

CALIFORNIA FISHERMEN'S RESILIENCY ASSOCIATION

1118 6th St.
Eureka, CA 95501

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Draft Agreement for Submarine and Subsea Fiber Optic and Electrical Transmission Cable Projects

November 16, 2023

Revised - December 17, 2023

This Agreement is between submarine and subsea cable representatives, developers and operators of submarine and subsea cable projects (hereafter known as developers) and the California Fishermen's Resiliency Association Inc., (hereafter known as the CFRA, a 501 c 6 California Mutual Benefit Corporation) This agreement between developers and the CFRA is for the following purposes:

1. To establish that the CFRA will function as the "Point of Contact" between Developers and the California Commercial Fishing Industry.
2. To promote long term beneficial cooperation between the developers of marine cable projects and the established California commercial fishing industry.
3. To enlist the efforts and considerations of individual commercial fishermen and commercial fishermen's associations to minimize interactions with, and damage to, submarine, subsea and covered cables crossing commercial fishing grounds through the exercise of best practices, including timely reporting of any concerns and/or incidents involving cables listed in this agreement.
4. To minimize and mitigate "to a level of insignificance" potential disruptions of commercial fishing activities on fishing grounds by the planning, survey, installation, operation, and decommissioning of cables listed in this agreement.

5. To provide “proof of compliance” within the State of California permitting requirements and conditions and U.S. Federal Guidelines for cable developers concerning all aspects of marine cable development projects as permitted

RECITALS

WHEREAS, the parties acknowledge that commercial fishing activities are coastal dependent uses receiving the highest priority under the California Coastal Act, and the Federal Coastal Zone Management Act, the continued viability of which is of critical importance to maintain historic fishing activities along the California Coast to the long term benefit of Coastal fishing communities and the public interest, and

WHEREAS, California Senate Bill 286, passed on June 5, 2023, codifies in state law the requirement for a “statewide strategy for ensuring the offshore wind energy projects avoid and minimize impacts to ocean fisheries to the maximum extent possible, fully mitigate unavoidable impacts, and fairly compensate persons engaged in commercial fisheries....for economic impacts to ocean fisheries resulting from offshore wind energy projects”.

WHEREAS, the developers have applied to the California State Lands Commission (SLC), the California Coastal Commission (CCC) and to the United States Army Corp of Engineers, in addition to other state and federal agencies having continuous jurisdiction there over (hereinafter “Government Agencies”) for approval to construct, install, continue, maintain and remove cable networks along the California Coast, (hereinafter “Cable Projects”), and

WHEREAS, California’s limited fishing grounds and commercial fishing port infrastructure are of continuing increasing value to fishermen, coastal fishing environmental justice communities and the public interest, and

WHEREAS, the parties acknowledge that the commercial fishing industry, represented by the CFRA, is subject to substantial economic pressures, is vulnerable to a range of regulatory, economic, and spatial impacts and that the cumulative effects of offshore projects coupled with these other pressures may negatively impact qualified members of the CFRA, and

WHEREAS, the permitting agencies of the State of California have required the following conditions for the permitting and operation of submarine, subsea, and covered cables on California's Community Fishing Grounds, including fishing gear replacement,

Fisheries Mitigation Funding and greater coastwide inclusivity for fishermen and fishermen's associations through the CFRA membership for the management of cable agreements with developers via CFRA Regional Management Committees and

WHEREAS, the Developer(s) has determined it to be appropriate and has voluntarily agreed to provide compensation to the CFRA to mitigate the anticipated effects of the projects(s) on the qualified members of the CFRA, and

WHEREAS, it is the intent of this Agreement to provide an enforceable Agreement and the Developer(s) acknowledges that entering into this Agreement with CFRA, the CFRA members are relying on the good faith and representations by the Developer(s) within the State and Federal waters of California.

Now, therefore the CFRA and Developer(s) agree as follows:

Article 1. General Provisions

Clarification - This CFRA agreement involving the CFRA Member Associations addresses cable projects north of the Monterey/San Francisco Areas. It does not supersede existing cable agreements. Paid for by Ocean Protection Council grant funding, it is a publicly available non-copyrighted document. This agreement is part of a statewide strategy to address impacts of offshore developments to permitted and protected commercial fishing activities.

Section 1 - Regional Management Committee Formation

- A. The CFRA, operating under the terms and conditions of the CFRA bylaws in conjunction with this agreement, shall form a Regional Management Committee (RMC) within thirty days following the execution of this agreement between Developer(s) and the CFRA. The purpose of the RMC is to jointly manage all aspects of this agreement for the entire lifespan of the cable projects(s).
- B. Each RMC shall consist of a minimum of five (5) fishermen and a maximum of seven(7) fishermen members. At least one(1) member shall be an officer of the CFRA. At least two(2) members shall be CFRA Board Members with voting membership in the CFRA, that are located in the geographic region of the cable projects(s) (both East/West and Coastal cable projects). Up to four (4) additional members shall be port fishing association members chosen by those port fishing associations in the geographical region(s) affected by the cable projects(s). If the

Board finds the need to establish a regional Management Committee in an area, region, port or California County where:

- a. There exist no qualifying member port association as per section 3.2:
 - b. The member port association has less than a 90% membership of local port fishermen:
 - c. The Board determines that diverse, important or emerging fisheries are under-represented within the member port association area:
- C. The Board, may, at its sole discretion, enlist, recruit, and/or solicit nominations from individual non-association fishermen with residential status in the affected area or county and who operate their fishing business within the affected port or region, and cause the formation of a Regional Management Committee consisting of a minimum of five fishermen members and a maximum of seven fishermen members. At least one member shall be an officer of the CFRA and at least two members shall be CFRA Board Members of fishing associations, with “voting member” (status) membership in the corporation that are located in or near the geographic region or county(s) affected by the anticipated Cable Project and the anticipated impacts that the FCIA is designed to address. Up to four additional members may be non-port association individuals qualifying under this section and elected to the Regional Management Committee by a three quarter vote of the CFRA Board of Directors.
- D. RMC developer membership — Each RMC shall have at least one, and up to two cable project managers employed directly by the cable development company responsible for representing the cable developer(s) in any given region through which a cable project traverses. Each individual development company is entitled to one vote on the RMC. The developer(s) seats are not open to developer’s subcontractors, agents, or proxies. Each regional management committee administering a cable project agreement(s), may, at the committee’s pleasure, include one non-voting RMC position representing a State of California Agency directly involved with the permitting of cable projects
- E. A quorum for a Regional Management Committee shall consist of five out of the total seven regional management committee fishermen members.
- F. Regional Management Committee Term Limits
- a. CFRA officers serving on Regional Management Committees are limited in term as per Section 4.3 - Selection and Tenure of Office.
 - b. Individuals qualifying under section 4.17 or individuals chosen by port fishing associations in the geographical region or county(s) affected by the FCBA shall each serve three year terms with a maximum term limit of twelve years without interruption. Any Regional Management Committee member may be removed under Section 4.6 “Removal of Directors by the CFRA Board of Directors.

Section 2 - Purpose of Regional Management Committees

The CFRA Board shall appoint, by resolution, Regional Management Committees for the following purposes:

- A. To manage all aspects of each industry-to-industry Fishing Community Impact Agreement for the entire lifespan or term of the agreement so negotiated, subject to review for compliance with CFRA bylaws and protocols.
- B. As per section 4.17 of the CFRA bylaws, Regional Management Committees are required to keep accurate minutes of each meeting of the committee and are responsible to the Board of Directors to submit and archive all meeting minutes for public access.
- C. The RMC will provide an annual report to the CCC, SLC and the CFRA Board of Directors detailing the RMC's activities in the management and disbursement of resiliency funding, changes in cable operations and ownership, damage to, or decommissioning of cable projects and other items pertinent to these cable agreements.
- D. To administer any and all mitigation funds received in connection with the FCIA's negotiated by the regional committee, within the CFRA grant disbursement guidelines as established by the CFRA Board of Directors. The funds shall be used to create long term resilience in Coastal Fishing Communities. These may include:
 - a. Improve or replace commercial fishing infrastructure, including ice and cold storage, docks, slips, fuel facilities, haul out facilities, gear storage, and fuel, ice, and federal fisheries observers subsidies
 - b. Finance industry meetings, socioeconomic reports, operational expenses of commercial fishermen's organizations, training programs for new entrants, local seafood promotion, safety grants, and community outreach
 - c. Finance fishery science products, fisheries management participation, experimental fishing proposals
 - d. The funds shall be distributed as per CFRA protocols and guidelines established by the CFRA Board of Directors.

Section 3 - Commercial Fishing Industry Improvement Fund

Each Developer shall annually deposit a fee per cable as per the Mitigation Assessment Schedule, into a special fund for enhancement of commercial fisheries and the commercial fishing industry and support facilities. This payment obligation shall commence and the first payment shall be due within thirty (30) days of the Developer receiving final approval from all agencies of the State of California and all local agencies for a cable project. Full payment per cable, shall be required for the calendar year in

which final approval is received. Annually thereafter, each Developer shall deposit funds as per the Mitigation Assessment Schedule per cable into the Commercial Fishing Industry Improvement Fund, or as directed by the RMC, within 30 days of receipt of an invoice from the RMC, which shall be issued at the beginning of each calendar year.

Lease applications for projects in addition to those projects specified, shall constitute new projects for the purpose of this paragraph. For each cable installed as part of a new project, the Developer shall annually contribute an additional per cable fee to this fund as per the Mitigation Assessment Schedule.

In the event that any mitigation intended for the commercial fishing industry is ordered by action of a governmental agency, the payment of such ordered mitigation shall offset funds required to be paid pursuant to this paragraph.

Section 4 - Regional Management Committee Funding

- A. The developer(s) shall fund a RMC Office fund to be used to pay for the reimbursement of RMC activities, and RMC representatives as approved by the CFRA/RMC. Developers shall deposit the sum of \$60,000 to the fund within thirty (30) days of receipt of invoice from the CFRA following the permitting of each cable project as defined by Section 3.0
- B. For each calendar year, following the receipt of the initial \$60,000 payment to the CFRA for each cable project, each cable project administered by this agreement shall be assessed its share of the actual budget for all RMC activities.
- C. Annual Budget. The Board shall establish an annual budget for all RMC activities to be paid from the RMC Office Fund. The organizational budget shall include reasonable amounts for the activities described in this agreement. Accounting control procedures shall be developed by a Humboldt County based certified public accountant selected by the CFRA Board.
- D. The RMC shall appoint a standing committee (the Administrative Budget Committee). The Administrative Budget Committee will meet prior to the fiscal year and will determine the amounts needed to fund the annual office administrative expenses (hereinafter called the "Administrative Budget"). The Administrative Budget Committee will present the Administrative Budget to the RMC. When approved, fifty percent (50%) of the approved Administrative

Budget will be invoiced to the Developers as their interests appear. At mid-year, the Administrative Budget Committee will meet again to affirm the Administrative Budget or recommend adjustments (either up or down) to the RMC. When approved, the remainder of the approved Adjusted Administrative Budget will be invoiced to the Developers .

- E. Compensation for RMC Activities. RMC Commercial Fishing Industry and Association Representatives shall be compensated out of the RMC Office fund for time and travel expenses reasonably incurred for approved committee activities, including attendance at RMC meetings. The rebate of compensation shall be Sixty Dollars (\$60) per hour, capped at no more than Six Hundred Dollars (\$600) per day plus reasonable travel
- F. Commercial Fishing Industry and Association Representatives' Compensation and Attorney's Fees for Negotiating Agreement. RMC Fishing Industry and CFRA Representatives shall be compensated out of the RMC Office Fund for time and travel expenses reasonably incurred to achieve execution of this Agreement at rates and in amounts approved by the RMC . The time charges and expenses reasonably incurred by an attorney or attorneys representing the Commercial Fishing Industry and/or the CFRA in the preparation and review of this Agreement shall be paid directly by the Developer upon receipt of written invoice submitted to cable companies.
- G. RMC Office. Office expenses reasonably incurred and approved by the RMC to carry out Committee activities shall be paid out of the RMC Office Fund.
- H. Liaison Officer. The RMC shall develop procedures to select, hire and oversee a Committee Liaison Officer to carry out Committee activities and establish and run an office as deemed necessary and approved by the RMC . The Liaison Officer shall be paid out of the RMC Office Fund at rates and in amounts approved by the Committee (see qualifications)
- I. RMC Procedures. The Committee shall establish policies and procedures, to review claims, to publicize and advance the goals of this Agreement and to conduct other activities consistent with the provisions of this Agreement.
- J. Fishing Vessel Operating Procedures. The RMC has established operating procedures, which shall be followed by Fishermen to guide operation of commercial fishing vessels in the vicinity of cables. The procedures address requirements for up-to date charts and navigational aids, a prohibition of fishing

over cables known to be exposed and procedures to follow if forward motion stops or fixed fishing gear becomes unretrievable. The procedures include reasonable measures that the vessel operator may employ to avoid damage to the cable. A copy of the Operating Procedures adopted by the Committee is attached and incorporated as Exhibit E.

Section 5 - Definitions

- A. “Covered Cables” — A “Covered Cable” or “subsea cable” for the purpose of this Agreement is one cable installed, maintained, operated and/or removed from the seafloor from mean higher high tide to the 1000 fathom offshore curve that may be buried in soft bottom sediments up to a depth of one (1) meter but also may be subject to exposure and/or suspension on or above the seabed.
- B. A “Submarine Cable” for the purpose of this agreement is a cable installed, maintained, operated and/or removed from the marine water column (suspended) or in contact with the seabed surface.
- C. Cable Project — A “Cable Project” for the purposes of this Agreement is the design, permitting, installation, operation, maintenance, and/or removal of one (1) subsea cable or (1) submarine cable and its components including but not limited to shoreside landing vaults, landing pipes, landing pipe exits, signal regenerators, floating or fixed substations, and cable crossing the seafloor from mean higher high water to the 1000 fathom depth curve and/or traveling parallel to the coast and includes but not limited to the employment of survey vessels, cable ships, guard vessels, on-board observers, cable burial equipment, ROV and cable survey equipment and cable removal equipment. Please note: Installation of multiple landing pipes does not constitute a cable project. Cable Projects are defined by the installation operation or removal of one Covered Cable or Submarine Cable only.

Section 6 - Cable Project Mitigation Assessment Rates — For the purposes of this agreement, mitigation assessment rates are for submarine, subsea and covered cable projects installed, operated, maintained and removed by the developer for the transmission of data and/or electrical energy across community commercial fishing grounds in depths shallower than one thousand (1000) fathoms along the California Coast.

1. History of cable assessments in California — In 1999, cable projects permitted in the Central Coast areas of Morro and Avila Bays required, as a permit condition, a “Fishing Agreement” between commercial fishermen’s organizations and cable developers. Contained in the Central Coast Agreement (which this agreement is

founded on) are provisions for long term mitigation fees to be used for the improvement and resiliency of commercial fishing communities. The two Central Coast developers (AT&T and what became Verizon) offered a \$100,000 per year mitigation fee per cable for their cables traversing 50 nautical miles of community fishing grounds. This 1999 rate of \$100,000 per year is equivalent to \$2000 per nautical mile of cable length across fishing grounds inside of 1000 fathoms of depth. The U.S government “cost of living” adjustment (COLA) rate from 2000 to 2021 is 2% per annum. Based on government COLA adjustment rates, the 2021 dollar equivalent mitigation fee assessment is \$156,000 per annum for a 50 mile cable project or \$3120 per nautical mile.

2. Cable Project Mitigation Rate — This agreement establishes a. Baseline assessment rate of \$156,000 per 50 nautical mile for each cable project in calendar year 2021 (or a per mile rate of \$3120). Each additional calendar year assessment after 2021 is subject to an annual upward adjustment of the government COLA rate of 2% which equates to \$50.00 per nautical mile per year. Hence, a cable project permitted in the year 2026 would be assessed at the following rate per nautical mile:

2021 = \$3120/nautical mile

2026 = Five additional years at \$50.00 per nautical mile or \$250.00 +

\$3120 = \$3370/ per year/per nautical mile

Below is a table of the cable assessments rates

Year	Rate per nautical mile/\$
2021	3120
2022	3170
2023	3220
2024	3270
2025	3320
2026	3370
2027	3420
2028	3470
2029	3520
2030	3570
2031	3620
2032	3670
2033	3720
2034	3770
2035	3820
Etc...	

Section 7 - Cable Installations, Inspection and Information

(a) Each Developer shall have its Covered Cables installed at a depth of 1.0 meters beneath the seabed where feasible. In shallow water areas close to shore, the Covered Cables will be installed in a conduit. Each Covered Cable is intended to be buried to the extent reasonably possible and to remain buried, except in locations where due to geophysical constraints that is infeasible. Each Developer shall examine the seafloor and subsurface within reasonable proximity to the intended cable route to determine routes with ideally less than 5% cable exposure due to hard ground, rock seabed or other features which prohibit burial between three miles from shore and 1,000 fathom water depth. Each Cable Company shall consult with the RMC, pursuant to paragraph (g) regarding the timing and method of construction and installation of its cable project. Video equipment on the plow shall be used to record the burial operation. This shall serve as evidence of burial and will also indicate if the need exists to carry out post lay burial operations using an ROV. In all instances, the most modern technology in general commercial use shall be utilized in the cable burial process including Remote Operated Vehicle ("ROV") inspected for problematic regions immediately following installation, and ROV post-lay burial as required. In all "crossings" of its Covered Cables over existing undersea cable or pipelines, each Cable Company shall employ the latest industry standard protection techniques, and ROV and/or diver inspection shall be utilized as required. If any length of cable or cable-crossing cannot be completely buried after the inspection and burial procedure, the precise location will be identified in "asbuilt" coordinates provided by the Developer to the Fishermen. In the course of any repair or maintenance, the Covered Cable shall be buried to the extent possible to the same depth as it originally was buried. It is the intent of the parties to achieve the Cable Projects' objectives with minimal impacts upon the viability of the commercial fishing industry and minimal effects upon the extent and historic areas in which the commercial fishing industry is able to operate, and the practices and procedures used by the commercial fishing industry.

(b) Installation Observation and Guard Ship Assignments.

(i) An observer selected by the RMC as described below shall be on board the Cable Company installation vessel to observe cable installation within the Covered Area. The observer's reasonable fees and expenses shall be paid by the Developer involved in the installation. The compensation shall be in addition to any funds provided in Sections 1.01(f) and 1.07 of this Agreement. The rate of compensation shall not exceed One Thousand Dollars (\$1,000) per day, plus reasonable travel expenses.

(ii) The RMC shall equip the observer with a laptop computer and GPS equipment or other portable devices that will permit the observer to record the approximate position of the cable being installed. Approximate Cable position information recorded by the observer shall be distributed to the commercial fishing industry by the RMC as quickly as reasonably possible. The Developer shall bear no responsibility for the accuracy of the approximate information recorded by the observer. The RMC shall inform recipients of the approximate position information that the information is not the responsibility of the Developer but is being provided by the RMC. Recipients shall be required to sign a release in which they agree to use the information at their own risk and to release the RMC, the observer and the Developer from any and all claims that may arise from the use of the information.

(iii) The RMC shall obtain from the Developer the requirements applicable to any fisherman observer. The Committee shall compile a list of all bottom contact fishermen doing business in The area impacted by the project who wish to be considered for observer duty and who meet the requirements of the developer. The list shall indicate the range of water depth within which each individual has the greatest fishing experience. Names shall be listed in random order, except that all individuals with previous experience as an observer shall be listed randomly after all individuals without such prior experience. When a Developer is required by this Agreement to have a fisherman observer aboard a cable vessel, the Developer shall inform the RMC where and when an observer may board the cable ship. The RMC shall select an observer from the list compiled. Observer positions shall be offered to individuals experienced in the water depth range in which the cable ship will be working in the order in which they appear on the list. To the extent that it can do so without interfering with efficient operations of the cable ship, the Developer shall change observers when convenient to the cable ship operations if the work continues outside the depth range of the initial observer. If the RMC fails to select an observer or the individual selected is not available or for any reason cannot be available to meet the operation schedule of the cable ship (such operation schedule to be determined at the sole discretion of the master of the cable ship) then the Developer shall have the option to proceed without an observer, in which case the Developer is solely responsible for providing accurate data describing the geographic location of each individual cable path.

(iv) Developers shall employ the use of guard vessels during survey, installation, maintenance and removal of cable projects . Before the start of any cable project involving the use of guard vessels, the RMC shall provide the Developers installation contractor with a list of commercial fishing vessels doing business in The area impacted by the project that agree to be available for guard vessel duty. The list shall indicate the water depth range with which the vessel has the most fishing experience and shall

include other information about the vessel's characteristics and operating status. The Developer shall encourage their contractors to select guard vessels from the RMC list in the order listed, as the contractors must employ local vessels for guard duty. The Developer shall encourage their contractors to change guard vessels from time to time and to employ vessels indicated by the RMC's list to be experienced in the depth range where the cable installation is to occur. Payment terms shall be negotiated between the contractors and the owners of the guard vessels employed.

(c) Post-Installation Information. Each Developer shall provide cable as built installations, latitude and longitude in WGS 84 datum coordinates to the Fishermen and the RMC as soon as reasonably possible after the Developer's contractor for the installation of the cable delivers the information to the Developer. This data shall be provided in writing, electronically, and on navigational charts.

(d) Post-Installation Inspections. Each Developer shall conduct ROV Burial verification to determine whether any buried sections of its Covered Cables have become exposed at such intervals as required by the Developer's California State Agency Authorizations and, after any events which may affect the Cable Project. The Developer shall accurately report to the RMC any deviation of each individual cable from its surveyed path including but not limited to displacement by storm damage, seabed scouring, and maintenance or repair of said cables. Copies of electronic storage media recording the verification shall be provided to the RMC.

(e) Unforeseen Consequences. The economic and environmental impacts of the Cable Projects and the appropriate level of mitigation shall be reviewed by the RMC after each of the first two years following the completion of installation of each Cable Project and adjusted, if necessary, for unforeseen consequences arising from the installation, assignment, operation, use, repair, replacement, continuation, and maintenance of the Cable Projects.

(f) Continuing Jurisdictions. The parties agree that all of the approving Governmental Agencies for the Cable Projects shall reserve jurisdiction to amend or modify the terms, conditions, and project mitigation measures at any time, over the useful life of the Cable Projects, and shall have jurisdiction to impose additional mitigation measures based upon the monitored actual impacts of the Cable Projects upon fisheries and/or the commercial fishing industry. Such governmental jurisdiction, and the ongoing authority of the Committee, shall include modifications of the approved projects, and amendments to this Agreement to address, consistent with the purposes of this Agreement, future fishery gear types which may be affected by the Cable Projects.

(g) Construction and installation. The timing and methods of construction and installation of the Cable Projects shall be determined in consultation with the RMC , with the goal of minimizing any adverse impacts upon the commercial fishing industry. The Developer agrees to compensate any segments of the commercial fishing industry which are damaged as a result of the acts of installing, repairing, replacing, or maintaining of the Cable Projects, or any incidental activities in connection therewith. The amount of such compensation, as well as those entitled to receive it, shall be determined by the Developer involved, implementing guidelines approved by the RMC . Such compensation shall be in addition to any funds provided in Sections 1.01(f) and 1.07 of this Agreement.

(h) Each Developer , either individually or in cooperation with other developers, shall provide and maintain a 24-hour, toll-free telephone hotline to receive calls from Fishermen who believe they have snagged their gear on a Covered Cable owned and/or operated by that Developer. Furthermore, the Developers will endeavor to include all Covered Cables on one 24-hour toll-free hotline. There shall be a representative on duty at all times who has the authority, background, and experience to advise the Fisherman whether the reported position is in the vicinity of a Covered Cable owned and/or operated by that Developer. Reporting procedures when using the hotline shall be developed by the RMC .

Section 7 - Gear Replacement Costs/Claims

Each Developer shall pay 100% of the costs of bottom contact fishing gear sacrificed by a fishing vessel as a result of being snagged on a Covered Cable owned and/or operated by that Developer, provided

1. The vessel has informed the 24-hour, toll-free telephone hotline of its situation at the time of, or immediately following being snagged and the vessel's conduct was consistent with the Fishing Vessel Operating Procedures.
2. Each Developer shall pay 100% of the costs of bottom contact fishing gear sacrificed by a fishing vessel as a result of being snagged on a Covered Cable owned and/or operated by that Developer.
3. The Developer shall also pay a premium in the amount of Fifty Percent (50%) of the value of the sacrificed gear to settle claims for loss of business incurred by the vessel.
4. The Developer shall be responsible for promptly disbursing payments for the gear replacement and costs and claims. Fishermen receiving compensation and/or reimbursement on settled claims are not to be subject to signing a

non-disclosure agreement (NDA) as a requirement by the Developer for the payment of the agreed upon settlement.

Section 8 - Cable Damage Claims/Release of Liability

(a) The Developer(s) agrees to release any claims they might otherwise have, either individually, or collectively, against individual fishermen and refrain from taking any administrative, legal, or other action to sanction and/or recover damages against Fishermen who comply with the Fishing Vessel Operating Procedures established by the RMC. The Developer(s) further agree to encourage all administrative, legal, judicial and other authorities to respect the terms and conditions of this Agreement, and the procedures established by the RMC for the resolution of any cable damage claims. The Developer(s) hereby agree to assume all liability, responsibility, and risk for any damage which may occur to their Cable Projects resulting from their inability to construct, maintain, place, and continue Covered Cables and/or submarine cables in a manner which does not interfere with fishing conducted in conformity with the Fishing Vessel Operating Procedures.

(b) A three-step procedure shall be provided for resolution of all disputes, including disputes concerning claims by a Developer for damage to its Cable Project ("cable damage claims") and disputes concerning the following claims of Fishermen: 1) claims regarding a Fisherman's entitlement to the compensation provided in Section 1.04 above for the sacrifice of fishing vessel gear to avoid injuring any Covered Cable or related facilities being constructed or operated by the Developer(s); 2) claims arising from any incident involving conduct by any Developer that negligently damages the Fisherman's fishing gear and the fish contained in such gear, and 3) claims arising from any conduct by the Developer that removes or damages, or tampers with the Fisherman's fishing gear and the fish contained in such gear without authorization from the Fisherman. Pursuant to the procedure: (1) the parties shall meet with the RMC in an effort to settle the dispute; (2) if the parties are unable to settle the dispute within a reasonable period of time with the assistance of the RMC, the parties shall request the RMC to select an independent mediator to assist in the resolution of the dispute; (3) if the parties are unable to settle the dispute within a reasonable period of time with the assistance of the mediator, the parties shall submit to binding arbitration all disputes over Fishermen's claims and any dispute over cable damage claims that the parties mutually agree to submit to binding arbitration. With respect to disputes over cable damage claims, unless the parties agree within seven days of the end of mediation to submit the dispute to binding arbitration, the Developer(s) shall be free to pursue any legal remedies available to it and the vessel owner and operator shall be free to assert any legal defenses available. Any arbitration shall be determined in Humboldt County,

California. Each party to the arbitration shall appoint an independent arbitrator. If the two arbitrators so appointed cannot agree within 30 working days after their appointment, they shall select a third arbitrator. The decision in writing of the three arbitrators, or any two of them, shall be final and binding upon the parties therein, who shall conform to and abide by said decision. If either party fails to appoint his arbitrator within seven days after notice in writing requiring him to do so, the arbitrator appointed by the other party shall act for both, his decision in writing shall be final and binding upon both parties, as if he had been appointed by consent, and both parties thereto shall conform to and comply therewith. The expenses for the process described in this paragraph (b) shall be paid by the Developer in addition to any other payments that are required under this Agreement.

Section 9 - Out-of-Service Cables

To the extent required by any governmental approvals, the Developer(s) agrees to abandon and remove out-of-service Covered Cables as necessary so as not to interfere with commercial fishing activities in the areas where such cables were previously installed

Section 10 - Term, Assignment, Choice of Law and General Provisions

A. Term and Termination. The Agreement shall become effective on _____ and shall remain in full force and effect unless or until: Notice from Developer to the CFRA that Developer has terminated the Project; _____ (other conditions for termination).

B. Assignment, Successors in Interest. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the Parties and their respective successors and permitted assigns. Developer shall be permitted to assign this Agreement, to an affiliate or subsidiary of _____ only with the express written consent of the CFRA, which shall not be unreasonably withheld. Upon any such assignment, Developer shall remain liable for all obligations of Developer under this Agreement.

C. Governing Law and Venue. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California and the United States without regard to conflict of law provisions. Venue for any disputes arising from this Agreement shall be in the Superior Courts of the State of California in _____ County.

D. Notice. All notices to either Party under this Agreement shall be in writing and shall be addressed to the affected Party at the addresses set forth below. A Party may change its address by giving notice in compliance with this section:

If to CFRA:

with copy to: Dustin E. Owens, Esq. 1118 6th Street, Eureka, CA 95501

If to Developer:

with copy to:

E. Counterparts, Facsimile Signatures. This Agreement may be executed in counterparts, each of which may be deemed an original, but all of which shall constitute one and the same document, and signatures transmitted by facsimile or email/pdf shall in all respects be treated as originals.

F. Entire Agreement. The Agreement contains the entire agreement between the Parties and supersedes any prior agreements, discussions, or commitments, written or oral, between the Parties.

G. Further Assurances. The Parties hereto agree to take such actions and execute such additional documents as are reasonably necessary to carry out the provisions of this Agreement.

H. Modification. This Agreement may not be altered, amended or modified except by an instrument in writing signed by the Parties to this Agreement

I. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, but the remainder of the provisions can be enforced without failure of material consideration to either Party, then the remainder of the Agreement shall continue in full force and effect

J. Waiver. A waiver by any Party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such Party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving

K. Independent Contractors. Each Party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower a Party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of the other Party or to bind the other Party or make any representation, warranty or commitment on behalf of any other Party. Nothing in this Agreement shall be deemed to create any form of business organization between the Parties, including, without limitation, a joint venture or partnership.

L. Attorney Fees. In the event of any dispute arising from this Agreement, the prevailing party shall be entitled to recover their reasonable attorney fees and costs.

Section 11 - No Waiver of Rights

- A. No portion or provision in this agreement shall waive the rights of the Developer, CFRA, member association and individual fishermen to comment within the

public forum on any aspect to the project, project impacts, or future cumulative impacts caused by this project or additional project developments.

- B. Signatories to this agreement and recipients of impact fees are not required to endorse any aspect of Developers project, nor are prevented from taking part in planning related to impacts avoidance, minimization or mitigation of said project
- C. No Developer has any authority, ownership, or control over activities and equipment funded by this Agreement once those fees are allocated by CFRA.
- D. No signatory to this Agreement or recipient of impact compensation shall be subject to or required to enter into any non-disclosure and/or non-disparagement agreements.

Developer

Date

California Fisherman's Resilience Association Representative

Date