

**--DRAFT--**

**Marin Clean Energy  
- Joint Powers Agreement -**

Effective DATE

Among The Following Parties:

*[City of Belvedere]  
[Town of Corte Madera]  
[Town of Fairfax]  
[City of Larkspur]  
[City of Mill Valley]  
[City of Novato]  
[Town of Ross]  
[Town of San Anselmo]  
[City of San Rafael]  
[City of Sausalito]  
[Town of Tiburon]  
[County of Marin]*

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**MARIN CLEAN ENERGY AUTHORITY  
JOINT POWERS AGREEMENT**

This **Joint Powers Agreement** (“Agreement”), effective as of *DATE*, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit B (“Parties”). The term “Parties” shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.2.

**RECITALS**

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. The initial Parties to this Agreement (“Initial Participants”) have been investigating and analyzing a program for the implementation of Community Choice Aggregation (“CCA”), an electric service option available to cities and counties pursuant to California Public Utilities code Section 366.2.
3. The Parties desire to establish a separate public agency, known as the Marin Clean Energy Authority (“Authority”), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”) in order to collectively study, promote, develop, and conduct electricity-related programs, including specifically a program relating to CCA (“CCA Program”).

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

### ARTICLE 1 CONTRACT DOCUMENTS

- 1.1 **Definitions.** Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.
- 1.2 **Documents Included.** This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A:	Definitions
Exhibit B:	List of the Parties
Exhibit C:	Annual Energy Use
Exhibit D:	Voting Shares

- 1.3 **Revision of Exhibits.** The Parties agree that Exhibits B, C and D to this Agreement describe certain administrative matters necessary to implement this Agreement. Exhibits B, C and D may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.3. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

### ARTICLE 2 FORMATION OF MARIN CLEAN ENERGY

- 2.1 **Effective Date and Term.** This Agreement shall become effective and Marin Clean Energy Authority shall exist as a separate public agency on the date this Agreement is executed by at least two Initial Participants. The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.4, subject to the rights of the Parties to withdraw from the Authority.
- 2.2 **Initial Parties.** During the first 120 days after the Effective Date, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party and is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

- 2.3 Formation.** There is formed as of the Effective Date a public agency named the Marin Clean Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. Unless otherwise agreed, the debts, liabilities, and obligations of the Authority shall not be debts, liabilities or obligations of the Parties. The foregoing liability shall not apply to a Party with respect to which this Agreement has terminated, as specified in Article 7, to the extent of such Party's obligations incurred while a party to this Agreement.
- 2.4 Purpose.** The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, and conduct electricity-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties may initially participate as a group in the CCA Program, as further described in Section 5.1. The Parties intend that a subsequent agreement ("Program Agreement 1") shall define the terms and conditions associated with the actual implementation of the CCA Program.
- 2.5 Powers.** The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following:
- 2.5.1** make and enter into contracts;
  - 2.5.2** employ agents and employees, including but not limited to an Executive Director;
  - 2.5.3** acquire, contract, manage, maintain, and operate any buildings, works or improvements;
  - 2.5.4** acquire by eminent domain, or otherwise, except as limited under Section 6508 or the Act, and to hold or dispose of any property;
  - 2.5.5** lease any property;
  - 2.5.6** sue and be sued in its own name;
  - 2.5.7** incur debts, liabilities, and obligations;
  - 2.5.8** issue revenue bonds and other forms of indebtedness to the extent, and on the terms, provided by the Act;
  - 2.5.9** apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;
  - 2.5.10** submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program;
  - 2.5.11** adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations"); and
  - 2.5.12** make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA

Program, including the acquisition of electric power supply and the provision of retail and regulatory support services.

- 2.6 Limitation on Powers.** As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the County of Marin.

### **ARTICLE 3 AUTHORITY PARTICIPATION**

- 3.1 Addition of Parties.** Subject to Section 2.2, relating to certain rights of initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption, by an affirmative vote of the Board satisfying the requirements described in Section 4.8.1, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership payment, if any, and (e) satisfaction of any conditions established by the Board.
- 3.2 Continuing Participation.** The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

### **ARTICLE 4 GOVERNANCE AND INTERNAL ORGANIZATION**

- 4.1 Board of Directors.** The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party and appointed in accordance with Section 4.2.
- 4.2 Appointment and Removal of Directors.** The Directors shall be appointed and may be removed as follows:
- 4.2.1** The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body

of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. . The person appointed and designated as the Director or the alternate Director shall be an elected official.

- 4.2.2** The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.11, shall specify the reasons for and process associated with the removal of an individual Director for cause. The Operating Rules and Regulations may also authorize disciplinary action that may be taken against an individual Director for action that is harmful to the orderly and effective operation of the Authority or the Board. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Director has been removed may appoint a replacement.
- 4.3** **Terms of Office.** Each Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.
- 4.4** **Quorum.** A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.
- 4.5** **Powers and Function of the Board.** The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law.
- 4.6** **Executive Committee.** The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the executive committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain essential functions, as described in the Operating Rules and Regulations.
- 4.7** **Commissions, Boards and Committees.** The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program and the provisions of this Agreement.
- 4.8** **Director Compensation.** Compensation for work performed by Directors on behalf of the Authority shall be borne by the Party that appointed the Director.

The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.

#### **4.8 Board Voting.**

**4.8.1.** To be effective, a vote of the Board shall consist of the following: (1) a majority of all Directors shall vote in the affirmative and (2) the corresponding voting shares (as described in Section 4.8.2 and Exhibit D) of all such Directors voting in the affirmative shall exceed 50%, or such other higher voting share percentage expressly set forth herein in Sections 7.2.2 and 8.3, provided that, in instances in which such other higher voting share percentage would result in any one Director having a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter.

**4.8.2.** Unless otherwise stated herein, voting shares of the Directors shall be determined by combining the following: (1) an equal voting share for each Director determined in accordance with the formula detailed in Section 4.8.2.1, below; and (2) an additional voting share determined in accordance with the formula detailed in Section 4.8.2.2, below.

**4.8.2.1 Pro Rata Voting Share.** Each Director shall have an equal voting share as determined by the following formula:  $(1/\text{total number of Directors})$  multiplied by 50, plus

**4.8.2.2 Annual Energy Use Voting Share.** Each Director shall have an additional voting share as determined by the following formula:  $(\text{Annual Energy Use}/\text{Total Annual Energy})$  multiplied by 50, where (a) “Annual Energy Use” means, (i) with respect to the first 3 years following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“kWhs”), within the Party’s respective jurisdiction and (ii) with respect to the period after the third anniversary of the Effective Date, the annual electricity usage, expressed in kWhs, of accounts within a Party’s respective jurisdiction that are served by the Authority and (b) “Total Annual Energy” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1.

**4.8.2.3** The voting shares are set forth in Exhibit D.

**4.10 Meetings and Special Meetings of the Board.** The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings

may be adjourned to another meeting time. Special meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.).

#### **4.11 Selection of Board Officers.**

**4.11.1 Chair and Vice Chair.** The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

**4.11.2 Secretary.** The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

**4.11.3 Treasurer and Auditor.** The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom need to be members of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 6.



**4.12**

4.12 Administrative Services Provider. As soon as reasonably practicable after the Effective Date, the Board shall appoint an administrative services provider to serve as the Authority's exclusive agent for planning, implementing, operating and administering the CCA Program, and any other program designated by the Board, in accordance with the provisions of a written agreement between the Authority and the appointed administrative services provider that will be known as the Power Services Agreement. The Power Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other designated programs. The Power Services Agreement shall set forth the term of the Agreement and the circumstances under which the Power Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to terminate a Power Services Agreement as provided by such Agreement and hire its own employees to administer the CCA Program.

**OR IN THE ALTERNATIVE**

4.12 Administrative Services Provider. As soon as reasonably practicable after the Effective Date, the Board shall appoint \_\_\_\_\_ as the Authority's exclusive agent for planning, implementing, operating and administering the CCA Program, and any other program designated by the Board, in accordance with the provisions of a written agreement between the Authority and \_\_\_\_\_ that will be known as the Power Services Agreement. The Power Services Agreement shall set forth the terms and conditions by which \_\_\_\_\_ shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other designated programs. The Power Services Agreement shall set forth the term of the Agreement and the circumstances under which the Power Services Agreement may be terminated by the Authority. In the event that the Authority and \_\_\_\_\_ fail to enter into a Power Services Agreement within ninety (90) days after the Effective Date, or such other time period approved by the Board, the Authority shall have no obligation to appoint \_\_\_\_\_ as the Authority's administrative services provider and the Board may appoint such other person or entity that the Board considers appropriate in accordance with a Power Services Agreement. This section shall not in any way be construed to limit the discretion of the Authority to terminate a Power Services Agreement as provided by such Agreement and hire its own employees to administer the CCA Program.

**ARTICLE 5**

**IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS**

**5.1 Preliminary Implementation of the CCA Program.**

- 5.1.1 Enabling Ordinance.** If a Party has not otherwise done so prior to its execution of this Agreement, the Party shall, as soon after the Effective Date as reasonably practicable, cause to be adopted an ordinance in accordance with Public Utilities Code Section 366.2(c)(10) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.
- 5.1.2 Implementation Plan.** The Authority shall cause to be filed an Implementation Plan with the California Public Utilities Commission as soon after the Effective Date as reasonably practicable.
- 5.1.3 Other Activity.** The Authority shall cause to be performed such other activities relating to the CCA Program in order to prepare the CCA Program for actual implementation, which shall be evidenced by the execution and effectiveness of the Program Agreement 1.
- 5.2 Authority Documents.** The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies (“Authority Documents”). The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that hereafter may be adopted by the Board, subject to the Parties’ right to withdraw from the Authority as described in Article 7.

## **ARTICLE 6 FINANCIAL PROVISIONS**

- 6.1 Fiscal Year.** The Authority’s fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.
- 6.2 Depository.**
- 6.2.1** All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.
- 6.2.2** All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

**6.2.3** All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board

**6.2 Budget and Recovery Costs.**

**6.3.1 Budget.** \_\_\_\_\_ shall develop an initial draft budget for the Authority and shall submit such draft budget to the Parties in a form and in accordance with a schedule reasonably established by the Board. The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

**6.3.2 Initial Costs.** Initial CCA costs include all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as any required accounting, administrative and legal services in support of the Authority's initial activities or in support of the finalization of Program Agreement 1 and the Power Services Agreement. As further described in Section 6.3.6, initial costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

**6.3.3 CCA Program Costs.** The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through charges associated with such electric services.

**6.3.4 General Costs.** Costs that are not directly or indirectly attributable to the provision of electric services under the CCA Program, as determined by the Board, shall be defined as general costs. General costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

**6.3.5 Special Program Costs.** It is anticipated that from time to time the Authority and the Parties may participate in additional special programs. The terms and conditions associated with these special programs, and the responsibility for costs associated therewith, shall be set forth in a separate agreement similar to Program Agreement 1 which will apply to the CCA Program.

**ARTICLE 7  
WITHDRAWAL AND TERMINATION**

**7.1 Withdrawal.**

**7.1.1 General.**

**7.1.1.1** Prior to a Party's execution of Program Agreement 1, such Party may withdraw its membership in the Authority by giving no less than 1 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party.

**7.1.1.2** Subsequent to a Party's execution of Program Agreement 1, such Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year (*July 1*), by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party, and upon such other conditions as may be prescribed in Program Agreement 1.

**7.1.2 Amendment.** Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement in the manner provided by Section 8.3.

**7.1.3 Continuing Liability; Further Assurances.** A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 7.3. The withdrawing Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority.

**7.2 Involuntary Termination of a Party.**

**7.2.1 Failure to Execute Program Agreement 1.** This Agreement shall be deemed terminated with respect to a Party if such Party has not executed Program Agreement 1 within 90 days of the Authority's written notice to all Parties that the Authority has executed Program Agreement 1.

**7.2.2 Material Non-Compliance.** This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this agreement, the Operating Rules and Regulations, or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage voting share, as described in Section 4.8.2, shall be no less than 67% of the voting share, excluding the voting shares of the Party subject

to possible termination. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be presented at a regular Board meeting with opportunity for discussion. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 7.3.

- 7.3 Continuing Liability; Refund.** Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.
- 7.4 Mutual Termination.** This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.
- 7.5 Disposition of Property upon Termination of Authority.** Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in Proportion to the contributions made by each.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

- 8.1 Dispute Resolution.** The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Should such efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be settled by binding arbitration in accordance with policies and procedures established by the Board.
- 8.2 Liability of Directors, Officers, and Employees.** The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall indemnify and hold harmless the individual Directors, officers, and employees for any action taken lawfully and in good faith on behalf of the Authority. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.
- 8.3 Amendment of this Agreement.** This Agreement may be amended by an affirmative vote of the Board in which the minimum percentage voting share, as described in Section 4.8.1, shall be no less than 67% of the voting shares. The Authority shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments. A Party shall be deemed to have withdrawn its membership in the Authority effective immediately upon the vote of the Board approving an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board. As described in Section 7.3, a Party that withdraws its membership in the Authority in accordance with the above-described procedure may be subject to continuing liabilities incurred prior to the withdrawal.
- 8.4 Assignment.** Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of the of this Section 8.4 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 8.4 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

- 8.5 Severability.** If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.
- 8.6 Further Assurances.** Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.
- 8.7 Execution by Counterparts.** This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.
- 8.8 Parties to be Served Notice.** Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

ARTICLE 9  
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Clean Energy Authority.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Party: \_\_\_\_\_