



**COMMUNITY POWER COALITION OF NEW HAMPSHIRE**

**COST SHARING AGREEMENT**

This Cost Sharing Agreement (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, \_\_\_\_, by and between \_\_\_\_\_, a subdivision of the State of New Hampshire, (“the Member”) and the Community Power Coalition of New Hampshire (“CPCNH” or “Corporation”), pursuant to the provisions of the CPCNH Joint Powers Agreement (“JPA”) (collectively, the “Parties”).

**RECITALS**

**WHEREAS**, \_\_\_\_\_ may choose to implement Community Power Aggregation (“CPA”) service to provide all-requirements electricity for its residents and businesses pursuant to New Hampshire Revised Statutes Annotated (“RSA”) 53-E, the Community Power Act, which found “*it to be in the public interest to allow municipalities and counties to aggregate retail electric customers, as necessary, to provide such customers access to competitive markets for supplies of electricity and related energy services;*”

**WHEREAS**, the Constitution of New Hampshire declares that “*Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it;*”

**WHEREAS**, CPCNH is a nonprofit all-requirements Joint Powers Agency and governmental instrumentality operating pursuant to the Joint Powers Agreement entered into by \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_, for the purpose of jointly exercising the powers granted to municipal corporations pursuant to NH RSA 33-B, NH RSA 53-E, NH RSA 53-F, and NH RSA 374-D (including, by reference, NH RSA 33) in accordance with RSA 53-A, Agreements Between Governments;

**WHEREAS**, CPCNH is jointly controlled and governed by its Members, united as a single entity to operate for the mutual benefit of the Members collectively, to promote the common good, general welfare, economic vitality, and prosperity of local communities in New Hampshire, to use the powers and authority granted by the Members to gain economies of scale and scope to launch, operate, and evolve Community Power Aggregation (“CPA”) programs, and to advance other energy and climate policies and actions on behalf of the Members; and

**WHEREAS**, CPCNH’s Joint Powers Agreement requires this Cost Sharing Agreement be entered into by all Members to ensure that the costs, expenses, debts, and liabilities directly or indirectly incurred by CPCNH on each Member’s behalf are recovered through said Member CPA’s revenues, or from grants or other third-party sources;

**NOW, THEREFORE, in consideration of mutual benefits, covenants, and considerations hereinafter set forth, CPCNH and the Member hereby agree as follows:**



## REFERENCE TABLE

|  |    |
|--|----|
| ARTICLE I PURPOSE .....  | 1  |
| ARTICLE II AMENDMENT .....   | 2  |
| ARTICLE III MEMBERSHIP .....   | 2  |
| ARTICLE IV ELECTION OF CPA MEMBER SERVICES & PROJECT CONTRACTS ..... | 3  |
| ARTICLE V COST RECOVERY COMMITMENT; LIMITATION .....                 | 3  |
| ARTICLE VI COST REPORTING & RECORDS .....                            | 4  |
| ARTICLE VII CPCNH IMPLEMENTATION COSTS .....                         | 4  |
| ARTICLE VIII CLASSIFICATION OF COSTS .....                           | 5  |
| ARTICLE IX ALLOCATION OF COSTS .....                                 | 7  |
| ARTICLE X GENERAL TERMS & CONDITIONS .....                           | 8  |
| ARTICLE XI TERM .....  | 10 |
| EXHIBIT A: COST SHARING PRINCIPLES .....                             | 12 |
| EXHIBIT B: COSTS ALLOCATION REFERENCE TABLE .....                    | 14 |
| EXHIBIT C: CPA MEMBER SERVICES FOR ELECTION BY MEMBER .....          | 15 |
| I: COMPLETE SERVICE BUNDLE .....                                     | 15 |
| EXHIBIT D: TEMPLATE COST ALLOCATION REPORT .....                     | 30 |
| EXHIBIT E: TEMPLATE REPORT GLOSSARY .....                            | 31 |
| EXHIBIT F: PROJECT CONTRACTS EXECUTED BY MEMBER .....                | 32 |

## ARTICLE I PURPOSE

The purpose of this Cost Sharing Agreement is to ensure that (i) the expenses, debts, and liabilities (“costs”) directly or indirectly incurred by CPCNH on behalf of the Member are allocated to them based upon cost causation principles, to the extent practical, and (ii) that such costs are recovered from their CPA program revenues, or revenues from grants or other third-party sources.

This Cost Sharing Agreement (i) affirms that the resolutions and articles of the Joint Powers Agreement, as applicable herein, represent a mutual and collectively beneficial approach to cost allocation, whether Members are active or withdrawn from CPCNH, (ii) obligates CPCNH to carry out cost tracking and allocation for recovery from Member CPA revenues in accordance with the methodologies and procedures herein, which are intended to ensure fairness across all Members.

Execution of this Cost Sharing Agreement is a requirement for all Members. Upon execution of this Agreement, Members may subsequently elect to take certain CPA Member Services, which are provided in Exhibit C; each Member Service requires separate execution by the Member to authorize and obligate CPCNH to provide services on behalf of the Member’s CPA.

Electing the Complete Service Bundle of CPA Member Services thereunder authorizes and delegates authority to CPCNH to, pursuant to CPCNH’s Energy Portfolio Risk Management, Rates, and Reserves policies: (i) take all actions necessary and proper to finance, launch, and operate the Member’s CPA; (ii) set rates and provide all-requirements electricity to eligible retail customers taking service within the Member’s service territory; and (iii) collect customer revenues to accrue financial reserves on behalf of the Member and recover the costs allocated to the Member’s CPA pursuant to this Agreement.



## ARTICLE II AMENDMENT

CPCNH's Joint Powers Agreement requires that the Cost Sharing Agreements between the Corporation and each individual Member be uniform in all material respects, except with regard to the scope of Member services and Project Contracts that each Member selects to participate in and pay for.

This Agreement duly provides flexibility to update and evolve the scope of services offered to all Members, for individual Member election, by permitting CPCNH to update Exhibit C for all Members, and to incorporate any Project Contracts entered into by an individual Member in Exhibit F. Similarly, Exhibit B: Cost Allocation Reference Table, Exhibit D: Template Cost Allocation Report, Exhibit E: Template Report Glossary, and the list of current CPCNH Members presented under Article III, below, may all be updated by CPCNH. Excerpts from CPCNH's Joint Powers Agreement herein are also updated upon amendment to the Joint Powers Agreement. The Corporation shall promptly distribute any such updates to all Members in a uniform manner, except that Exhibit F of each Member's Cost Sharing Agreement shall only reflect the Project Contracts, if any, entered into by each Member. The Member agrees that all such updates provided by CPCNH to the Exhibits and Joint Powers Agreement language herein shall be incorporated into and do not constitute an amendment to this Agreement.

To ensure that all other aspects of this Agreement, including the cost allocation methodologies prescribed hereunder, are similarly capable of evolving over time, and in recognition that the changeable nature of energy markets, technologies, and cost-drivers may well warrant refinements to the cost allocation methodologies herein at some point in the future, **this Agreement may be amended by a written amendment unanimously approved by the votes cast at a meeting of the Membership at which a quorum is present, provided that CPCNH's Chief Executive Officer or Chair of the Board shall send written notice of any proposed amendments to the Member Representatives and principal executive officers of each Member at least thirty (30) days prior to such meeting at which it is to be acted upon.**

The Member recognizes that, absent this mechanism, it may become impractical to otherwise amend this Agreement as the number of Members grows over time, given the requirement that the Agreement be maintained as uniform in all material respects across the Membership, and that such an eventuality would be contrary to the interest of every Member.

## ARTICLE III MEMBERSHIP

CPCNH's current Membership, pursuant to CPCNH's Joint Powers Agreement, may individually execute this Agreement and thereby jointly rely on CPCNH to finance, launch, and operate their CPA programs. The Parties acknowledge that the actual sequencing of CPA implementation may vary from these tables:

| Members that Implemented CPA program service in 2023 |                      |
|--|----------------------|
| Cheshire County                                      | Town of Exeter       |
| City of Dover  | Town of Hanover      |
| City of Lebanon                                      | Town of Harrisville  |
| City of Nashua                                       | Town of Peterborough |
| City of Portsmouth                                   | Town of Plainfield   |
| Town of Canterbury                                   | Town of Rye          |
| Town of Enfield                                      | Town of Walpole      |



| Members Intending to Implement CPA program service in 2024 |                     |                       |                     |
|--|---------------------|-----------------------|---------------------|
| Town of Durham   | City of Berlin      | City of Concord       | Town of Lyme        |
| Town of Hudson   | City of Somersworth | Town of Dalton        | Town of Newport     |
| Town of New London   | Town of Atkinson    | Town of Epping        | Town of Northfield  |
| Town of Newmarket  | Town of Barrington  | Town of Franconia     | Town of Randolph    |
| Town of Pembroke   | Town of Bethlehem   | Town of Gilford       | Town of Shelburne   |
| Town of Stratham   | Town of Boscawen    | Town of Grantham      | Town of Springfield |
| Town of Warner   | Town of Bradford    | Town of Hampton Falls | Town of Sugar Hill  |
| Town of Webster  | Town of Bristol     | Town of Hopkinton     | Town of Tamworth    |
| Town of Westmoreland                                       | Town of Campton     | Town of Kensington    | Town of Temple      |
| Merrimack County   | Town of Charlestown | Town of Loudon        | Town of Wilmot      |

## ARTICLE IV ELECTION OF CPA MEMBER SERVICES & PROJECT CONTRACTS

The CPA Member Service Agreements currently authorized by the Board are provided in Exhibit C, inclusive of any additional terms of service thereof, for elective execution by the Member. Enrollment periods during which any Members may execute a given contract for CPA Member Services offered in Exhibit C may be for pre-defined periods or open-ended, and the Board may also close enrollment in any CPA Member Service contract that was previously open-ended. During the active enrollment period applicable to any given Member Service Agreement, all executed Agreements between CPCNH and each Member that has elected the same service must be uniform in all material respects.

All of the services required to undertake and provide CPA service are initially offered as a Complete Service Bundle. The Board may authorize additional CPA Member Services, including the disaggregated services comprising the Complete Service Bundle, for Members to elect and pay for on an a la carte, elective basis thereunder. The Member agrees that, from time to time, CPCNH may update Exhibit C to modify enrollment periods for specific CPA Member Services contracts, remove CPA Member Services contracts that are no longer offered and in use by any Member, and incorporate new CPA Member Services contracts offered to all Members.

Project Contracts that an individual Member has entered into, upon execution, shall be placed into Exhibit F of the Member's Cost Sharing Agreement and incorporated by reference hereunder.

Exhibit B provides a reference table summarizing how costs shall be allocated, for all Members' ease of reference, which shall be updated by CPCNH commensurate with the removal and/or addition of any CPA Member Services to Exhibit C, or as otherwise warranted at CPCNH's discretion.

## ARTICLE V COST RECOVERY COMMITMENT; LIMITATION

Article V, Section 3 of the JPA requires that the Cost Sharing Agreement entered into by each Member “*ensure that the costs, expenses, debts, and liabilities (“Costs”) ... directly or indirectly incurred by the Corporation on such Member’s behalf are recovered through said Member’s CPA revenues, or from revenues from grants or other third-party sources.*”



The Member acknowledges and agrees that the costs directly or indirectly incurred by CPCNH on the Member's behalf shall be recovered through the Member's CPA revenues, or from revenues from grants or other third-party sources.

The debts, liabilities, and obligations of CPCNH shall not be debts, liabilities, and obligations of the Member unless and only to the extent agreed to under a Member Service contract entered into by the Member, pursuant to Exhibit C, or Project Contract separately entered into by the Member.

## **ARTICLE VI COST REPORTING & RECORDS**

This Cost Sharing Agreement puts in place a mandate for transparency regarding how costs are tracked, and allocations are computed. CPCNH will provide for the data collection, analysis, accounting, reconciliation of receipts and aging, and cost allocation between Member CPAs under the methodologies and processes set forth in this Cost Sharing Agreement. As provided for under Article IX hereunder, actual metered customer electricity consumption will be employed where consumption is the determinant of allocation, to the extent possible. However, the Member acknowledges that CPCNH's reasonable estimations of usage may need to be employed, initially and/or even permanently, depending upon the availability of actual data by Member CPA, but estimations should be subject to periodic reconciliation with actual loads when reasonably practical.

CPCNH will deliver monthly reports to each Member CPA, after it closes its books, encompassing and presenting all costs and allocations by Member. Reports will be prepared at an appropriate level of line-item granularity and will be uniform in all material respects, except with regard to the scope of CPA Member Services and Project Contracts that each Member selects to participate in and pay for. Exhibit D shall present the current report template in use by CPCNH, accompanied by the glossary in Appendix E, which shall be kept current by CPCNH for the Member's reference. Reports will be delivered and distributed to all Members by CPCNH.

Pursuant to CPCNH JPA Article XIII, *"The books and records of the Corporation shall be open to inspection at all reasonable times to each Member and its representatives."* The Member may, at any time, request detail, clarification and/or revisions of monthly reports, which shall be distributed to all Members.

## **ARTICLE VII CPCNH IMPLEMENTATION COSTS**

The funding to implement CPCNH is derived from four sources. These sources will cover the initial cost of CPCNH during the Implementation Phase, which refers to the period from the incorporation of CPCNH, on October 1, 2021, through the Start-Up Date, which shall be deemed to be the first of the calendar month in which CPCNH begins receiving customer revenues for delivery of all-requirements electricity to serve the demand of the customers of Member CPAs:

- 1) Funds provided by Members, gifts, or grants received and recorded by CPCNH as cash contributions.
- 2) Credit extended by contract to, and received by, CPCNH from vendors or banks, whether extended with interest or deferred interest cost or charged on an alternate basis.
- 3) Interest-free cash advances, grants, or loans extended by contract to, and received by, CPCNH.
- 4) Deferred compensation by vendors and contractors under contract for future payment by CPCNH, contingent upon the delivery of all-requirements electricity to serve the demand of the customers of Member CPAs.



The Member acknowledges and affirms that the cost of implementing CPCNH should not be borne solely by the customers taking service from initial Member CPAs as such costs are foundational to the benefit of all Members of CPCNH at any point. As such, the Agreement provides that:

- 1) Implementation Costs are defined as costs incurred or accrued by CPCNH during the Implementation Phase which are not directly allocatable to any one Member CPA, in that such costs would have been incurred or accrued by CPCNH irrespective of the participation of any one Member CPA, inclusive of interest or financing charges that continue to accrue on such costs subsequent to the Implementation Period, less funds received by CPCNH pursuant to (1) above.
- 2) Implementation Costs shall be equitably allocated, on an equal volumetric retail electricity usage basis, to the CPA of each Member that (i) executes this Cost Sharing Agreement and (ii) supplies all-requirements electricity to retail customers through said Member's CPA program within the five (5) year period commencing on the Start-Up Date ("Implementation Cost Recovery Period").
- 3) CPCNH intends to pay off Implementation Costs during the initial three (3) years following the Start-Up Date. Consequently, over the course of the five (5) year Implementation Cost Recovery Period, each Member CPA will receive an allocation obligation, providing for the direct payment of Implementation Costs and/or reimbursements to the Member CPAs that have already paid for the Implementation Costs, such that, at the conclusion of the five (5) year period, the sum of electricity used by retail customers taking service from each CPA over the course of the period divided into the Implementation Costs allocated to each CPA shall be equivalent on a dollar per megawatt-hour (\$/MWh) basis.
- 4) CPCNH shall maintain an internal accounting of the amount of Implementation Costs, and the allocation obligations, payments, and reimbursements of such costs, which record shall be available for inspection by Members at any reasonable time.

## ARTICLE VIII CLASSIFICATION OF COSTS

The three primary categories of costs into which CPCNH must classify all costs, pursuant to Section 3 of Article V of the JPA, are described in further detail below. Refer to Exhibit A for excerpts from the JPA regarding cost sharing principles, which are incorporated herein.

- 1) **CPA Member Services Costs** are costs related to undertaking and providing CPA service on behalf of Members. Such costs will represent the bulk of the cost that CPCNH will incur, including for the provision of:
  - a) **CPA Power Supply Costs:** costs incurred by CPCNH to secure and sell all-requirements electricity supply to serve the demand of the customers of each Member CPA, the definition and requirements of which are subject to changes in law and rules, and to engage in portfolio risk management, which includes:
    - i) The cost of electrical energy, capacity, reserves, ancillary services, transmission services (to the extent allocated to Member CPA service), transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply and meet the requirements of New Hampshire's Renewable Portfolio Standard, and financial products.
    - ii) The cost of financial products related to portfolio risk management, such as power or natural gas options, swaps, or futures contracts, Financial Transmission Rights ("FTR") obligations and options, and products to hedge non-energy cost components of the power supply portfolio.
    - iii) Additional attributable costs authorized by individual Member CPAs for any other power supply related products and services, such as for securing or purchasing Renewable Energy Credits in





excess of the requirements of New Hampshire's Renewable Portfolio Standard, or for resources that reduce the ISO-NE wholesale load obligations and/or reduce transmission cost allocations, if any, attributable to the Member CPAs, which may also generate credit for avoided transmission costs or avoided capacity costs attributable to customers and/or Member CPAs.

**b) CPA Operational Costs:** costs related to undertaking and providing CPA service on behalf of Members that are not CPA Power Supply Costs, which include but are not limited to the following:

- i) Staff, overhead, legal, banking, technical, regulatory, and financial services costs attributable to the provision of CPA service.
- ii) Financing and credit charges incurred for the provision of all-requirements electricity supply, and for operating costs hereunder, excluding those associated with any Project.
- iii) Compliance costs attributable to the provision of CPA service.
- iv) Direct costs and/or costs incurred from third-party providers under contract with CPCNH to provide services, including:
  - (1) Marketing, advertising, community engagement, and customer noticing pertaining to CPA service.
  - (2) ISO-NE Load Serving Entity (LSE) services.
  - (3) Portfolio and risk management services.
  - (4) Utility data interchange, data management, and customer billing services.
  - (5) Call center and customer engagement services.
  - (6) Local program design, administration, and/or financing.
- v) Attributable Implementation Costs of the Corporation.

**2) General and Administrative Costs** are costs incurred for the common objectives of all CPCNH Members that are not incurred specifically in connection with a particular Project, Project Contract, or Member Service. Typical costs in this category, which may be fully or partially defined as General and Administrative Costs, include:

- a) Administrative offices.
- b) CPCNH-wide financial management.
- c) Business services.
- d) Budget and planning.
- e) Personnel management.
- f) Central management information systems and operations.
- g) General management of CPCNH, such as for strategic direction and Member affairs, Board functions, accounting, procurement, and legal services; operation and maintenance expense; depreciation and use allowances; and interest costs.
- h) Attributable Implementation Costs of the Corporation.

**3) Direct Project Costs** are costs incurred for a particular Project pursuant to a Project Contract for a specific Member and/or CPA, or subset thereof, that are not allocated to General and Administrative Costs, to the extent appropriately assigned to specific projects pursuant to Section 4 of Article V of the JPA. These projects can take on many forms but carry the distinct attribute that they are defined by a specific Project Contract entered



into by Members participating in particular projects. As such, Direct Project Costs are identified by contract for recovery from the Members that are signatories to the Project Contract.

## ARTICLE IX ALLOCATION OF COSTS

Costs directly or indirectly incurred by CPCNH relating to (1) the CPA Member Services elected by the Member pursuant to Exhibit C, (2) General and Administrative Costs of the Corporation, and (3) the Project Contracts entered into by the Member, if any, will be allocated to the Member in accordance with this Article IX. Refer to Exhibit B for a reference table summarizing these costs and allocation methodologies.

- 1) **CPA Member Services Costs.** Services required to undertake and provide CPA Member Services are allocated to Member CPAs pursuant to cost causation principles, to the extent reasonably practical, as described herein.
  - a) **CPA Power Supply Costs.** Each Member will be allocated all costs incurred by CPCNH attributed to the provision of all-requirements electricity supply to the retail customers of said Member's CPA, inclusive of the cost of financial products related to portfolio risk management, as follows:
    - i) For the net costs attributable to the provision of all-requirements electricity supply to retail customers for each Member CPA:
      - (1) Where retail customer usage on a temporal and/or geographically specific basis is the determinant of costs:
        - (a) Actual metered customer electricity usage will be employed to the extent reasonably practical for each Member and to the extent such usage is used for load settlement purposes with ISO-NE ("actual usage").
        - (b) Estimated or profiled electricity usage will be employed only to the extent that actual metered customer electricity usage is not reasonably available or is not used for load settlement purposes with ISO-NE for said Member.
      - (2) Where retail customer usage on a temporal and/or geographically specific basis is not the determinant of costs, Members will be allocated net costs on a pro rata volumetric usage basis.
    - ii) For costs incurred pertaining to financial products related to portfolio risk management, net costs may be allocated either to all Members on a pro rata volumetric usage basis or to each Member based upon either their actual electricity usage, if reasonably available, or alternatively, estimated, or profiled electricity usage.
    - iii) For costs incurred pertaining to any other power supply related products and services authorized by each Member CPA, net costs will be allocated to said Member CPAs based on a reasonable determination of the cost of providing that service.
  - b) **CPA Operational Costs.** Each Member will be allocated all costs incurred by CPCNH related to undertaking and providing CPA service on behalf of said Member that are not CPA Power Supply Costs, as follows:
    - i) For costs attributable to staff, overhead, legal, banking, technical, regulatory, and financial services, costs will be allocated to all Members on a pro rata volumetric usage basis.
    - ii) For costs incurred pertaining to compliance requirements:
      - (1) Costs reasonably attributable to each Member will be allocated to said Member.
      - (2) Costs that are not reasonably attributable to any one Member will be allocated to all Members on a pro rata volumetric usage basis.





- iii) For financing and credit charges incurred for the provision of all-requirements electricity supply, and operating costs hereunder, costs may be allocated either to all Members on a pro rata volumetric usage basis or to each Member based upon their actual usage, if reasonably available, or alternatively, estimated, or profiled electricity usage.
- iv) For costs incurred from third-party providers of services under contract with CPCNH:
  - (1) Services charged based on a metric or fee structure that can be reasonably applied to an individual Member basis will be allocated to each Member on that basis.
  - (2) Services charged based on a metric or fee structure that cannot be reasonably applied on an individual Member basis will be allocated to all Members on a pro rata volumetric usage basis.

## **2) General and Administrative Costs.**

- a) Each Member will be allocated General and Administrative Costs on a pro rata basis in accordance with the following formula: Member CPA's Annual Retail Electricity Load divided by all Member CPAs' Annual Retail Electricity Load.
  - i) "Annual Retail Electricity Load" means the annual amount of metered electricity delivered to retail consumers and supplied through the Member CPA during the most recent 12 whole months.
  - ii) If less than 12 whole months of load have been supplied through the Member CPA, the calculation of a Member's Annual Retail Electricity Load shall be as follows:
    - (1) Within a CPCNH Fiscal Year, the Member CPA's allocation of General and Administrative Costs shall initially be based on a reasonable forecast provided by CPCNH of the Member CPA's load for the duration of the Fiscal Year divided by all Member CPAs' forecast Annual Retail Electricity Load for that Fiscal Year.
    - (2) After the close of the CPCNH Fiscal Year, to the extent reasonably practical, such forecasts shall be reconciled to the Member CPA's actual load over the Fiscal Year divided by the total of actual loads for all Member CPAs for that Fiscal Year.

## **3) Direct Project Costs.** Costs incurred for a particular Project pursuant to a Project Contract will be recovered pursuant to the Project Contract that governs Member cost responsibility for the Project. Nothing contained in a Project Contract shall obligate non-participating Members in any respect to the Project. If CPCNH incurs additional costs for a particular Project, then:

- a) CPCNH shall provide notice to the Project Committee in question regarding the date upon which the Project Committee must vote upon the matter of how to fully allocate such additional costs amongst participating Members, which shall be considered a Project Matter for this purpose, and CPCNH shall allocate costs pursuant to an affirmative vote by the Project Committee thereof.
- b) In the absence of an affirmative vote by the Project Committee thereof, CPCNH shall allocate such additional costs to each Member in proportion to their participation share allocation for the Project.

## **ARTICLE X GENERAL TERMS & CONDITIONS**

The Joint Powers Agreement carries with it several elements with which this Cost Sharing Agreement shall hold generally consistent but apply specifically to this Cost Sharing Agreement.

### **Limitations of Liability**



As provided for in Article XII of the JPA, *“No debt, liability, or obligation of the Corporation shall be a debt, liability, or obligation of any Member unless otherwise specified and agreed to by individual Members under a Cost Sharing Agreement or Project Contract under this Agreement.”*

### **Indemnification**

This Cost Sharing Agreement is a continuation of the authority in the Joint Powers Agreement, and as such, its indemnification language applies (By-Laws, Article 13.1):

*“Each Member (including its governing body), Member representative, Director, Officer, committee member, employee, assignee, or agent of CPCNH, (and the irrelative heirs, executors and administrators), shall be indemnified and held harmless by CPCNH against any and all claims, demands, losses, costs, penalties, expenses (including attorneys’ fees), judgments, damages and liabilities reasonably incurred by, or imposed upon them in connection with any action, suit or proceeding to which they may be made a party or with which they shall be threatened, by reason of their being, or having been, a Member, Member representative, Director, Officer, committee member, employee, assignee, or agent of CPCNH (whether or not they continue to be a Member, Member representative, Director, Officer, committee member, employee, assignee, or agent of CPCNH at the time such action, suit or proceeding is brought or threatened), arising in whole or in part, directly or indirectly from conduct in which such Member, Member representative, Director, Officer, committee member, employee, assignee, or agent has engaged in good faith. However, no such indemnification shall apply in relation to any matter involving (i) a breach of their duty of loyalty to CPCNH; (ii) acts or omission which are not in good faith or which involved intentional misconduct or a knowing violation of law; or (iii) a transaction from which the Director, Officer, Member representative, committee member, employee, assignee, or agent derived an improper personal benefit. In the event of settlement of any such action, suit or proceeding brought or threatened, such indemnification shall be limited to matters covered by the settlement as to which CPCNH is advised by counsel that such Member, Member representative, Director, Officer, committee member, employee, assignee, or agent is not liable for misconduct as such. The foregoing right of indemnification shall be in addition to any rights to which any Member (including its governing body), Member representative, Director, Officer, committee member, employee, assignee, or agent may otherwise be entitled.”*

Further, CPCNH shall, *“Defend, hold harmless, and indemnify, to the fullest extent permitted by law, each Member from any liability, claims, suits, or other actions.”* Articles of Agreement of the Corporation, Article 7.21.

### **Dispute Resolution**

This Cost Sharing Agreement affirms the dispute resolution approach defined in Article XVIII, Section 2 of the JPA, and the Member hereby agrees to extend this provision in support of the Cost Sharing Agreement:

*“The Members and the Corporation shall make reasonable efforts to settle all disputes arising out of, or in connection with, this Agreement. Before exercising any remedy provided by law, a Member or Members and the Corporation shall engage in nonbinding dispute resolution or in a manner agreed upon by the Member or Members and the Corporation. The Members agree that each Member may specifically enforce this provision, Article XVI, Section 2, Dispute Resolution. In the event that dispute resolution is not initiated or does not result in a resolution within 60 days after a written request for dispute resolution, any disputing Member or the Corporation may pursue any remedies provided by law.”*

### **Continuing Obligations: Participant Withdrawal and Obligations or Buyout Provisions**

Continuing obligations shall be pursuant to the same terms for continuing obligations as provided for under Article IV, Section 6 of the JPA:



*“Any withdrawn or terminated Member shall continue to be liable for its obligations under any Project Contract and Cost Sharing Agreement(s) for the remaining term of any such Project Contract or Cost Sharing Agreement. The Member’s equity or deficit position while a participant in any Project Contract will continue to be reflected in the records and reports of the Corporation. The Corporation may withhold funds otherwise owing to the Member or may require the Member to deposit sufficient funds with the Corporation, as reasonably determined by the Board, to cover the Member’s liability for the costs described herein. Any amount of the Member’s funds held on deposit with the Corporation above that required to pay any liability or obligation shall be returned to the Member.”*

## **ARTICLE XI**

### **TERM**

This Agreement shall be deemed to have been in effect commencing upon the date the Member became a Member of CPCNH following execution of the CPCNH Joint Powers Agreement. This Agreement shall continue in full force and effect until terminated by the earlier of (1) dissolution and liquidation of the Corporation, and distribution of any net proceeds, as provided for in Article XI of the By-Laws or (2) the later of (a) withdrawal or involuntary termination of the Member from the Corporation, as provided for in Article 4 and 5 of the JPA, subject to any continuing obligations, as provided for in Article 6 of the JPA, or (b) as otherwise specified in this Agreement.



**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized:

**MEMBER:**

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

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

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

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

ATTESTATION: \_\_\_\_\_  
*Clerk*

**COMMUNITY POWER COALITION OF NEW HAMPSHIRE**

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

*Chair of the Board of Directors*

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

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

ATTESTATION: \_\_\_\_\_  
*Secretary of the Board*

APPROVED AS TO FORM: \_\_\_\_\_  
*General Counsel to the Board*



## EXHIBIT A: COST SHARING PRINCIPLES

- a) **CPCNH's Joint Powers Agreement, Article V**, defines certain cost sharing principles, which are provided below for the Member's reference, and Sections 3-7 thereunder are expressly incorporated herein:

### ARTICLE V COST SHARING PRINCIPLES

**SECTION 1. Fiscal Year.** *The fiscal year shall be the calendar year, subject to the Board's discretion to amend the Fiscal Year. Before changing the Fiscal Year, the Board shall confer with the Treasurer and may confer with the auditor.*

**SECTION 2. Budget.** *The budget will be established pursuant to the terms reflected in the By-Laws.*

**SECTION 3. Cost Sharing Agreements.** *An agreement shall be entered into between the Corporation and each respective Member, uniform in all material respects, except with regard to the scope of Member services and Project Contracts that each Member selects to participate in and pay for, to ensure that the costs, expenses, debts, and liabilities ("Costs") directly or indirectly incurred by the Corporation on such Member's behalf are recovered through said Member's CPA revenues, or from revenues from grants or other third-party sources. Such Costs shall be classified as:*

*(a) **CPA Member Services Costs:** Costs incurred to provide the Complete Service Bundle, or such services that CPCNH offers, shall be recovered directly from Member(s) for the period they contract to receive such service(s). The Complete Service Bundle will include those services CPAs will require to undertake and provide Electric Aggregation Plans and Programs, such as: power supply procurement and management, data and billing, and customer service;*

*(b) **General and Administrative Costs:** Costs described in Article V, Section 4 are incurred for the common objectives of all Members of the Corporation, and are not incurred specifically in connection with a particular Project, Project Contract, or Member Service and shall be allocated to, and recovered from, each Member on a pro rata basis in accordance with the following formula: Member CPA's Annual Retail Electricity Load divided by all Member CPAs' Annual Retail Electricity Load; and*

*(c) **Direct Project Costs:** Costs incurred for a particular Project pursuant to a Project Contract shall be recovered directly from the Member(s) that participate in a particular Project or pursuant to the Project Contract that governs Member cost responsibility for the Project.*

**SECTION 4. General and Administrative Costs.** *General and Administrative Costs include those that have been incurred for the general operation and administration of the Corporation, and other expenses of a general character, including but not limited to Costs relating to: administrative offices that serve the Corporation; Corporation-wide financial management, business services, budget and planning, and personnel management; operations of the Corporation's central management information systems; general management of the Corporation, such as strategic direction and member affairs, Board functions, accounting, procurement, and legal services; operation and maintenance expense; depreciation and use allowances; and interest costs.*

*General and Administrative Costs do not include Costs that relate solely to, or are incurred by, the Corporation for CPA Member Services or as a result of any specific Project or Project Contract. The intent of the Members is to ensure that all Costs incurred by the Corporation that are directly related to CPA Member Services will only be paid by the Members receiving such services or for any specific Project will be paid only by the Project Participants of that specific Project. As such, when an activity or cost generally*



*included within the General and Administrative Cost category benefits CPA Member Services, a specific Project or Project Contract, or is performed or budgeted for a specific Project or Project Contract, an appropriate adjustment shall be made to assure that the proper portion of the Cost of such activity is categorized and allocated as CPA Member Services costs to a Member receiving such service, or as a Direct Project Cost to the Project Participants, subject to Cost allocation under the applicable Project Contract. The Members intend that all Costs of the Corporation that are not directly assigned for recovery to CPA Member Services, a specific Project or Project Contract will be recovered as General and Administrative Costs.*

**SECTION 5. Member Advances, Contributions and Repayment.** *Upon the request or approval of the Board, any Member may make payments, advances, or contributions to the Corporation for any and all purposes set forth herein, and may contribute personnel, equipment or property, in lieu of other contributions or advances, to assist in the accomplishment of one or more of such purposes. All such payments, advances or contributions, whether in cash or in kind, shall be made to, and may be disbursed or used by, the Corporation. Except as otherwise specified in contracts with Members by the Board, the approved advances will be treated as indebtedness of the Corporation and shall be payable and repaid as such.*

**SECTION 6. Refunds.** *No Member that withdraws or is terminated shall be entitled to a refund of any payments made in connection with General and Administrative Costs.*

**SECTION 7. Funding of Initial Costs.** *Any Members that have funded activities necessary to implement the Corporation may request that the Board consider reimbursing said Members for said costs over a reasonable time period and shall provide such documentation of costs paid as the Board may request.*

- b) **CPCNH's Articles of Agreement**, under the Joint Powers Agreement, provide for the powers of the Corporation that are expressly incorporated herein, including, as follows:

**7.13** *Incur debts, liabilities, and obligations, provided that all debts, liabilities and obligations shall be non-recourse to any and all of the Members unless expressly agreed to by such Members through a Member's Cost Sharing Agreement or Project Contract as those terms are defined in the JPA;*

**7.14** *Issue revenue bonds and incur other forms of indebtedness including but not limited to loans from private lending sources, pursuant to NH RSA 33-B, RSA 53-E, RSA 53-F, and RSA 374-D, provided that any such bond or debt issuance is approved by participating Members' governing and legislative bodies as required by statute.*





## EXHIBIT B: COSTS ALLOCATION REFERENCE TABLE

| Classification   | Cost Factor                                    | Allocation Method  |
|--|--|--|
| <b>General &amp; Administrative</b>                    | All Costs                                      | \$/MWh forecasts and annual true-up to pro rata share of <u>actual</u> “Annual Retail Electricity Load” (JPA defined term) |
| <b>Direct Project</b>                                  | Costs identified in Project Contracts          | As specified in Project Contracts  |
|  | Unanticipated Costs                            | As directed by Project Committee vote; alternatively, Member Project Contract participation share %                        |
| <b>CPA Member Services</b><br><i>Power Supply</i>      | All Requirements Electricity                   | Member CPA actual cost   |
|  | Net Hedging                                    | \$/MWh (across all CPAs) <u>or</u> actual cost (for each CPA)  |
|  | Optional / Opt-Up Products                     | Member CPA actual cost   |
| <b>CPA Member Services</b><br><i>Operations</i>        | Allocated Staff, Overhead & Misc. Svc          | \$/MWh   |
|  | Member CPA Compliance Costs                    | Member CPA actual cost   |
|  | General Compliance Costs                       | \$/MWh   |
|  | Financing and Credit Support                   | \$/MWh (across all CPAs) <u>or</u> actual cost (for each CPA)  |
|  | Portfolio & Risk Management Services           | \$/MWh   |
|  | ISO-NE Load Serving Entity (LSE) Services      | \$/MWh   |
|  | Marketing & Community Services                 | \$/MWh   |
|  | Customer Notifications                         | \$/Notice  |
|  | Data Management & Billing Services             | \$/Meter   |
|  | Call Center & Customer Services                | \$/Meter   |
|  | Local Program Design, Admin & Finance          | \$/MWh (across all CPAs) <u>or</u> actual cost (for each CPA)  |
| <b>CPA Member Services</b><br><i>Elective Services</i> | Additional services as authorized by the Board |  |



## **EXHIBIT C: CPA MEMBER SERVICES FOR ELECTION BY MEMBER**

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### **I: COMPLETE SERVICE BUNDLE**

**AS AUTHORIZED BY THE BOARD OF DIRECTORS ON DECEMBER 27, 2022  
AND UPDATED ON MAY 25, 2023**

**WITH CERTAIN IMMATERIAL CHANGES APPLIED  
PURSUANT TO ARTICLE II - AMENDMENT**

**MEMBER ENROLLMENT PERIOD: OPEN**



**COMMUNITY POWER COALITION OF NEW HAMPSHIRE**  
**CPA MEMBER SERVICES CONTRACT: COMPLETE SERVICE BUNDLE**

This CPA Member Services Contract (“Contract”) is made and entered into this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, (“Effective Date”) by and between \_\_\_\_\_ a subdivision of the State of New Hampshire, (“the Member”) and the Community Power Coalition of New Hampshire (“CPCNH” or “Corporation”), pursuant to the provisions of the CPCNH Joint Powers Agreement (“JPA”) (collectively, “Parties”).

**RECITALS**

**WHEREAS**, \_\_\_\_\_ desires to implement Community Power Aggregation (“CPA”) service to provide all-requirements electricity for its residents and businesses pursuant to New Hampshire Revised Statutes Annotated (“RSA”) 53-E, the Community Power Act, which found “*it to be in the public interest to allow municipalities and counties to aggregate retail electric customers, as necessary, to provide such customers access to competitive markets for supplies of electricity and related energy services*”;

**WHEREAS**, CPCNH is a nonprofit all-requirements Joint Powers Agency and governmental instrumentality operating pursuant to the Joint Powers Agreement entered into by \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, for the purpose of jointly exercising the powers granted to municipal corporations pursuant to NH RSA 33-B, NH RSA 53-E, NH RSA 53-F, and NH RSA 374-D (including, by reference, NH RSA 33) in accordance with RSA 53-A, Agreements Between Governments;

**WHEREAS**, CPCNH is jointly controlled and governed by its Members, united as a single entity to operate for the mutual benefit of the Members collectively, to promote the common good, general welfare, economic vitality, and prosperity of local communities in New Hampshire, to use the powers and authority granted by the Members to gain economies of scale and scope to launch, operate, and evolve CPA programs, and to advance other energy and climate policies and actions on behalf of the Members;

**WHEREAS**, the Cost Sharing Agreement between \_\_\_\_\_ and CPCNH permits \_\_\_\_\_ to enter into agreements for CPCNH to provide certain CPA Member Services, and ensures that the costs, expenses, debts, and liabilities directly or indirectly incurred by CPCNH on \_\_\_\_\_’s behalf are recovered through \_\_\_\_\_ Community Power’s CPA program revenues, or from grants or other third-party sources;

**WHEREAS**, \_\_\_\_\_ adopted an Electric Aggregation Plan on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and desires CPCNH to finance, launch, and operate a CPA on its behalf;

**WHEREAS**, this Contract for the Complete Service Bundle shall be inclusive of all services, expertise, and financial support that \_\_\_\_\_ Community Power requires to “*undertake and provide Electric Aggregation Plans and Programs, such as: power supply procurement and management, data and billing, and customer service*” in accordance with to Section 3(a) of Article V of the JPA; and

**WHEREAS**, \_\_\_\_\_ hereby endorses and adopts CPCNH’s Data Security and Privacy Policy, Energy Portfolio Risk Management Policy, Retail Rates Policy, and Financial Reserves Policy, as may be amended from time to time by CPCNH’s Board of Directors, to provide for the security of individual customer information, procurement of all-requirements electricity supply, price risk management, prudent budgeting and rate setting, and the collection of financial reserves by CPCNH on \_\_\_\_\_’s behalf for the term of this Contract.



**NOW, THEREFORE, in consideration of mutual benefits, covenants, and considerations hereinafter set forth, CPCNH and the Member hereby agree as follows:**

## **ARTICLE I**

### **Purpose**

**1. Definition.** The Complete Service Bundle, pursuant to Section 3(a) of Article V of the Joint Powers Agreement (“JPA”), is inclusive of all services, expertise, and financial support that Member CPAs require to “*undertake and provide Electric Aggregation Plans and Programs, such as: power supply procurement and management, data and billing, and customer service*” (hereafter, the “Services”).

**2. Purpose.** The Board of Director’s (“Board”) overarching purpose, in offering the Complete Service Bundle, shall be to achieve a greater financial benefit for every Member collectively than any one Member would be able to achieve individually, by creating and sustaining: (i) public oversight, transparency, and unbiased expert advice to decision-makers regarding operations and planning; (ii) administrative cost efficiencies and business model innovations; (iii) a sustainable balance, and equitable consideration, between short-term cost-savings and long-term fiscal stability; (iv) powerful representation at the New Hampshire legislature and Public Utilities Commission, including on matters regarding market-enabling reforms and infrastructure investments that impact the Membership’s energy future; and (v) the acceleration and development of cost-effective local programs, advanced rate structures, new customer services, and local energy project developments that create new financial value and resiliency for participating Members, at the community-level, and for customers, in terms of their total energy costs, including by lowering transmission and generation capacity charges in addition to wholesale energy purchases.

**3. Endorsement.** By executing this Contract, the Member endorses this collective purpose for the Services.

## **ARTICLE II**

### **Decision-Making Framework**

**1. Acknowledgement.** The Member acknowledges that (i) efficient administration imposes limitations to individual Member choice, (ii) procurement and rate setting will present inherent trade-off decisions, (iii) collective decision-making must therefore be relied upon to satisfy and balance the divergence of the Members’ prioritization of competing objectives over the short- to long-term, and (iv) achieving the above-stated purpose therefore requires a decision-making framework to define which decisions must be made collectively versus left up to each Member.

**2. Establishment of Decision-Making Framework.** The Member hereby endorses and adopts CPCNH’s Data Security and Privacy Policy, Energy Portfolio Risk Management Policy, Retail Rates Policy, and Financial Reserves Policy (“Policies”), which, in conjunction with and pursuant to the Joint Powers Agreement, establishes an appropriate framework that balances the Member’s individual versus collective decision-making considerations regarding CPCNH’s provision of services under this Contract.

Appendix A summarizes how the framework is intended to function during initial implementation of the Member’s CPA, specifically identifying which decisions will be made collectively, and where the Member may make or delegate certain key decisions, including regarding: (i) choice of whether to procure power initially on the Member’s behalf, (ii) choice of rate products offered to the Member’s customers, (iii) choice of collecting additional financial reserves for the Member’s sole use, and (iv) choice of termination of this Contract, before and after enrollment of the Member’s customers.

**3. Amendment of Decision-Making Framework.** The Member agrees that the Policies are integral to CPCNH’s provisions of Services under this Contract, to provide for the security of individual customer information,



procurement of all-requirements electricity supply, price risk management, prudent budgeting and rate setting, and the collection of financial reserves on behalf of participating Members. The Member acknowledges that the Board or the Membership of CPCNH may amend the Policies from time to time, and that the Member, pursuant to the Joint Powers Agreement, may observe, inform, and/or participate directly on the Board and in committee decision-making processes relevant to the provision of the Services. The Member agrees that CPCNH shall update this Contract to reflect any amendments to CPCNH policies, which shall be incorporated herein and not constitute an amendment to this Contract.

Appendix B summarizes the Policies and amendment procedures and is provided for the Member's reference. Current Policies are available to the Member upon request and are publicly available on CPCNH's website.

### **ARTICLE III** **Limitation of Member Liability**

The Member is not liable for the debts, liabilities, or obligations incurred by CPCNH to provide the Services under this Contract.

### **ARTICLE IV** **Delegation of Authority & Commitment to Act**

**1. Delegation of Authority.** The Member hereby expressly authorizes and delegates authority to CPCNH, with immediate effect, to act as an agent of the Member in all circumstances and capacities required to provide the Services as contemplated under this Contract.

**2. CPCNH Commitment to Act.** CPCNH shall take all actions required to provide for the timely delivery of the Services, including by: ensuring effective community engagement and customer noticing, completion of registration requirements with utilities, and compliance with statutory and rule requirements to the provision of CPA service; negotiating and executing contracts for credit support and all-requirements electricity to satisfy the Member's load obligations and manage price risk; setting rates to satisfy the Member's revenue requirements and obligations under this Contract; arranging for revenues received from utilities and CPA customers to be deposited into CPCNH's secured revenue account and pledged to CPCNH's financiers and supplier counterparties; providing for general administration and oversight of the Services; and accruing and tracking financial reserves on behalf of the Member.

**3. Member Commitment to Act.** The Member agrees to take and perform all acts required to effectuate the delegation of authority to CPCNH as contemplated herein, including by promptly making all necessary filings with any Governmental Authority or Electric Distribution Utility upon CPCNH's request. If requested by CPCNH, the Member shall assist CPCNH in obtaining information regarding the Member's customers from the Electric Distribution Utility. The Member agrees to provide to CPCNH all data, including reports, records, and other information, in the Member's possession, or cause to be provided data not in the Member's possession, which may reasonably facilitate the timely performance of the Services described hereunder.

### **ARTICLE V** **Professional Ability & Service Contracts**

CPCNH relies upon qualified service providers, consultants, and personnel to provide the Services jointly, at a beneficial economy of scale, across all Member CPAs. Services will be performed by qualified staff, contractors, consultants, Member Representatives, and/or volunteers, as determined by the CPCNH Board of Directors or its designee, and carried out in a competent, professional, and satisfactory manner, in accordance with the standards prevalent in the industry and any applicable policies adopted by the Board.



The Member acknowledges and accepts that the extent of CPCNH's services under this Contract are predicated on (i) contracts CPCNH has executed with service providers hired through competitive solicitations and (ii) CPCNH's internal capacity, including staff capacity.

CPCNH's current contracts with service providers and consultants are available through CPCNH's website and are listed in Appendix C.

## **ARTICLE VI**

### **Electric Aggregation Plan**

**1. Acknowledgement.** The Member acknowledges that the terms and requirements of the Member's Electric Aggregation Plan may prevent CPCNH from being able to commence provision of some or all the Services.

**2. Mutual Commitments.** CPCNH commits to promptly review the Member's Electric Aggregation Plan to assess any impact on CPCNH's provision of Services and to identify and recommend any prudent or necessary amendments. The Member commits to promptly consider adoption of any such amendments. During the term of this Contract, the Parties will coordinate on, and the Member may seek CPCNH's advice regarding, any amendments to their Electric Aggregation Plan and shall strive to align any amendments thereto with the common interest and intent of this Contract, the underlying Services, and consistent with applicable statutes or regulations or with CPCNH's provision of the Services.

## **ARTICLE VII**

### **Term; Procurement and Termination Elections; Financial Reserves**

**1. Term.** The term of this Contract shall commence on the Effective Date and expire upon the termination of the Services as set forth herein.

**2. Termination Prior to Commencement of Procurement.** The Member may elect to terminate this Contract with immediate effect by submitting written notice to CPCNH, provided that CPCNH has not authorized entering into transactions for power on behalf of the Member's CPA.

**3. Election to Delay Initial Procurement.** The Member's Authorized Officer, if authorized hereunder, may elect to delay commencing procurement on behalf of the Member's CPA during the Risk Management Committee meeting convened to authorize the first transactions entered into by CPCNH on the Member's behalf, provided that such election is made prior to the vote authorizing such procurement.

The Committee shall call for any such elections by the Member to be made verbally, after review and discussion of current market conditions and corresponding rate forecasts, and prior to the Committee's vote on whether to authorize procurement. Verbal elections made at the meeting by the Authorized Officer shall be immediately considered effective by CPCNH and promptly followed by written confirmation from the Authorized Officer to CPCNH and the Member's Principal Representatives.

**4. Notice of Termination before and after First-Year Operations.** CPCNH's Energy Portfolio Risk Management Policy provides that *"hedging shall not extend beyond 36 months from the date that CPCNH first begins providing electricity service to CPA customers, until one year from that date."* After the first year of operations, CPCNH may authorize entering into forward hedging transactions extending up to 36 months out, on a rolling basis, to serve the collective load of all Member CPAs taking Service.

At any time during the 12-month period after the initial launch of CPCNH's power supply service, commencing on the date when CPCNH first supplies electricity to the retail customers of any Member CPA, the Member may submit written notice to terminate the Services on the first day of the month thirty-six (36) months following the date when CPCNH first supplied electricity to the retail customers of any Member CPA.





At any time after the 12-month period after the initial launch of CPCNH's power supply service, the Member may terminate this Contract by submitting written notice at least thirty-six (36) months in advance of the termination date.

**5. Early Termination after Commencement of Service.** The Member may also, submit notice that it wishes to terminate this Contract at an earlier date than as provided for above. Upon receipt of such notice, CPCNH shall promptly assess and inform the Member of the minimum waiting period under which the Member would have no costs for withdrawal. Costs of withdrawal at an earlier date include, but are not limited to, losses from the resale of power contracted for by CPCNH to serve the Member CPA's load. The waiting period will be set to the minimum duration such that there will be no costs transferred to the remaining Members that have elected the Services.

Alternatively, the Member may elect to terminate this Contract during the waiting period, provided that the Member first deposits sufficient funds with CPCNH, as reasonably determined by CPCNH and approved by a vote of the Board of Directors, to cover the Member's liability for the costs described above. The Member may elect to use its allocated share of Joint Reserves or its Discretionary Reserves, collected on Member's behalf and held by CPCNH, for this purpose.

**6. Return of Allocated Joint Reserves.** After the effective date of the Member's termination of this Contract, any amount of the Member's allocated share of Joint Reserves above that which is required to pay any costs incurred by CPCNH through the date of termination on behalf of the Member shall be allocated back to the Member for use as Discretionary Reserves, pursuant to CPCNH's Financial Reserves Policy.

**7. Additional Provisions for Members Operating Pursuant to County Plans or Joint Powers Agreements.**

A Member operating a CPA jointly pursuant to RSA 53-A or a county plan hereby acknowledges and commits that: (i) each municipality and/or county participating in the CPA will only withdraw or otherwise depart from the CPA subject to the provisions and requirements herein, or as otherwise reasonably proposed by the Member and approved by a vote of the Board of Directors, provided that, in both cases, no costs incurred by CPCNH as a consequence of the withdrawal or departure shall be transferred to the remaining Members that have elected the Services; and (ii) if any municipality and/or county participating in the CPA withdraws or otherwise departs in violation of this Contract, then the Member's CPA will be allocated the costs incurred by CPCNH.

If a municipality of a Member operating a CPA pursuant to a county plan or a municipality and/or county of a Member operating a CPA jointly pursuant to RSA 53-A (each such municipality and/or county, an "entity" hereunder) intends to withdraw or otherwise depart from the Member's CPA, then:

- a) If the entity is withdrawing or departing to implement its own CPA, or to participate in another CPA, as a Member that has elected to continue CPCNH's provision of Services hereunder:
  - i. CPCNH shall determine the share of Joint Reserves and/or Discretionary Reserves ("reserves" hereunder) deemed to have been accrued by the Member on the entity's behalf as: (1) an amount equal to (A) the Member's current reserves multiplied by (B) the Member's reserves accrued in each prior month period multiplied by the ratio of the metered electricity supplied through the Member that was, within each same prior month period, (x) delivered to retail consumers within the municipal boundaries of the entity and (y) delivered to all of the Member's retail consumers, added together and then divided by the sum of the Member's reserves in all prior month periods; or (2) alternatively, a lesser amount determined by the Member in accordance with all applicable contractual obligations between the Member and the entity; and
  - ii. CPCNH shall, after the transference of eligible retail consumers to the entity's successor Member CPA, allocate the Joint Reserves and Discretionary Reserves determined above to that Member.



- b) Alternatively, if the entity is withdrawing or departing to implement its own CPA, or to participate in another CPA, but not as a Member that has elected to continue the provision of Services hereunder, then the provisions of Section 4, 5, and 6 shall govern the termination of Services for the entity and shall be applied as though the entity were itself an individual Member CPA, except that:
- i. The Member shall be exclusively relied upon, and responsible, to submit notice and act promptly on the entity's behalf thereunder;
  - ii. CPCNH shall conclusively rely upon the Member's written instructions in all instances thereof; and
  - iii. Reserves deemed to have been accrued by the Member on the entity's behalf shall be (1) determined pursuant to Section 7(a)(i) above, (2) applied to satisfy the entity's obligations pursuant to Sections 4, 5, and/or 6, at the Member's direction, and subsequently, (3) after payment of all costs incurred by CPCNH through the date of termination of Services provided on behalf of the entity, allocated and disbursed by CPCNH to the Member CPA to distribute or apply for the benefit of the entity in accordance with applicable law, regulation, and any contractual obligations between the Member and the entity.

## **ARTICLE VIII**

### **Authorized Officer for Member Service Decisions**

1. **Authorized Officer.** The Member may designate an Authorized Officer to take specific actions, as defined in Section 2: Authorizations below, on behalf of the Member pursuant to this Agreement and the Policies. The Member's Authorized Officer, as specified in the Member's Electric Aggregation Plan, or otherwise delegated authority by the governing body hereunder, is:

| Title | Name | Phone | Email |
|-------|------|-------|-------|
|       |      |       |       |

The Member's Principal Executive Officer may specify a new Authorized Officer by submitting written notice by electronic mail to CPCNH's Principal Representative, which shall be promptly acknowledged and effective thereof, and such updates to this Contract shall not be considered an amendment.

2. **Authorizations.** The Authorized Officer may act on behalf of the Member to instruct and authorize CPCNH only on the matters and to the extent explicitly authorized by the Member hereunder. The Member hereby delegates the following authorities to the Authorized Officer to act on the Member's behalf (specify "yes" or "no"):

- a) Pursuant to Article VI, Section 3, the Authorized Officer may elect to delay commencing procurement: \_\_\_\_;
- b) Pursuant the Retail Rates Policy, the Authorized Officer may specify default and optional products: \_\_\_\_; and
- c) Pursuant to the Retail Rates Policy, the Authorized Officer may set Discretionary Reserve adders: \_\_\_\_.

3. **Disclaimer.** CPCNH shall have no liability to the Member for actions taken in reliance on authorizations or instructions received by the Authorized Officer as contemplated hereunder or in compliance with the Policies. Until such time as the Member instructs CPCNH in writing that the individual above, if any, is no longer an "Authorized Officer" hereunder, CPCNH shall have no duty to inquire as to the authority of such Authorized Officer to provide the authorizations or instructions in connection with the Services.

4. **Alternatives.** If an Authorized Officer is not identified hereunder, or if CPCNH is at any time unsure as to the identity of the Authorized Officer hereunder, or regarding a decision on any matter for which the Member has not delegated authority to the Authorized Officer under Section 2: Authorization, CPCNH may request written instructions from the Member's Principal Executive Officer, or the Member's governing body, pursuant to any



applicable Policy, as to the course of action to be adopted by CPCNH. CPCNH shall be entitled to conclusively rely upon such written instructions thereof.

## **ARTICLE IX**

### **Principal Representatives**

The Member's Principal Representatives, for purposes of communicating with CPCNH on any matter associated with the performance of the Services set forth hereunder, in addition to the Authorized Officer, shall be:

| <b>Title</b>                | <b>Name</b> | <b>Phone</b> | <b>Email</b> |
|-----------------------------|-------------|--------------|--------------|
| Member Representative       |             |              |              |
| Alternate Representative    |             |              |              |
| Principal Executive Officer |             |              |              |
|                             |             |              |              |

CPCNH's Principal Representative, for purposes of communicating with the Member on any matter associated with the performance of the Services set forth hereunder, shall be CPCNH's Chief Executive Officer, or in the absence thereof, the Chair of the Board of Directors.

| <b>Title</b>           | <b>Name</b>    | <b>Phone</b> | <b>Email</b>   |
|------------------------|----------------|--------------|--|
| Acting General Manager | Henry Herndon  | 781-439-2177 | <a href="mailto:Henry.Herndon@CommunityPowerNH.gov">Henry.Herndon@CommunityPowerNH.gov</a>     |
| Board Chair            | Kimberly Quirk | 978-844-1755 | <a href="mailto:Kimberley.Quirk@CommunityPowerNH.gov">Kimberley.Quirk@CommunityPowerNH.gov</a> |

The Parties shall update the Principal Representatives identified in this section by submitting written notice by electronic mail to the other Party, which shall be promptly acknowledged, and such updates shall not be considered an amendment to this Agreement.

## **ARTICLE X**

### **Amendments**

Article IV of the Cost Sharing Contract requires that "*all executed [Member Services] Agreements between CPCNH and each Member that has elected the same service must be uniform in all material respects*"; any material amendments to this Contract are subject to approval and incorporation by all Members that have executed Member Services Contracts for this Complete Service Bundle. CPCNH may update Appendices, and this Contract to incorporate any amendments to the Policies hereafter, neither of which constitute an amendment to this Contract.

## **ARTICLE XI**

### **Attestation of Signing Authority; Execution**

The Member has taken and performed all acts necessary and has received all necessary authorizations and approvals required to enter into this Contract and to bind the Member to the terms herein. The Member has attached a resolution of its governing body authorizing the execution of this Contract by the authorized signatory below, and any other authorization documents thereof. The authorized signatory represents that (i) this is a true, complete, and accurate list of all such necessary authorizations, approvals, actions and filings, (ii) the Member has provided true, complete, and accurate copies of the authorization documents to CPCNH as of the Effective Date, and (iii) other than the authorization documents, there are no other authorizations, approvals, filings or other actions required for Member to enter into this Contract, perform its obligations hereunder, and delegate authority to CPCNH to perform the Services.



**IN WITNESS WHEREOF**, the Parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized:

**MEMBER:**

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

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

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

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

ATTESTATION: \_\_\_\_\_

*Clerk*

**COMMUNITY POWER COALITION OF NEW HAMPSHIRE**

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

*Chair of the Board of Directors*

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

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

ATTESTATION: \_\_\_\_\_

*Secretary of the Board*

APPROVED AS TO FORM: \_\_\_\_\_

*General Counsel to the Board*

**Authorization Documents:**

1. Resolution of the Member's governing body authorizing the signatory's execution of this Member Service Contract, inclusive of all individuals named and duly empowered hereunder.
2. The Member's Approved Electric Aggregation Plan.
3. If operating a CPA jointly pursuant to RSA 53-A or a county plan: resolutions enabling participation in the CPA from all municipality and/or county governing bodies.



## Appendix A

### Decision-Making Framework: Member CPA Implementation

This Appendix summarizes how the decision-making framework for the Complete Service Bundle is intended to function during initial implementation of the Member's CPA. It identifies which decisions will be made collectively, and where the Member may make or delegate certain key decisions, including regarding: (i) choice of whether to procure power initially on the Member's behalf, (ii) choice of rate products offered to the Member's customers, (iii) choice of collecting additional financial reserves for the Member's sole use, and (iv) choice of termination of this Contract, before and after enrollment of the Member's customers.

Activities and decision-making are presented with reference to applicable Policy, in approximate sequential order:

#### **Pursuant to this Contract:**

1. CPCNH will assist or provide for the Member's public engagement efforts to market the program in advance of customer enrollment, and work with the Member to finalize marketing materials. The Member will receive a program logo, a content-populated website hosted on a Dot Gov address as follows: [Member].CommunityPowerNH.gov, and template marketing materials including FAQs, flyers, two-pagers, and public presentation decks.
2. The Member's committees, staff, and other individuals involved in the Member's public engagement will be provided with a Public Engagement Campaign handbook, offered training in media and public engagement, and provided direct support to carry out an effective campaign in advance of launch, including for the purpose of carrying out the public meeting required after customer notifications are sent.
3. CPCNH will complete all required utility testing and registration requirements, meet other statutory and rule requirement obligations, implement customer service functions, such as Interactive Voice Recording and live-agent call center services, and design, print, mail, and process customer opt-in and opt-out notices sent on behalf of the Member.

#### **Pursuant to the Energy Portfolio Risk Management Policy, or, as noted, pursuant to this Contract:**

4. The decision of whether or not to procure power, by commencing the execution of hedges in advance of the target launch date for any new Member CPAs, is a collective decision made by the Risk Management Committee. The decision is informed by then-current market conditions and the forward-looking analysis and advice of CPCNH's service provider for procurement, price risk forecasting and analysis, and portfolio management.
5. Under this Contract, the Member (1) may terminate this Contract, at any time, before CPCNH has first authorized procurement on behalf of the Member, and (2) may choose to designate an Authorized Officer to elect to delay commencing procurement on behalf of the Member's CPA. The Authorized Officer's election must be made during the Risk Management Committee meeting convened to consider authorizing the first transactions entered into by CPCNH on behalf of the Member, after review and discussion of current market conditions, transaction offers, and corresponding rate forecasts, and prior to the Committee vote.
6. Depending upon market conditions and transaction offers, CPCNH may procure sufficient power on the same day, or the Risk Management Committee may decide to authorize transactions for multiple transaction types, terms, and volumes, on a rolling basis for a period of time, in order to seek price advantages. Regardless, CPCNH will procure and cover its open positions to comply with the Hedge Ratios defined in the Energy Portfolio Risk Management Policy. (Hedge ratios are covered positions expressed as a percentage of load, calculated as fixed price purchases and supply resources divided by forecasted load; maintaining CPCNH's minimum and maximum hedge ratios provides a framework to manage market risk, by limiting CPCNH's net open exposure while allowing flexibility in procurement to maintain competitive rates over time.)
7. After procurement has concluded, rates will be calculated and set at a level that ensures the revenues from Member CPA customers are projected to meet or exceed CPCNH's ongoing operating and capital costs, inclusive of financial reserve targets pursuant to the Financial Reserves Policy.



**Pursuant to the Retail Rates Policy, or, as noted, pursuant to this Contract:**

8. Prior to rate setting, the Risk Management Committee and Finance Committee shall each convene at least one public meeting to provide for deliberation and public input regarding changes to default rates. The CEO (or in the absence of the CEO, the Risk Management Committee, in consultation with the Finance Committee), will then recommend rates to the Board for approval. Advance written notice of Board meetings at which default rates are proposed shall be sent by the CEO or Board Chair to the Member's Principal Executive Officer.
9. The Member may then, in advance of or during the meeting at which rates are approved by the Board, elect to offer different rate products to its customers on a default and opt-in basis, per the framework summarized below:
- a) CPCNH shall offer the following rate products and contents to all Members:

| PRODUCT              | CONTENT *                        | MEMBER ELECTIONS               |
|----------------------|----------------------------------|--------------------------------|
| <b>Granite Basic</b> | Minimum RPS Content <sup>1</sup> | Default, opt-down/in, or N/A** |
| <b>Granite Plus</b>  | 33% Renewable or Carbon Free     | Default, opt-up/in, or N/A**   |
| <b>Clean 50</b>      | 50% Renewable or Carbon Free     | Opt-up/in or N/A               |
| <b>Clean 100</b>     | 100% Renewable or Carbon Free    | Opt-up/in or N/A               |

\* Specified percentages are minimums (floors).

\*\* One of these two products must be offered as Default Service.

- b) The Member's governing body, or if designated hereunder, the Member's Representative or an alternative Authorized Officer acting on the Member's behalf, may elect:
- i) Whether to offer "Granite Basic" or "Granite Plus" as a default product, by customer class or as otherwise determined by the Board and will be advised on the cost implications of such elections by CPCNH's CEO (or Board Chair). Absent any election, "Granite Basic" shall be set the Member's default product. If the Member elects "Granite Plus" as their default product, they may also elect to offer "Granite Basic" as an opt-down choice for customers seeking the most affordable rate product. Absent any election, "Granite Basic" shall be offered as an opt-down/in product.
  - ii) Whether to offer "Clean 50" and/or "Clean 100" as opt-up/in products. Absent any election, "Clean 50" and "Clean 100" shall be offered as opt-up/in products.
  - iii) Whether to increase their CPA's rates to include an adder for the accrual and use of Discretionary Reserves, which are financial reserves accrued and allocated for the Member's sole use pursuant to the Financial Reserves Policy.
- c) The Member acknowledges that (i) CPCNH may be unable to offer the ability to collect Discretionary Reserves during the initial months of operations following the launch of CPCNH's first Member CPAs, due to system implementation timeline constraints, (ii) the Member's elections are subject to approval by CPCNH's CEO, or in the absence of the CEO, the Board Chair, in advance of or during the meeting at which changes to default rates are approved by the Board.
10. Thereafter, CPCNH's Board and Committees will undertake a variety of activities pursuant to Energy Portfolio Risk Management Policy, Retail Rates Policy, and Financial Reserves Policy designed to ensure continuously monitoring and effective management of CPCNH's power portfolio and rate setting process. The Member may observe, inform, and/or participate directly in these decision-making processes on Board and committees pursuant to the Joint Powers Agreement. The Member will also regularly be afforded the option to decide upon rates in the manner provided for above, in all subsequent rate setting periods, pursuant to the Retail Rates Policy.

<sup>1</sup> Minimum RPS Content: 23.4% (2023); 24.3% (2024); 25.2% (2025); future Minimum RPS Contest pursuant to state law.





- 11.** The Member may elect to terminate this Contract subject to advance notice and satisfaction of obligations thereof, as provided for under this Contract.



## **Appendix B**

### **CPA Launch Process: Member Elections & Collective Decision-Making**

CPCNH's Data Security and Privacy Policy, Energy Portfolio Risk Management Policy, Retail Rates Policy, and Financial Reserves Policy are summarized below, along with amendment procedures, for reference.

Current Policies are available to the Member upon request and publicly available on CPCNH's website.

#### **1. Data Security and Privacy Policy.**

CPCNH's Data Security and Privacy Policy defines the specific goals, requirements, and controls necessary to safeguard the confidentiality, integrity, and availability of confidential individual customer information, in compliance with RSA 53-E:4 (Regulation) and RSA 53-E:7 (Aggregation Program); RSA 363:38 (Duties and Responsibilities of Service Providers) and RSA 363:37 (Definitions); and RSA 359-C:20 (Privacy Policies for Individual Customer Data) and RSA 359-C:19 (Definitions); inclusive of procedures that require counsel review of any enacted changes to RSA 359-C (the New Hampshire Right to Privacy Act), RSA 91-A (Access to Governmental Records and Meetings), RSA 363:37-38 (Privacy Policies for Individual Customer Data), RSA 53-A:3 (Agreements Between Government Units, and RSA 53-E (Aggregation of Electric Customers by Municipalities and Counties) or other related statutes that may necessitate, in future, modifying or altering, or otherwise risk negating, the policy.

*Note that Members must necessarily comply with applicable statutory and rule requirements prior to accessing individual customer information held in confidence by CPCNH on their behalf.*

The Board of Directors may amend the policy by resolution at any time.

#### **2. Energy Portfolio Risk Management Policy.**

CPCNH's Energy Portfolio Risk Management Policy outlines the philosophies and objectives of the CPCNH Board of Directors in governing and making decisions necessary to provide the credit support, portfolio analytics, hedging, and daily operating activities required to implement and operate Member CPA power supply services. The Board must approve amendments to the EPRM Policy.

Advance written notice of Board meetings at which changes to the policy are proposed shall be sent to the principal executive officers of each Member by the CEO or Board Chair. Subsequently, any such amendment shall be sent to the principal executive officers of each Member by the CEO or Board Chair.

Pursuant to the policy, CPCNH's Risk Management Committee is responsible for ensuring the development and maintenance of CPCNH's Energy Portfolio Risk Management Regulations ("EPRM Regulations") to expand on the roles, strategies, controls, and authorities authorized in the policy to form a comprehensive energy risk management program. After the EPRM Regulations are initially approved by the Board, the regulations may be amended with approval of the CEO, in consultation with the RMC, provided that the CEO sends prompt written notice to the Board of any such amendments.

The Member may directly participate on CPCNH's Board of Directors and Risk Management Committee pursuant to the Joint Powers Agreement.

#### **3. Financial Reserves Policy.**

CPCNH's Financial Reserves Policy establishes minimum, target, and maximum levels of cash reserves that will be jointly accrued, used, maintained, and monitored by CPCNH, on behalf of all Members ("Joint Reserves"), and provides for the collection of Joint Reserves in excess of the maximum target joint reserve level to be applied at the discretion of individual Members ("Excess Reserves"). Separately, the policy allows for the collection and use of additional reserves at the sole discretion of each individual Member ("Discretionary Reserves").



The Board of Directors may, by resolution, modify or suspend any provision of the policy for any duration at any time, except that the provisions under the section governing amendments and the section “Rights of Members to Reserve Contributions” may only be modified or suspended by a written amendment unanimously approved by the votes cast at a meeting of the Membership at which a quorum is present. In the event such an amendment is proposed, CPCNH’s CEO or Board Chair shall send written notice to the Member Representatives and principal executive officers of each Member at least fourteen (14) days prior to such meeting at which it is to be acted upon. Subsequently, prompt written notice of the effective date of such amendment or suspension shall be sent to the Member Representatives and principal executive officers of each Member by the CEO or Board Chair.

#### **4. Retail Rates Policy.**

CPCNH’s Retail Rates Policy outlines the requirements, objectives, rate setting authorities, rate setting processes, Member rate product and Discretionary Reserve adder election procedures, and different types of rate structures, products, and product content offered to the Member hereunder.

The CEO, in consultation with the Risk Management Committee and the Finance Committee, or in the absence of the CEO, the Risk Management Committee, in consultation with the Finance Committee, shall recommend default rates to the Board for approval with sufficient notice to be implemented commensurate with regulated default utility rate changes, or otherwise as deemed necessary to support the requirements and objectives of the policy. The Risk Management Committee and Finance Committee shall each convene at least one public meeting to provide for deliberation and public input regarding changes to default rates. The Member acknowledges that CPCNH’s Board is required to approve, when necessary to maintain the financial integrity of CPCNH, emergency rate adjustments. Prompt written notice of emergency rate adjustments shall be sent to the principal executive officers of each Member by the CEO, or in the absence of the CEO, the Board Chair.

The Member may directly participate on CPCNH’s Board of Directors, Finance Committee, and Risk Management Committee pursuant to the Joint Powers Agreement.

The Board of Directors must approve amendments to the Retail Rates Policy. Advance written notice of Board meetings at which changes to the policy are proposed shall be sent to the principal executive officers of each Member by the CEO. Subsequently, prompt written notice of the effective date of such amendment shall be sent to the principal executive officers of each Member by the CEO.



## **Appendix C**

### **CPCNH Service Contracts**

CPCNH's current contracts with all service providers and consultants are accessible online, under "Key Documents" at:

<https://www.cpcnh.org/about>



## **EXHIBIT D: TEMPLATE COST ALLOCATION REPORT**

[Insert upon commencement of CPA service]



## **EXHIBIT E: TEMPLATE REPORT GLOSSARY**

[Insert upon commencement of CPA service]





## **EXHIBIT F: PROJECT CONTRACTS EXECUTED BY MEMBER**