Category: Structure/Mechanism/Term	Issue / Comment	Proposal / Idea
Other suggestions	Just for residential customers, can we have a four hour performance factor instead of one hour. This allows us to be flexible for recruiting hard to reach ratepayers	
Other suggestions	Can we require just a name and address and avoid the account number? Asking for account number makes it harder to engage hard to reach communities.	
12.2 Source code escrow	In practice, breaking out the "Hawaii sites only" of the cloud-based operating platform for some aggregators would be impractical if not impossible. Standing that cloud architecture up & operating it to serve Hawaii customers only would also likely be far too costly and require specialty resources, effectively re-building the cloud operations team of a company.

There is also the complication that the other value streams aggregators provide these customers would also presumably still need to be offered, i.e., the demand charge reduction service Stem provides or the islanding "backup" mode that a company like Go Electric provides – these are core to the customer's value proposition and the utility would be in a position of either continuing to support them as well, or forcing the customer to potentially continue hosting their device with diminished benefits.

Moreover, investors or project financiers who own storage assets in particular may require that the aggregator put their code in source code escrow and assign rights there to them and any future owner of the assets. Should the aggregator dissolve, source code ownership will travel with asset ownership. The Companies will not own the assets, nor be in the chain of ownership of the assets, therefore should not be in possession of the source code.

Ultimately, many aggregators will be forced to provide the second Letter of Credit here. The second letter of credit is costly and is not scaled with the size of the aggregator's nominated resource, so it may overly burden a | Source code escrow seems like double-counting with the damages associated with non-delivery of services. Damages for non-delivery should include the expected cost to the Companies of an aggregator "disappearing" for whatever cause, and not charge the Aggregator the cost of providing a second Letter of Credit under this section.

The issue of stranded assets at customer locations – and the associated concern given co-branding that customers are unhappy about this and seek remedy from the Companies – is understood. However this should be covered in the Aggregators Business Continuity Plan and any un-satisfactory remaining risk should be captured in the damages for failure to deliver services. |

12.1 Ownership of Company Data	DERC acknowledges the Companies' comments during the working group meetings that during negotiations, however, the updated GSPA has identical language to the previous version of the GSPA, so it is unclear where/if the language changes have been incorporated • the Companies' conceded discretionary enforcement mechanisms (no option to impose security agreement or LOC to ensure compliance with this term) • Protections don't apply to independently obtained company data • Flow down provision added	Incorporate the working group comments into the GSPA.
16.1 Participant Service Agreement	The terms under this category are substantially unchanged from the previous version of the GSPA and contends that a uniform Participant Service Agreement for each class of customer will impair implementation of the DR program. Equipment vendors have different offerings for the end user, such as peak shaving, resiliency, and power quality improvement. A 'one size fits all' approach to the Participant service Agreement does not accommodate these different end user offerings and will limit take up of the program.	Maintain consistency on the PSA with respect to what services are being provided to the Companies, however, allow customization in the terms that are related to services provided to the end user.
20.4 Obligations of Participants	DERC contends that dual participation does not serve the customer nor the DR program. A customer site that has an advanced water heater and battery energy storage is capable of dual participation.	Allow dual participation of assets, but only one aggregator at the meter. This will enable side agreements between the aggregator and the two asset vendors, and provide a larger uptake of DR services.
22.3 Letter of Credit	DERC acknowledges the Companies' comments during the working group meetings that during negotiations however, the terms under this category appear unchanged from the previous version of the GSPA : • Aggregator requested 5% of total contract value based on awarded amounts or $1MM, whichever is greater • 5% of total contract value based on awarded amounts or $1MM, whichever is lower • Supplier to tender LOC 60 days prior to System Integration Date Deadline	Incorporate the working group comments into the GSPA.
22.2 Security Agreement	DERC would like to call attention to the words "first priority lien" have been added to this section, after having been removed from the previous GSPA.	Change "first priority lien" to "second priority lien".

23.1 Terms and Effectiveness (5-year term)	Financiers consider the 5 year term more like a 3 year term for any new resources. The time to sell to + install new customers can be 12-18 months. This term strongly favors existing resources vs new resources; future rounds of the RFP may show the scarcity of existing resources in either limited results or higher priced bids. The DERC is also concerned that future studies of Cost Effectiveness of aggregated resources may not take an apples-to-apples view of grid services from DERs that were priced this way. I.e., assets priced based on a 3-5 year term may be compared with resources procured on 20-year or longer bulk resource PPAs (whether from fossil fuel or clean energy resources). This would result in the unfavorable – and erroneous - conclusion that DERs are not as cost effective as bulk resources	Given the reluctance on the part of the Companies to contract for more than 60 months, DERC suggests having a quarterly build / quarterly roll-off where resources that are brought online in the second year, for example, will still have 60 months to operate before rolling off. This will reduce risk to financiers that the resources don't achieve paybacks. Lower risk = lower price for the resource to the Companies. DERC believes that a percentage of DR program capacity will most likely be needed for long term system needs. We are suggesting that an amount of capacity that the Companies calculate for longer term systems needs can be tied to longer contract terms. As capacity fills up, grid services programs mature, and the grid evolves, the length of contracts beyond this initial longer term, can be reduced to avoid stranded services.
Legal, Article 12.1 – Ownership of Company Data	Need to add terms about Ownership of Vendor and Customer data	
Legal, Article 12.2 – Source Code	Code escrow is not appropriate for SaaS solutions	
Legal, Article 13.10 - Subcontractors	Our device partner relationships are different from subcontractors so need to create a new category or make clear these companies are not subcontractors in the normal sense	
Commercial, Article 22.3 – Letter of Credit	Suggest using collateral or bond for companies without credit rating	
Commercial, Article 23.1 – Term and Effectiveness	Language for termination is pretty aggressive. Supplier with have invested heavily in standing up resource so would ask for modification to "null and void" or reference to minimum payment.	
Operational, Article 27 – M&V and Article 29.1 – Telemetry Requirements	Need to further discuss M&V process for behind the meter resources like thermostat, pool pumps, EVs, etc. as it is not feasible to sub-meter each load	
Operational, Article 31 – Data Requirements	Need to revisit recognizing solutions are cloud hosted and using AWS	
12.2	Source code escrow should be required only for suppliers over a defined MW threshold, below which it is not cost justified to recreate the service at the provided power levels.	
12.2	Monetary escrow, and requirement E and F constitute an unlimited liability upon the supplier.	
16.1	Clarify that multi-family housing can be contracted as a single commercial account that does not require enrollment of each tenant separately.	
20.4(b)	For broad installation, the supplier should be able to secure from Company approval for a reference design that is acceptable such that multiple visits to participant can be avoided.	

2.22	The letter of credit, requirement to replenish, and sole discretion to access by Company are barrier to participation. Mosaic suggests suppliers below a critical threshold not be subject to this requirement.	
23.1 C	Failure of DERMS should be consistent with terms for terminate for convenience, Company pays suppliers sunk cost leading up to integration date..	
23	Timing of supplier spend and contractual obligations relative to implementation date are unclear.	
3.2	Liquidated Damages and transfer of assets appear as duplicate penalties. Please clarify relationship between them.	
3.7	To avoid penalty, supplier is likely to secure excess capacity. Such surplus capacity should be paid by Company up to a reasonable cap.	
20.6	Commercial participants likely have preferred contractors that may or may not meet the standard of conduct of Company. Supplier, with consent of participant, should be permitted to use the preferred contractors of participant as appropriate.	