

APPENDIX IV

STANDARD FORM CONTRACT FOR

HAWAI'I COMMUNITY BASED RENEWABLE ENERGY – PHASE ONE

THIS CONTRACT (“Contract”) is entered into as of _____, 20__ (the “Effective Date”), by [Hawaiian Electric Company, Inc., Maui Electric Company, Ltd., Hawai‘i Electric Light Company, Inc.], a Hawai‘i corporation (hereafter called "Company") and _____ (hereafter called “Subscriber Organization”). Together, the Company and Subscriber Organization are the “Parties” and may singularly each be referred to as a “Party.”

RECITALS:

Company is an operating electric public utility on the Island of [Hawai‘i, Lanai, Maui, Oahu], subject to the Hawai‘i Public Utilities Law (Hawai‘i Revised Statutes, Chapter 269) and the rules and regulations of the Hawai‘i Public Utilities Commission (hereinafter called the "PUC" or the “Commission”); and

The Company System is operated as an independent power grid and must both maximize system reliability for its customers by ensuring that sufficient generation is available that meets the Company’s requirements for voltage stability, frequency stability, and reliability standards; and

Subscriber Organization desires to operate a renewable energy facility that is classified as an eligible resource under Hawai‘i’s Renewable Portfolio Standards Statute (codified as Hawai‘i Revised Statutes (HRS) 269-91 through 269-95) and that qualifies for the Community-Based Renewable Energy (“CBRE”) Program (the “CBRE Program”); and

The PV System to be developed by the Subscriber Organization will be an established or planned solar photovoltaic electric generating facility with a nameplate capacity of _____ kilowatts of alternating current (AC), on property located at _____ (hereinafter called the "CBRE Project").

The CBRE Project is a facility that generates electricity by means of a ground mounted or roof mounted solar photovoltaic device(s) whereby a Subscriber to the CBRE Project receives a Bill Credit for the electricity generated in proportion to the size of the Subscription.

The Subscriber Organization is prepared to generate electricity in parallel with the Company and Company is prepared to permit the parallel operation of the CBRE Project with the Company System subject to the terms and conditions set forth herein.

DEFINITIONS

“Bill Credit” shall mean the dollar amount credited by the Company to each Subscriber on the Subscriber’s retail electric service bill, which represents the Subscriber’s beneficial share of solar photovoltaic electricity produced by the CBRE Project and delivered to the Company, and offsetting Subscriber’s current electric energy usage on such service bill.

“Bill Credit Rate” shall mean the then current applicable “Credit Rate” as found in the CBRE Tariff.

“Business Day” means any Day that is not a Saturday, a Sunday, or a federal or Hawai‘i state holiday.

HAWAIIAN ELECTRIC COMPANY, INC.

“CBRE Framework” means that certain “Community-Based Renewable Energy – A Program Framework” issued by the PUC and attached as Attachment A to that certain Decision and Order No. 35137, filed December 22, 2017, in Docket No. 2015-0389. The CBRE Framework provides the basis and framework for the CBRE Program and is implemented by the CBRE Tariff.

“CBRE IO” means the Independent Observer contracted with the Company but answering to the PUC to carry out the responsibilities assigned to the Independent Observer under the CBRE Framework.

“CBRE Online Portal” is the interactive, internet website-based interface maintained by or on behalf of the Company through which the Subscriber Organization may establish qualifications, provide information and complete documents necessary for acceptance in the CBRE Program, and may enter or change the Monthly Subscription Information reflecting updated information for each Subscriber, including any changes to any Subscriber's name, account number, address, and Subscriber Allocation. For Phase One of the CBRE Program, the CBRE Online Portal will be a manually administered application form-based process managed by Company until the CBRE Online Portal is online and ready for commercial operation. The CBRE Online Portal should be completed in time for the commencement of Phase Two of the CBRE Program.

“CBRE Tariff” means the Hawai‘i Community-Based Renewable Energy tariff approved by the PUC as Tariff Rule 26, effective on July 11, 2018, subject to modification by the PUC, based on the PUC’s CBRE Framework.

“Commercial Operations” shall be considered to have been achieved on the first Day of the calendar month following the date on which all of the following conditions have been satisfied with respect to the PV System: (a) Subscriber Organization has completed construction of the PV System in accordance with the requirements of the Interconnection Agreement; (b) all Company testing of the PV System has been completed and passed by the Company, and (c) Subscriber Organization provides Company with written notice that (i) the Subscriber Organization has enrolled at least four (4) individual Subscribers in the Subscriber Organization's CBRE Program and (ii) Subscriber Organization is ready to declare the Commercial Operations Date.

“Commercial Operations Date” shall mean the date on which the PV System is considered to have achieved Commercial Operations.

“Company System Operator” means the authorized representative of Company responsible for Company dispatch and curtailment of electric energy generation interconnected to the Company System.

“Compensable Curtailed Energy” means the Curtailed Energy that results from a Compensable Curtailment Event.

“Compensable Curtailment Event” shall mean any Curtailment Event other than a Curtailment Event due to (a) an Emergency, (b) a Forced Outage, (c) the PV System not operating in compliance with good engineering and operating practices, as required by the terms of the Interconnection Agreement, (d) the Company’s construction, installation, maintenance, repair, replacement, removal, investigation, testing or inspection of any of its equipment or any part of the Company System, including accommodating the installation and/or acceptance test of non-utility owned facilities to the Company System, or (e) Force Majeure, as defined in Section 21(j) of the Interconnection Agreement.

“Curtailed Energy” means an estimate of possible PV System production during periods that the PV System output is restricted due to a Curtailment Event. For compensable curtailment periods, Compensable Curtailed Energy will be estimated as the average of the PV System Output (kW) at the

HAWAIIAN ELECTRIC COMPANY, INC.

start of a Curtailment Event and the PV System Output (kW) at the end of a Curtailment Event multiplied by the duration (in hours) of the Curtailment Event (in kilowatt hours); provided further, however, that if Company reasonably concludes that the foregoing calculations are unlikely to be representative of the Curtailed Energy for the duration of the Curtailment Event, the Curtailed Energy shall be the Curtailed Energy for such event as demonstrated by Subscriber Organization to Company's reasonable satisfaction.

“Curtailment Event” means the temporary interruption or reduction of deliveries of electric energy from the PV System initiated by Company as a result of circumstances described in Section 11(a) (Continuity of Service) and/or Section 12 (Personnel and System Safety) of the Interconnection Agreement. A Curtailment Event shall commence at the time the PV System receives the curtailment control from the Company System Operator and shall end at the time the PV System receives the curtailment control from the Company System Operator to end the curtailment.

“Curtailment Report” means the monthly report of Curtailed Energy in the form of Exhibit 1 (IPP Monthly Curtailment Report) of Attachment A (Calculation and Reporting of Curtailed Energy) attached hereto.

“Day” means a calendar day.

“Disclosure Checklist” means the Disclosure Checklist required to be completed by Subscriber Organization with all Subscribers, the form of which is included in the CBRE Tariff.

“Emergency” shall mean, as determined by Company in its reasonable discretion, a condition or situation, unless caused by Excess Energy Conditions, requiring immediate action by Company (a) to maintain the reliable operation of the Company System; (b) to prevent or limit the loss of load or generation; (c) to maintain public safety or the safety of Company’s personnel; or (d) to protect Company, customer, or third-party property.

“Environmental Credits” means any environmental credit, offset, or other benefit allocated, assigned or otherwise awarded by any city, state or federal governmental agency or court, international agency, or non-governmental renewable energy certificate accounting and verification organization to Company or Subscriber Organization based in whole or in part on the fact that the PV System is a non-fossil fuel facility. Such Environmental Credits shall include, without limitation, the non-energy attributes of renewable energy including, but not limited to, any avoided emissions of pollutants to the air, soil, or water such as sulfur dioxide, nitrogen oxides, carbon monoxide, particulate matter, and hazardous air pollutants; any other pollutant that is now or may in the future be regulated under the pollution control laws of the United States; and avoided emissions of carbon dioxide and any other greenhouse gas, along with the renewable energy certificate reporting rights to these avoided emissions, but in all cases shall not mean tax credits.

“Excess Energy Conditions” mean an operating condition on the Company’s system that may occur when Company has more energy available than is required to meet the load on the Company System at any point in time and the generating assets interconnected with the Company System are operating at or near their minimum levels, taking into consideration factors such as the need to maintain system reliability and stability under changing system conditions and configurations, the need for downward regulating reserves, the terms and conditions of power purchase agreements for base loaded firm capacity or scheduled energy, and the normal minimum loading levels of such units. Excess Energy Conditions are more likely to occur during light loading conditions.

“Forced Outage” means an unplanned unit shutdown caused by factors such as automatic or programmed protective trips and operator-initiated trips due to equipment malfunction, and which terminates when

HAWAIIAN ELECTRIC COMPANY, INC.

Company determines according to good engineering and operating practices that it is safe to bring the Facility back onto the Company System.

“House Power” shall mean the electricity needed to assist in the PV System's generation, including system operation, performance monitoring and associated communications, except for energy directly required for the local control and safe operation of the PV System. It also means other electricity used by the CBRE Project, such as for perimeter lighting, a visitor's center or any other structures or facilities at the CBRE Project site.

“Interconnection Agreement” shall mean the Interconnection Agreement required to be executed by the Subscriber Organization concurrently with this Contract.

“Land Rights” means all easements, rights of way, licenses, leases, surface use agreements and other interests or rights in real estate.

“Laws” means all federal, state and local laws, rules, regulations, orders, ordinances, permit conditions and other governmental actions.

“Monthly Subscription Information” shall mean the information stored within the CBRE Online Portal, as timely entered or changed by the Subscriber Organization via the CBRE Online Portal, setting forth the name, account number and service address each Subscriber holding Subscriptions in the CBRE Project, and the Subscriber Allocation applicable to each such Subscriber's Subscription, reflecting each Subscriber's allocable portion of photovoltaic energy produced by the CBRE Project during a particular Production Month.

“Point of Interconnection” shall be the point of interconnection as shown on the Single Line Diagram attached to Exhibit A of the Interconnection Agreement.

“Prime Rate” shall mean the current "U.S. Prime Rate" of interest, as published from time to time by The Wall Street Journal in the "Money Rates" section of its Western Edition Newspaper. The Prime Rate shall change without notice with each change in the U.S. Prime Rate reported by The Wall Street Journal, as of the date such change is reported.

“Production Meter” shall mean the meter which will record the energy generated by the PV System only and which will be reported on the Subscriber Organization's invoice to the Company.

“Production Month” shall mean the calendar month during which photovoltaic energy is produced by the CBRE Project's PV System and delivered to the Company at the Production Meter.

“PV System” shall mean the solar electric generating facility to be located at the CBRE Project, including the photovoltaic panels, inverter, output breakers, facilities necessary to connect to the Production Meter, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation, and maintenance of the electric generating facility that produces the photovoltaic energy subject to this Contract.

“Service Territory Requirement” means that the solar electric generating facility located at the CBRE Project is entirely located in the service territory of the Company, including the photovoltaic panels, inverter, output breakers, service meter. Production Meter, the facilities between the service meter and Production Meter, and the facilities between the photovoltaic panels and the Production Meter.

HAWAIIAN ELECTRIC COMPANY, INC.

“Subscribed Energy” means electricity generated by the PV System attributable to the Subscribers' Subscriptions and delivered to the Company at the Point of Interconnection on or after the Commercial Operations Date.

“Subscriber” means a retail customer of the Company who owns one or more Subscriptions of a CBRE Project interconnected with the Company.

“Subscriber Agency Agreement and Consent Form” means the agreement between Subscriber Organization and Subscriber, the form of which is included in the CBRE Tariff.

“Subscriber Allocation” shall mean, for each Subscriber, such Subscriber’s percentage interest in the total nameplate capacity of the Subscriber Organization’s CBRE Project, reflecting each Subscriber's allocable portion of photovoltaic electricity produced by the CBRE Project in a particular Production Month.

“Subscriber's Account Information” consists of the Subscriber's name, account number, service address, telephone number, email address, web site URL, information on Subscriber participation in other distributed generation serving the premises of the Subscriber, and Subscriber specific Bill Credit(s).

“Subscriber Organization” is identified above and shall mean the organization whose purpose is to operate or otherwise manage the CBRE Project for its Subscribers.

“Subscriber's Energy Usage Data” refers to data collected from the utility Subscriber meters that reflects the quantity, quality, or timing of electric usage or electricity production attributable to the Subscriber for the service address and account number identified for participation in the CBRE Project.

“Subscription” or “Subscription Agreement” means the contract between a Subscriber and the Subscriber Organization.

“Substantial Progress” means that on or before the last Day of the 18-month period (including day-for-day extensions) to achieve the Commercial Operations Date, the Subscriber Organization has achieved all of the following: (1) Installed one-hundred percent (100%) of the PV System foundation (including pier, helical screw, ballasts, or similar) to enable mounting of the Nameplate Capacity as collectively set forth in Interconnection Agreement(s) for the CBRE Project site; (2) Built, or otherwise has in place, a permanent drivable (road) surface on the parcel or parcels of land associated with the PV System so that Company on a 24 hour a day, seven days a week, basis can access its equipment, including but not limited to lines, poles, transformers, billing meters, underground facilities and other facilities, but excluding production meters. The drivable road surface needs to be reasonably sufficient to support the use of a 10 ton truck; and (3) Built, or otherwise has in place, a permanent fence surrounding the entirety of the CBRE Project location.

“Term” means the term of this Contract which shall be the same as the Interconnection Agreement applicable to the CBRE Project, and shall begin when this Contract is signed by the Parties and end twenty (20) years after the Commercial Operations Date unless otherwise provided below.

"Unsubscribed Energy" means electricity generated by the PV System and delivered to the Company at the Production Meter which is not Subscribed Energy and also includes electricity generated by the PV System and delivered to the Company prior to the Commercial Operations Date.

AGREEMENTS

The Subscriber Organization and the Company agree:

HAWAIIAN ELECTRIC COMPANY, INC.

Order No. 35560; Filed June 29, 2018, Docket No. 2015-0389
Transmittal Letter Dated July 10, 2018.

1. Sale and Payment of Electricity Generated by the CBRE Project and Payment for Compensable Curtailed Energy.

- A. Effective upon the Commercial Operations Date, the CBRE Project shall sell and deliver to the Company at the Point of Interconnection all of the photovoltaic energy produced by the PV System. A Curtailment Event will reduce the amount of photovoltaic energy produced and delivered to the Company, provided, however, that Company will pay for all qualifying Compensable Curtailed Energy. Payment for the Subscribed Energy which is produced and delivered and for Subscribers' Compensable Curtailed Energy will be solely by a Bill Credit to Subscribers as detailed below.

Payment for Unsubscribed Energy which is produced and delivered and for a Subscriber Organization's CCE Share (as defined below) will be paid upon monthly invoice from Subscriber Organization as detailed below.

Subscriber Organization shall not sell any photovoltaic energy generated from the PV System, or any capacity associated with the PV System, to any person other than the Company during the Term, and the Company shall purchase and own all photovoltaic energy produced by the PV System. This Contract conveys to the Company all energy generated from the PV System and all capacity associated with the PV System for the Term.

- B. The Company will buy (through Bill Credits to the Subscribers) all Subscribed Energy generated by the CBRE Project and delivered to the Company during a particular Production Month at the Bill Credit Rate. Each Subscriber to the CBRE Program will receive a Bill Credit at the Bill Credit Rate for electricity generated attributable to the Subscriber's Subscription as detailed below.
- C. The Company will buy Unsubscribed Energy generated by the CBRE Project and delivered to the Company during a particular Production Month at the Bill Credit Rate subject to adjustment as detailed below.

(1) For the first six calendar months from and including the Commercial Operations Date, Company shall pay Subscriber Organization for Unsubscribed Energy at the Bill Credit Rate.

(2) Beginning with the seventh calendar month following the Commercial Operations Date, the price to be paid to Subscriber Organization for Unsubscribed Energy shall be recalculated as of last Day of each such calendar month as follows:

(a) All purchases and transfers of Subscriptions that were notified to Company by the 20th Day of a calendar month shall have retroactive effect as of the first Day of such calendar month. All purchases and transfers notified to Company after the 20th Day of a calendar month but prior to the first Day of the following month shall have effect as of the first Day of such following month. Unsubscribed Energy of the CBRE Project shall be recalculated as of the last Day of each calendar month to account for the effectiveness of such purchases and transfers as aforesaid.

(b) If the Unsubscribed Energy for such calendar month as recalculated as aforesaid does not exceed 15% of the total of the electric energy accepted by

HAWAIIAN ELECTRIC COMPANY, INC.

Company during such calendar month in accordance with this Contract, Company shall pay Subscriber Organization the Bill Credit Rate for the Unsubscribed Energy accepted by Company during such calendar month.

(c) However, if the Unsubscribed Portion for such calendar month as recalculated as aforesaid exceeds 15% of the total of the electric energy accepted by Company during such calendar month in accordance with this Contract, the price Company shall pay Subscriber Organization for the Unsubscribed Energy accepted by Company during such calendar month shall be discounted by the percentage of Unsubscribed Energy. For example, if the Unsubscribed Energy is 40%, the Bill Credit Rate shall be discounted by 40% for Unsubscribed Energy accepted by the Company during such calendar month.

(d) If, at any time during the Term, the CBRE Project has fewer than four individual Subscribers for six consecutive calendar months, the price to be paid to the Subscriber Organization for Unsubscribed Energy shall, for such sixth consecutive calendar month and for each calendar month thereafter until the CBRE Project has at least four individual Subscribers eligible for Bill Credits, be the lesser of:

- (i) the price calculated as provided in Section 1.C.(2)(c) above;
or
- (ii) 50% of the Bill Credit Rate.

(e) Company will pay for Compensable Curtailed Energy (excluding Subscriber Organization's CCE Share (as defined below)) at the Bill Credit Rate. Each Subscriber to the CBRE Program will receive a Bill Credit attributable to the Subscriber's Allocation for all Compensable Curtailed Energy during a Production Month as detailed below.

Company will pay to Subscriber Organization its share of Compensable Curtailed Energy (the "Subscriber Organization's CCE Share") each month which shall be calculated as the same percentage of Unsubscribed Energy for a Production Month is to the total electric energy accepted and paid for by Company during such Production Month. For example, if the Unsubscribed Energy portion of the total energy accepted and paid by Company for a particular Production Month is 40%, the Subscriber Organization's CCE Share of Compensable Curtailed Energy for that particular Production Month shall be 40%.

Company will pay for Subscriber Organization's CCE Share at the Bill Credit Rate subject to adjustment in the same manner as specified for Unsubscribed Energy as described in Section 1.C.(2) above.

E. Invoices and Payment for Subscribed Energy and Unsubscribed Energy.

(1) Company's Obligation to Provide Certain Data. By the fifth Business Day of each calendar month, Company shall provide Subscriber Organization with the appropriate data for Subscriber Organization to compute the amount to be paid for the electric energy purchased by Company in the preceding calendar month as determined in accordance with this Contract.

HAWAIIAN ELECTRIC COMPANY, INC.

(2) Subscriber Organization's Preparation of the Monthly Invoice. By the tenth (10th) Business Day of each calendar month, Subscriber Organization shall submit to Company an invoice in sufficient detail as prescribed by Company detailing: the dollar amount owing to Subscriber Organization for Unsubscribed Energy; the aggregate dollar amount owing to Subscribers for Subscribed Energy; and the monthly metering charge as set forth in Section 3 (Metering Charges and Requirements) of this Contract, which may be in the form of a credit against the amount owing for Unsubscribed Energy. The Subscriber Organization shall also provide Company with the calculation of the Bill Credit to which each Subscriber is entitled for the month covered by such invoice.

(3) Payment Procedures.

(a) Payment of Unsubscribed Energy. By the twentieth (20th) Business Day of each calendar month (but no later than the last Business Day of that month if there are less than twenty Business Days in that month), Company shall pay Subscriber Organization the amount owing for the Unsubscribed Energy shown on such invoice, or provide to Subscriber Organization an itemized statement of its objections to all or any portion of such invoice and pay any undisputed amount.

(b) Payment of Subscribed Energy. As payment for each Subscriber's Allocation in electric energy during the month covered by the invoice, Company shall provide such Subscriber with a Bill Credit for all undisputed amounts on such Subscriber's retail electric bill. Because not all of Company's customers have the same billing cycle, the timing of the appearance of the Bill Credit will vary with the Subscriber's billing cycle, but Company shall cause the Bill Credit to appear on each Subscriber's retail electric bill no later than the next billing cycle for such Subscriber following the date Company makes payment to Subscriber Organization for Unsubscribed Energy of the invoice in question.

(4) Late Payments. Notwithstanding all or any portion of such invoice in dispute, any payment for the Unsubscribed Energy not made to Subscriber Organization by the twentieth (20th) Business Day of each calendar month (or the last Business Day of that month if there are less than twenty (20) Business Days in that month) shall accrue simple interest at the Prime Rate for the period until the outstanding interest and invoiced Unsubscribed Energy amounts (or amounts due to Subscriber Organization if determined to be less than the invoiced Unsubscribed Energy amounts) are paid in full. Partial payments for Unsubscribed Energy shall be applied first to outstanding interest and then to outstanding invoice amounts of the Unsubscribed Energy.

F. Invoices for Compensable Curtailed Energy.

(1) Company's Obligation to Provide Certain Data.

(a) Company shall provide Subscriber Organization, by the fifth (5th) Business Day of each calendar month, with a written statement identifying the reason for each Curtailment Event during the preceding month for inclusion in Subscriber Organization's Curtailment Report for such month. Subject to Company's correction of any errors discovered upon receiving any Curtailment Report, if Company does not identify to Subscriber Organization a reason for a Curtailment Event, such Curtailment Event shall be deemed to be a Compensable Curtailment Event and the Curtailed Energy

HAWAIIAN ELECTRIC COMPANY, INC.

for such Curtailment Event shall be appropriately included in the "Total Compensable Curtailed Energy During Report Period" for the Curtailment Report covering the period during which the Curtailment Event in question occurred. If, on the other hand, Company has identified to Subscriber Organization a reason for a Curtailment Event that does not come within the definition of a Compensable Curtailment Event, such Curtailment Event shall not be deemed a Compensable Curtailment Event. Any disagreement by Subscriber Organization with respect to such designations by Company shall be subject to resolution under Section 4 of Attachment A (Calculation and Reporting of Curtailed Energy).

(b) Within thirty (30) Days of Subscriber Organization's written request for supporting information for the reason(s) for any specific Curtailment Event(s) identified in Company's written statements, Company shall provide such supporting information.

(2) Monthly Invoice for Compensable Curtailed Energy. By the tenth (10th) Business Day of the second calendar month following the Commercial Operations Date and monthly thereafter for the balance of the Term, Subscriber Organization shall submit to Company, concurrently with the Curtailment Report for the preceding month, an invoice that separately states the following for the preceding month: (i) the Compensable Curtailed Energy during the preceding month; (ii) the Subscriber Organization's CCE Share; (iii) the price for the Subscriber Organization's CCE Share of such Compensable Curtailed Energy; and (iv) the price for the subscribed portion of such Compensable Curtailed Energy. The Subscriber Organization shall also provide Company with the calculation of the CBRE Credit to which each Subscriber is entitled for the month covered by such invoice.

(3) Payment Procedures for Compensable Curtailed Energy.

(a) Payment of CCE Share. By the last Business Day of the second calendar month following the calendar month covered by the invoice in question. Company shall pay Subscriber Organization the amount owing for the Subscriber Organization's CCE Share shown on such invoice, or provide to Subscriber Organization an itemized statement of its objections to all or any portion of such invoice and pay any undisputed amount.

(b) Payment of Subscribed Portion of Compensable Curtailed Energy. As payment for each Subscriber Allocation of Compensable Curtailed Energy during the month covered by the invoice. Company shall provide such Subscriber with a Bill Credit for all undisputed amounts on such Subscriber's retail electric bill. Because not all of Company's customers have the same billing cycle, the timing of the appearance of the Bill Credit will vary with the Subscriber's billing cycle, but Company shall cause the Bill Credit to appear on each Subscriber's retail electric bill no later than the next billing cycle for such Subscriber following the date Company makes payment to Subscriber Organization for the Unsubscribed Energy of the invoice in question.

(4) Late Payments. Notwithstanding all or any portion of such invoice in dispute, any payment for the Subscriber Organization's CCE Share of Compensable Curtailed Energy not made to Subscriber Organization within the time period specified in Section 1.F.(3)(a) (Payment of CCE Share), shall accrue simple interest at the Prime Rate for the period until the outstanding interest and invoiced amounts (or amounts due to Subscriber Organization if determined to be less than the invoiced amounts) are paid in full. Partial

HAWAIIAN ELECTRIC COMPANY, INC.

payments shall be applied first to outstanding interest and then to outstanding invoice amounts.

- G. Limitations Period. All claims for adjustments shall be submitted to the other Party within three years of the end of the calendar month covered by the invoice on which the Adjustment Amount in question was invoiced or should have been invoiced. Claims for adjustments not submitted to the other Party by the end of such three-year period shall be deemed to have been waived.
 - H. Company's Billing Records. Subscriber Organization, after giving reasonable advance written notice to Company, shall have the right to review all billing, metering and related records necessary to verify the accuracy of the data provided by Company pursuant to Section 1.E.(l) and 1.F.(l) (Company's Obligation to Provide Certain Data) and payments relating to the CBRE Project during Company's normal working hours on Business Days. Company shall maintain such records for a period of not less than thirty-six (36) months.
 - I. Subscriber Organization shall comply with all of the rules stated in the Company's applicable electric tariff rules related to the CBRE Program, as the same may be revised from time to time, and this Contract, as may be amended from time to time, as allowed by an amendment to this Contract approved, or deemed approved, by the PUC. In the event of any conflict between the terms of this Contract and Company's electric tariff rules related to the CBRE Program, the provisions of the tariff shall control.
 - J. For the purchases by the Company, the Company shall apply a Bill Credit each billing period to each Subscriber's bill for retail electric service at the Bill Credit Rate based upon the Subscriber's Allocation as set forth in the Monthly Subscription Information applicable to the preceding Production Month. The Production Month to which the Bill Credit is applicable shall not necessarily match the billing period for the retail electric service bill in which the Bill Credit is applied.
 - K. For purposes of applying the Bill Credit to each Subscriber's bill, the Company shall be entitled to rely exclusively on the Monthly Subscription Information as timely entered by the Subscriber Organization via the CBRE Online Portal.
 - L. The correction of any allocation of previously-applied Bill Credits among Subscribers or payments to the Subscriber Organization for Unsubscribed Energy, pertaining to a particular month due to any inaccuracy reflected in such Monthly Subscription Information with regard to a Subscriber's Subscription in the PV System and the beneficial share of photovoltaic energy produced by the PV System, or the share of Unsubscribed Energy, shall be the full responsibility of the Subscriber Organization, unless such inaccuracies are caused by the Company.
2. House Power. The Company will sell House Power to the CBRE Project under the rate schedule in force for the class of customer to which the Subscriber Organization belongs. A separate meter to record energy delivered to the CBRE Project may be installed by the Company. The Subscriber Organization shall be solely responsible for arranging retail electric service exclusively from the Company in accordance with the Company's Electric Rate Book. The Subscriber Organization shall obtain House Power solely through separately metered retail service and shall not obtain House Power through any other means, and waives any regulatory or other legal claim or right to the contrary. Because the Company must purchase from the Subscriber Organization all energy

HAWAIIAN ELECTRIC COMPANY, INC.

generated by the CBRE Project, the CBRE Project may not use the energy it generates to be consumed by it. It may not net-out or use energy it generates for House Power. The Parties acknowledge and agree that the performance of their respective obligations with respect to House Power shall be separate from this Contract and shall be interpreted independently of the Parties' respective obligations under this Contract. Notwithstanding any other provision in this Contract, nothing with respect to the arrangements for House Power shall alter or modify the Subscriber Organization's or the Company's rights, duties and obligations under this Contract. This Contract shall not be construed to create any rights between the Subscriber Organization and the Company with respect to the arrangements for House Power.

3. Metering Charges and Requirements

- A. Metering Charge per Month: \$25.00
- B. Company shall purchase, own, install and maintain (subject to reimbursement by the Subscriber Organization as specified below) the revenue metering package suitable for measuring the export of electric energy (AC) from the PV System sold to Company in kilowatts and kilowatt-hours on a time-of-day basis and of reactive power flow in kilovars and true root mean square kilovar-hours (the "Production Meter"). The metering point shall be as close as possible to the Point of Interconnection as allowed by Company. The cost to install, or cause to be installed, own, operate and maintain the Production Meter to measure the AC production of the PV System, shall be at the Subscriber Organization's expense, including the cost of the Production Meter itself. Subscriber Organization, subject to Company review and approval, shall install, own and maintain the infrastructure and other related equipment associated with the Production Meter and will provide all meter housing and socket replacement and rewiring to install the Production Meter and any additional service meter to measure House Power. The Subscriber Organization shall install this infrastructure such that it meets the requirements set forth in Chapter Six (IPP Metering) of the latest edition of the Company's Electric Service Installation Manual (ESIM). Company shall test such revenue meters prior to installation and shall test such revenue meters every fifth year. Subscriber Organization shall reimburse Company for all reasonably incurred costs for the procurement, installation, maintenance (including maintenance replacements) and testing work associated with the Production Meter. Subscriber Organization shall be charged monthly the metering charge for the Production Meter.

Company shall provide at least twenty-four (24) hours' notice to Subscriber Organization prior to any test it may perform on the Production Meter or metering equipment. Subscriber Organization may request tests in addition to the every fifth-year test and Subscriber Organization shall pay the cost of such tests. Company may perform tests in addition to the fifth year test and Company shall pay the cost of such tests. If any of the revenue meters or metering equipment is found to be inaccurate at any time, as determined by testing in accordance with this section, Company shall promptly cause such equipment to be made accurate, and the period of inaccuracy, as well as an estimate for correct meter readings, shall be determined as provided in Company's Tariff Rule No. 11.

4. Title, Risk of Loss, and Warranty of Title. As between the Parties, the Subscriber Organization shall be deemed to be in control of the photovoltaic energy output from the PV System up to and until delivery and receipt by the Company at the Point of Interconnection and the Company shall be deemed to be in control of such energy from and after delivery and receipt at such Production

HAWAIIAN ELECTRIC COMPANY, INC.

Meter. Title and risk of loss related to the photovoltaic energy shall transfer to the Company at the Point of Interconnection. The CBRE Project warrants and represents to the Company that it has or will have at the time of delivery good and sufficient title to all photovoltaic energy output and/or the ability to transfer good and sufficient title of same to the Company.

5. Interconnection Requirements. The Subscriber Organization must sign the Company's Interconnection Agreement and comply with all of the terms and conditions of that Interconnection Agreement except as otherwise specified in this Contract.
6. CBRE Tariff Requirements.
 - A. The Subscriber Organization shall assure that the requirements of the CBRE Framework and CBRE Tariff applicable to the CBRE Project are met.
 - B. Subscriber Organization shall require all Subscribers to execute a Subscription Agreement as a precondition to enrollment in the CBRE Project. The Subscription Agreement must satisfy the requirements of the CBRE Tariff, the CBRE Framework, this Contract and any additional guidance from the PUC. Without limitation to the generality of the preceding sentence, the Subscription Agreement must include the right for the Subscriber to sell the Subscription, either a portion or the entirety thereof, back to Subscriber Organization. The Subscriber Agreement shall require that the Subscriber Organization must buy back the interest in accordance with the preset repurchase/resale price schedule outlined in the Subscriber Agreement within 30 Days of the Subscriber's request. Prior to executing the Subscription Agreement, the Subscriber Organization shall make to the Subscriber the disclosures required under the Disclosure Checklist. A copy of the Disclosure Checklist signed by both the Subscriber Organization and the Subscriber shall be attached to the executed Subscription Agreement. The Subscriber Organization shall also disclose to the Subscriber that a failure to pay such Subscriber's monthly retail electric bill that results in Company issuance of a disconnection notice will result in forfeiture of Bill Credits for the duration of such disconnection. For each Subscriber, there must be a completed and fully-executed Subscriber Agency Agreement and Consent Form which is delivered to the Company prior to the Commercial Operations Date, or prior to adding each Subscriber.
 - C. Funds Received From Subscribers Prior to the Commercial Operations Date. Any payments made to Subscriber Organization by Subscribers prior to the Commercial Operations Date shall be deposited into an escrow account ("Pre-COD Escrow") and may not be withdrawn from the Pre-COD Escrow by the Subscriber Organization until the Commercial Operations Date. The Pre-COD Escrow must conform to the CBRE Tariff, the CBRE Framework, applicable Laws and any additional guidance from the PUC.
 - D. Subscriber Organization Fees. Subscriber Organization shall pay to Company the following fees:
 - \$1,000 Application Fee (once)
 - All applicable interconnection costs, fees and expenses
 - \$5/kW AC Program Administration Fee (annually), from the Commercial Operations Date
 - Such other fees as the PUC may establish for the CBRE Program

HAWAIIAN ELECTRIC COMPANY, INC.

Except for the Application Fee which is due at the time of application, Company shall invoice Subscriber Organization for payment to Company of the foregoing fees. Subscriber Organization shall make payment to Company within 15 Days of Subscriber Organization's receipt of such invoice.

- E. Code Compliance. The Subscriber Organization shall be responsible for ensuring that the PV System equipment installed at the CBRE Project meets all applicable codes, standards, and regulatory requirements at the time of installation and throughout its operation.
- F. Project Completion. The Subscriber Organization shall achieve the Commercial Operations Date for the CBRE Project within eighteen (18) months from the execution date of this Contract, as the same may be extended as provided herein or in the CBRE Tariff (the "Commercial Operations Date Deadline"). The Commercial Operations Date Deadline shall be extended day-for-day for a CBRE Project that, in the Company's determination, has suffered a Force Majeure event prior to the Commercial Operations Date, or for any delay caused by Company.

For purposes of this section. Force Majeure means: any act of God, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or any other cause beyond a Party's control, except that a local-government moratorium to issuing a permit may extend the 18-month period for no more than an additional 6 months. Failure to seek a permit, delay in seeking a permit, or permit-processing time not subject to a moratorium is not included in this extension. An event of Force Majeure does not include an act of negligence or intentional wrongdoing.

If Substantial Progress has been achieved, but the Commercial Operations Date has not been achieved by the Commercial Operations Date Deadline, and Subscriber Organization still intends to complete its CBRE Project, then the Subscriber Organization shall pay a "late fee" to Company of \$200/day/MW Nameplate Capacity of the PV System until the PV System achieves the Commercial Operations Date. For example, if a PV System has a Nameplate Capacity of 100 kW, and it achieves the Commercial Operations Date 30 Days late, the "late fee" would be \$600. The "late fee" shall be paid to Company before the Commercial Operations Date. However, if Company fails to collect in full such amount by this date, such unpaid amount may be included as part of the actual costs of interconnection under the Interconnection Agreement. All such "late fee" payments received by Company will be credited 100% to offset the costs of the CBRE Program to the Company ratepayers. A prerequisite to showing that Substantial Progress has been achieved in a timely manner is that before the Commercial Operations Date Deadline the Subscriber Organization must submit a signed letter to Company attesting to the fact that Substantial Progress as defined in this Contract has been made, and attach photographs to that letter demonstrating this.

If: (1) Substantial Progress has not been achieved by the Commercial Operations Date Deadline, or (2) Subscriber Organization does not wish to complete its CBRE Project upon the Commercial Operations Date Deadline, or (3) the Commercial Operations Date is not achieved within six (6) months from the originally required Commercial Operations Date Deadline, then the application for the CBRE Project will be terminated and canceled and the corresponding Interconnection Agreement will be terminated by Company without further notice. No additional concurrence from the CBRE 10 shall be

HAWAIIAN ELECTRIC COMPANY, INC.

necessary for such termination. Any deposit paid by the Subscriber Organization shall be forfeited.

After termination, the Subscriber Organization, if it still intends to proceed with the CBRE Project, must submit a new application and pay any applicable deposit and/or fees which will be subject to the then current CBRE Tariff, Bill Credit Rate and other applicable CBRE requirements for new projects, including CBRE Program capacity availability.

G. Financial Compliance.

(1) If Company reasonably believes the provisions of this Section 6.G apply to the CBRE Project, Company shall notify Subscriber Organization in writing and Subscriber Organization shall provide or cause to be provided to Company on a timely basis, all information, including but not limited to information that may be obtained in any audit referred to below (the "Financial Compliance Information"), reasonably requested by Company for purposes of permitting Company and its parent company, Hawaiian Electric Industries, Inc. ("HEI") to comply with the requirements (initial and on-going) of (i) the accounting principles of Financial Accounting Standards Board ("FASB") Accounting Standards Codification 810, Consolidation ("FASB ASC 810"), (ii) Section 404 of the Sarbanes-Oxley Act of 2002 ("SOX 404") and (iii) all clarifications, interpretations and revisions of and regulations implementing FASB ASC 810, and SOX 404 issued by the FASB, Securities and Exchange Commission, the Public Company Accounting Oversight Board, Emerging Issues Task Force or other governmental agencies. In addition, if required by Company in order to meet its compliance obligations. Subscriber Organization shall allow Company or its independent auditor to audit, to the extent reasonably required. Subscriber Organization's financial records, including its system of internal controls over financial reporting; provided, however, that Company shall be responsible for all costs associated with the foregoing, including but not limited to Subscriber Organization's reasonable internal costs. Company shall limit access to such Financial Compliance Information to Company and HEI personnel involved with such compliance matters and restrict any Company or HEI personnel involved in Company's monitoring, dispatch or scheduling of the Subscriber Organization and/or the CBRE Project, the administration of this Contract, or in developing potential CBRE projects, from having access to such Financial Compliance Information (unless approved in writing in advance by Subscriber Organization).

(2) Confidentiality. As a condition to obtaining the Financial Compliance Information, Company shall, and shall cause HEI to, maintain the confidentiality of said Financial Compliance Information pursuant to a mutually agreed to confidentiality and non-disclosure agreement to be executed among Company, HEI and Subscriber Organization.

(3) Consolidation. Company does not want to be subject to consolidation as set forth in FASB ASC 810, as issued and amended from time to time by FASB. Company represents that, as of the Effective Date, it is not required to consolidate Subscriber Organization into its financial statements in accordance with FASB ASC 810. If for any reason, at any time during the Term, Company determines, in its sole but good faith discretion, that it is required to consolidate Subscriber Organization into its financial statements in accordance with FASB ASC 810, then Subscriber Organization shall immediately provide audited financial statements (including footnotes) in accordance

HAWAIIAN ELECTRIC COMPANY, INC.

with U.S. generally accepted accounting principles (and as of the reporting periods Company is required to report thereafter) in order for Company to consolidate and file its financial statements within the reporting deadlines of the Securities and Exchange Commission. Notwithstanding the foregoing requirement that Subscriber Organization provide audited financial statements to Company, the Parties will take all commercially reasonable steps, which may include modification of this Contract to eliminate the consolidation treatment, while preserving the economic "benefit of the bargain" to both Parties.

- H. Audits. The Company reserves the right to inspect the PV System as necessary to assure the safety and reliability of the system at any time during the Term, and for an additional period of one (1) year thereafter.
- I. Inverter Capacity. The CBRE Project must have an inverter(s) with a capacity, in the aggregate, of no more than _____ (_____) kilowatts/megawatts alternating current (AC) to assure that the CBRE Project has a nameplate capacity of no more than _____ (_____) kilowatts/megawatts AC.
- J. No Relocation. The PV system shall be located at the CBRE Project as shown in its application at all times during the Term.
- K. Disclosure of Production Information. The Subscriber Organization acknowledges and agrees that, in order for the Company to carry out its responsibilities in applying Bill Credits to each Subscriber's retail electric bills, the Company may be required and shall be permitted to provide access or otherwise disclose and release to any Subscriber any and all production data related to the PV System in its possession and information regarding the total Bill Credits applied by the Company with respect to the CBRE Project and any information pertaining to a Subscriber's Subscription. Any additional detailed information requested by a Subscriber shall be provided only upon the Subscriber Organization's consent in writing or email to the Company, or unless the Public Utilities Commission or the CBRE 10 requests that the Company provide such information to the Subscriber.
- L. Disclosure of CBRE Project Information. The Subscriber Organization acknowledges and agrees that the Company may publicly disclose the CBRE Project location, Subscriber Organization, nameplate capacity and generation data of the CBRE Project. Additionally, the Company will periodically provide a bill message to Subscribers clarifying that questions or concerns related to their Subscription should be directed to the Subscriber Organization, including a statement that the Subscriber Organization is solely responsible for resolving any disputes with the Company or the Subscriber about the accuracy of the CBRE Project production and that the Company is solely responsible for resolving any disputes with the Subscriber about the applicable rate used to determine the amount of the Bill Credit.
- M. Certain Tax and Securities Law Issues. The Company makes no warranty or representation concerning the taxable consequences, if any, to Subscriber Organization or its Subscribers with respect to its Bill Credits to the Subscribers for participation in the CBRE Project. Additionally, the Company makes no warranty or representation concerning the implication of any federal or state securities laws on how Subscriptions to the CBRE Project are handled.

HAWAIIAN ELECTRIC COMPANY, INC.

- N. Full Cooperation with the PUC. The Parties agree to fully cooperate with any request for information from the PUC or the CBRE IO pertaining in any way to the CBRE Project, and will provide such information upon request in a timely manner. To the extent to which any request calls for producing a specific Subscriber's Account Information, Subscriber Energy Usage Data or Bill Credits, such information shall be provided and marked as Confidential Information.
 - O. New PV Systems. The PV System must not be built or previously interconnected at the time of application to the CBRE Program.
 - P. Fair Disclosure; Disclosure Checklist. Prior to the time when any person or entity becomes a Subscriber, the Subscriber Organization will fairly disclose the future costs and benefits of the Subscription and all other matters specified in the Disclosure Checklist and provide to the potential Subscriber a copy of this Contract. The Subscriber Organization shall comply with all other requirements of the PUC and applicable Laws with respect to communications with Subscribers.
7. Requirements Applicable to the Subscriber Organization's Relationship with its Subscribers. The Subscriber Organization must comply with all of the following:
- A. Subscriber Information. The Subscriber Organization shall issue Subscriptions in the PV System only to eligible retail electric service customers of the Company and provide to the Company the name, account number and service address attributable to each Subscription and the Subscriber Allocation for each Subscriber's Subscription. The Subscriber Organization shall take care to preserve the privacy expectations of the Subscribers, such as not publicly providing a Subscriber's Account Information, Subscriber Energy Usage Data, or Bill Credits. The Subscriber Organization will not disclose or share such information except as permitted by the Subscriber Agency Agreement and Consent Form executed by Subscriber in connection with Subscriber's acquisition of its Subscription in the CBRE Project or otherwise unless the Subscriber has provided explicit informed consent or if such disclosure is compelled by Law.
 - B. Subscriber Transfer or Exit.
 - (1) A Subscriber may change the premises to which the CBRE Project's electricity generation shall be attributed. So long as the premises is on the same island and meets eligibility requirements set forth in the CBRE Tariff, neither the Subscriber Organization nor Company shall charge a transfer fee. For example, when a Subscriber sells the premises to which the Subscription is attributed and inhabits new premises on the same island, this provision is intended to permit a Subscriber to transfer the Subscription to the new premises. If a Subscriber wants to transfer the Subscriber Allocation to another person or entity, there shall be no transfer charge/fee if the meter associated with the account remains unchanged. Subscribers shall be allowed to sell to another eligible customer of Company all or a portion of the Subscriber Allocation of such Subscriber at the applicable price set forth in the repurchase/resale price schedule attached to the Subscription Agreement provided that a Subscriber may never sell to any one eligible customer less than one-half of the Subscriber Allocation then held by such Subscriber. Subscriber Organization shall not knowingly allow the transfer of all or any part of any Subscriber Allocation at a price other than that set forth in the repurchase/resale price schedule attached to the Subscription Agreement.

HAWAIIAN ELECTRIC COMPANY, INC.

- (2) Eligibility Requirements for Transferees. The transferee(s) of such Subscriber Allocation must satisfy the requirements under the CBRE Tariff to be a Subscriber under the CBRE Program.
 - (3) Limitations on Size of Subscriber Allocation. Following completion of such transfer, the aggregate Subscriber Allocation to be held by such transferee(s) (including both the transferred Subscriber Allocation and any pre-existing Subscriber Allocation) must comply with the size limitations set forth in the CBRE Tariff.
 - (4) Eligibility Determination. Subscriber Organization shall determine the eligibility and permitted size of any such transfer by inquiry to the Company, manually through Company personnel in Phase 1 and electronically through the CBRE Online Portal once such software tool is available.
- C. Repurchase. Subscriber Organization shall repurchase a Subscriber Allocation when asked to do so by such Subscriber in accordance with the terms of the Subscription Agreement in the time frame required by the CBRE Tariff.
 - D. Updating Subscriber Information. On or before five (5) Business Days immediately preceding the first Day of each Production Month, the Subscriber Organization shall provide to the Company any and all changes to the Monthly Subscription Information, by entering new or updating previously-entered data through the CBRE Online Portal. Such data to be entered or changed by the Subscriber Organization shall include additions, deletions or changes to the listing of Subscribers holding Subscriptions in the CBRE Project, including any changes to the Subscriber's account number and service address attributable to each Subscription and the Subscriber Allocation for each Subscriber's Subscription.
 - E. Responsibility for Verification. The Subscriber Organization shall verify that each Subscriber is eligible to be a Subscriber in the CBRE Project and that the CBRE Tariff requirements are met.
8. [RESERVED].
 9. Events of Default by Subscriber Organization. The occurrence of any of the following shall constitute an "Event of Default" by Subscriber Organization:
 - A. If at any time during the Term, Subscriber Organization delivers or attempts to deliver to the Point of Interconnection for sale under this Contract electric energy that was not generated by the PV System and Subscriber Organization fails to cease such delivery or attempt to deliver such electric energy within ten (10) Days after Company's written notice of such delivery or attempt;
 - B. If at any time subsequent to the Commercial Operations Date, Subscriber Organization fails to provide electric energy to Company for a period of three hundred sixty-five (365) or more consecutive Days, unless such failure is caused by the inability of Company to accept such electric energy;
 - C. Subscriber Organization becomes insolvent, or makes an assignment for the benefit of creditors; or shall have an order for relief in an involuntary case under the bankruptcy Laws as now or hereafter constituted entered against it, or shall commence a voluntary

HAWAIIAN ELECTRIC COMPANY, INC.

case under the bankruptcy Laws as now or hereafter constituted, or shall file any petition or answer seeking for itself any arrangement, composition, adjustment, liquidation, dissolution or similar relief to which it may be entitled under any present or future Law; or seeks or consents to or acquiesces in the appointment of or taking possession by, any custodian, trustee, receiver or liquidator of it or of all or a substantial part of its properties or assets; or takes action looking to its dissolution or liquidation, and Subscriber Organization is unable to remedy such actions within one hundred eighty (180) Days of the occurrence of such breach or default; or

- D. Other than the events of default specified in Sections 9. A, B and C above, Subscriber Organization, by act or omission, materially breaches or defaults on any material covenant, condition or other provision of this Contract, if such breach or default is not cured within thirty (30) Days after written notice of such breach or default from Company; provided, however, that if it is objectively impossible to cure such breach or default within said thirty (30) Day period, then, for so long as Subscriber Organization is making the same effort to cure such breach or default as would be expected of an experienced independent power producer willing and able to exert commercially reasonable efforts to achieve such cure, Subscriber Organization shall have a cure period equal to three hundred sixty five (365) Days beginning on the date of Company's written notice of such breach or default.
- E. Company provides written notice to Subscriber Organization to terminate the Interconnection Agreement upon the conditions stated therein.

10. Remedies for Breach.

- A. In the event of any Event of Default by the Subscriber Organization, then the Company shall have available to it any other remedy provided for in this Contract and any or all of the following remedies which can be used either singularly or cumulatively.
- B. For any Event of Default by the Subscriber Organization:
 - (1) Company shall provide written notice to the Subscriber Organization to remedy the Event of Default within the applicable cure period specified for such Event of Default, if any.
 - (2) If after the cure period, if any, provided for in the Company's notice the Subscriber Organization is still not in compliance with this Contract, then the Company shall have the right to request to terminate the Contract via a Notice of Intent to Terminate and Request for IO Concurrence to the 10 (the "Notice to IO").
 - (3) If the CBRE IO concurs with the Company's request to terminate the Contract, the Company shall provide written notice to Subscriber Organization and Subscriber Organization shall have five (5) Business Days to provide proof that Company's and CBRE IO's determination to terminate the Contract is in error.
 - (4) If the Subscriber Organization fails to provide such proof or if the Company and the CBRE IO reasonably determine that such proof is insufficient to reverse the Company's decision to terminate, Company may proceed to terminate the Contract by providing a written notice of termination to Subscriber Organization. A copy of such

HAWAIIAN ELECTRIC COMPANY, INC.

notice shall be provided to all Subscribers of the CBRE Project, the CBRE IO and the PUC.

(5) The termination date in the notice of termination shall not be earlier than thirty (30) Days from the date of such notice.

- C. In the event of an Event of Default by the Subscriber Organization for which the Company sends a written notice pursuant to this Section 10, Company shall also send a copy of the notice as soon as practicable to any financing party for the CBRE Project whose contact information has been provided to the Company. Any such financing party shall have the right to cure the alleged breach within the cure period provided in Section 9 and Company agrees to accept any such cure as if made by the Subscriber Organization. The Company shall be under no obligation to provide any such financing party with any information contrary to the Data Privacy Commitments set forth in Exhibit 1 to the Subscriber Agency Agreement and Consent Form. The Company shall be under no obligation to provide any such financing party with any information it may have which is confidential to the Subscriber Organization unless the Subscriber Organization has provided written consent to the Company permitting the release to the financing party of such confidential information.
- D. Subscriber Organization acknowledges that Company is a public utility and is relying upon Subscriber Organization's performance of its obligations under this Contract, and that Company and/or its customers may suffer irreparable injury as a result of the failure of Subscriber Organization to perform any of such obligations, whether or not such failure constitutes an Event of Default or otherwise gives rise to one or more of the remedies set forth in this Section 10. Accordingly, the remedies set forth in this Section 10 shall not limit or otherwise affect Company's right to seek specific performance injunctions or other available equitable remedies for Subscriber Organization's failure to perform any of its obligations under this Contract, irrespective of whether such failure constitutes an Event of Default.
- F. In the event of any breach of this Contract by Company, the Subscriber Organization shall provide Company with a written notice of the breach. Company shall have up to thirty (30) Days to cure the breach. If the breach is not cured within the thirty (30) Days, the Subscriber Organization may utilize the procedures set forth in Section 13. If the breach results in Bill Credits not being issued to one or more individual Subscribers, in the absence of a cure by Company within the allowed time following the notice, the applicable Subscriber(s) may also seek a remedy for any past due Bill Credits from the PUC pursuant to Section 13.
11. Error in Allocation. If there is a breach, error or changed circumstances resulting in some production from the CBRE Project being assigned in excess of a Subscriber's allowable Subscriber Allocation under the CBRE Tariff, then the Company may treat this excess as Unsubscribed Energy and not provide a Bill Credit to any Subscriber for any such excess production.
12. Limitation of Liability
- A. Each Party shall at all times indemnify, defend, and save the other Party harmless from any and all damages, losses, claims, including claims and actions relating to injury or death of any person or damage to property, costs and expenses, reasonable attorneys' fees

HAWAIIAN ELECTRIC COMPANY, INC.

and court costs, arising out of or resulting from the Party's performance of its obligations under this Contract, except to the extent that such damages, losses or claims were caused by the negligence or intentional acts of the other Party.

- B. Each Party's liability to the other Party for failure to perform its obligations under this Contract shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any punitive, incidental, indirect, special, or consequential damages of any kind whatsoever, including for loss of business opportunity or profits, regardless of whether such damages were foreseen.
- C. Notwithstanding any other provision, with respect to the Company's duties or performance or lack of performance under this Contract, the Company's liability to the Subscriber Organization shall be limited as set forth in the Company's rate book and terms and conditions for electric service, and shall not be affected by the terms of this Contract. There are no third-party beneficiaries of any Company duty under this Contract other than the Company's duty to Subscribers to issue Bill Credits as set forth in this Contract, and the duty to a financing party under Section 10.C. of this Contract.

13. Dispute Resolution

- A. Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.
- B. If a dispute arises under this Contract between the Parties which cannot be resolved by the Parties within thirty (30) Days after written notice of the dispute to the other Party, then the Parties shall mediate the dispute with the CBRE IO for resolution, which shall be non-binding upon the Parties.
- C. If the Parties still cannot resolve the dispute even after mediation with the CBRE IO, either Party may refer the dispute for resolution to the PUC, which shall maintain continuing jurisdiction over this Contract.

14. Environmental Credits. Included in the purchase and sale of electric energy are all of the Environmental Credits associated with the electric energy. Company will not reimburse Subscriber Organization for any taxes or fees imposed on Subscriber Organization including, but not limited to, State of Hawai'i general excise tax. To the extent not prohibited by law, Company shall have the sole and exclusive right to use the electric energy purchased hereunder to meet RPS and any Environmental Credit shall be the property of Company; provided, however, that such Environmental Credits shall be to the benefit of Company's ratepayers in that the value must be credited "above the line." Subscriber Organization shall use all commercially reasonable efforts to ensure such Environmental Credits are vested in Company, and shall execute all documents, including, but not limited to, documents transferring such Environmental Credits, without further compensation; provided, however, that Company agrees to pay for all reasonable costs associated with such efforts and/or documentation.

15. Representations and Warranties.

- A. Company and Subscriber Organization represent and warrant, respectively, that:
 - (1) Each respective Party has all necessary right, power and authority to execute, deliver and perform this Contract.

HAWAIIAN ELECTRIC COMPANY, INC.

(2) The execution, delivery and performance of this Contract by each respective Party will not result in a violation of any Laws, or conflict with, or result in a breach of, or cause a default under, any agreement or instrument to which such Party is also a party or by which it is bound. No consent of any person or entity not a Party to this Contract, other than governmental agencies whose approval is necessary for construction of the PV System and interconnection facilities, is required for such execution, delivery and performance by either Party.

B. Subscriber Organization represents, warrants and covenants that:

(1) Subscriber Organization has obtained all Land Rights necessary for the construction, ownership, operation and maintenance of the PV System during the Term, and Subscriber Organization shall maintain such Land Rights in effect throughout the Term.

(2) As of the commencement of construction, Subscriber Organization shall have obtained (i) all permits or approvals from any applicable governmental agency necessary for the construction, ownership, operation and maintenance of the PV System and all interconnection facilities.

(3) Subscriber Organization's CBRE Project: (a) complies with all applicable federal and state securities Laws, and shall continue to be in compliance for the duration of the Term; (b) complies with all applicable Laws concerning the dissemination of personally identifiable information, and shall continue to be in compliance for the longer of (i) the Term or (ii) for as long as Subscriber Organization continues to hold or otherwise have access to any personally identifiable information of Subscribers or customers of Company; and (c) complies with all applicable Laws concerning consumer protection, and shall continue to be in compliance for the duration of the Term.

16. Miscellaneous. The "Miscellaneous" provisions in the Interconnection Agreement between the Parties addressing the following issues are incorporated into this Contract and are fully applicable to this Contract as if set forth in full herein. Where the Interconnection Agreement in the "Miscellaneous" section uses the term "Agreement," this shall mean this Contract for purposes of the Contract.

- A. Force Majeure
- B. Notices
- C. Assignment
- D. Amendment; Modification or Waiver
- E. Governing Law and Regulatory Authority
- G. Binding Effect
- H. Confidential Information
- I. Non-Warranty
- J. Relationship of Parties
- K. Execution of Agreement; Multiple Counterparts

17. Term. The Term shall be the same as for the Interconnection Agreement applicable to the CBRE Project, and each shall begin when signed by the Parties and end twenty (20) years after the Commercial Operations Date unless otherwise provided for in this Contract. In the event of termination, or early termination of this Contract, applicable provisions shall continue in effect after termination to the extent necessary to enforce and complete the duties, obligations or

HAWAIIAN ELECTRIC COMPANY, INC.

responsibilities of the Parties arising prior to termination and, as applicable, to provide for final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this Contract.

SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized representatives. This Contract is effective as of the Effective Date set forth above.

[Subscriber Organization]

**[Hawaiian Electric Company, Inc.
Hawai'i Electric Light Company, Inc.
Maui Electric Company, Limited], a
Hawai'i corporation**

By: _____

By: _____

Name: _____

Name: _____

Date: _____

Date: _____

HAWAIIAN ELECTRIC COMPANY, INC.

ATTACHMENT A

CALCULATION AND REPORTING OF CURTAILED ENERGY

1. Curtailed Energy (including Compensable Curtailed Energy) shall be calculated and reported by Subscriber Organization in accordance with the procedures set forth in this Attachment A, as the same may be modified or supplemented by the Parties.
2. Curtailed Report. Commencing with the month during which the Commercial Operations Date is achieved, and for each calendar month thereafter during the Term, Subscriber Organization shall provide to Company a "Curtailed Report" in the form attached as Exhibit 1 (IPP Monthly Curtailed Report) for the calendar month in question. Subscriber Organization shall deliver such Curtailed Report to Company by the tenth (10*) Business Day following the close of the calendar month in question. Company shall have the right to audit and verify all data set forth in the Curtailed Report and, upon Company's request, Subscriber Organization shall promptly provide to Company any additional data and supporting documentation necessary for Company to audit and verify any matters in the Curtailed Report.
3. Log of Curtailed Events. Subscriber Organization shall maintain a log of Curtailed Events that records the date, start time, and end time of all Curtailed Events. The start time shall be logged as the time the PV System receives the curtailment signal from the Company System Operator. The end time shall be logged as the time the PV System receives the curtailment control signal from the Company System Operator to end or modify the curtailment set point. Curtailed Events in which the Company System Operator modifies the curtailment set point shall be reported as separate Curtailed Events, using the time at which the curtailment set point was modified as the end time of the first Curtailed Event and the start time of the subsequent Curtailed Event.
4. Disagreements Concerning Curtailed Energy.
 - (a) Data "Gaps." The Parties acknowledge that certain of the data points required to calculate Curtailed Energy are dependent upon the continuous proper functioning of the system to record, transmit and store such data. Any "gaps" in such data that occur because of malfunctions in such system are referred to herein below as "Data Gaps."
 - (b) Notice of Disagreement. Company shall provide written notice to Subscriber Organization within ninety (90) Days after Company's receipt of a Curtailed Report if Company disagrees with any of the following (collectively, "Curtailed Disagreement"): (i) the identification of the "reason" for a Curtailed Event, (ii) any data point set forth in a Curtailed Report, (iii) Subscriber Organization's proposed estimate for any data "missing" because of Data Gaps, (iv) any calculation of Curtailed Energy set forth in a Curtailed Report or (v) any other matter concerning the Curtailed Report. Together with any such notice of disagreement, the Company shall include its own calculations, proposed estimates for any data "missing" because of Data Gaps and other support for its position.
 - (c) Informal Dispute Resolution. Upon issuance of a notice of disagreement, the Parties shall review the contents of the Curtailed Report(s) and the notice of disagreement and attempt to resolve such Curtailed Disagreement.
 - (d) Condition to Dispute Resolution. A Curtailed Disagreement shall constitute a "Dispute" under Section 13 of this Contract, and shall be resolved under said section if the parties are unable to reach agreement pursuant to Section 4(c) above.

HAWAIIAN ELECTRIC COMPANY, INC.

EXHIBIT 1

TO

CALCULATION AND REPORTING OF CURTAILED ENERGY

IPP MONTHLY CURTAILMENT REPORT

NAME OF IPP FACILITY: [Facility Name]

REPORT PERIOD: [Month Day, Year] to [Month Day, Year]

CURTAILMENT EVENTS REPORTED DURING REPORT PERIOD

Event No.	Event Date	Start Time	End Time	Facility Output at Start of Event (MW)	Facility Output at End of Event (MW)	Curtailed Energy (kWh)	Curtailment Signal Set Point (MW)	Reason for Curtailment

TOTAL CURTAILED ENERGY DURING REPORT PERIOD: _____ kWh

TOTAL COMPENSABLE CURTAILED ENERGY DURING REPORT PERIOD: _____ kWh

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