storage Facility Availability Adjustment (SFAA).** The SFAA, if any, shall be calculated as follows:

- a. If the Storage Facility Availability ("SFA") (measured in %) in any Agreement Year (commencing with the second (2nd) Agreement Year), is less than ninety-eight percent (98%) (the "Guaranteed Storage Facility Availability" or "GSFA"), then the Monthly Payment shall be reduced (the "Storage Facility Availability Adjustment" or "SFAA") to account for such reduced Storage Facility Availability as follows:

$$\text{SFAA} = [\text{GSFA} - \text{SFA}] * \text{Tested Storage Capability} * \text{Storage Capability Payment Price}$$

Where:

$$\text{SFA} = \frac{\text{PH} - \text{TAODH}}{\text{PH}}$$

Where:

PH = Total hours during the Agreement Year

TAODH = Total Annual Outage and Derating Hours during the Agreement Year;

= the sum of the number of Equivalent Outage Hours during which the Storage Facility has experienced an Outage or Derating during the Agreement Year.

EOH = Equivalent Outage Hour;

= means an amount ranging from 0.00 up to 1.00, representing the percentage of Tested Storage Capability not available during an hour in which an Outage or Derating occurred;

= the quotient of (i) the total capability of the Storage Facility in such hour (in MW) that is not available due to an Outage or Derating during such hour (in MW) and (ii) the Tested Storage Capability during such hour (in MW).

- b. The Storage Facility Availability Adjustment shall be applied to the Monthly Payment over each Billing Period of the following Agreement Year.

6. **Bankruptcy Refinancing Adjustment (BRA).** The BRA, if any, shall be calculated as follows:
- If, after the Agreement Date, PREPA emerges from bankruptcy protection and Resource Provider refinances its project debt related to the Storage Facility on more favorable interest rate terms (reasonable evidence of which Resource Provider shall provide to PREPA), then Resource Provider shall promptly (but no later than five (5) Business Days) notify PREPA of the same pursuant to Section 12.9 (Notice of Monthly Payment Adjustments) of the Agreement and the Monthly Payment in each Billing Period during the remainder of the Supply Term will be reduced (the "**Bankruptcy Refinancing Adjustment**" or "**BRA**") to account for eighty percent (80%) of the total amount of any savings accruing to Resource Provider being passed on to PREPA (and further passed through to the ratepayers) from such refinancing (reasonable evidence of which Resource Provider shall provide to PREPA) subject to PREPA's agreement, in PREPA's sole discretion (the "**BRA Savings**").
 - The BRA Savings will be converted to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) and that amount subtracted to the Monthly Payment as a Bankruptcy Refinancing Adjustment.
7. **Government Grant or Credit Adjustment (GGCA).** The GGCA, if any, shall be calculated as follows:
- If, after the Agreement Date, Resource Provider obtains a grant, credit, subsidy or other incentive (including any Tax Credits (other than the ITC) and any Federal Loan Payment Office financing) from a Governmental Authority related to the Storage Facility whether from the United States Federal Government (including the Department of Energy), the Commonwealth of Puerto Rico (excluding incentives under a tax grant issued pursuant to the Puerto Rico Incentives Code, Act 60-2019, as amended) or any other Governmental Authority (reasonable evidence of which Resource Provider shall provide to PREPA), then Resource Provider shall promptly (but no later than five (5) Business Days) notify PREPA of the same pursuant to Section 12.9 (Notice of Monthly Payment Adjustments) of the Agreement and the Monthly Payment in each Billing Period during the remainder of the Supply Term will be reduced (the "**Government Grant or Credit Adjustment**" or "**GGCA**") to account for eighty percent (80%) of the total amount of any savings accruing to Resource Provider being passed on to PREPA (and further passed through to the ratepayers) from such grant, credit, subsidy or other incentive (reasonable evidence of which Resource Provider shall provide to PREPA) subject to PREPA's agreement, in PREPA's sole discretion (the "**GGCA Savings**").
 - The GGCA Savings will be converted to an equivalent monthly amount in accordance with Schedule 1 (Method for Converting Costs to Monthly Payment Adjustments) to this Exhibit 2 (Components of Monthly Payment and Calculation Formulas) and that amount subtracted from the Monthly Payment as a Government Grant or Credit Adjustment.
8. **BESS MTR Compliance Adjustment (BMTRCA).** The BMTRCA, if any, shall be calculated as follows:
- If PREPA determines in accordance with Prudent Utility Practice that Resource Provider is not in compliance with any of the BESS MTRs, PREPA shall issue a notice informing

Resource Provider of the items of non-compliance ("**BESS MTR Non-Compliance Notification**") and Resource Provider shall respond to PREPA within thirty (30) days of such notification proposing a mitigation plan for how Resource Provider will come back into compliance with those non-compliant BESS MTR items which shall be reviewed and approved by PREPA. If Resource Provider fails to produce a satisfactory mitigation plan to PREPA within such thirty (30)-day period, then PREPA will issue a final BESS MTR Non-compliance Notification to Resource Provider. If Resource Provider has still not submitted and obtained an approved mitigation plan from PREPA within thirty (30)-days of delivery of the final BESS MTR Non-compliance Notification, then Resource Provider will be deemed to be out of compliance with the existing BESS MTRs and will be subject to a BESS MTR Compliance Adjustment unless and until they again are in compliance with all of the BESS MTRs. For the avoidance of doubt, the BESS MTR Compliance Adjustment shall only apply to the sum of non-compliant BESS MTR items during any month and shall not apply to each non-compliant item individually (i.e. the BESS MTR Compliance Adjustment for any month will not exceed ten percent (10%) of the previous Billing Period's Monthly Payment as provided below).

- b. The BESS MTR Compliance Adjustment will be equal to a value of ten percent (10%) of the previous Billing Period's Monthly Payment which shall continue to be calculated for each subsequent month and imposed until a satisfactory BESS MTR compliance plan has been approved by PREPA and Resource Provider is diligently implementing or has resolved such non-compliance within (and with any milestones) agreed to by the Parties.

Schedule 1 to Exhibit 2

Method for Converting Costs to Monthly Payment Adjustments

Each of the Monthly Payment adjustments identified in the formula in Section 1 of Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*) that provides for conversion pursuant to this Schedule 1 (i.e., MPPTC, IA, DAA, PCA, BRA, GGCA) shall be converted into a monthly amount to be included in the Monthly Payment during the applicable Billing Periods as follows:

- A. If the amount of each such adjustment is less than One Hundred Thousand Dollars (\$100,000), then such amount shall be included as an addition (to be paid by PREPA) or an offset (to offset amounts to be paid by PREPA) on the invoice (pursuant to Section 10.1 (*Invoicing*)) for the Billing Period following the month in which the Resource Provider incurs such amount.
- B. If the amount of each such adjustment is One Hundred Thousand Dollars (\$100,000) or more, but less than One Million Dollars (\$1,000,000), then such amount shall be prorated into twelve (12) equal amounts and included as an addition (to be paid by PREPA) or an offset (to offset amounts to be paid by PREPA) on each of the twelve (12) invoices (pursuant to Section 10.1 (*Invoicing*)) for the twelve (12) Billing Periods following the month in which the Resource Provider incurs such amount.
- C. If the adjustment amount is for a capital expenditure item and is One Million Dollars (\$1,000,000) or more, then such amount shall be amortized over the remaining Term of the Agreement using payment factor table shown below. The amount to be recovered shall be multiplied by the equivalent payment factor shown in the table corresponding to the remaining months in the Agreement and the monthly amount that will be included as an addition (to be paid by PREPA) or an offset (to offset amounts to be paid by PREPA) on each of the invoices (pursuant to Section 10.1 (*Invoicing*)) for the remaining Billing Periods over the remaining Term of the Agreement.
- D. If the adjustment amount is for an expense item and is One Million Dollars (\$1,000,000) or more, then such amount shall be prorated into twelve (12) equal amounts and included as an addition (to be paid by PREPA) or an offset (to offset amounts to be paid by PREPA) on each of the twelve (12) invoices (pursuant to Section 10.1 (*Invoicing*)) for the twelve (12) Billing Periods following the month in which the Resource Provider incurs such amount.

PAYMENT FACTOR TABLE

Remaining Months in the Term	Payment Factor
240	0.00957
239	0.00958
238	0.00960
237	0.00961
236	0.00962
235	0.00963
234	0.00965
233	0.00966
232	0.00968
231	0.00969
230	0.00970
229	0.00972
228	0.00973
227	0.00975

Remaining Months in the Term	Payment Factor
226	0.00976
225	0.00978
224	0.00979
223	0.00981
222	0.00982
221	0.00984
220	0.00985
219	0.00987
218	0.00988
217	0.00990
216	0.00992
215	0.00993
214	0.00995
213	0.00997
212	0.00998
211	0.01000
210	0.01002
209	0.01004
208	0.01005
207	0.01007
206	0.01009
205	0.01011
204	0.01013
203	0.01015
202	0.01017
201	0.01019
200	0.01021
199	0.01023
198	0.01025
197	0.01027
196	0.01029
195	0.01031
194	0.01033
193	0.01035
192	0.01037
191	0.01039
190	0.01042
189	0.01044
188	0.01046
187	0.01049
186	0.01051
185	0.01053
184	0.01056
183	0.01058
182	0.01061
181	0.01063
180	0.01066
179	0.01068
178	0.01071
177	0.01074
176	0.01076
175	0.01079
174	0.01082
173	0.01085
172	0.01087
171	0.01090

Mary

Chyn

Remaining Months in the Term	Payment Factor
170	0.01093
169	0.01096
168	0.01099
167	0.01102
166	0.01105
165	0.01108
164	0.01111
163	0.01115
162	0.01118
161	0.01121
160	0.01125
159	0.01128
158	0.01131
157	0.01135
156	0.01138
155	0.01142
154	0.01146
153	0.01149
152	0.01153
151	0.01157
150	0.01161
149	0.01165
148	0.01169
147	0.01173
146	0.01177
145	0.01181
144	0.01185
143	0.01190
142	0.01194
141	0.01198
140	0.01203
139	0.01207
138	0.01212
137	0.01217
136	0.01222
135	0.01226
134	0.01231
133	0.01237
132	0.01242
131	0.01247
130	0.01252
129	0.01258
128	0.01263
127	0.01269
126	0.01274
125	0.01280
124	0.01286
123	0.01292
122	0.01298
121	0.01304
120	0.01311
119	0.01317
118	0.01324
117	0.01330
116	0.01337
115	0.01344
114	0.01351

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Remaining Months In the Term	Payment Factor
113	0.01358
112	0.01365
111	0.01373
110	0.01381
109	0.01388
108	0.01396
107	0.01404
106	0.01413
105	0.01421
104	0.01429
103	0.01438
102	0.01447
101	0.01456
100	0.01466
99	0.01475
98	0.01485
97	0.01495
96	0.01505
95	0.01515
94	0.01526
93	0.01537
92	0.01548
91	0.01559
90	0.01571
89	0.01583
88	0.01595
87	0.01607
86	0.01620
85	0.01633
84	0.01646
83	0.01660
82	0.01674
81	0.01689
80	0.01703
79	0.01719
78	0.01734
77	0.01750
76	0.01767
75	0.01784
74	0.01801
73	0.01819
72	0.01837
71	0.01856
70	0.01876
69	0.01896
68	0.01916
67	0.01938
66	0.01960
65	0.01982
64	0.02006
63	0.02030
62	0.02055
61	0.02080
60	0.02107
59	0.02135
58	0.02163
57	0.02193

MSB

C. Ryan

Remaining Months in the Term	Payment Factor
56	0.02223
55	0.02255
54	0.02288
53	0.02322
52	0.02358
51	0.02395
50	0.02433
49	0.02474
48	0.02515
47	0.02559
46	0.02604
45	0.02652
44	0.02702
43	0.02754
42	0.02808
41	0.02866
40	0.02926
39	0.02989
38	0.03056
37	0.03126
36	0.03200
35	0.03279
34	0.03362
33	0.03450
32	0.03544
31	0.03643
30	0.03750
29	0.03864
28	0.03986
27	0.04117
26	0.04258
25	0.04411
24	0.04576
23	0.04756
22	0.04952
21	0.05167
20	0.05404
19	0.05665
18	0.05956
17	0.06281
16	0.06647
15	0.07061
14	0.07535
13	0.08081
12	0.08719
11	0.09473
10	0.10378
9	0.11484
8	0.12866
7	0.14644
6	0.17014
5	0.20333
4	0.25312
3	0.33610
2	0.50207
1	1.00000

mcg

C. Byr

Handwritten signatures and initials in blue ink.

EXHIBIT 3

STORAGE FACILITY SITE

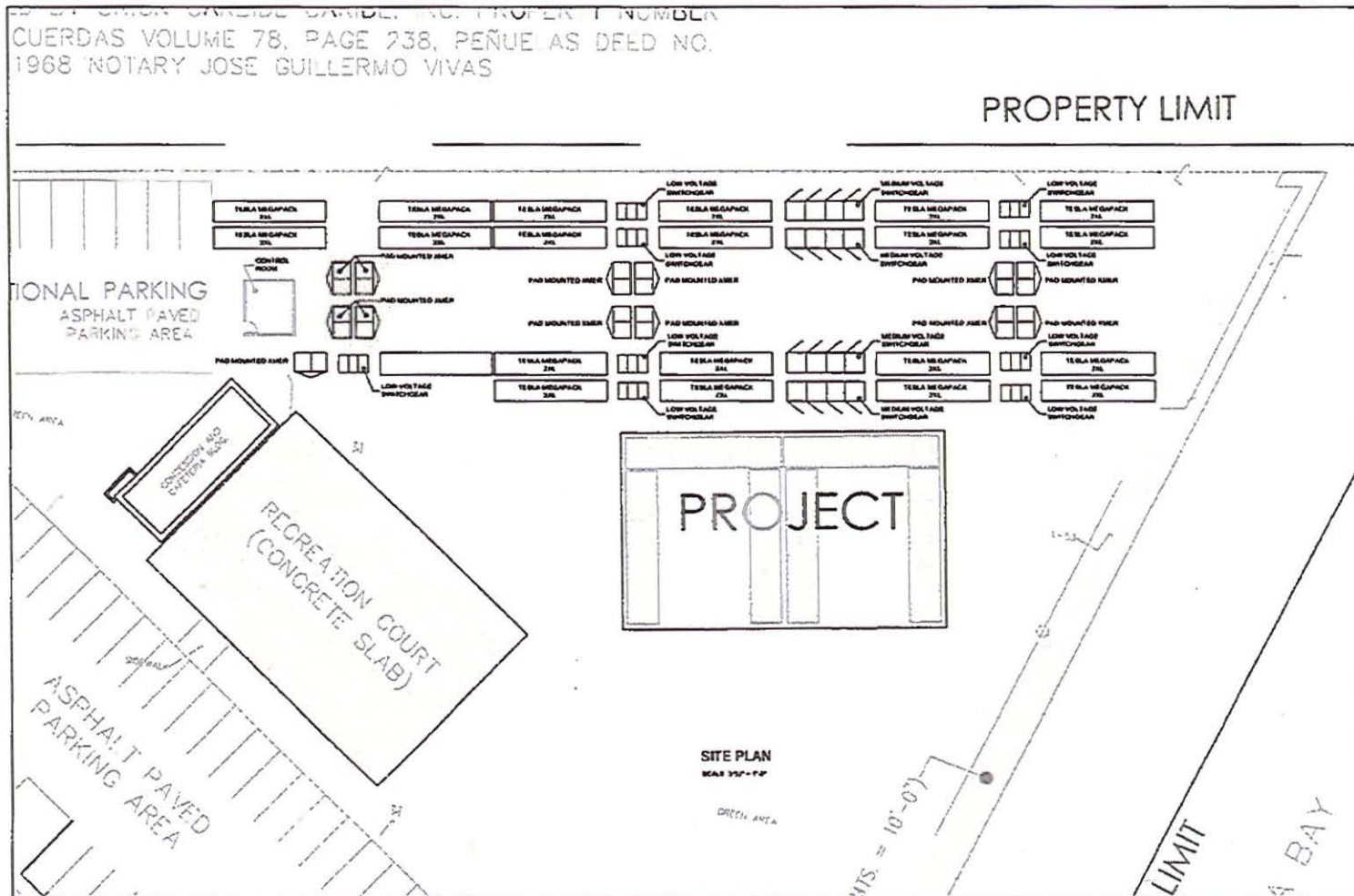


Exhibit 3-1

EXHIBIT 4

INTERCONNECTION DESCRIPTION AND SPECIFICATIONS¹

1. Description of the Interconnection Facilities:

The electrical interconnection single line attached as Exhibit 4-1 (*Electrical Interconnection Single Line*) identifies the Interconnection Point, PREPA Interconnection Facilities, the Resource Provider Interconnection Facilities, and Metering location.

2. Interconnection Point Specifications:

Resource Provider shall perform and comply with the following interconnection specifications for the PREPA Interconnection Facilities. The PREPA Interconnection Facilities and Resource Provider Interconnection Facilities shall be developed, constructed, installed, commissioned, tested and completed in accordance with the Interconnection Agreement, to the extent such Interconnection Facilities have not already been completed pursuant to the PPOA with respect to the Generation Facility (or the Generation Facility Interconnection Agreement related thereto).

¹ NTD: Interconnection Specifications to be tailored to the relevant facts and circumstances of each Storage Facility and associated Interconnection Facilities.

EXHIBIT 4-1

ELECTRICAL INTERCONNECTION SINGLE LINE

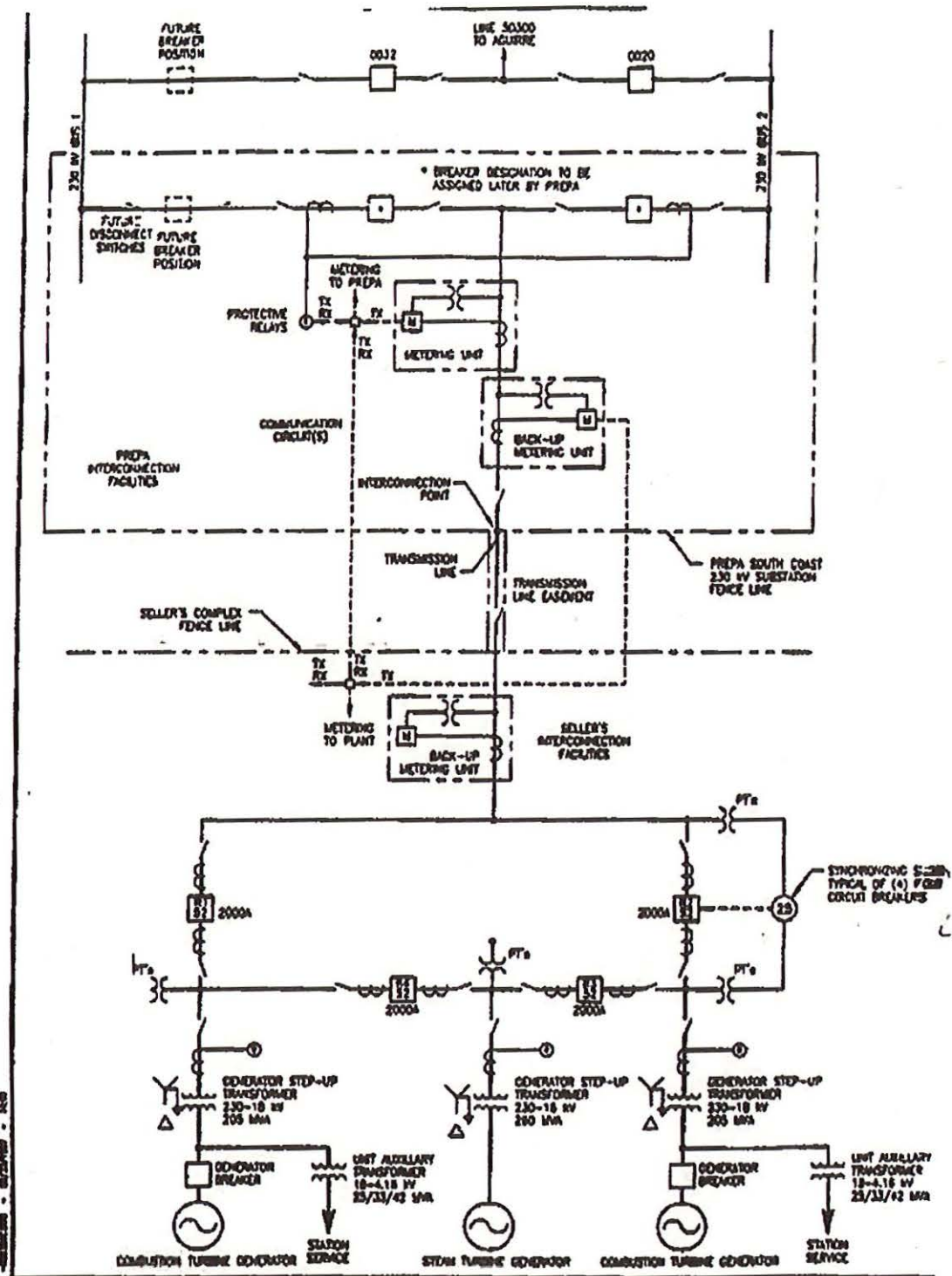


Exhibit 4-1-1

EXHIBIT 5

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EXHIBIT 6

BESS OPERATING PROCEDURES²

I. STORAGE FACILITY DESCRIPTION

Storage Facility name: ECOELÉCTRICA BESS LLC

Storage Facility Site name: [●]

Storage Facility physical address: [●]

Total number of modules at the Storage Facility: [●]

Storage Facility elevation: [●] (feet above sea level)

Storage Facility latitude: [●] (decimal form)

Storage Facility longitude: [●] (decimal form)

II. BESS MODULE(S) DESCRIPTION

Module: [●]

Module name: [●]

Technology type: [●]

Specific module description: [●]

[Provide detailed description, including the nameplate sizing of key equipment.]

Interconnection Point for the Storage Facility will have characteristics as follows:

Distribution area: [●]

Existing zone: [●]

Load zone: [●]

Substation: [●]

Additional information: [●]

III. BESS OPERATIONAL PROCEDURES

Discharging and Charging

² This Exhibit 6 (BESS Operating Procedures) shall be updated pursuant to Section 3.7 (Protocols, Procedures and MTRS; AOP) of the Agreement.

One hundred percent (100%) State of Charge ("SOC") is defined as the highest state of charge to which the Facility can be consistently charged without damage beyond expected degradation from normal use. Zero percent (0%) SOC means the lowest state of charge to which the Storage Facility can be consistently discharged without damage beyond expected degradation from normal use. If Resource Provider normally specifies highest and lowest SOC values differently, Resource Provider should normalize minimum and maximum SOC to zero percent (0%) SOC and one hundred percent (100%) SOC, respectively. Resource Provider should also normalize reporting of energy stored such that the amount of energy stored at zero percent (0%) SOC is 0 MWh and that the energy stored at one hundred percent (100%) SOC is fully available for discharge. Resource Provider will provide details on how the State of Charge is measured and physically indicated. For each characteristic, list the value that the Storage Facility will be designed to have at the Commercial Operation Date.

Design $D^{\max}$: 20,000 KW

Design $D^{\min}$: 20,000 KW

Design $D^{\max}$ Duration: 4 hours

Design Duration Energy: 4 hours

Design $C^{\max}$: 20,000 KW

Design $C^{\min}$: 20,000 KW

Design $C^{\max}$ Duration: 4 hours

Design Storage Energy: 80,000 KWh

System Efficiency

Efficiency at POI: [TBI]

Inverter AC Terminals Round Trip Efficiency: [TBI]

Stand-by Self Discharge: [TBI]

Stand-by Energy Consumption: [TBI]

Ramp Rates

Ramp Rates are configurable to be in compliance with the BESS MTRs. The system can be configured to achieve maximum inverter capacity within 0.150 seconds.

System Response Time

Idle to $D^{\max}$: [TBI]

Idle to $C^{\max}$: [TBI]

$D^{\max}$ to $C^{\max}$: [TBI]

C^{max} to D^{max} : [TBI]

D^{min} to C^{min} : [TBI]

C^{min} to D^{min} : [TBI]

Discharge Start-Up time (from notification to D^{min}): [TBI]

Charge Start-Up time (from notification to C^{min}): [TBI]

Discharge Start-Up fuel: N/A

Storage Facility Ancillary Services

System will conform to the BESS MTRs per Exhibit 7 (*BESS Minimum Technical Requirements*).

Other Restrictions

[To be determined]

Cycle Limitations

The Parties shall count one (1) cycle of the Storage Facility each time the cumulative amount of Discharge Energy (as measured at the Interconnection Point) equals the Usable Energy Capacity for the applicable Agreement Year (an "Equivalent Cycle").

Resource Provider shall make the Storage Facility available for [one (1) Equivalent Cycle per Day] during the Supply Period (unless the Parties otherwise agree to a different number of cycles per Day, Month, Year or otherwise).

Degradation

[Include Original Equipment Manufacturer's degradation curve and tolerance %.]

["Annual Degradation Rate" assumed curve.]

EXHIBIT 7

BESS MINIMUM TECHNICAL REQUIREMENTS

Resource Provider shall comply with the following BESS MTRs.

1. Frequency Control and Regulation:

- a. Fast active power (P) source capable of continuously injecting or absorbing energy from the grid as a function of system frequency deviations to help manage and maintain frequency at 60 Hz.
- b. Instantaneous and immediate active power (P) response of battery energy storage system ("BESS") proportional to frequency deviations from scheduled frequency.
- c. The rate of active power (P) response of BESS to frequency deviations shall be established based on configurable PREPA selected droop characteristic (*i.e.*, 5% droop characteristic or more responsive as PREPA requires SCADA). PREPA shall be able to program and configure the droop via SCADA from 1% to 5% in steps of 0.5% (*i.e.*, 3.0%, 3.5%, 4.0%, 4.5%, 5%).
- d. Frequency regulation deadband shall be available. PREPA shall be able to configure and program the deadband via SCADA. The configurable deadband range shall be at least from 0.02% to 0.5%.
- e. BESS frequency control and regulation mode time response (full frequency response) shall be less than 1.0 second.
- f. PREPA shall be able to configure and select frequency regulation range (upper injection/lower absorption limits) via SCADA up to a maximum of its nominal capacity (*i.e.*, +/- 15 MW, +/- 20 MW). Asymmetrical frequency regulation ranges should be allowed (*i.e.*, +15 MW/-5 MW, +10 MW/-20 MW).
- g. Capability to operate in the frequency control and regulation mode and simultaneously control the voltage by the injection or absorption of up to the required nominal reactive power at the Interconnection Point as described in Section 2.1.2 (Reactive Power Capability & Minimum Power Factor Requirements Tests) of Exhibit 9 (Testing Protocol): (i) the frequency regulation control shall operate decoupled from the voltage regulation control mode and shall not limit the required reactive power capability of the Storage Facility at the Interconnection Point, and (ii) the voltage regulation control shall not limit the required active power capability of the Storage Facility at the Interconnection Point.

2. Rapid Spinning Reserve and Fast Frequency Response

- a. Instantaneous injection of reserve energy as a function of the rate of change and/or deviations of the system frequency in the event of a sudden loss of generation or unexpected ramp-up in demand.
- b. Energy capability and power capacity to inject nominal active power output (at the Interconnection Point) in a range from two (2) to six (6) Hours of discharge.
- c. Injection of active power (P) within the first three (3) cycles of a specific frequency deviation trigger and/or a frequency rate of change trigger (PREPA shall be able to configure and select triggers).
 - i. Total configurability for PREPA selection of the active power output, response time and response slope.

ii. Total configurability for PREPA selection of triggers: frequency, rate of change of frequency and instantaneous/time delay combinations.

iii. For example, the rapid reserve might be selected to trigger if frequency decays to 59.6 Hz at a rate > 0.25 Hz/sec or drops and stays between 59.0 Hz and 59.2 Hz for $>$ thirty (30) seconds or drops below 59 Hz.

iv. Total configurability for multiple sets of triggering combinations capable of being simultaneously active. The rapid reserve mode might be selected to trigger with Boolean or logical operators that combine active power output, response time, response slope, frequency limits, frequency rate of change and time delay.

d. The rapid spinning reserve mode shall provide a full output response time (95% of its final output value) of 100 milliseconds or faster. PREPA shall also have the flexibility of selecting a limited rapid spinning reserve sub-mode from SCADA. In limited rapid spinning reserve sub-mode, the active power output, response time and response slope shall be configurable and programmable from SCADA in accordance with the triggering combinations and options previously discussed.

e. Capability to ramp down active power output at PREPA's pre-selected and configurable slope (MW/min or % of active power output/min) after system frequency is normalized and triggers pre-selected and configurable frequency window for a certain amount of time. BESS shall ramp down to PREPA's pre-selected and configurable active power output (10 MW, 5 MW, 0 MW, *etc.*) and be able to automatically make the transition and continue operating in frequency control and regulation mode in accordance with previously selected and configurable parameters. The active power automatic ramp down should have the capability of being manually interrupted and ramped down from SCADA.

ncp
i. Total configurability of ramp down slope in MW/minute or % of active power output/minute.

ii. Total configurability of active power output target to which the BESS shall ramp down before making the transition to operate in frequency control and regulation mode.

iii. Total configurability for PREPA selection of frequency triggers that initiate rapid reserve ramp down process: frequency limits of window range and time delay combinations that initiate ramp down.

C.H.
iv. For example, rapid reserve ramp down might be triggered if frequency returns to 60 Hz $\pm$ 0.1 Hz and stays in this range for at least twenty (20) seconds or returns to 60 Hz $\pm$ 0.2 Hz and stays in this range for at least thirty (30) seconds.

f. Capability to ramp down active power output at PREPA's pre-selected and configurable slope (MW/min or % of active power output/min) after SCADA command is received from PREPA's Energy Control Center System Operator to automatically make the transition and continue operating in frequency control and regulation mode in accordance with previously selected and configurable parameters.

i. Total configurability of ramp down slope in MW/minute or % of active power output/minute.

ii. Total configurability of active power output target to which BESS shall ramp down before making the transition to operate in frequency control and regulation mode.

g. Capability to inject nominal active power output for 1.0 Hour and simultaneously inject or absorb nominal reactive power at the Interconnection Point.

3. **Dispatchable Generation Source:**

a. Injection of active power at the Interconnection Point for a limited period of time to cover temporary generation deficits or start-up fast generating units.

b. PREPA shall be able to select from SCADA the constant power output mode, active power (P) magnitude and time period.

c. Capability to automatically make the transition from dispatchable mode to frequency control and regulation mode in accordance with previously selected and configurable parameters after SCADA command is received from PREPA's Energy Control Center System Operator.

d. Capability to ramp down active power output at PREPA's pre-selected and configurable slope (MW/min or % of active power output/min) after SCADA command is received from PREPA's Energy Control Center System Operator to automatically make the transition from dispatchable mode to frequency control and regulation mode in accordance with previously selected and configurable parameters.

i. Total configurability of ramp down slope in MW/minute or % of active power output/minute.

ii. Total configurability of active power output target to which BESS shall ramp down before making the transition to operate in frequency control and regulation mode.

e. Capability to operate in the dispatchable generation source mode and simultaneously control the voltage by the injection or absorption of up to nominal reactive power at the Interconnection Point.

4. **Voltage Regulation and Control:**

a. Dynamic reactive power compensation source capable of continuously injecting or absorbing reactive power (up to +/- nominal MVAR at Interconnection Point) as a function of system voltage deviations.

b. Voltage regulation strategy based 100% on power electronics technology (no passive components like capacitors or reactors, neither thyristor controlled or switched capacitors or reactors allowed to complement reactive power capability).

c. Constant voltage control is required (voltage set point control mode).

d. PREPA shall be able to adjust from SCADA the voltage regulation set points shall between 95% and 105% rated voltage at the Interconnection Point. Because the previous voltage regulation range could be expanded (for example up to 106%) if PREPA's internal analyses indicate that additional dynamic compensation is required for specific multi-contingency scenarios, the upper voltage set point limits should be totally configurable and adjusted from SCADA beyond the typical voltage regulation range.

e. The voltage regulation shall be based on direct measurement by means of new BESS dedicated potential transformers (that Resource Provider shall install) at the Interconnection Point.

f. The voltage regulation system strategy shall be based on proportional plus integral (PI) control actions with parallel reactive droop compensation. The voltage regulation droop shall be adjustable from 0 to 10% in steps not greater than 0.5%.

g. At zero percent (0%) droop, the voltage regulation system shall achieve a steady-state voltage accuracy of $\pm 0.3\%$ of the controlled voltage at the Interconnection Point. For voltage regulation droops between 0 and 2.5%, the voltage regulation system shall be calibrated such that a change in reactive power will achieve 95% of its final value no later than one (1) second following a step change in voltage. The change in reactive power should not cause excessive voltage excursions or overshoot. If a voltage overshoot is generated, it should be less than 1%.

h. For voltage regulation droops between 2.5% and 5.0%, the voltage regulation system shall be calibrated such that a change in reactive power will achieve 95% of its final value no later than 500 msec following a step change in voltage. The change in reactive power should not cause excessive voltage excursions or overshoot. If a voltage overshoot is generated, it should be less than 1%.

i. For voltage regulation droops between 5% and 10%, the voltage regulation system shall be calibrated such that a change in reactive power will achieve 95% of its final value no later than 100 msec following a step change in voltage. The change in reactive power should not cause excessive voltage excursions or overshoot. If a voltage overshoot is generated, it should be less than 1%.

j. The voltage regulation system dead band shall not exceed 0.1%.

k. The voltage regulation system shall be programmed to control and coordinate with local power transformers tap changers and local reactive power sources physically located in the switchyard.

5. **Fast Dynamic Reactive Power Reserve and Voltage Support:**

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a. Instantaneous or slope controlled (MVAR/sec) injection or absorption of reactive power triggered by and as a function of the rate of change and/or deviations of the system voltage.

b. Injection of reactive power (Q) within the first three (3) cycles of a specific voltage deviation trigger and/or a voltage rate of change trigger. PREPA shall be able to configure and select triggers.

i. PREPA shall be able to configure and select from SCADA the maximum final reactive power output value for fast dynamic reactive power reserve up to the nominal reactive power capacity.

C. 1.4
ii. Total configurability for PREPA selection of triggers: voltage magnitude, rate of change of voltage and instantaneous/time delay combinations.

iii. For example, fast dynamic reactive power reserve might be selected to trigger if voltage decays to 0.95pu kV at a rate > 2.0 kV/sec or drops below 0.9pu.

iv. For example, a different value of fast dynamic reactive power reserve might be selected to trigger if voltage decays to 0.95pu at a rate > 1.0 kV/sec or drops below 0.93pu.

c. A full output response time (95% of its final output value) of 100 msec. or faster is required. The maximum overshoot should not exceed 5% of the ordered change and the settling time should not exceed 150 msec.

i. Capability to inject 120% of nominal reactive power output for three (3) seconds at required 100 msec. response time.

ii. Absorption of reactive power (Q) within the first three (3) cycles of a specific voltage deviation trigger and/or a voltage rate of change. PREPA shall be able to configure and select triggers.

iii. PREPA shall be able to configure and select from SCADA the minimum final reactive power output value for fast dynamic reactive power absorption, up to the nominal reactive power capacity of BESS.

iv. Total configurability for PREPA selection of triggers: voltage magnitude, rate of change of voltage and instantaneous/time delay combinations.

v. For example, fast dynamic reactive power might be selected to trigger if voltage increases to 1.1pu of the nominal voltage at a rate > 3.0 kV/sec or increases above 1.2pu of the nominal voltage.

d. A different fast dynamic reactive power might be selected to trigger if voltage increases to 1.1pu of nominal voltage at a rate > 2.0 kV/sec or increases above 1.15pu of nominal voltage.

e. Capability to inject nominal fast dynamic reactive power reserve or operate in voltage regulation mode depending on the system voltage conditions, and simultaneously inject nominal active power output for 1.0 Hour at the Interconnection Point.

6. **Black Start Capability:**

a. The Storage Facility shall provide for BESS start-up capability and full functionality during system blackouts.

b. The Storage Facility shall provide for BESS start-up capability and full functionality during unavailability of external system generation sources.

7. **BESS Full Functional Voltage and Frequency Operational Range and Ride-Through Capability:**

a. Low Voltage Operation Range:

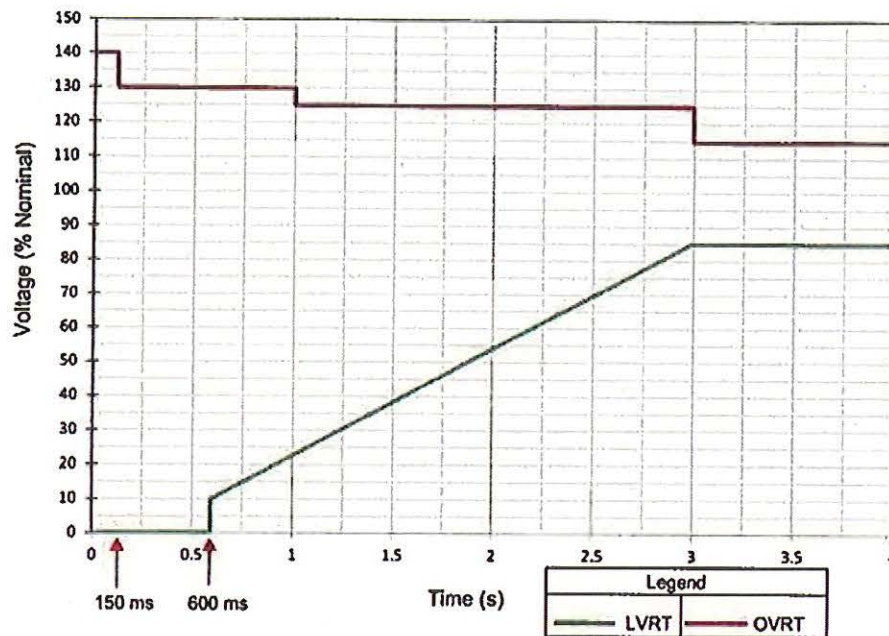


Figure 1 BESS Voltage Operational Range and Ride-Through Requirements

i. From Figure 1 (above), PREPA requires BESS to remain totally functional and online during three (3) phase and single phase faults down to 0.0 per-unit (measured at the Interconnection Point), for up to 600 msec.

ii. BESS shall remain online and continue operating during and after normally cleared faults on the Interconnection Point.

iii. BESS shall remain online and continue operating during and after backup-cleared faults.

b. High Voltage Operational Range:

i. PREPA requires BESS to remain totally functional and online during symmetrical and asymmetrical overvoltage conditions as specified by the following values (illustrated in Figure 1 above):

Overvoltage (pu)	Minimum time
1.4 – 1.3	150 ms
1.3 – 1.25	1 s
1.25 – 1.15	3 s
1.15 or lower	indefinitely

c. Frequency Ride Through (FRT)

56.0 – 63.0 Hz No tripping (continuous)

55.5 – 56.0 Hz 20 sec time delay

Exhibit 7-6

< 55.5 or > 63.0 Hz Instantaneous trip

8. Dynamic System Monitoring Equipment (DSM)

Resource Provider is required to provide, install, commission and maintain a dynamic system monitoring equipment that conforms to PREPA's specifications and signals list.

9. Modeling and Validation

a. Once final adjustments and parameter settings related with commissioning and BESS MTR compliance tests are completed, Resource Provider shall submit a PSS/E Siemens – PTI Certified mathematical model and validation report. When referred to the mathematical model, this shall include but is not limited to inverters, transformers, collector systems, plant controllers, control systems and any other equipment necessary to properly model the Storage Facility for both steady-state and dynamic simulation modules.

b. Resource Provider shall submit user manuals for both the BESS unit and Storage Facility models including a complete and detailed description of the voltage regulation system (VRS) and frequency regulation system model implementation. The mathematical models shall be fully compatible with the latest and future versions of PSS/E. Resource Provider shall use PSS/E standard models. In the case that Resource Provider submits user written models, Resource Provider shall keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. Resource Provider shall submit to PREPA an official report from Siemens – PTI that validates and certifies the required mathematical models, including subsequent revisions. Resource Provider shall submit the official reports and certifications from Siemens – PTI, otherwise the mathematical model shall not be considered valid.

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c. Resource Provider shall submit Siemens – PTI certified PSS/E mathematical models of any kind of compensation devices (*i.e.*, SVC, STATCOMs, BESS, *etc.*) used on the Storage Facility. Resource Provider shall use standard models provided with PSS/E. In the case that Resource Provider submits user written models, Resource Provider shall keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSS/E. The model shall reflect final adjustments and parameters settings related with the control system commissioning process and shall be incorporated to the PSS/E mathematical model and tested accordingly by Resource Provider and PREPA system study groups. Resource Provider shall submit the official reports and certifications from Siemens – PTI, otherwise the mathematical models shall not be considered valid.

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d. If Resource Provider provides user written model(s), then it shall provide compiled code of the model and maintain the user written model compatible with current and new releases of PSS/E until such time a standard model is provided. Resource Provider shall permit PREPA to make available Storage Facility models to external consultants with a non-disclosure agreement in place.

e. Resource Provider shall submit a PSS/E model validation report. This report shall demonstrate PSS/E simulation results that show the model BESS MTR compliance and performance, based on final adjustment and parameter settings of BESS MTR and commissioning field tests. Resource Provider shall submit the official reports and certifications from Siemens – PTI, otherwise the mathematical models shall not be considered valid.

f. Additional details for the adequate PSS/E modeling and the contents of the PSS/E validation report can be found in PREPA's "Guidelines on PSS/E Mathematical Models" document.

10. Power Management

The Storage Facility shall provide adequate technology (communicating technology and the corresponding control equipment) and implement PREPA's power management requirements (ramp rate limits, output limits, curtailment).

11. Short Circuit Ratio (SCR) Requirements

Short Circuit Ratio values (System Short Circuit MVA at POI/Storage Facility MVA Capacity) under 5 shall not be permitted. Resource Provider shall install additional equipment, such as synchronous condensers, and controls as necessary to comply with PREPA's minimum short circuit requirements.

12. General

a. For batteries, replacement of individual cells or cell modules shall not interrupt BESS availability to the grid.

b. BESS shall have dedicated auxiliary electric power systems to serve BESS ancillary loads (HVAC, lighting, etc.) and be able to be auto-transferred to a reliable backup source.

c. BESS shall have a minimum round trip energy efficiency of 90%.

d. PREPA shall define the BESS voltage level at the Interconnection Point. The Storage Facility shall include appropriate step-up transformers and required interconnection equipment, including any necessary augmentation or modification to existing substation or transmission facilities.

e. BESS control system shall integrate the following operational requirements:

i. BESS controllers shall be compatible with the systems used in PREPA's System Operations Control Center and Energy Management System.

ii. BESS shall be completely dispatchable.

iii. BESS control system shall provide available energy forecasting.

iv. Any operating function shall be capable of being remotely and dynamically selected and prioritized.

v. Function parameters (*i.e.*, droop setting) of any operating function shall be capable of being remotely modified.

vi. Resource Provider shall fully describe and demonstrate how the proposed BESS control system(s) will operate.

The control system shall have the necessary hardware and software (*i.e.*, firewalls & malware detection) such that it is compliant with the latest NERC CIP reliability standards for control system security requirements.

EXHIBIT 8
AGREED OPERATING PROCEDURES

[To be attached]

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EXHIBIT 9

TESTING PROTOCOL

I. GENERAL

This Testing Protocol sets out:

- a. the testing requirements and acceptance criteria for carrying out testing required for the Storage Facility to achieve Storage Facility Commercial Operation;
- b. the requirements for annual and return to service tests for the Storage Facility; and
- c. the requirements for factory acceptance tests.

Resource Provider shall (i) perform all tests in accordance with this Testing Protocol, utilizing plant personnel qualified to perform the required testing, (ii) review the results of the tests to confirm whether the Resource Provider Interconnection Facilities or the Storage Facility, as applicable, pass(es) the applicable test, and (iii) provide the results to T&D Operator for review and acceptance.

Resource Provider shall ensure that all tests are performed in a grid-tied configuration and that the equipment configuration during testing is managed in the same way as is expected during Storage Facility Commercial Operations. Resource Provider shall monitor the Storage Facility using internal instrument transformers, external instrument transformers, and metering functionalities to monitor and record voltages, currents, power disturbances, etc.

 In the event of any conflict between the terms and conditions of this Testing Protocol and the BESS Standard Offer Agreement, the terms and conditions of the BESS Standard Offer Agreement shall prevail. Resource Provider acknowledges and agrees that (i) its compliance with this Testing Protocol does not relieve Resource Provider from any liability that it has under the BESS Standard Offer Agreement, and (ii) pursuant to Section 3.1 (*LUMA as Authorized Agent of PREPA; Technical Review*) of the BESS Standard Offer Agreement, PREPA (by itself or through the T&D Operator) shall not be liable to Resource Provider or any other Person by reason of its review or approval of this Testing Protocol and/or the Testing Plan (as defined in Section 1.2 of this Testing Protocol).

II. PERFORMANCE TESTS

1.0 Objective and Procedures

1.1 Objective

 The objective of the Performance Tests is to verify (i) that the Storage Facility can accept Charge Energy and deliver Discharge Energy and Storage Facility Ancillary Services at the Interconnection Point in accordance with the BESS Operating Procedures, (ii) the performance characteristics of the Storage Facility (including storage capacity and availability) ("Performance Characteristics"), and (iii) that the Storage Facility complies with each of the BESS MTRs, BESS Operating Procedures, and any other criteria set out in the Testing Protocol established for Resource Provider under the BESS Standard Offer Agreement.

1.2 Procedures

Resource Provider shall prepare and provide to T&D Operator a draft testing plan for the Performance Tests, including detailed test procedures and the methodology to meet the required testing, for T&D Operator's review no later than one hundred and eighty (180) Days prior to the Closing Date. T&D Operator and Resource Provider shall mutually agree to any adjustments or additions to the draft testing plan for the Performance Tests taking into consideration Prudent Utility Practices and any applicable manufacturer's recommendations, and shall otherwise cooperate to finalize the testing plan for the Performance Tests within ninety (90) Days after T&D Operator receives the draft performance testing plan from Resource Provider (such finalized testing plan being the "Testing Plan").

Pursuant to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review) of the BESS Standard Offer Agreement, LUMA's approval of the Testing Plan shall not make LUMA responsible in any way for any damage to the Storage Facility resulting from the performance by Resource Provider of any Performance Tests in accordance with the Testing Plan.

1.3 Timing for conduct of Performance Tests

1.3.1 Prior to the Commercial Operation Date

Resource Provider shall schedule and complete all required Performance Tests for the Storage Facility. Resource Provider shall use commercially reasonable efforts to undertake such activities in sufficient time to achieve the Commercial Operation Date by the Long-Stop Date and T&D Operator will reasonably cooperate with Resource Provider to meet such deadline.

Resource Provider shall provide T&D Operator reasonable prior notice (and, in any event, at least thirty (30) Days before) of Resource Provider's testing schedule to complete the Performance Tests and shall allow T&D Operator representatives to witness all Performance Tests. Resource Provider shall coordinate with T&D Operator to determine the desired start date for the Performance Tests and to ensure that the performance of the Performance Tests does not interfere with the Grid System. Resource Provider shall perform the Performance Tests under this Testing Protocol in accordance with the Testing Plan and shall demonstrate that the Storage Facility meets the BESS MTRs during such testing.

1.3.2 After the Commercial Operation Date

After the Commercial Operation Date:

- a. In addition to the Performance Test performed pursuant to Section 6.9a (Supply Period Performance Tests), during each Agreement Year of the Supply Period, PREPA may request Resource Provider to perform additional Performance Tests, in accordance with the Testing Protocol. The first two (2) such additional Performance Tests shall be performed at Resource Provider's sole cost and thereafter any subsequent additional Performance Test(s) shall be performed at PREPA's sole cost. PREPA's decision to forgo any such test is not a waiver of PREPA's right to require any subsequent Performance Tests; and
- b. Resource Provider may request to perform an additional Performance Test if the results of a Performance Test are outside the standards specified in the Testing Protocol. A Resource Provider Performance Test shall commence no later than ten (10) Business Days after completion of the Performance Test showing the low test results, or the completion of the Scheduled Outage, and Resource Provider shall perform such Resource Provider

Performance Test in accordance with the Testing Protocol, except that (A) Resource Provider shall provide PREPA with notice of its request to test and the proposed starting and end times of the Resource Provider Performance Test no later than three (3) Business Days before it commences, and (B) PREPA shall evaluate Resource Provider's proposal and, in its sole discretion, either grant such request or identify two (2) alternative start and stop times from which Resource Provider may elect, and to which PREPA will consent.

2.0 Performance Tests

2.1 Overview

Prior to commencing any Performance Tests and prior to connection to the Interconnection Point, Resource Provider shall provide to T&D Operator a pre-inspection checklist that includes but is not limited to the following:

- a. A requirement for all personnel to wear proper Personnel Protective Equipment (PPE) at all times during any testing or while on site at the Storage Facility. The PPE requirements shall be based on the latest ARC flash study.
- b. Verification that all protection equipment, controls, and relaying are loaded with proper settings.
- c. Verification of proper stenciling of equipment as compared to IFC schematics and wiring diagrams.
- d. Verification that safety grounds have been removed prior to energization.
- e. Confirmation that a safety walkdown and job brief has been performed.

The Performance Tests include but are not limited to the following:

2.1.1 Voltage Regulation System (VRS) Tests

Resource Provider shall test and verify that the Storage Facility complies with the VRS requirements in the BESS MTRs as follows:

- a. Resource Provider shall test the steady state voltage regulation accuracy of $\pm 0.5\%$ of the controlled voltage at the Interconnection Point at zero percent (0%) voltage droop and at twenty percent (20%) of the maximum AC active power capacity.
- b. Resource Provider shall test the Storage Facility VRS time response with an output power of one hundred percent (100%) or lower of the maximum AC active power capacity. Resource Provider shall calibrate the VRS such that a change in reactive power will achieve ninety-five percent (95%) of its final value no later than one (1) second following a step change in voltage. For the purposes of this test, the time response means the period from the time that the reference voltage set point is received at the plant controller until the reactive power generated by the Storage Facility at the Interconnection Point reaches ninety-five percent (95%) of its final value. Resource Provider shall test the time response of the Storage Facility VRS by changing the reference voltage at the plant controller. Resource Provider shall perform changes to the reference voltage at two (2) levels of generation, high ($>85\%$ of the AC contracted capacity measured at the Interconnection

Point) and low ($< 30\%$ of the AC contracted capacity measured at the Interconnection Point). The reference voltage changes tested shall include at least:

- b.1 1.05 pu to 0.95 pu
- b.2 0.95 pu to 1.05 pu
- b.3 Neutral Reactive Power Bus Voltage (NBV) to $\text{NBV} + (0.5\% \text{ or } 1\%)$
- b.4 Neutral Reactive Power Bus Voltage (NBV) to $\text{NBV} - (0.5\% \text{ or } 1\%)$

The neutral reactive power bus voltage (NBV) is defined as the voltage at the Interconnection Point when the Storage Facility is connected to the Grid System, energized, but not generating reactive power. Resource Provider shall define the voltage for each of the two (2) levels of generation described above and shall coordinate and agree on the proposed voltage with T&D Operator.

Resource Provider shall perform the abovementioned reference voltage changes with at least the following voltage droops and taking into account the two (2) generation levels (low and high): 0%, 1%, 2.5%, 5%, 7.5% and 10%.

c. The evaluation criteria for the VRS tests are:

- c.1 Voltage error less than 0.5% of the *set point* at the Interconnection Point for voltage droop of 0%.
- c.2 VRS time response less than or equal to 1 second for all cases.
- c.3 Voltage overshoot lower than 1% of final voltage at the Interconnection Point for all cases.
- c.4 VRS deadband does not exceed 0.1%.

VRS comparative droop results shall be presented as follows:

- c.5 a comparative graph of the voltage at the Interconnection Point for all the droop cases versus the same reference voltage change; and
- c.6 a comparative graph of the reactive power response at the Interconnection Point for all the droop cases versus the same reference voltage change.

2.1.2 Reactive Power Capability & Minimum Power Factor Requirements Tests

Resource Provider shall test and verify that the Storage Facility complies with the Reactive Power Capability and Minimum Power Factor requirements in the BESS MTRs. Resource Provider shall perform the Reactive Power Capability and Minimum Power Factor Requirement test at a power output of less than or equal to one hundred percent (100%). Resource Provider shall test the reactive power capability of the Storage Facility to establish that the Storage Facility complies with the reactive power capability curve described and required in the BESS MTRs. The total power factor range shall be from 0.85 lagging to 0.85 leading at the Interconnection Point and decoupled from voltage regulation control mode. The ± 0.85 power factor range should be dynamic and continuous at the Interconnection Point and throughout the

voltage regulation range. During the test, Resource Provider shall configure the Storage Facility to import or export the required reactive power per the reactive power capability curve in the BESS MTRs. The active power output range of the Storage Facility for this test shall cover twenty percent (20%) to one hundred percent (100%) of the maximum AC active power capacity.

2.1.3 Frequency Response and Regulation Tests

Resource Provider shall demonstrate the capability of the Storage Facility to comply with the BESS MTRs for frequency response and regulation as follows.

- MC*
- a. Resource Provider shall evaluate the frequency response of the Storage Facility at the Interconnection Point. Resource Provider shall perform part of the frequency response (FR) tests at twenty percent (20%) output power. These tests shall include at least two (2) frequency change rate profiles, one (1) profile with a change rate of 10 Hz/min and the other of 1 Hz/min. Both profiles shall include a complete frequency scan that cover under and over frequencies from a minimum of 59.5 Hz to a maximum of 60.5 Hz. Resource Provider may obtain these profiles by simulating the grid frequency in the Storage Facility's frequency control. Resource Provider shall ensure that the Storage Facility's frequency control shall command the corresponding power output based in the configured frequency response droop and taking into account the frequency dead band. The frequency response of the Storage Facility should start after the dead band. Resource Provider shall calculate the magnitude value of the frequency response based on the BESS Operating Procedures established pursuant to the BESS Standard Offer Agreement. Resource Provider shall not base the value of the response solely on the difference between 60 Hz and the frequency deviation, to avoid a jump or discontinuity in the response. If the full magnitude of the frequency response is required, the time response shall be less than one (1) second. The frequency response tests of the Storage Facility must include two (2) plant active power output levels. The active power output levels must be above ninety percent (90%) and below twenty percent (20%) of the maximum AC active power capacity. Resource Provider shall perform these in the following stages: (1) ramp rate control activated; and (2) ramp rate control deactivated. Resource Provider shall demonstrate that the Storage Facility can meet the frequency response requirement independently of the ramp rate control requirement (decoupled). Resource Provider shall conduct a complete test for a two (2) Day period where the frequency response of the Storage Facility is evaluated due to actual grid frequency variations.
 - b. Resource Provider shall test the Storage Facility to ensure that it is capable of frequency response with the specified three percent (3%) to five percent (5%) droop range, and the control is configurable from three percent (3%) to five percent (5%) in steps of zero point five percent (0.5%), over the operational range of ten percent (10%) to one hundred and ten percent (110%) of the maximum AC active power capacity.
 - c. Resource Provider shall demonstrate the capability of the Storage Facility to assume responsibility for upward frequency events.
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2.1.4 Ramp Rate Control Tests

Resource Provider shall demonstrate the functional capability of the Storage Facility to comply with the BESS MTRs with respect to Ramp Rate Control ("RRC") as follows:

- a. Resource Provider shall demonstrate the Storage Facility's capability to comply with the AC contracted capacity for at least one (1) minute.
- b. Resource Provider shall demonstrate the Storage Facility's capability to comply with the ramp rate control requirement while it is connected to the grid. This testing shall be for a period of four (4) Days if during this period of time at least five (5) ramp events result in a power drop greater than thirty percent (30%) of the maximum AC active power capacity in less than one (1) minute. During two (2) of these four (4) Days during the test period, Resource Provider shall enable the frequency response control to verify that the Storage Facility can comply simultaneously with both requirements without any interference. Resource Provider shall decouple the Ramp Rate Control and the Frequency Response Control, continuously in operation and Resource Provider shall demonstrate that the Storage Facility shall be able to comply simultaneously with both requirements. If during the four (4) Days test period the Storage Facility required five (5) ramp events do not occur, the test will be extended for the number of Days necessary until all five (5) ramp events have occurred, provided that if the five (5) ramp events do not occur, but the evaluation during the testing period demonstrates that the Storage Facility is in compliance with the ramp rate control requirement presented in the BESS MTRs for a period of ten (10) consecutive Days, then the Storage Facility's compliance with the Ramp Rate Control requirement will be deemed to be achieved. Resource Provider shall perform this part of the Ramp Rate Control test with an output power of one hundred percent (100%), and shall also perform a two (2) Day period of similar tests with an output power of fifty percent (50%) of the of the maximum AC active power capacity.

2.1.5 Curtailment Test

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Resource Provider shall perform active power curtailment tests demonstrating the capability of the Storage Facility to respond to curtailment signals from T&D Operator in compliance with the BESS MTRs and shall ensure that the Storage Facility plant controller accepts external active power setpoints from T&D Operator. T&D Operator shall use two (2) types of curtailment commands, direct active power set value (MW) and percentage (%) value, and at least the following curtailment percentage values (and the analog MW direct values): 20%, 40%, 60% and 80%. Resource Provider shall coordinate with T&D Operator for the performance of this test. Resource Provider shall perform this test with an output power at or near one hundred percent (100%) of the maximum AC active power capacity.

2.1.6 Auto-Curtailment Test

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Resource Provider shall submit a complete and detailed description of the auto-curtailment strategy to be implemented in the Storage Facility to T&D Operator for evaluation at least one hundred and twenty (120) Days before the beginning of the test. Resource Provider shall test and verify the auto-curtailment strategy implemented in the Storage Facility. As a minimum, the conditions to apply auto-curtailment specified in the BESS MTRs shall be tested. The test results documentation shall be submitted by Resource Provider to T&D Operator for evaluation. Resource Provider shall perform the auto-curtailment tests in the Storage Facility with output power of 100% of the maximum AC active power capacity.

2.1.7 Power Quality Test

Resource Provider shall test and analyze the power quality at the Interconnection Point. At a minimum, Resource Provider shall evaluate the parameters at the Interconnection Point according to the applicable standards as specified in the BESS MTRs: total harmonic distortion (voltage and current measurements for each phase), total demand distortion (current and voltage measurements for each phase), individual

harmonic distortion (voltage and current measurements), individual demand distortion (voltage and current measurements), voltage flicker in the short term, voltage flicker in the long term, and voltage and current unbalance (%). Resource Provider shall perform the power quality tests with an output power of one hundred percent (100%) of the maximum AC active power capacity.

2.1.8 Power Management Test

Resource Provider shall test the communication technology and the corresponding control equipment to comply with the power management requirements (ramp rate limits, output limits, curtailment) as established in the BESS MTRs and to demonstrate that all components and sub-components are operating in harmony. Resource Provider shall verify the communication system is sending and receiving data with T&D Operator Operations Control Center as intended. Resource Provider shall evaluate the baseline measurements (voltage, current, temperature, frequency, energy storage capacity, charge time, discharge time) and power management requirements and check for anomalies. Resource Provider shall implement, verify and test any special protection schemes established by T&D Operator for power management.

2.1.9 System Startup Test

- a. The objective of the system start-up test is to demonstrate the start sequence of all Power Units (PU).
- b. Resource Provider shall perform the system start-up test on each individual PU until the overall BESS is started. A PU is a combination of a single Power Conversion System (PCS) with associated battery and control system. The PCS is a bi-directional grid connected power converter and includes the inverter and the step-up transformer.
- c. To perform the system start-up test, Resource Provider shall:
 - c.1 verify on the Human Machine Interface (HMI) that all the PCS inverters' s AC output terminals are energized, and the voltage values are per the nameplate. (e.g., 480 V AC);
 - c.2 verify on the HMI that all the PCS inverter's DC input terminals are energized, and voltage values are per technical specifications (e.g., 845-1096 V DC) depending on battery State of Charge;
 - c.3 verify that all PCS Operational State are "Off," as read on the HMI;
 - c.4 from the central BESS control (site plant controller) or local PCS controller (as applicable), set zero (0) real / reactive power setpoints and send a "Start/Run" command to start each PCS and the overall site BESS; and
 - c.5 verify that all PCS's start with no errors as appropriately demonstrated on the HMI.

NOTE: A Human Machine Interface (HMI) is used to visualize the system performance, status and can be used as the Graphic User Interface (GUI) to send control commands.

2.1.10 System Shutdown Test

- a. The objective of the system shutdown test is to demonstrate the shutdown sequence.

- b. Resource Provider shall perform the system shut-down test on each individual PU and the overall BESS.
- c. To perform the system shut-down test, Resource Provider shall:
 - c.1 verify all PUs are running as appropriately demonstrated on the HMI;
 - c.2 initiate the stop or shutdown function from the central BESS control (site plant controller) or local PCS controller (as applicable) and observe that all PU performs the shutdown with no errors; and
 - c.3 verify all PUs shall be in "Stop/Off/Offline" state on the HMI.

2.1.11 Emergency Shutdown and Restart Test

- a. The objective of the emergency shutdown and restart test is to demonstrate the emergency shutdown and restart sequence.
- b. Resource Provider shall perform the emergency shutdown and restart test on each individual PU and the overall BESS.
- c. To perform the emergency shutdown and restart test, Resource Provider shall:
 - c.1 verify each PU is running as appropriately demonstrated on the HMI;
 - c.2 stop the PU by pushing the emergency stop button;
 - c.3 verify the PU stops immediately, and the PU main AC and DC contactors are opened, all PU are in a fault state as demonstrated on the HMI;
 - c.4 verify that the system has stopped;
 - c.5 manually reset stop button(s) and reset the system fault from the HMI;
 - c.6 start the PU and verify that that all PCS's start with no errors as appropriately demonstrated on the HMI; and
 - c.7 repeat the test for the overall BESS with an emergency stop command/button from the BESS control (site plant controller).

2.1.12 Battery Metering and Monitoring System Verification

- a. The objective of the battery metering and monitoring system verification is to verify metering and monitoring system on BESS Graphical Web User Interface.
- b. Resource Provider shall perform battery metering and monitoring system verification on each individual PU and the overall BESS.
- c. To perform the battery metering and monitoring system verification, Resource Provider shall:
 - c.1 verify battery current readings are present and refreshing on the HMI; and

- c.2 verify battery temperatures readings are present and refreshing on the HMI.

2.1.13. Battery Enclosure Unit Smoke Detection Test

- a. Resource Provider shall demonstrate that the smoke detection circuit operates correctly and shuts down the PCS units when smoke is introduced in the enclosure. During this test, Resource Provider will ensure that if there is any fire suppression agent, it will not be activated during the test and will be temporarily disconnected from the firing pin assembly. After the test, Resource Provider will ensure that the fire suppression agent tank is reconnected for normal operations.
- b. Resource Provider shall propose the detailed procedures for this test in the draft testing plan to be delivered in accordance with Section 1.2 of this Testing Protocol.

2.1.14 Remote Power Setpoint Tracking

- a. The objective of the remote power setpoint tracking test is to demonstrate the capability of the BESS to follow remote active and reactive power setpoints from the central BESS control (site plant controller).
- b. Resource Provider shall perform the remote power setpoint tracking test for the overall BESS.
- c. To perform the remote power setpoint tracking test, Resource Provider shall:
 - c.1 verify the BESS is running as demonstrated in the HMI with a "Run/On" status;
 - c.2 set the central control system state to manual mode via user interface;
 - c.3 send active power command values +/-100%, +/-50%, +/-25%, 0% of the nameplate MW to manual active power input;
 - c.4 write reactive power values -+/-100%, +/-50%, +/-25%, 0% of the nameplate MVAR to manual reactive power input; and
 - c.5 record power levels as measured by reference meter and displayed on the HMI.

2.1.15 Discharge Capacity Test

- a. The objective of the discharge capacity test is to demonstrate the BESS discharge capacity.
- b. Resource Provider shall perform the discharge capacity test for the overall BESS to demonstrate that the BESS is able to achieve positive fifty percent (50%) of the BESS's nameplate active power (e.g., +50 MW out of 100 MW) of positive output within one (1) second and hold for ten (10) minutes (this capability is representative of the maximum active power levels).
- c. To perform the discharge capacity test, Resource Provider shall:
 - c.1 ensure that the BESS starting state shall be in the on-line state with each battery subsystem at approximately fifty percent (50%) usable SOC and at an initial active power level of zero (0) MW and reactive power level of zero (0) MVAR;

- c.2 record the BESS active power level at the Interconnection Point;
- c.3 command the BESS to follow a positive fifty percent (50%) of nameplate MW (e.g., +50 MW) SCADA signal and provide an active power profile;
- c.4 record and store the BESS active power response, ensuring that all measurements are made at the same meter and by the BESS control system with a recording in the BESS historian (if applicable);
- c.5 ensure that the BESS system end state shall be in the on-line state and at a commanded active power level of zero (0) MW; and
- c.6 demonstrate that the difference between the BESS active power response and the commanded level is no less than $\pm 3\%$ as measured by the sum of values at the meter, the time to full output is one (1) second or less, and the hold period of such active power value is no less than ten (10) minutes as recorded in the BESS control system historian.

2.1.16 Maximum Capacity Test

- a. The objective of the maximum capacity test is to demonstrate the maximum quantity of steady-state power capacity (in MW) that the BESS can continuously deliver.
- b. Resource Provider shall perform the maximum storage capacity test as follows:
 - b.1 discharge the BESS at $D^{\max}$;
 - b.2 continue the discharge operation to reduce the State of Charge from one hundred percent (100%) to zero percent (0%); and
 - b.3 record the BESS active power level at the Interconnection Point for the duration of the maximum capacity test.

2.1.17 Design Discharge Duration Test

- a. The objective of the Design Discharge Duration test is to demonstrate the period of time that the Storage Facility can deliver Discharge Energy at $D^{\max}$.
- b. Resource Provider shall perform the Design Discharge Duration test to demonstrate that the period of time that the Storage Facility can deliver Discharge Energy at $D^{\max}$ is equal to or greater than the Design Discharge Duration.
- c. To perform the Design Discharge Duration test, Resource Provider shall record the period of time required by Resource Provider to reduce the State of Charge of the BESS from one hundred percent (100%) to zero percent (0%) when discharging at $D^{\max}$.

2.1.18 Discharge Energy Test

- a. The objective of the Discharge Energy test is to demonstrate the quantity (expressed in MWh) of Discharge Energy that the Storage Facility discharges when discharging at $D^{\max}$

over the Design $D^{\max}$ Duration following charging starting at zero percent (0%) State of Charge.

- b. To perform the Discharge Energy test, Resource Provider shall:
 - b.1 command the BESS to charge from zero percent (0%) State of Charge to one hundred percent (100%) State of Charge over the Design Charge Duration;
 - b.2 command the BESS to discharge Discharge Energy at $D^{\max}$ for the Design Discharge Duration until the BESS reaches zero percent (0%) State of Charge; and
 - b.3 record the quantity (expressed in MWh) of Discharge Energy that the BESS makes available when discharging at $D^{\max}$ over the Design Discharge Duration following charging from zero percent (0%) State of Charge to one hundred percent (100%) State of Charge.

2.1.19 Charge Capacity Test

- a. The objective of the charge capacity test is to demonstrate the BESS charge capacity.
- b. Resource Provider shall perform the charge capacity test to demonstrate that the Storage Facility is able achieve negative fifty percent (50%) of the BESS's nameplate active power (e.g., -50 MW out of 100 MW) of output within one (1) second and hold for ten (10) minutes (this capability is representative of the maximum active power levels).
- c. To perform the charge capacity test, Resource Provider shall:
 - c.1 ensure that the BESS system starting state shall be in the on-line state with each battery subsystem at approximately fifty (50%) usable SOC and at an initial active power level of zero (0) MW and reactive power level of zero (0) MVAR;
 - c.2 record the BESS active power level at the Interconnection Point;
 - c.3 command the BESS to follow a negative fifty (50%) of nameplate MW (e.g., -50 MW) SCADA signal and provide an active power profile;
 - c.4 record and store the BESS active power response, ensuring that measurements are made at the same meter and by the BESS control system with a recording in the BESS historian (if applicable);
 - c.5 ensure that the BESS system end state shall be in the on-line state and at a commanded active power level of zero (0) MW;
 - c.6 demonstrate that the difference between the BESS active power response and the commanded level is no less than $\pm 3\%$ as measured at the meter, the time to full output is one (1) second or less, and the hold period of such active power value is no less than ten (10) minutes as recorded in the BESS control system historian.

2.1.20 Charge Duration Test

- a. The objective of the **Charge Duration** test is to demonstrate the period of time required by Resource Provider to increase the State of Charge of the BESS from zero percent (0%) to one hundred percent (100%) when charging at $C^{\max}$.
- b. Resource Provider shall perform the Charge Duration test to demonstrate that the period of time required by Resource Provider to increase the State of Charge of the BESS from zero percent (0%) to one hundred percent (100%) when charging at $C^{\max}$ is equal to or less than the Design Charge Duration.
- c. To perform the Charge Duration test, Resource Provider shall:
 - c.1 command the BESS to charge from zero percent (0%) State of Charge to one hundred percent (100%) State of Charge; and
 - c.2 record the period of time required to increase the State of Charge of the BESS from zero percent (0%) to one hundred percent (100%) when charging at the maximum charging capacity of the Storage Facility.

2.1.21 Reactive Power Test

- a. The objective of the reactive power test is to demonstrate the BESS reactive power production capability at the system starting state and to document the status at the end state.
- b. Resource Provider shall perform the reactive power test.
- c. To perform the reactive power test, Resource Provider shall:
 - c.1 ensure that the BESS starting state shall be in the on-line state with each battery system at approximately fifty percent (50%) usable SOC and at an initial active power level of zero (0) MW and reactive power level of zero (0) MVAR;
 - c.2 ensure that the BESS control system is configured to follow a predefined reactive power profile as indicated in (c) though (f) below;
 - c.3 command the BESS to follow >20% MVAR absorbing for ten (10) minutes;
 - c.4 command the BESS to follow >20% MVAR injecting for ten (10) minutes;
 - c.5 record and store the BESS reactive power response, ensuring that measurements are made at the same meter and by the BESS control system with recording in the BESS historian;
 - c.6 demonstrate that the BESS reactive power response and the commanded level is within $\pm 3\%$ as measured by the sum of values at the meter, the time to full output is one (1) second or less, and the hold period of such reactive power value is no less than ten (10) minutes as recorded in the BESS control system historian;
 - c.7 ensure that the BESS end state shall be in the on-line state and at a commanded reactive power level of zero (0) MVAR; and

- c.8 record the BESS reactive power level at the Interconnection Point.

2.1.22 Round-Trip Efficiency and Energy Test

- a. The objective of the round-trip efficiency and energy test is to demonstrate the BESS installed energy and installed round-trip efficiency.
- b. Resource Provider shall perform the round trip efficiency and energy test.
- c. Resource Provider shall operate the BESS in both the charge and discharge directions in the following order:
 - c.1 Set each battery subsystem to three percent (3%) SOC.
 - c.2 Allow each battery subsystem to enter background cell balancing mode by maintaining a SOC of three percent (3%) for twenty (20) minutes. After the background cell balancing mode begins the system can be operated as normal. Allow the cell balancing function to operate in the background for at least twenty-four (24) Hours to allow the automatic cell balancing procedure to reach completion. This time may be reduced based on the suppliers' recommendations.
 - c.3 Discharge each battery subsystem to zero percent (0%) SOC.
 - c.4 Immediately perform the round-trip efficiency and capacity test set forth below.
 - c.5 To be valid, the test must be started within twenty-four (24) Hours of the end of the period (greater than four (4) Days) during which cell balancing was completed. For the duration of the test, Resource Provider shall configure the control system to have the power limiting mechanisms disabled and shall configure each battery subsystem to follow the charge and discharge current limits specified by their respective Battery Management System (BMS).
- d. To perform the round-trip efficiency and energy test, Resource Provider shall:
 - d.1 ensure that the BESS is in the on-line state with each battery Subsystem at zero percent (0%) SOC;
 - d.2 verify that in the previous twenty-four (24) Hour period, each battery subsystem completed the cell balancing procedure allowing full cell balancing to occur, as described Section 2.1.22c above;
 - d.3 verify that ambient temperature measurements at all battery subsystems are between the recommended temperatures by the supplier throughout this test (e.g., 18 °C and 28 °C);
 - d.4 record initial values of each battery subsystem SOC;
 - d.5 command a real power charge that results in an AC power of the BESS's minimum operating level and continue the charge until the power is 2% different than the minimum operating level;

- d.6 record and store the AC energy charged to the system as measured at the Interconnection Point, ensuring that measurements are made by the meter with recording in the BESS historian;
- d.7 within five (5) minutes of fully charging the BESS, command a real power discharge that results in an AC power output of the BESS's maximum operating level.
- d.8 maintain the discharging state until the power is two percent (2%) different than the maximum operating level; and
- d.9 record and store the AC energy discharged as measured at the meter. Measurements will be made by the meter with recording in the BESS historian.
- e. The resulting round-trip efficiency is the total discharged energy divided by the total charged energy at the Interconnection Point.
- f. The energy capacity is the sum of the total discharged energy at the Interconnection Point.

2.1.23 Automatic Generation Control (AGC) Test

- a. The objective of the automatic generation control AGC test is to demonstrate the capability of the Storage Facility to achieve the BESS's maximum operating level within one (1) second, which is representative of the maximum active power levels for T&D Operator Energy Control Center (ECC) services.
- b. T&D Operator and Resource Provider shall coordinate to conduct the AGC test, and T&D Operator will initiate the AGC test from the ECC.
- c. To perform the AGC test, Resource Provider shall:
 - c.1 ensure that the BESS is in the on-line state with each battery subsystem at fifty percent (50%) usable SOC and at an initial active power level of zero (0) MW and reactive power level of zero (0) MVAR and the control system is configured to follow a predefined active power profile as described below;
 - c.2 record the BESS active power level at the Interconnection Point;
 - c.3 command the BESS to follow a simulated ECC signal of +50% of the nameplate capacity (e.g., +50 MW of 100 MW) for ten (10) minutes;
 - c.4 command the BESS to follow a simulated ECC signal of -50% of the nameplate capacity (e.g., -50 MW of 100 MW) for ten (10) minutes;
 - c.5 record and store the BESS active power response. Measurements will be made at the same meter and by the control system with recording in the BESS historian;
 - c.6 the BESS end state shall be in the on-line state and at a commanded active power level of zero (0) MW; and

- c.7 ensure that the BESS active power response and the commanded level (e.g., +50 MW) is within $\pm 2\%$ as measured by the sum of values at the meter, the time to full output is one (1) second or less, and the hold period of such active power value shall be no less than ten (10) minutes as recorded in the BESS control system historian.

2.1.24 Internal Tests

- a. The internal tests are the tests that Resource Provider is required to perform in coordination with T&D Operator to demonstrate the adequate performance of the Storage Facility based on the design and the requirements in the BESS MTRs. The internal tests include equipment initial energization, the Original Equipment Manufacturer (OEM) onsite testing and commissioning of the Storage Facility equipment (batteries, inverters, PCS, communication, protection, SCADA, etc.), protection system tests, internal and external communication tests, control system tests, SCADA system and signal verification tests, and the BESS MTRs tests. The OEM tests shall include visual inspection, standard tests of the electrical infrastructure and inspection of BESS, switchgear, transformer, and SCADA. Resource Provider shall provide the corresponding documentation of the internal tests to T&D Operator.
- b. Resource Provider shall test the communication to T&D Operator's SCADA system and its corresponding signals prior to the synchronization of the Storage Facility to the grid. Resource Provider shall install, commission and set-up a Dynamic System Monitor (DSM) with all the required signals available before performing any internal test that requires power output.
- c. In addition, for the internal tests, Resource Provider shall develop a test plan with detailed procedures for the pre-commissioning, functional, energization and operational testing, which shall include the mechanical and electrical tests by NETA for the following non-inclusive list of equipment:
- c.1 complete BESS per OEM recommendations and checklists;
 - c.2 High Voltage and Medium Voltage Equipment (disconnect switches, circuit breakers, reclosers, switchgear, transformers, cable, etc.): insulation and contact resistant, continuity, very low frequency testing, relaying, wiring, trip checks, turns ratio, voltage, phase rotation and operation;
 - c.3 Low Voltage Equipment (switchgear, distribution panels, switches, ATS, motors, battery chargers, controllers, transformers, control/power wires, etc.): insulation and contact resistant, continuity, very low frequency testing, relaying, wiring, trip checks, turns ratio, voltage, winding resistance, full load current, settings, and operation; and
 - c.4 grounding systems (BESS, substation, collector system): fall of potential, resistance, and continuity.

2.1.25 BESS Fire and Safety Tests

- a. Resource Provider shall test the BESS compliance to the local fire and safety codes related to batteries in enclosures. Resource Provider shall provide site specific documentation if

required by T&D Operator. Resource Provider shall ensure that testing and certification at the equipment manufacturing facilities is also completed or, if such tests cannot be done at the equipment manufacturing facilities, Resource Provider may be required to have the BESS field certified at the Storage Facility site.

- b. Resource Provider shall test the BESS to ensure proper functioning of the fire detection, fire protection or fire prevention mechanisms, shutdown mechanisms, smoke detection, safety functions, annunciation, emergency egress, physical enclosure security, and cyber security functions.
- c. Resource Provider shall ensure that UL 9540A testing and certification shall be conducted to the 4th^E edition of the standard and shall include tests of the proposed battery at the cell, module, and system level. Resource Provider shall provide the full test report to T&D Operator for review, including the UL 9540A gas analysis report.
- d. T&D Operator reserves the right to perform a third-party test at Resource Provider's cost to validate the OEM or supplier's testing data. Resource Provider can provide publicly available test data performed by the National Testing Laboratory, if such data is available. If any discrepancies in the testing data arise, T&D Operator's testing data shall supersede all other testing data used in the BESS Storage Facility Design.

III. ANNUAL & RETURN TO SERVICE TESTS

1.0 Overview

The objective of the annual tests is to verify, on an annual basis, the Storage Facility's capability to comply with the BESS MTRs. Resource Provider shall perform the tests within thirty (30) Days of the established annual testing date and provide a report to T&D Operator with the test results and reasonable supporting documentation within forty-five (45) Days of the conduct of the test.

The purpose of the return to service tests is to ensure the proper functioning of the Storage Facility after any repair or modification of the Storage Facility that may affect its compliance with the BESS MTRs or the Agreement. If Resource Provider repairs or modifies the Storage Facility in any way that might affect its compliance with the BESS MTRs or the Agreement, Resource Provider shall perform the appropriate annual tests as soon as the new equipment is installed or any repair/improvements are completed and prior to returning the Storage Facility to service.

Resource Provider will identify and analyze critical parameters over time to assess the system and equipment performance, degradation, and overall health of the Storage Facility. If performance of the Storage Facility deviates from acceptable norms or does not meet the acceptance criteria, prompt preventive and/or corrective actions shall be planned and conducted to repair or service the system, equipment, or structures and, where trend data shows, degrading performance or condition, Resource Provider will take actions to prevent failures that can potentially result in Outages or Deratings. If the degradation occurs for reasons other than Resource Provider's failure to properly maintain or operate the equipment in accordance with the BESS Standard Offer Agreement, augmentation may be discussed.

2.0 Annual & Return to Service Tests

Prior to commencement of the annual tests, Resource Provider shall provide a pre-inspection checklist to T&D Operator that includes but is not limited to the following:

- a. A requirement for all personnel to wear proper Personnel Protective Equipment (PPE) at all times during any testing or while on site at the Storage Facility. The PPE requirements shall be based on the latest ARC flash study.
- b. Verification that all protection equipment, controls, and relaying are loaded with proper settings.
- c. Verification of proper stenciling of equipment as compared to IFC schematics and wiring diagrams.
- d. Verification that safety grounds have been removed prior to energization.
- e. Confirmation that a safety walkdown and job brief has been performed.

Resource Provider shall perform the following tests annually and as required prior to returning the Storage Facility to service:

- a. Voltage Regulation System (VRS) Test – Resource Provider shall test and verify the Storage Facility's compliance with the VRS requirements in the BESS MTRs. Details of the expected tests are set out in Section 2.1.2 of this Testing Protocol.
- b. Reactive Power Capability Test – Resource Provider shall test and verify the Storage Facility's compliance with the Reactive Power Capability requirements in the BESS MTRs. Details of the expected tests are set out in Section 2.1.3 of Testing Protocol. If the required active power output range of the Storage Facility for this test is not reached, Resource Provider shall repeat the test, and T&D Operator shall curtail the Storage Facility output to the active power tested.
- c. Frequency Response and Regulation Test – Resource Provider shall test and verify the Storage Facility's compliance with the Frequency Response requirements in the BESS MTRs. Resource Provider shall demonstrate the capability of the Storage Facility to comply with the BESS MTRs for frequency response and regulation. Details of the expected tests are set out in Section 2.1.4 of this Testing Protocol.
- d. Ramp Rate Control Tests – Resource Provider shall test and verify the Storage Facility's compliance with the Ramp Rate Control requirements in the BESS MTRs. Resource Provider shall demonstrate the capability of the Storage Facility to comply with the BESS MTRs for Ramp Rate Control. Details of the expected tests are set out in Section 2.1.5 of this Testing Protocol.
- e. Power Quality – Resource Provider shall test and verify the Storage Facility's compliance with the power management requirements in the BESS MTRs. Details of the expected tests are set out in Section 2.1.8 of this Testing Protocol.
- f. Round Trip Efficiency – Resource Provider shall test and verify the qualified/available energy and qualified round trip efficiency of the Storage Facility. Details of the expected tests are set out in Section 2.1.22 of this Testing Protocol.
- g. Charge and Discharge Capacity Tests – Resource Provider shall perform both charge and discharge tests to measure the available discharge and charge capacity and discharge and

charge duration. Details of the expected tests are set out in Sections 2.1.15, 2.1.16, 2.1.17, 2.1.18, 2.1.19 and 2.1.20 of this Testing Protocol.

- h. Infrared thermography inspections of those portions of the Resource Provider Interconnection Facilities— Resource Provider shall perform an infrared thermography preventive inspection of the Interconnection Facilities and related equipment and structures.

3.0 Periodic Testing

At T&D Operator's request, Resource Provider shall provide certifications of tests and inspections of the electric and protection equipment, which may impact the Grid System. T&D Operator shall have the right to visit and visually monitor Resource Provider's site during operation and testing; provided that T&D Operator shall coordinate with Resource Provider to schedule such visits in advance.

IV. FACTORY ACCEPTANCE TESTS

Resource Provider shall provide to T&D Operator the major equipment manufacturer's formal test result report and official documentation of the Factory Acceptance Test (FAT) to demonstrate equipment performance, including to the BESS MTRs, BESS tests, design or type tests and factory routine tests. The major equipment includes BESS, MV/LV cable, inverters, switchgear, transformers, circuit breakers, disconnect switches, BESS, reactive power compensation equipment.

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Subject to Section 3.1 (*LUMA as Authorized Agent of PREPA; Technical Review*) of the BESS Standard Offer Agreement, Resource Provider shall submit to PREPA, for evaluation and approval, all test reports certified by an experienced and duly qualified independent laboratory or company with specialized expertise in acceptance and other relevant tests of battery energy storage systems evidencing that the Storage Facility satisfies each of the BESS MTRs and confirms the Storage Facility's Performance Characteristics. PREPA shall have the right to approve such laboratory or company, which approval PREPA shall not unreasonably withhold or delay. For the avoidance of doubt, Resource Provider acknowledges and agrees that PREPA will not accept manufacturers' test reports as evidence of compliance with this requirement. Resource Provider may satisfy design capability tests which comply with industry standards (IEEE 1547, IEEE P2800, UL 1741, UL 1642, UL 9540A, UL 1973, NFPA 855) by submission of the proper certification conforming to the provisions of this paragraph. This is applicable to U/O VRT, FR, anti-islanding, single-phasing, and three-phase testing. However, T&D Operator reserves the right to require Resource Provider to test on-site the anti-islanding, single-phasing, and three-phase trip capabilities of the Storage Facility.

Resource Provider shall submit to T&D Operator the test results report and official documentation at least ninety (90) Days prior to the Storage Facility commissioning test.

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T&D Operator reserves the right to witness virtually or in person the FAT of any of the major equipment at the manufacturers' facilities. Resource Provider and T&D Operator shall coordinate the schedule to witness an FAT ahead of its execution. Resource Provider shall submit to T&D Operator the tentative dates for the FAT at the start of project development.

Additionally, Resource Provider shall provide documentation (including the corresponding manufacturer's official test reports per the provisions of the second paragraph of this Section) from the battery and power conversion equipment manufacturers that demonstrates or certifies the batteries, power conversion equipment's and overall BESS compliance with low voltage ride-through (LVRT), over voltage ride-through (OVRT), and frequency ride through (FRT) specifications of the BESS MTRs in Exhibit 7 (*BESS*

Minimum Technical Requirements) and consistent with the BESS Operating Procedures established for Resource Provider under the BESS Standard Offer Agreement. Resource Provider shall demonstrate compliance with the LVRT curve and the OVRT curve described in the BESS MTRs during the commissioning tests. The LVRT tests shall include the verification and compliance testing of the reactive current injection mode during a fault. Resource Provider shall demonstrate that the disconnection times satisfy the frequency thresholds defined in the BESS MTRs during the frequency ride through tests and frequency ride through testing on one (1) BESS to be specifically installed at the Storage Facility. If a BESS is used in tandem to comply with the BESS MTRs, Resource Provider shall procure that the BESS power conversion equipment manufacturer and the BESS manufacturer determine the parameters and assumptions for the manufacturer testing. Resource Provider shall procure that the equipment manufacturers utilize loss assumptions consistent with the expected conditions at the Storage Facility.

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EXHIBIT 10

TECHNICAL SPECIFICATIONS FOR THE DYNAMIC SYSTEM MONITOR

I. Introduction

The following specification defines the minimum requirements for an instrument used in the monitoring and registration of dynamic disturbances on electric power systems and the supervision of source performance according to Grid Codes.

II. Hardware

a. Inputs:

1. The equipment shall have at least 32 analog inputs with the capacity to increase them to a minimum of 96 inputs depending in the application required analog signals. The minimum resolution for the A/D converter shall be of 16 bit. The sampling rate shall be programmable up to a minimum of 250 samples per cycle (15000 samples per second). The analog inputs shall permit at least the following types of signals:

- i. PT voltage (150 V rms minimum, Accuracy better or equal to 0.3%);
- ii. CT currents (5 A rms minimum, Accuracy better or equal to 0.3%);
- iii. DC voltages of at least 800 V (Accuracy better or equal to 0.3%);
- iv. Small Analog Signals (Accuracy better or equal to 0.3%);
 - A. Current: 4 – 20 mA; and
 - B. Voltage: 0 – 200 mV, 1V, 10 V.

2. The equipment shall have at least 16 digital inputs with the capacity to increase them to a minimum of 48 inputs depending on the application required digital signals. The minimum input voltage range of the digital inputs should be 0 – 150 V. The digital inputs should be included as a user defined software triggering input.

3. The equipment shall be able to record power system frequency with a resolution of at least 0.001Hz.

b. The equipment shall have a built-in microprocessing unit with color monitor, keyboard and mouse from which all commands, controls and setup parameters may be entered. All setup parameters shall be store in a non-volatile medium, to prevent loss of setup data if power is interrupted. This microprocessing unit shall be of industrial grade to insure long life in a typical substation or generation plant environment.

c. Memory and storage capacity:

The equipment shall have a nonvolatile solid state memory (ex. SSD, flash, etc.) with the required capacity to stores at least one (1) Year of continuous data based in typical recording periods and typical recording rates. Also the memory shall have a minimum storage capacity of 1,000 RMS trigger events and 1,000 Instantaneous trigger events based in typical recording rates and recording periods. Typical recording periods and recording rates are:

- i. RMS Trigger Recording Function (Recording rate of 1 sample per cycle on all the signals)
 - A. Pre-Trigger: 60 seconds
 - B. Post-trigger: 300 seconds
- ii. Instantaneous Values Trigger Recording Function (recording rate of 250 samples per cycle on all instantaneous signals)
 - A. Pre-Trigger: 1 second
 - B. Post-Trigger: 2 seconds
- iii. Continuous Recording Function - The recording rate is one (1) sample per second on all the signals. This recording function is continuous, but saved in twenty-four (24) Hour periods.

All the recording functions mentioned above shall work simultaneously. The equipment shall maintain the date and time in an internal battery-backed clock.

d. Communication:

The equipment shall have at least two Ethernet 10/100/1000 Mbps port (LAN interface, TCP/IP Protocol) for local and remote network communication.

e. Power Source:

The equipment shall have a redundant power supply. Two separate inputs (one AC and one DC) 100 – 240 VAC, 60 Hz and 100 – 150 DC. Some applications could require DC supply of 48 VDC + 10%, verify before the equipment acquisition.

f. Measurement accuracy:

- 1. Voltage measurement error shall be less than + 0.3% of reading.
- 2. Current measurement error shall be less than + 0.3% of reading.

III. Software

a. The software platform of the equipment shall be compatible with the latest version of Microsoft Windows operating system.

b. The equipment remote communication shall be thru TCP/IP network connectivity (LAN). The remote communication should permit at least the set up and data retrieval of the equipment. The equipment should have the capability to perform at least the following functions remotely:

- 1. Modification of the configuration;
- 2. Retrieval of captured events; and
- 3. Remote event triggering.

c. The equipment shall have the capacity of time synchronization with GPS system. A GPS receiver and GPS antenna shall be included.

d. Triggers:

1. The equipment shall support user defined programmable triggers. Triggering shall be initiated based upon primary quantities (voltage, current, and frequency), calculated quantities (watts, Var, power factor, apparent power, etc.), digital signals or small analog signals.

2. The trigger thresholds shall be based on limits, gradients, equations and status. Examples of trigger conditions that shall be available are:

- i. Level threshold (high level, low level, in-band, out-band, etc.);
- ii. Rate of change (ex. Frequency variation (df/dt));
- iii. Manual input (keyboard trigger);
- iv. Request from remote computer; and
- v. Event input status (digital signal status).

3. A re-trigger function shall be available which permits the equipment to generate a new event register if a second disturbance is detected while the recording of the first disturbance is still in process. This process should continue if more disturbances occur in the new registers.

e. The acquisition software shall include a user defined pre-trigger interval option as well as a user defined post trigger interval for the information captured in the case of triggered events. The minimum range of the pre-trigger interval should be from 0 to 60 seconds and the minimum range for the post trigger interval should be 0 to 300 seconds. In addition, the date, time, and type of trigger that initiated the event shall be included as part of the disturbance record.

f. The acquisition software shall have the following capabilities:

1. Time displays (ex. Oscilloscope);
2. Digital Status display (ex. High/Low, 1/0);
3. Multiple displays and multiple signals in displays in real time and off-line;
4. Display resizing;
5. Programmable conversion of range and units of signals; and
6. Independent range for signals.

g. The acquired data shall be available in a format directly compatible with Siemens Power Technologies International (Siemens PTI) PSS/E plotting software.

h. The software shall support data export in ASCII, CSV and PSS/E formats.

i. The software shall support image export in JPG, BMP or WMF formats.

j. The software shall have the following analysis capabilities for the data and signals (primary and calculated):

1. Fast Fourier Transform (FFT);
2. Peak analysis;
3. Filter functions; and
4. Series and scalar mathematic (square root, inversion, square, sum, gain, offset, etc.).

k. The software shall perform the following power engineering calculations (on-line and off-line) and measurements:

1. Three phase and single phase Power (Real, reactive, apparent);
2. Power Factor;
3. Power angle;
4. rms line and phase voltage;
5. rms current;
6. Power system frequency;
7. DC voltage and currents; and
8. AC voltage and currents.

IV. General

a. Environmental Conditions:

1. Operating temperature: 0° C to 50° C; and
2. Operating humidity: 95 %, non-condensing.

b. Equipment cabinet and corresponding accessories:

1. The cabinet should have test switches at the front of the panel for the three phase voltages and currents. The test switches should have a minimum rating of 600 V rms and 30 A rms; semi flush mounted, rear connected, equal or similar to ABB FT-1, style no. 129A514G01. The test switches should be assembled horizontally in groups of three FT-1 switches per row, mounted on a 19 inches wide, three-rack unit (3RU) high panel suitable for rack mounting, similar to ABB FR3J014014014.

2. The signals (analog and digital) should terminate on terminal blocks inside the cabinet before the connection to the Dynamic System Monitor. The AC, DC, digital, exciter voltage and exciter current signals should be in different terminal blocks. The terminal blocks should have a minimum rating of 600 V rms and 30 A rms (except the exciter voltages signals, see below). Examples of terminal blocks are GE CR151B2 and Marathon 1512 STD. The current signals should

terminate on shorting type heavy duty terminal blocks equal or similar to Marathon, catalog number 1506SC. The terminal blocks used for the excitation voltage of the generators must have a nominal voltage capacity greater than 800 V DC. A switch or breaker for isolation purposes is also required for the excitation voltage and current signals.

c. Documentation:

1. The equipment shall include a documentation package that contains the user, operation and maintenance manuals and the mechanical and electrical equipment drawings. The documentation should be in hard copy and in digital format.

2. The equipment documentation shall include a copy of the software.

d. Spare parts recommended by the equipment manufacturer shall be included in the dynamic system monitor purchase order.

e. Warranty:

1. The equipment warranty shall include part and service for a period not less than sixty (60) Months from the delivery day.

2. Equipment Training, Installation Support and Commissioning:

i. An on-site equipment operation and configuration training should be included; and;

ii. The dynamic system monitor manufacturer shall perform the equipment commissioning and offer installation support.

EXHIBIT 11

TECHNICAL REQUIREMENTS FOR OPERATION, PROTECTION, & CONTROL

a. Resource Provider shall provide general protection practices, which comply with PREPA's written protection system practices, design criteria documents (DCDs) and philosophy, in all the electrical equipment related to the Interconnection Facilities according to the standards and PREPA requirements in order to ensure personnel safety and secure operation and interconnection with PREPA's systems. Resource Provider is responsible for the design, accurate relay settings (in accordance with the Storage Facility Design) and testing of the protection that shall contain the evaluated Resource Provider Interconnection Facilities' settings. Subject to Section 3.1 (LUMA as Authorized Agent of PREPA; Technical Review) of the BESS Standard Offer Agreement, PREPA will evaluate and approve only the protection design, settings and tests of the Resource Provider Interconnection Facilities related to PREPA's system stability, security and optimal performance. Those protection designs, settings and tests of the Resource Provider Interconnection Facilities not related to PREPA's system stability, security and optimal performance will not be evaluated by PREPA.

b. As further defined in Article 3 (Pre-Operation Period) and Exhibit 4 (Interconnection Description and Specifications), Resource Provider shall be responsible for any protection related equipment, relays, scheme design, coordination and short circuit studies, and relay settings of all the protection equipment within PREPA's installation and remote terminals necessary to safely synchronize the Interconnection Facilities according to the latest technology and standards. For the avoidance of doubt, this includes the protection from (a) the PREPA Interconnection Facilities breaker to the Resource Provider Interconnection Facilities and (b) the differential protection relay from the Resource Provider Interconnection Facilities to PREPA's Interconnection Facilities.

c. Resource Provider shall submit a complete Resource Provider Interconnection Facilities protection report with all relay settings, including all calculations and considerations for the relay settings in addition to coordination and short circuit studies. In addition to the foregoing, the report shall also provide, including but not limited to, the following:

d. The approved Resource Provider Interconnection Facilities design single line drawings shall have all the equipment information and all the relay's input and output descriptions;

 e. The Resource Provider Interconnection Facilities relay settings shall include the logic, inputs, and outputs according to the Storage Facility Design;

f. The backup overcurrent protection units of the Resource Provider Interconnection Facilities relay shall be set so that PREPA does not provide short circuit current for more than one second;

g. The transformer from the Resource Provider Interconnection Facilities to PREPA shall have Delta – WYE configuration to avoid zero sequence current contribution from the Storage Facility during faults at the electrical system;

 h. The Resource Provider Interconnection Facilities transformer protection shall be set so that the Resource Provider Interconnection Facilities does not provide short circuit current to PREPA or disconnects instantly;

i. The Resource Provider Interconnection Facilities transformer protection shall provide an overvoltage protection unit on the delta side of the transformer to disconnect the Resource Provider Interconnection Facilities during ground faults on the delta side of the transformer; and

j. Resource Provider shall provide all the equipment data of the Resource Provider Interconnection Facilities for PREPA's protection studies such as capacity, transformer and line impedances, current and voltage transformer ratios and information and short circuit duty, among others.

For the avoidance of doubt, PREPA does not assume, calculate or interpret any required item from manuals, graphs or relay curves, and Resource Provider shall ensure that all the required data is included in the report upon first submittal.

EXHIBIT 12

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EXHIBIT 13

FORM OF SWORN STATEMENT

Comes now, EcoElectrica BESS, LLC (the "Company") organized and existing under the laws of the Commonwealth of Puerto Rico, with employer identification number 6611063324, represented in this act by Carlos Reyes Berrios, of legal age, Married and resident in Cabo Rojo, Puerto Rico and under the most Solemn oath declares the following:

1. That my name and other personal circumstances are the aforementioned.
2. That I hold the position of President in the aforementioned company.
3. That the Company, its president, vice-president, directors, executive director, members of its board of directors, board of directors, nor any of its officials or person performing equivalent functions for the Company; or its subsidiaries or alter egos:

a. Have not pled guilty to, or have not been convicted of, to any of the crimes enumerated in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico or any of the crimes included in Act 2-2018.

b. Have not pled guilty or have not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

4. The undersigned expressly recognizes that the conviction in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico will result in automatic termination of any contract in the Government of Puerto Rico.

5. That this statement is subscribed in compliance with Act 8-2017, as amended, and Act 2-2018.

[Signature page follows]

IN WITNESS WHEREOF, I affirm and sign the herein document in Peñuelas, Puerto Rico, this ____ day of March, 2026.


Representative's Signature

Affidavit No. 14,950

Duly sworn and subscribed to before me by Carlos Alberto Reyes Berrín whose personal circumstances are the above mentioned and who to me is personally known, or have identified by means of personal knowledge, in Peñuelas, Puerto Rico, this 30 day of March, 2026


Notary Public

Seal





EXHIBIT 14

FORM OF FOMB CERTIFICATION

CONTRACTOR CERTIFICATION REQUIREMENT

Resource Provider shall provide the following certification to FOMB and the Commonwealth's Contracting Government Entity, signed by its Chief Executive Officer (or equivalent highest rank officer):

Unless the context otherwise requires, capitalized terms have the meanings defined in the BESS Standard Offer Agreement (the "Agreement").

1. Resource Provider's contractor(s) in connection with the Agreement (including any amendments, modifications or extensions) is (are) the following:

Non engaged to date. We are in the process of putting together an RFP both for the EPC and for the purchase of the batteries. The required information, including the expected amount of the contract, would be disclosed once available.

2. Neither Resource Provider nor any of its owners (including any person or entity with more than a ten percent (10%) ownership interest in Resource Provider), partners, directors, officials or employees, has agreed to share or give a percentage of Resource Provider's compensation under the Agreement to, or otherwise compensate, any third party, whether directly or indirectly, in connection with the procurement, negotiation, execution or performance of the contract, except as follows:

Not Applicable.

3. To the best knowledge of the signatory (after due investigation), no person has unduly intervened in the procurement, negotiation or execution of the contract, for its own benefit or that of a third person, in contravention of Applicable Law.

4. To the best knowledge of the signatory (after due investigation), no person has: (i) offered, paid, or promised to pay money to; (ii) offered, given or promised to give anything of value to; or (iii) otherwise influenced any public official or employee with the purpose of securing any advantages, privileges or favors for the benefit of such person in connection with the Agreement (such as the execution of a subcontract with Resource Provider, beneficial treatment under the contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).

5. Neither Resource Provider, nor any of its owners, partners, directors, officials or employees or, to the best of its knowledge (after due investigation), its representatives or sub-contractors, has required, directly or indirectly, from third persons to take any action with the purpose of influencing any public official or employee in connection with the procurement, negotiation or execution of the contract, in contravention of Applicable Law.

6. Any incorrect, incomplete or false statement made by Resource Provider's representative as part of this certification shall cause the nullity of the proposed contract and Resource Provider must reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the Agreement.

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The above certifications are hereby signed under penalty of perjury by the President in the following form:

"I hereby certify under penalty of perjury that the foregoing is complete, true and correct."

By: Carlos Reyes Berrios

Date: March 30, 2026

Signature:

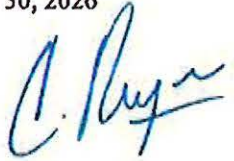
A handwritten signature in blue ink, appearing to read 'C. Reyes'.A handwritten signature in blue ink, appearing to read 'M. Cruz'.

EXHIBIT 15

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

COMMERCIAL OPERATION DATE CERTIFICATE

Date:[•]

From: [•] ("Resource Provider")

To: Puerto Rico Electric Power Authority

We refer to the BESS Standard Offer Agreement dated [•] (the "Agreement"). Unless the context otherwise requires, capitalized terms used in this certificate shall have the meanings ascribed to them in the Agreement.

We hereby certify that:

a. as demonstrated by the Initial Performance Tests, (i) Resource Provider has completed the installation, testing and commissioning of the Storage Facility in accordance with this Agreement, (ii) the Storage Facility can make available Storage Capability on a sustained basis that meets or exceeds the Design Storage Capability and the Other Minimum Acceptance Criteria, and (iii) the Storage Facility can make available Discharge Energy that corresponds to such Storage Capability at the Interconnection Point and receive Charge Energy at the Interconnection Point on a continuous basis, in each case, in accordance with Prudent Utility Practices and the Agreement;

b. Resource Provider has obtained, and maintains in force, all material Permits required for the construction and operation of the Storage Facility; and

c. the Storage Facility and the PREPA Interconnection Facilities comply in all material respects with Applicable Law.

The Commercial Operation Date occurred on [•].

Very truly yours,

Acknowledged and agreed,

[•]
as Resource Provider

Puerto Rico Electric Power Authority
as PREPA

[•]

[•]

EXHIBIT 16

[RESERVED]

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EXHIBIT 17

FORM OF DIRECT AGREEMENT

DIRECT AGREEMENT

THIS DIRECT AGREEMENT ("**Direct Agreement**") dated [●], 20__, is entered into among: (i) the Puerto Rico Electric Power Authority, a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created by an Act of 23 May 1941, No. 83, as amended (the "**Consenting Party**"), (ii) [●] (together with its successors, designees and permitted assigns in such capacity, the "**Administrative Agent**") and (iii) [●] (the "**Assignor**"). All capitalized terms used herein and not otherwise defined in this Direct Agreement shall have the respective meanings set forth in the Assigned Agreement (as defined below). The principles of interpretation and construction set forth in the Assigned Agreement shall apply to, and are hereby incorporated by reference as if fully set out in, this Direct Agreement, *mutatis mutandis* and as if any references to "this Agreement" and "Party" in such provisions were references to, respectively, "this Direct Agreement" and "the parties hereto".

RECITALS

WHEREAS:

(A) the Assignor (as seller) and Consenting Party (as buyer) have entered into that certain BESS Standard Offer Agreement, dated as of [●] (as amended, restated or supplemented, the "**Assigned Agreement**"), pursuant to which the Assignor will develop a twenty (20) MW Storage Facility at the Storage Facility Site, (ii) interconnect the Storage Facility with the Grid System, and (iii) provide Energy Storage Services exclusively to the Consenting Party, and the Consenting Party will pay for the Energy Storage Services from the Storage Facility built by the Assignor;

(B) Pursuant to Section 19.3 (Resource Provider's Right to Assign) of the Assigned Agreement, the Consenting Party has agreed to use commercially reasonable efforts to cooperate with any financing efforts of the Assignor, and the Assignor may assign its rights to payment under the Assigned Agreement to Storage Facility Lenders as security for its obligations to any such lender in connection with any financing of the development and construction of the Storage Facility;

(C) [The Assignor has entered into that certain [Credit Agreement], dated as of [●] (as amended, restated or supplemented, the "Credit Agreement"), among Storage Facility Lenders from time to time party thereto (together with the Administrative Agent, each, a "**Secured Party**", and, collectively, the "**Secured Parties**") and the Administrative Agent, pursuant to which such Storage Facility Lenders will make loans to the Assignor to, among other things, finance the construction of the Storage Facility; and

(D) The Assignor has entered into that certain Security Agreement, dated as of [●] (as amended, restated or supplemented, the "**Security Agreement**"), among the Assignor, the other subsidiary guarantors from time to time party thereto and the Administrative Agent, pursuant to which each of the Assignor and such subsidiary guarantors have granted to the Administrative Agent, for the ratable benefit of the Secured Parties, a security interest in certain property as collateral security for the prompt and complete payment and performance when due of such entities' obligations under the Credit Agreement.]

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. NOTICE OF ASSIGNMENT

The Assignor hereby gives notice to the Consenting Party that pursuant to the Security Agreement, the Assignor has pledged and assigned to the Administrative Agent, for the benefit of the Secured Parties, and granted to the Administrative Agent a security interest in, all of the Assignor's right, title and interest in, to and under the Assigned Agreement pursuant to the Security Agreement (the "Assigned Interest"), as collateral security for the obligations of the Assignor under the Credit Agreement.

2. PAYMENTS UNDER THE ASSIGNED AGREEMENT

2.1 Billing Arrangements

The Consenting Party agrees that, unless and until it has been notified in writing by the Administrative Agent that the Security Agreement has been terminated, the Consenting Party will pay all amounts payable by it under the Assigned Agreement directly to the Assignor at such account as may be specified in a written notice delivered by the Administrative Agent and the Assignor to the Consenting Party. The Assignor authorizes and acknowledges the foregoing and agrees that any payment made consistent with this Section 2.1 (*Billing Arrangements*) shall be treated for all purposes as a payment made directly to the Assignor under the terms of the Assigned Agreement.

2.2 No Set-Off Except as Provided Under Assigned Agreement

The Consenting Party agrees that in making payments in respect of the Assigned Agreement, it will not offset any amounts owed to it by the Assignor except as provided under the Assigned Agreement.

3. RIGHTS OF ADMINISTRATIVE AGENT

3.1 Exercise of the Assignor's Rights and Remedies

If the Administrative Agent provides written notice to the Consenting Party that an event of default has occurred under the Credit Agreement and that the Administrative Agent desires to exercise its rights and remedies pursuant to the Security Agreement, the Administrative Agent or any Substitute Provider (as defined below) shall be entitled to exercise any and all rights of the Assignor under the Assigned Agreement in accordance with the terms of this Direct Agreement and the Assigned Agreement. The Consenting Party agrees to accept such exercise by the Administrative Agent or any Substitute Provider and continue its performance under the Assigned Agreement in accordance with the terms thereof.

3.2 Right to Cure

Upon the occurrence of an event of default by the Assignor under the Assigned Agreement, or upon the occurrence or non-occurrence of any other event or condition which would enable the Consenting Party to terminate its obligations under the Assigned Agreement (herein called a "default"), the Consenting Party will not terminate its obligations under the Assigned Agreement until it first gives to the Administrative Agent (i) the written notice required to be given to Assignor by the Assigned Agreement specifying the nature of the default giving rise to such right (and in the case of a payment default, specifying the amount thereof); and (ii) the opportunity to cure such default for a period of ten (10) days, in the case of a payment default, and thirty (30) days, in the case of a non-payment default, which may be coincident with the applicable cure period, if any, set forth in the Assigned Agreement for the Assignor to cure such default, so long as the Administrative Agent has commenced and is diligently pursuing appropriate action to cure such default and continues to perform all other obligations under the Assigned Agreement (unless performed by the Assignor).

3.3 No Liability

Except during any period in which the Administrative Agent or any Secured Party (or any of their respective designees or assignees) constitutes a Substitute Provider, the Consenting Party acknowledges and agrees that neither the Administrative Agent nor any Secured Party (or any of their respective designees or assignees) shall have any liability or obligation under the Assigned Agreement as a result of this Direct Agreement except to the extent of their respective interest in the Assigned Agreement, the Credit Agreement or the Security Agreement, nor shall the Administrative Agent or any Secured Party (or any of their respective designees or assignees) be obligated or required to perform any of the Assignor's obligations under the Assigned Agreement or to take any action to collect or enforce any claim for payment assigned under the Security Agreement. No curing of any defaults under the Assigned Agreement shall be construed as an assumption by the Administrative Agent or any Secured Party (or any of their respective designees or assignees) of any of the obligations, covenants or agreements of the Assignor under the Assigned Agreement.

3.4 Substitution: Transfer

(a) The Consenting Party agrees that, notwithstanding anything to the contrary in the Assigned Agreement, if the Administrative Agent shall notify the Consenting Party in writing that an Event of Default (as defined in the Credit Agreement) has occurred and is continuing under the Credit Agreement and that the Administrative Agent desires to exercise its rights and remedies pursuant to the Security Agreement, then a Substitute Provider may be substituted for the Assignor under the Assigned Agreement. In such event, the Consenting Party will continue to perform its obligations under the Assigned Agreement in favor of the Substitute Provider, subject, in any event, to all of the Consenting Party's rights and remedies thereunder, but recognizing that the Substitute Provider's obligations under the Assigned Agreement shall be limited to the Substitute Provider's interest in the Storage Facility and all revenues and proceeds derived therefrom. In the event that the Substitute Provider succeeds to the Assignor's interest under the Assigned Agreement, whether by foreclosure or otherwise, the Substitute Provider shall not be liable for curing or performing or be required to perform or cause to be performed any of the defaults under the Assigned Agreement that were, by their nature, incapable of being cured or performed.

(b) If the Assigned Agreement is rejected or terminated by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding involving the Assignor, and if within ninety (90) days after such rejection or termination the Administrative Agent shall so request, a Substitute Provider and the Consenting Party will promptly execute a new agreement that shall be for the balance of the remaining term under the Assigned Agreement (before giving effect to such rejection or termination) and shall contain the same agreements, terms and conditions as the Assigned Agreement. If the approval of any such trustee or debtor in possession or any regulatory approval is necessary in order for the Consenting Party to enter into or perform under any such new agreement, the Consenting Party shall cooperate with the Administrative Agent or Substitute Provider in obtaining such approvals.

(c) "Substitute Provider" means, in respect of any assignment, transfer or sale permitted hereunder (each a "transfer") any person, including the Administrative Agent, any Secured Party, or the Administrative Agent's or any Secured Party's designee or assignee, if the transfer is made to the Administrative Agent or a Secured Party, or any purchaser of the Assigned Interest in a foreclosure sale or otherwise, who: (i) is at least as creditworthy (taking into account any credit support provided by such person) as the Assignor on the date of such transfer, (ii) is properly licensed or otherwise authorized to perform the Assignor's obligations under the Assigned Agreement and is a counterparty with whom the Consenting Party is not prohibited from transacting under the regulatory regime then-applicable to the Assigned Agreement; (iii) meets the Consenting Party's internal credit policies as reasonably and consistently applied solely with respect to the maximum potential credit exposure of the Consenting Party

to such person (it being understood that the determination of the amount of such credit exposure shall take into account the then current creditworthiness of such person and any collateral or guaranties posted for the benefit of such person); (iv) has provided, to the extent requested, all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations (including, without limitation, the Patriot Act, rules and regulations of the Office of Foreign Assets Control and other similar client identification policies and procedures) as well as all documentation required by the Assigned Agreement (including as signing conditions) and Puerto Rico law; (v) has not formally threatened in writing or commenced any litigation proceeding against the Consenting Party and is not subject of any formal written threat of litigation issued or of any litigation proceeding initiated by the Consenting Party; and (vi) has, in the Consenting Party's sole discretion, the technical and operational capability and experience to develop, construct, test, commission, operate, maintain and repair a project similar to the one contemplated by the Assigned Agreement, to deliver energy to the Consenting Party from such a project and otherwise fulfil the Assignor's obligations under the Assigned Agreement.

4. REPRESENTATIONS

The Consenting Party represents that:

4.1 The Consenting Party is a Puerto Rico public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, duly organized, validly existing and in good standing under the laws of the Commonwealth of Puerto Rico and is duly qualified to conduct its business, to own its properties, and to execute and deliver, and to perform its obligations under, this Direct Agreement.

4.2 The execution, delivery and performance by the Consenting Party of this Direct Agreement have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of any Governmental Authority or the board of directors, members or partners (or equivalent persons), as the case may be, of the Consenting Party which has not been obtained, (ii) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Consenting Party, or (iii) violate or result in a breach of or constitute a default under, or require a consent that has not been obtained under or result in the creation of a lien under, its certificate of incorporation or by-laws or any indenture or loan or credit agreement or any other material agreement, lease or instrument to which the Consenting Party is a party or by which it or its properties may be bound or affected.

4.3 This Direct Agreement has been duly executed and delivered by the Consenting Party and constitutes the legal, valid and binding obligation of the Consenting Party enforceable against it in accordance with its terms, except as enforceability may be limited by general principles of equity and by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally. This Direct Agreement is in full force and effect.

4.4 No authorization, approval, consent, permit or other action by, or registration or filing with, any Governmental Authority or any other entity is necessary for or in connection with the execution or delivery by the Consenting Party of, or the performance by the Consenting Party of any of its obligations under this Direct Agreement, other than those which have been duly obtained or made and are final and non-appealable and in full force and effect as of the date hereof.

4.5 No litigation, action, suit, adverse proceeding or investigation before or by any arbitrator or Governmental Authority is pending or, to the best knowledge of the Consenting Party, threatened in writing against the Consenting Party or against any of its properties or revenues (i) with respect to this Direct Agreement or any of the transactions contemplated hereby or thereby; or (ii) which, individually or

in the aggregate, could reasonably be expected to have a material adverse effect on the ability of the Consenting Party to perform its obligations under this Direct Agreement.

5. RESERVATION OF RIGHTS

The parties hereto agree that notwithstanding the terms of Sections 1 (Notice of Assignment) and 2 (Payments Under the Assigned Agreement) above, each of the Consenting Party and the Assignor reserves any and all rights and remedies (including those relating to setoff, counterclaim, deduction or retention) it may have under the Assigned Agreement or Applicable Law. The rights reserved by each of the Consenting Party and the Assignor under the Assigned Agreement and Applicable Law are cumulative and not exclusive of any rights it may have under the Assigned Agreement and/or Applicable Law.

6. MISCELLANEOUS

6.1 Notices

All notices and other communications hereunder shall be in writing and delivered to the applicable recipient pursuant to this Section 6.1 (Miscellaneous): (i) if to the Consenting Party or to the Assignor, in accordance with the Assigned Agreement; (ii) if to the Administrative Agent, [●] or (iii) to such other address or facsimile number as any party may designate by notice given to all parties hereto pursuant to this Section 6.1 (Miscellaneous). Delivery of notices and communications sent pursuant to this Section 6.1 (Miscellaneous) shall be effective upon receipt.

6.2 Governing Law

THIS DIRECT AGREEMENT AND ALL QUESTIONS REGARDING ITS VALIDITY, INTERPRETATION, PERFORMANCE AND/OR ENFORCEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE COMMONWEALTH OF PUERTO RICO WITHOUT REGARD TO ANY CONFLICT-OF-LAW PRINCIPLES OF SUCH COMMONWEALTH OR OTHER JURISDICTION TO THE CONTRARY. JURISDICTION AND VENUE OF ANY SUIT OR ACTION TO ENFORCE THIS DIRECT AGREEMENT SHALL REST SOLELY IN [THE UNITED STATES FEDERAL COURTS IN THE COMMONWEALTH OF PUERTO RICO] AND EACH OF THE PARTIES HERETO HEREBY SUBMITS TO THE PERSONAL JURISDICTION OF SUCH COURTS FOR THE PURPOSE OF RESOLVING ANY AND ALL MATTERS ARISING UNDER OR IN RESPECT OF THIS DIRECT AGREEMENT AND AGREES THAT PERSONAL SERVICE UPON EACH SUCH PARTY MAY BE MADE BY DELIVERY THEREOF TO SUCH PARTY AT THE ADDRESS SPECIFIED HEREIN.

6.3 Waiver of Jury Trial

EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS DIRECT AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

6.4 Counterparts

This Direct Agreement may be executed by any number of, and on separate, counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A facsimile or .pdf copy of a counterpart signature page shall serve as the functional equivalent of a manually executed copy for all purposes.

6.5 Headings Descriptive

The headings of the several sections and subsections of this Direct Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Direct Agreement.

6.6 Severability

In case any provision in or obligation under this Direct Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.7 Amendment

Neither this Direct Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by each party hereto.

6.8 Successors and Assigns

This Direct Agreement shall be binding upon the successors and assigns of the Consenting Party and inure, together with the rights and remedies of the Assignor and the Administrative Agent, to the benefit of the Assignor and the Administrative Agent.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Direct Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year above written.
PUERTO RICO ELECTRIC POWER AUTHORITY

by

Name:

Title:



[●] as Administrative Agent

by

Name:

Title:

Christ

Morgan

EXHIBIT 18

FORM OF COMPLETION NOTICE

IF COMPLETION CERTIFICATE

Date:[•]

Agreement: BESS Standard Offer Agreement [NTD: Insert contract number.]

From: [•] ("Resource Provider")

To: The Puerto Rico Electric Power Authority ("PREPA")

We refer to the BESS Standard Offer Agreement dated [•] between PREPA and Resource Provider (the "Agreement"). Unless the context otherwise requires, capitalized terms used in this IF Completion Certificate shall have the meanings ascribed to them in the Agreement.

We hereby certify that, on [date], Resource Provider has substantially completed and tested the Interconnection Facilities in accordance with Sections 4.4a and 4.4b (*Pre-Synchronization Testing*) of the Agreement.

As required by Section 4.4c (*Pre-Synchronization Testing*) of the Agreement, a copy of the red line drawing used for the construction of the Interconnection Facilities is attached to this document.

Very truly yours,

Acknowledged and agreed,

[•]
as Resource Provider

Puerto Rico Electric Power Authority
as PREPA

[•]

[•]

EXHIBIT 19

FORM OF SUBSTANTIAL COMPLETION NOTICE

SUBSTANTIAL COMPLETION NOTICE

Date:[•]

Agreement: BESS Standard Offer Agreement [NTD: Insert contract number.]

From: The Puerto Rico Electric Power Authority ("PREPA")

To: [•] ("Resource Provider")

We refer to the BESS Standard Offer Agreement dated [•] between PREPA and Resource Provider (the "Agreement"). Unless the context otherwise requires, capitalized terms used in this Substantial Completion Notice shall have the meanings ascribed to them in the Agreement.

PREPA, in consultation with LUMA, has determined that Resource Provider has constructed the Interconnection Facilities and the Storage Facility in accordance with the Storage Facility Design. Nothing in this certificate relieves or waives any obligation that Resource Provider might have under the Agreement.

The Parties shall proceed with Initial Synchronization and testing pursuant to Article 5 (*Synchronization, Testing & Completion*).

Very truly yours,

Acknowledged and agreed,

[•]
as Resource Provider

Puerto Rico Electric Power Authority
as PREPA

[•]

[•]

EXHIBIT 20

HOLIDAYS

The following holidays are regularly recognized by PREPA and could vary annually:

<u>DAY</u>	<u>CELEBRATION</u>
January 1	New Year's Day
January 6	Three Kings Day/Epiphany
Friday of Holy Week	Good Friday
Last Monday in May	Memorial Day
July 4	Independence Day
1st Monday in September	Labor Day
4th Thursday in November	Thanksgiving Day
5 th Friday in November	Day after Thanksgiving Day
December 24	Christmas Eve
December 25	Christmas Day
December 31	New Year's Eve

EXHIBIT 21

SIGNING CONDITIONS

1. Together with the signing of the BESS Standard Offer Agreement dated [●], 2026 (the "Agreement"), Resource Provider shall provide:

a. an original certificate of tax status and compliance from the Commonwealth of Puerto Rico for the five (5) previous years, confirming that it does not owe taxes to the Commonwealth of Puerto Rico or is paying such taxes by an installment plan in full compliance with its terms;

b. an income tax return filing certificate issued by the Treasury Department of Puerto Rico, Area of Internal Revenues assuring that Resource Provider has filed its Income Tax Return for the last five (5) years (obtained by using the Request for Copy and/or Certification of Income Tax Returns Form issued by the Treasury Department of Puerto Rico);

c. a certificate of debt issued by the Treasury Department of Puerto Rico, Area of Internal Revenues;

d. a certificate issued by the Municipal Revenues Collection Center assuring that Resource Provider does not owe any tax to such Governmental Authority;

e. a certificate issued by the Department of Labor and Human Resources of Puerto Rico, evidencing that Resource Provider has paid to the Department of Labor and Human Resources of Puerto Rico, if applicable, its employees' contributions, in accordance with the Puerto Rico Employment Security Act (unemployment, temporary disability or sickness or social security for chauffeurs) or is paying such contributions by an installment plan in full compliance with its terms;

f. a certificate issued by the Child Support Administration (ASUME) evidencing that Resource Provider has complied with the retention, if applicable, that an employer must do;

g. a sworn and notarized statement, as of the Agreement Date, evidencing compliance with Article 3.3 Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico of the Commonwealth of Puerto Rico, as amended, in the form set forth in Exhibit 13 (*Form of Sworn Statement*) of the Agreement;

h. a certification, as of the Agreement Date, that, to its actual knowledge, no public employee has any personal or economic interest in this Agreement, under Section 21.12 (*No Economic Interest*) of the Agreement;

i. a certification, as of the Agreement Date, that, to its actual knowledge, it does not receive payment or benefit of any nature for services rendered regularly through an appointment to a Governmental Authority of Puerto Rico, under Section 21.10 (*Anticorruption & Antibribery*) of the Agreement;

j. if any of the previously required certifications show a debt, and Resource Provider has requested a review or adjustment of this debt, a certification that Resource Provider has made such request at the Agreement Date; and if the requested review or adjustment is denied and such determination is final, proof of payment of this debt to PREPA or confirmation that Resource Provider accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments; and

k. the following technical documents:

i. a preliminary engineering design of the Storage Facility and the PREPA Interconnection Facilities, consistent with Prudent Electrical Practices, the Interconnection Agreement, Prudent Utility Practices, the BESS Operating Procedures, Permits, Applicable Law, Applicable Standards, and the BESS MTRs;

ii. a proposed relay protection scheme (to include the PREPA Interconnection Facilities and the Resource Provider Interconnection Facilities); and

iii. a certified PSS/E mathematical model of the Storage Facility, the manufacturer's performance data and expected output curve.

l. Subject to Section 3.1 (*LUMA as Authorized Agent of PREPA; Technical Review*) of the Agreement, Resource Provider shall provide PREPA with a PSS/E model for the Storage Facility for approval no later than the Agreement Date.

2. Prior to the signing of this Agreement:

a. Resource Provider shall have provided the certification set forth in Exhibit 14 (*Form of FOMB Certification*).

b. FOMB shall have approved the execution version of this Agreement.

c. Resource Provider shall have presented PREPA (or its representatives) with documents evidencing Resource Provider's ownership and/or control of the Storage Facility Site for the purposes of implementing the Storage Facility.

EXHIBIT 22

BESS STANDARD OFFER AGREEMENT CONDITIONS PRECEDENT

PART 1 – RESOURCE PROVIDER CONDITIONS

Resource Provider shall deliver the following as conditions precedent to the BESS Standard Offer Agreement, dated [●], 2026 (the “Agreement”) on the Closing Date (all capitalized terms used but not otherwise defined in this Exhibit shall have the meaning given to them in the Agreement):

- a. a certificate, signed by a duly-authorized representative of Resource Provider, in the form set forth in Exhibit 24 (*Form of Warranty Compliance Certificate*) of the Agreement confirming the truth and correctness of the representations and warranties made by Resource Provider under Article 12 (*Representations, Warranties, & Covenants*) of the Agreement; and
- b. a legal opinion prepared by its external counsel in a form reasonably acceptable to PREPA, confirming the warranty made by Resource Provider in Section 12.3d (*Resource Provider Representations & Warranties*) of the Agreement.

PART 2 – PREPA CONDITIONS

PREPA shall ensure the following as conditions precedent to the Closing Date:

- a. filing of this Agreement with the Comptroller of Puerto Rico; and
- b. a legal opinion prepared by its external counsel in a form reasonably acceptable to Resource Provider, confirming the warranty made by PREPA in Section 12.4c (*PREPA Representations & Warranties*) of the Agreement.

PART 3 – OTHER CONDITIONS

- a. the execution and delivery of the Interconnection Agreement by the Parties;
- b. the execution and delivery of the Generation Facility Interconnection Agreement by the parties thereto;
- c. the absence of any proceeding, action or claim pending or threatened which may have a potentially adverse effect on this Agreement or which involves or otherwise affects the process pursuant to which Resource Provider has executed this Agreement; and
- d. the Energy Bureau and FOMB shall have approved the executed version of this Agreement.

EXHIBIT 23

FORM OF CONDITIONS PRECEDENT CERTIFICATE

CONDITIONS PRECEDENT CERTIFICATE

Date:[•]

Agreement: BESS Standard Offer Agreement [NTD: Insert contract number.]

From: The Puerto Rico Electric Power Authority ("PREPA")

To: [•] ("Resource Provider")

We refer to the BESS Standard Offer Agreement dated [•] between PREPA and Resource Provider (the "Agreement"). Unless the context otherwise requires, capitalized terms used in this Conditions Precedent Certificate shall have the meanings ascribed to them in the Agreement.

Resource Provider hereby certifies and confirms to PREPA that Resource Provider has satisfied all of its Conditions Precedent. By signature below, PREPA likewise certifies and confirms to Resource Provider that PREPA has satisfied all of its Conditions Precedent.

We hereby certify that the Closing Date occurred on [•].

Very truly yours,

[•]
as Resource Provider

Acknowledged and agreed,

Puerto Rico Electric Power Authority
as PREPA

[•]

[•]

EXHIBIT 24

FORM OF WARRANTY COMPLIANCE CERTIFICATE

WARRANTY COMPLIANCE CERTIFICATE

Date: [•]

Agreement: BESS Standard Offer Agreement [NTD: Insert contract number.]

To: Puerto Rico Electric Power Authority ("PREPA")

From: [•] ("Resource Provider")

We refer to the BESS Standard Offer Agreement dated [•] between PREPA and Resource Provider (the "Agreement"). Unless the context otherwise requires, capitalized terms used in this Warranty Compliance Certificate shall have the meanings ascribed to them in the Agreement.

I have reviewed the representations and warranties made by Resource Provider under Article 12 (*Representations, Warranties, & Covenants*) of the Agreement, and, on behalf of Resource Provider, confirm and certify to PREPA the truth and correctness of such representations and warranties on the date hereof.

Very truly yours,

[•]
as Resource Provider

[•]