

EXHIBIT A

GENERAL TERMS AND CONDITIONS OF ENERGY SERVICES AGREEMENT

These General Terms and Conditions of Energy Services Agreement are dated as of the ____ day of _____, 2022 and are witnessed and acknowledged by FFP BTM SOLAR, LLC, a Delaware limited liability company ("ForeFront Power") and County of Yolo, a political subdivision of the State of California ("Purchaser" or "County"), as evidenced by their signature on the last page of this document. These General Terms and Conditions are intended to be incorporated by reference into Energy Services Agreements that may be entered into between ForeFront Power and Purchaser or between their respective Affiliates. These General Terms and Conditions shall have no binding effect upon ForeFront Power or Purchaser, respectively, except to the extent Purchaser or ForeFront Power (or an Affiliate thereof) becomes a party to an Energy Services Agreement that incorporates these General Terms and Conditions.

1. DEFINITIONS.

1.1 In addition to other terms specifically defined elsewhere in this Agreement, where capitalized, the following words and phrases shall be defined as follows:

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

"Agreement" means, the Energy Services Agreement.

"Applicable Law" means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.

"Assignment" has the meaning set forth in Section 13.1.

"Bankruptcy Event" means with respect to a Party, that either (i) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admitted in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary case under any bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) taken any corporate or other action for the purpose of effecting any of the foregoing; or (ii) has a petition in bankruptcy filed against it, and such petition is not dismissed within ninety (90) days after the filing thereof.

"Business Day" means any day other than Saturday, Sunday or any other day on which banking institutions in New York, NY are required or authorized by Applicable Law to be closed for business.

“Commercial Operation” has the meaning set forth in Section 3.3(b).

“Commercial Operation Date” has the meaning set forth in Section 3.3(b).

“Confidential Information” has the meaning set forth in Section 15.1.

“Covenants, Conditions and Restrictions” or “CCR” means those requirements or limitations related to the Premises as may be set forth in a lease, if applicable, or by any association or other organization, having the authority to impose restrictions.

“Delay Liquidated Damages” means the daily payment of (i) \$0.250/day/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions).

“Disruption Period” has the meaning set forth in Section 4.3.

“Early Termination Date” means any date on which this Agreement terminates other than by reason of expiration of the then applicable Term.

“Early Termination Fee” means the fee payable by Purchaser to Provider under the circumstances described in Section 2.2, Section 2.3 or Section 11.2.

“Effective Date” has the meaning set forth in the preamble to the Special Conditions.

“Energy Services” has the meaning set forth in the Special Conditions.

“Energy Services Agreement” means each Energy Services Agreement (including the Schedules attached thereto) that may be entered into between ForeFront Power and Purchaser or between their respective Affiliates that incorporates these General Terms and Conditions by reference.

“Energy Services Payment” has the meaning set forth in the Special Conditions.

“Environmental Attributes” shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products.

“Environmental Documents” has the meaning set forth in Section 7.2(f).

“Environmental Law” means any and all federal, state, local, provincial and foreign, civil and criminal laws, statutes, ordinances, orders, common law, codes, rules, regulations, judgments, decrees, injunctions relating to the protection of health and the environment, worker health and safety, and/or governing the handling, use, generation, treatment, storage, transportation, disposal, manufacture, distribution, formulation, packaging, labeling, or release to the environment of or exposure to Hazardous Materials, including any such requirements implemented through Governmental Approvals.

“Estimated Remaining Payments” means as of any date, the estimated remaining Energy Services Payments to be made through the end of the then-applicable Term, as reasonably determined by Provider.

“Expiration Date” means the date on which this Agreement terminates by reason of expiration of the Term.

“Fair Market Value” means, with respect to any tangible asset or service, the price that would be negotiated in an arm’s-length, free market transaction, for cash, between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete the transaction. Fair Market Value of the System will be determined pursuant to Section 2.4.

“Financing Party” means, as applicable (i) any Person (or its agent) from whom Provider (or an Affiliate of Provider) leases the System, (ii) any Person (or its agent) who has made or will make a loan to or otherwise provides financing to Provider (or an Affiliate of Provider) with respect to the System, or (iii) any Person acquiring a direct or indirect interest in Provider or in Provider’s interest in this Agreement or the System as a tax credit investor.

“Force Majeure Event” has the meaning set forth in Section 10.1.

“ForeFront Power” has the meaning set forth in the Preamble.

“General Terms and Conditions” means these General Terms and Conditions of the Energy Services Agreement, including all Exhibits hereto.

“Guaranteed Commercial Operation Date” has the meaning set forth in Section 5 of the Special Conditions, subject to extension as set forth in Section 2.2(b).

“Guaranteed Construction Start Date” has the meaning set forth in Section 5 of the Special Conditions, subject to extension as set forth in Section 2.2(b).

“Governmental Approval” means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority, including any such approval, consent, order or binding agreements with or involving a governmental authority under Environmental Laws.

“Governmental Authority” means any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

“Hazardous Materials” means any hazardous or toxic material, substance or waste, including petroleum, petroleum hydrocarbons or petroleum products, and any other chemicals, materials, substances or wastes in any amount or concentration which are regulated under or for which liability can be imposed under any Environmental Law.

“Initial Term” has the meaning set forth in Section 2 of the Special Conditions.

“Installation Work” means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for Provider (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) at the Premises.

“Invoice Date” has the meaning set forth in Section 6.2.

“Liens” has the meaning set forth in Section 7.1(d).

“Local Electric Utility” means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises.

“Losses” means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys’ fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation).

“Material Change” in the context of the System means a change that significantly changes the size, generating capacity, technology, or the footprint of the System.

“Option Price” has the meaning set forth in Section 2.3(i).

“Party” or “Parties” has the meaning set forth in the preamble to the Special Conditions.

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.

“Pre-existing Environmental Conditions” means any: (i) violation of, breach of or non-compliance with any Environmental Laws with respect to the Premises that first existed, arose or occurred on or prior to Provider’s commencement of construction at the Premises and (ii) the presence or release of, or exposure to, any Hazardous Materials at, to, on, in, under or from the Premises that first existed, arose or occurred on or prior to Provider’s commencement of construction at the Premises.

“Pre-Installation Termination Payment” has the meaning set forth in Section 2.2(a)(ii).

“Premises” means the premises described in Schedule 1 of the Special Conditions. The Premises includes the entirety of any structures and underlying real property located at the address in Schedule 1 of the Special Conditions.

“Provider” has the meaning set forth in the Special Conditions.

“Provider Default” has the meaning set forth in Section 11.1(a).

“Provider Indemnified Parties” has the meaning set forth in Section 16.2.

“Purchase Date” means the first Business Day that occurs after the applicable purchase date set forth in Schedule 3 of the Special Conditions.

“Purchaser” has the meaning set forth in the preamble to the Special Conditions.

“Purchaser Default” has the meaning set forth in Section 11.2(a).

“Purchaser Indemnified Parties” has the meaning set forth in Section 16.1.

“Renewal Term” if applicable, has the meaning set forth in Section 2 of the Special Conditions.

“Representative” has the meaning set forth in Section 15.1.

“Security Interest” has the meaning set forth in Section 8.2(a).

“Site-Specific Requirements” means the site-specific information and requirements as may be set forth in Schedule 6 of the Special Conditions.

“Special Conditions” means each Energy Services Agreement, excluding these General Terms and Conditions.

“Stated Rate” means a rate per annum equal to the lesser of (a) the “prime rate” (as reported in The Wall Street Journal) plus two percent (2%) or (b) the maximum rate allowed by Applicable Law.

“System” has the meaning set forth in Schedule 1 of the Special Conditions.

“System-based Incentives” means any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies including, but not limited to, the subsidies in Schedule 1 of the Special Conditions and all other related subsidies and incentives.

“System Operations” means Provider’s operation, maintenance and repair of the System performed by Provider or for Provider (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) in accordance with the requirements herein.

“Term” means the Initial Term, and the subsequent Renewal Term(s), if any.

“Term Year” means a twelve (12) month period beginning on the first day of the Term and each successive twelve (12) month period thereafter.

“Termination Date” means the date on which this Agreement ceases to be effective, including on an Early Termination Date or the Expiration Date.

“WREGIS” means the Western Renewable Energy Generation Information System.

1.2 Interpretation. The captions or headings in these General Terms and Conditions are strictly for convenience and shall not be considered in interpreting this Agreement. Words in this Agreement that impart the singular connotation shall be interpreted as plural, and words that impart the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. The words “include”, “includes”, and “including” mean include, includes, and including “without limitation” and “without limitation by specification.” The words “hereof”, “herein”, and “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement. Except as the context otherwise indicates, all references to “Articles” and “Sections” refer to Articles and Sections of these General Terms and Conditions.

2. TERM AND TERMINATION.

2.1 Term. The Initial Term is as specified in the Special Conditions.

2.2 Early Termination.

(a) Purchaser may terminate this Agreement prior to any applicable Expiration Date for any reason upon sixty (60) days’ prior written notice.

(i) Except as otherwise provided in the General or Special Conditions, if Purchaser terminates the Agreement prior to the Expiration Date of the Initial Term, Purchaser shall pay, as liquidated damages, the Early Termination Fee set forth on Schedule 3, Column 1 of the Special Conditions, and Provider shall cause the System to be disconnected and removed from the Premises in accordance with Section 2.4. Upon Purchaser’s payment to Provider of the Early Termination Fee, this Agreement shall terminate automatically.

(ii) If Purchaser terminates the Agreement prior to commencement of the Installation Work, Purchaser shall pay, as liquidated damages, the Early Termination Fee set forth in Schedule 3, Column 1 of the Special Conditions or a Pre-Installation Termination Payment, whichever is lesser. The Pre-Installation Termination Payment shall be equal to the sum of (after Provider has taken action to minimize the liability of Provider and Purchaser, including returning or re-allocating already purchased equipment):

- Documented costs incurred by Provider towards the installation of the System plus twenty percent (20%) of such costs,
- Documented financing costs associated with the costs incurred by Provider towards the installation of the System up until the date of termination; and
- Documented site restoration costs, if site restoration is required by the Purchaser; and

- Any and all other documented amounts previously accrued under this Agreement and then owed by Purchaser to Provider.

Upon Purchaser's payment to Provider of the Pre-Installation Termination Payment, this Agreement shall terminate automatically.

(b) Purchaser may (i) if Provider fails to commence construction by the Guaranteed Construction Start Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed \$22.5/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions), (ii) terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee, if Provider fails to commence construction of the System by the date that is ninety (90) days after the Guaranteed Construction Start Date, or (iii) if Provider fails to achieve Commercial Operation by the Guaranteed Commercial Operation Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed \$15/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions), plus (if Installation Work had commenced at the Premises as of the date of termination) any costs reasonably incurred by Purchaser to return its Premises to its condition prior to commencement of the Installation Work. Further, Purchaser may terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee, if Provider fails to commence Commercial Operation by the date that is sixty (60) days after the Guaranteed Commercial Operation Date. The Guaranteed Construction Start Date and Guaranteed Commercial Operation Date shall be extended on a day-for-day basis if any of the following occurs: (x) notwithstanding Provider's commercially reasonable efforts, interconnection approval is not obtained within sixty (60) days after the Effective Date, provided that interconnection applications are submitted within 45 days of the later of (a) the Effective Date and (b) finalization of the System layout, (y) a Force Majeure Event occurs or for any delays by the Local Electric Utility or (z) an occurrence of any other unforeseeable event outside of Provider's reasonable control, provided that Provider makes reasonable efforts to mitigate the impact of such events on the Guaranteed Construction Start Date or Guaranteed Commercial Operation Date (as applicable). Any such extension pursuant to subsection (z) shall be subject to the approval of Purchaser which shall not be unreasonably withheld, conditioned or delayed.

2.3 Purchase Option.

(i) On any Purchase Date, so long as a Purchaser Default shall not have occurred and be continuing, Purchaser has the option to purchase the System for a purchase price (the "Option Price") equal to the greater of (a) the Fair Market Value of the System as of the Purchase Date, or (b) the Early Termination Fee as of the Purchase Date, as specified in Schedule 3, Column 2 of the Special Conditions. To exercise its purchase option, Purchaser shall, not less than one hundred and eighty (180) days prior to the proposed Purchase Date, provide written notice to Provider of Purchaser's intent to exercise its option to purchase the System on such Purchase Date. Within thirty (30) days of receipt of Purchaser's notice, Provider shall specify the Option Price, and provide all calculations and assumptions supporting said Option Price to Purchaser. Purchaser shall then have a period of thirty (30) days after notification to confirm or retract its decision to exercise the purchase option or, if the Option Price is equal to the Fair Market Value of the System, to dispute the determination of the Fair Market Value of the System. In the event Purchaser confirms its exercise of the purchase option in writing to Provider (whether before or after any determination of the Fair Market Value determined pursuant to Section 2.3(ii)), (i) the Parties shall promptly execute all documents necessary to (A) cause title to the System to pass to Purchaser on the Purchase Date, free and clear of any Liens, and (B) assign all vendor warranties for the System to Purchaser, and (ii) Purchaser shall pay the Option Price to Provider on the Purchase Date, such payment to be made in accordance with any previous written instructions delivered to Purchaser by Provider or Provider's Financing Party, as applicable, for payments under this Agreement. Upon execution of the documents and payment of the Option Price, in each case as described in the preceding sentence, this Agreement shall terminate automatically. Payment of the Option Price shall be in lieu of and instead of any payments as described in Section 2.2 hereof. In the event Purchaser retracts its exercise of, or does not timely confirm, the purchase option, the provisions of this Agreement shall be applicable as if Purchaser had not exercised any option to purchase the System.

(ii) Determination of Fair Market Value. If the Option Price indicated by Provider in accordance with Section 2.3(i) is equal to the Fair Market Value (as determined and demonstrated by supporting documentation provided by Provider) and Purchaser disputes such stated Fair Market Value within thirty (30) days of receipt of such notice from Provider, then the Parties shall mutually select an independent appraiser with experience and expertise in the Energy Services industry. Such appraiser shall have expertise and experience in valuing photovoltaic systems, resale markets for such systems and related environmental attributes, and shall act reasonably and in good faith to determine Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error; however, if Purchaser in good faith disputes the valuation made by the appraiser, Purchaser shall have the right to retract its decision to exercise the Purchase Option. The costs of the appraisal shall be borne by Purchaser if such appraisal results in a value equal or greater than the value provided by Provider pursuant to Section 2.3(i); otherwise, the Parties shall equally share such cost.

2.4 Removal of System at Expiration. Subject to Purchaser's exercise of its purchase option under Section 2.3, upon the expiration or earlier termination of this Agreement, Provider shall, at Provider's expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date but in no case later than ninety (90) days after the Termination Date. The Premises shall be returned to its original condition, except for System mounting pads or other support structures on roof-mounted systems only, and ordinary wear and tear. If the System is to be located on a roof, then in no case shall Provider's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of System (other than ordinary wear and tear). For purposes of Provider's removal of the System, Purchaser's covenants pursuant to Section 7.2 shall remain in effect until the date of actual removal of the System. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than System mounting pads or other support structures and ordinary wear and tear) at Provider's reasonable cost.

2.5 Conditions Prior to the Commercial Operation Date.

(a) In the event that any of the following events or circumstances occur prior to the Commercial Operation Date, Provider may (at its sole discretion) provide notice that it is terminating this Agreement, in which case neither Party shall have any liability to the other, including no liability on the part of Purchaser for the Early Termination Fee or Pre-Installation Termination Payment, except for any such liabilities that may have accrued prior to such termination, including but not limited to Provider's restoration of the Premises in accordance with Section 2.4:

(i) Provider determines that the Premises, as is, is insufficient to accommodate the System or unsuitable for construction or operation of the System.

(ii) There exist site conditions (including environmental conditions) or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the System as designed.

(iii) There is a material adverse change in the regulatory environment, incentive program or federal or state tax code (including the expiration of any incentive program or tax incentives in effect as of the Effective Date) that could reasonably be expected to adversely affect the economics of the installation for Provider and its investors.

(iv) Provider is unable to obtain financing for the System on terms and conditions satisfactory to it.

(v) Provider has not received: (1) a fully executed a license in the form of Exhibit A.1 of these General Conditions from the owner of the Premises (if the Purchaser is a tenant), (2) a release or acknowledgement from any mortgagee of the Premise, if required by Provider's Financing Party, to establish the priority of its security interest in the System, and (3) such other documentation as may be reasonably requested by Provider to evidence Purchaser's

ability to meet its obligations under Section 7.2(d)(ii) to ensure that Provider will have access to the Premises throughout the Term.

(vi) There has been a material adverse change in the rights of Purchaser to occupy the Premises or Provider to construct the System on the Premises.

(viii) Purchaser has determined that there are easements, CCRs or other land use restrictions, liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the System.

(ix) There has been a material adverse change in Purchaser's credit-worthiness.

(b) If any of the conditions set forth in Section 2.5(a) are partly or wholly unsatisfied, and Provider wishes to revise the information in the Special Conditions, then Provider may propose modifications to the Special Conditions for acceptance by Purchaser. If Purchaser does not accept such modified Special Conditions, Provider may terminate this Agreement as provided in Section 2.5(a) and shall restore the Premises in accordance with Section 2.4. If Purchaser accepts such revised Special Conditions, such revised Special Conditions shall be deemed an amendment of this Agreement, and this Agreement shall remain in force and effect upon execution by both Parties.

2.6 Co-Located Systems. With respect to any Systems that are co-located at the same Premises and connected to the same meter, the Parties acknowledge that the Systems are intended to be owned and operated as one integrated system, and that the Energy Services Payment (a) represents the added value of integrating the Systems to enable Provider's delivery of the Energy Services pursuant to the Agreements when needed by Purchaser, and (b) is a component part of the total consideration payable to Provider in exchange for Provider's comprehensive duties under this Agreement and the Agreement(s) related to the other co-located System(s). Accordingly, the Parties further agree (x) to treat the Systems as one integrated system for all purposes, and (y) that any right or option that is exercised with respect to the System or this Agreement, whether in respect of early termination, purchase option or otherwise, shall also be exercised with respect to the Agreement(s) related to the other co-located System(s).

3. CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Design and Construction Schedule. Within three weeks of the Effective Date, Provider shall provide Purchaser with a proposed design and construction schedule, which is subject to review and reasonable approval by Purchaser.

3.2 Installation Work. Provider will cause the System (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) to be designed, engineered, installed and constructed substantially in accordance with Schedule 1 of the Special Conditions, Exhibit D (Engineering and Construction Requirements), and Applicable Law, including but not limited to, the payment of prevailing wages as applicable, and at Provider's sole cost (unless otherwise provided to the contrary herein or in the Special Conditions). At its request, Purchaser shall have the right to review all construction plans and designs, including engineering evaluations of the impact of the System. Provider shall perform the Installation Work at the Premises between the hours of 7:00 a.m. and 7:00 p.m. in a manner that minimizes inconvenience to and interference with the use of the Premises to the extent commercially practical. County shall have the right, but not the obligation, to inspect all construction for the purpose of confirming that Provider is adhering to the specifications provided for in Exhibit D (Engineering and Construction Requirements). Provider shall be solely responsible and liable for all costs associated with ensuring that all underground and above ground utilities, lines, pipes, and existing easements are not damaged, destroyed, materially altered or modified (collectively the "Damage") during the Term as a result of or relating to design, testing, construction, repairs, improvements or upgrades to the System and related equipment and installations. If there is Damage, then Provider shall immediately or within a reasonable period of time after such Damage, remediate, repair, replace and fix any and all such Damage to the reasonable satisfaction of Purchaser.

3.3 Approvals; Permits. Purchaser shall assist Provider in obtaining all necessary consents, approvals and permits required to perform Purchaser's obligations under this Agreement, including but not limited to those related to the Local Electric Utility, any Governmental Approval, and any consents, waivers, approvals or releases required pursuant to any applicable contract or CCR. For the avoidance of doubt, when the County acts in its regulatory capacity – including, but not limited to, actions made by the County's Department of Community Development – such actions are independent of Purchaser's obligations under this Agreement and shall not be considered a Purchaser Default or Purchaser termination, change, action, liability or cost.

3.4 System Acceptance Testing.

(a) Provider shall conduct testing of the System in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by providers of Energy Services similar to those provided by the System in the United States. Provider shall provide Purchaser with reasonable advanced notice of such testing and shall permit Purchaser or Purchaser's representative to observe such testing. Purchaser's observation of such testing shall not be construed as or deemed an approval of such testing or test results.

(b) If the results of such testing indicate that the System is capable of providing the Energy Services, using such instruments and meters as have been installed for such purposes, and the System has been approved for interconnected operation by the Local Electric Utility ("Commercial Operation"), then Provider shall send a written notice to Purchaser to that effect, and the date of such notice shall be the "Commercial Operation Date".

4. SYSTEM OPERATIONS.

4.1 Provider as Owner and Operator. The System will be owned by Provider or Provider's Financing Party and will be operated and maintained and, as necessary, repaired by Provider at its sole cost and expense; *provided*, any repair or maintenance costs incurred by Provider as a result of Purchaser's negligence or breach of its obligations hereunder shall be reimbursed by Purchaser. Purchaser shall be notified at least five (5) days in advance of such maintenance, unless emergency maintenance is required or the event (a) results in a material or total loss of energy production due to a System component fault or communications of System data where production cannot be verified ("Material Event"), or (b) that causes or is reasonably likely to cause a loss of power or communications that are necessary for the safe and reliable generation of electricity by the System, and work cooperatively with Purchaser on a reasonable maintenance schedule that does not unreasonably interfere with Purchaser's operations or use of the Premises. If site access is not permitted when requested for either (a) emergency maintenance or (b) a Material Event, such delay will be considered a Purchaser Act.

4.2 Metering. Provider shall install and maintain a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy provided by the System and may, at its election, install a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy delivered by the Local Electric Utility and consumed at the Premises. Such meter(s) shall meet the general commercial standards of the solar photovoltaic industry or the required standards of the Local Electric Utility.

4.2.1 Meter Testing.

(a) Provider shall provide certificates of calibration for all meters prior to the time of their installation, no meter will be placed in service for which Provider has not provided certificates of calibration. Provider shall test or arrange for all meters to be tested in accordance with the meter manufacturer's recommendations. Provider shall bear all costs and expenses associated with each meter testing. Purchaser shall be notified at least ten (10) days in advance of such testing and shall have the right to be present during such tests. Provider shall provide Purchaser with detailed written results of all meter tests.

(b) Provider shall test or arrange for meter inspection and testing bi-annually when performing System operations and maintenance.

4.2.2 Cost of Meter Repair.

(a) If meter testing, as described above demonstrates that a meter was operating outside of its allowable calibrations (+/- 2%), then Provider will pay for the cost of repairs or replacement necessary to restore a meter to proper working order.

(b) If a meter is found to be inaccurate by more than two percent (2%), invoices for the prior six (6) months or from the last date such meter was registering accurately, whichever period is less, shall be adjusted to reconcile the discrepancy and payment for the amount of the adjustment issued by the appropriate party within 45 days, except that Purchaser shall not be obligated to pay interest on any amount found to be due because a meter was operating outside of its allowable calibration (+/- 2%).

4.2.3 Meter Data. Provider shall gather and maintain the data from all meters, including but not limited to, interval data registered at least once every fifteen (15) minutes ("Meter Data"), and shall make such Meter Data promptly available to Purchaser at Purchaser's request.

4.3 System Disruptions. In the event that (a) the owner or lessee of the Premises repairs the Premises for any reason not directly related to damage caused by the System, and such repair requires the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of Purchaser or Purchaser's employees, Affiliates, agents or subcontractors (collectively, a "Purchaser Act") results in a disruption or outage in System production, then, in either case, Purchaser shall (i) pay Provider for all work required by Provider to disassemble or move the System and (ii) continue to make all payments for the Energy Services during such period of System disruption (the "Disruption Period"), and (iii) reimburse Provider for any other lost revenue during the Disruption Period, including any lost revenue associated with any reduced sales of Environmental Attributes and any reduced System-based Incentives, if applicable, during the Disruption Period. For the purpose of calculating Energy Services Payments and lost revenue for such Disruption Period, Energy Services for each month of said months shall be deemed to have been produced at the average rate over the same month for which data exists (or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation). Notwithstanding the foregoing, Purchaser shall be entitled to exercise its rights under Section 9 (Allowed Disruption Time) of the Special Conditions.

4.4 Modifications to the System. Provider shall have no right to make a Material Change to the System design, nor attach fixtures or erect additions or structures in or upon the Premises (unless consistent with the System design) without receiving prior written approval of Purchaser and subject to all Applicable Laws and Governmental Approvals that may be required for the proposed Material Change.

5. TITLE TO SYSTEM.

5.1 Throughout the duration of this Agreement, Provider or Provider's Financing Party shall be the legal and beneficial owner of the System at all times, and the System shall remain the personal property of Provider or Provider's Financing Party and shall not attach to or be deemed a part of, or fixture to, the Premises. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use reasonable commercial efforts to place all parties having an interest in or lien upon the real property comprising the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as attaching to the System as a fixture of the Premises, Purchaser shall provide, at Provider's request, a disclaimer or release from such lien holder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing by Provider, on behalf of Purchaser, of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. If Purchaser is not the fee owner, Purchaser will, at Provider's request, use commercially reasonable efforts to obtain such consent from such owner.

5.2 Environmental Attributes And System-Based Incentives. Purchaser's purchase of Energy Services includes Environmental Attributes, but does not include System-based incentives. System-based Incentives shall be owned by Provider or Provider's financing party for the duration of the System's operating life. Purchaser disclaims

any right to System-based Incentives based upon the installation of the System at the Premises, and shall, at the request of Provider, execute any document or agreement reasonably necessary to fulfill the intent of this Section 5.2. During the Term, Provider shall establish and maintain a WREGIS sub-account to register and track renewable energy certificates (RECs) associated with generation produced by the System. Unless Purchaser prefers a different sub-account designation, RECs transferred into the WREGIS sub-account will be tagged by Provider as retired on behalf of Purchaser. Provider will provide Purchaser read-only access to the WREGIS sub-account and provide an annual report to Purchaser on the status of the RECs. Purchaser understands that if RECs are retired they cannot be used for any other purpose or be ‘un-retired.’

6. PRICE AND PAYMENT.

6.1 Consideration. Purchaser shall pay to Provider a monthly Energy Services Payment for the Energy Services provided during each calendar month of the Term as set forth in the Special Conditions.

6.2 Invoice. Provider shall invoice Purchaser on or about the first day of each month (each, an “Invoice Date”), commencing on the first Invoice Date to occur after the Commercial Operation Date, for the Energy Services Payment in respect of the immediately preceding month. The last invoice shall include Energy Services provided only through the Termination Date of this Agreement. Invoices shall state, at a minimum, (i) the amount of actual electricity produced by the System and delivered to the delivery point during the invoice period (if applicable), (ii) the rates applicable to, and any charges incurred by, Purchaser under this Agreement, and (iii) the total amount due from Purchaser.

6.3 Time of Payment. Purchaser shall pay all undisputed amounts due hereunder within thirty (30) days after Purchaser’s receipt of an invoice from Provider.

6.4 Method of Payment. Purchaser shall make all payments under this Agreement either (a) by electronic funds transfer in immediately available funds to the account designated by Provider from time to time or (b) by check timely delivered to the location designated by Provider from time to time. All payments that are not paid within fifteen (15) days of the due date (“Past Due Date”) shall bear a penalty equal to the Stated Rate multiplied by the number of days following the Past Due Date for which payment remains outstanding until the date paid.

6.5 Disputed Payments. If a *bona fide* dispute arises with respect to any invoice, Purchaser shall not be deemed in default under this Agreement and the Parties shall not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. If an amount disputed by Purchaser is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue at the Stated Rate multiplied by the number of days following the Past Due Date for which payment remains outstanding until the date paid.

6.6 Payment Not Waiver. In no event shall the making by Purchaser of any payment to Provider constitute a waiver by Purchaser of any breach of covenant, or any Default which may then exist, on the part of Provider. The making of any such payment by Purchaser while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or product or as relieving Provider from its full responsibility under this Agreement.

7. GENERAL COVENANTS.

7.1 Provider’s Covenants. Provider covenants and agrees to the following:

(a) Notice of Damage or Emergency. Provider shall (x) promptly notify Purchaser if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (y) immediately notify Purchaser if it becomes aware of any event or circumstance relating to the System or the Premises that poses a significant risk to human health, the environment, the System or the Premises. Provider shall respond expeditiously to correct any dangerous conditions it becomes aware of and shall make such corrections or

repairs to the System as provided in Section 4.1 of the General Conditions. In the event of unreasonable damage to the Premises caused by, or as the result of, the System, Provider shall, at its sole cost, repair said Premises to the condition existing prior to such damage.

(b) Governmental Approvals. While providing the Installation Work, Energy Services, and System Operations, Provider shall obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by Provider and to enable Provider to perform such obligations.

(c) Health and Safety. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Energy Services, and System Operations that shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property. All work shall be performed by licensed professionals, as may be required by Applicable Law, and in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by a majority of System integrators in the United States.

(d) Liens. Other than a Financing Party's security interest in or ownership of the System, Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the Premises or any interest therein, in each case to the extent such Lien arises from or is related to Provider's performance or non-performance of its obligations hereunder. If Provider breaches its obligations under this Section, it shall (i) immediately notify Purchaser in writing, (ii) promptly cause such Lien to be discharged and released of record without cost to Purchaser, and (iii) defend and indemnify Purchaser against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien; *provided*, Provider shall have the right to contest any such Lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such Lien from title to the Premises or that assure that any adverse judgment with respect to such Lien will be paid without affecting title to the Premises.

(e) System Condition. Provider shall take all actions reasonably necessary, including but not limited to repair and maintenance, to ensure that the System is capable of operating at a commercially reasonable continuous rate throughout the Term.

(f) Environmental Indemnification by Provider. Provider shall indemnify, hold harmless and defend Purchaser Indemnified Parties from and against all claims, pay costs and expenses, and conduct all actions required under Environmental Laws in connection with the deposit, release, or spill of any Hazardous Materials at, on, above, below or near the Premises by Provider. In no event shall Provider be responsible for the existence of any Hazardous Materials at the Premises prior to the Effective Date. Provider shall promptly notify Purchaser if it becomes aware of any Hazardous Materials, or any deposit, spill, or release of any Hazardous Materials at, on, above, below or near the Premises.

(g) Production Data. Provider shall provide Purchaser with access to System production data in electronic format, such as tabular Excel or csv with each production unit in a separate cell. Production data could be delivered monthly or by granting Purchaser access to a web portal.

(h) Health and Safety. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Energy Services, and System Operations that shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property. All work shall be performed by licensed professionals, as may be required by Applicable Law, and in accordance with solar and energy storage industry standards.

7.2 Purchaser's Covenants. Purchaser covenants and agrees as follows:

(a) Notice of Damage or Emergency. Purchaser shall (i) promptly notify Provider if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (ii) immediately notify Provider it becomes aware of any event or circumstance that poses an imminent risk to human

health, the environment, the System or the Premises. Provider shall respond expeditiously to correct any dangerous conditions it becomes aware of and shall make such corrections or repairs to the System as provided in Section 4.1 of the General Conditions. In the event of damage to Purchaser's premises caused by, or as the result of, the System, Provider shall, at its sole cost, repair said premises to the condition existing prior to such damage. If Purchaser is required to make repairs or take actions to respond to damage or an emergency due to Provider's failure to expeditiously respond, Provider shall reimburse Purchaser for all costs and expenses incurred by Purchaser. For the avoidance of doubt, the foregoing shall not apply to routine cooperation requested by Provider of Purchaser for maintenance activities that do not unreasonably interfere with Purchaser's use of the Premises (including, but not limited to, Purchaser checking the AC disconnect switch position and blocking off certain areas panel washing or inspections, as needed).

(b) Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Section, it shall immediately notify Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Provider, and shall indemnify Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(c) Consents and Approvals. To the extent that only Purchaser is authorized to request, obtain or issue any necessary approvals, Governmental Approvals, rebates or other financial incentives, Purchaser shall cooperate with Provider to obtain or issue such approvals, Governmental Approvals, rebates or other financial incentives in the name of Provider. Purchaser shall provide to Provider copies of all Governmental Approvals and CCRs applicable to the Premises, other than those obtained by Provider or to which Provider is a party.

(d) Access to Premises, Grant of License.

(i) Purchaser hereby grants to Provider a revocable non-exclusive license coterminous with the Term containing all the rights necessary for Provider to use and occupy portions of the Premises for the installation, operation, maintenance and removal of the System pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the System with the Premises' electrical wiring; *provided*, with respect to Provider's access to the Site, such license shall be limited to access during the business hours (or non-business hours if approved by the Purchaser) of the County facility where the Premises are located and during non-business hours in the event of an emergency or circumstance posing an imminent risk to human health, the environment, or the System and in a manner that minimizes inconvenience to and interference with the County's use of the Premises or business operations at the Site to the extent commercially practical. If Provider's financing structure requires that Purchaser enter into a license agreement directly with Financing Party, Provider shall enter into such an agreement which shall be in a form set forth by Provider and which contain substantially the same rights as set forth in this Section 7.2(d).

(ii) Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (x) Provider shall have access to the Premises and System during the Term of this Agreement and for so long as needed after termination to remove the System pursuant to the applicable provisions herein, and (y) neither Purchaser nor Purchaser's landlord will interfere or handle any Provider equipment or the System without written authorization from Provider; *provided*, Purchaser and Purchaser's landlord shall at all times have access to and the right to observe the Installation Work or System removal.

(iii) If Purchaser is a lessee of the Premises, Purchaser further covenants that it shall deliver to Provider, a license from Purchaser's landlord in substantially the form attached hereto as Exhibit A.1 of these General Conditions.

(e) Temporary storage space during installation or removal. Purchaser shall use commercially reasonable efforts to provide for sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and

facilities reasonably necessary during the Installation Work, System Operations or System removal, and access for rigging and material handling. Subject to Purchaser's indemnity obligations set forth herein, Purchaser shall have no liability whatsoever in connection with personal property or equipment of Provider or Provider's employees, consultants, contractors, subcontractors, and vendors. Provider shall be solely responsible for the safety and security of Provider's employees, consultants, contractors, subcontractors, and vendors, as well as any personal property, including but not limited to, any tools, materials, and equipment of such parties used or stored on the Premises.

(f) Environmental Documents. On or before the Effective Date of each Special Conditions, Purchaser shall, to the extent the same are known and in the possession or control of Purchaser, deliver to Provider copies of all reports, agreements, plans, inspections, tests, studies or other materials concerning the presence of Hazardous Materials at, from or on the Premises including, but not limited to, soil reports, design drawings, environmental reports, sampling results or other documents relating to Hazardous Materials that have been identified or may be present on, in or under the Premises (collectively, the "Environmental Documents"). Thereafter, Purchaser agrees to provide copies of any new Environmental Documents within ten (10) days of receipt of same. Purchaser hereby agrees to furnish such other documents in Purchaser's possession or control with respect to Governmental Approvals compliance with Environmental Law or Hazardous Materials with respect to the Premises as may be reasonably requested by Provider from time to time.

(g) Compliance with Environmental Laws. Notwithstanding anything to the contrary in this Agreement, Purchaser shall operate and maintain the Premises to comply with the requirements of all applicable Environmental Laws that limit or govern the conditions or uses of the Premises, without impairing or interfering with Provider's construction, operation and ownership of the System or occupancy of the Premises. In no event shall Provider have any liability or obligation with respect to any Pre-existing Environmental Condition on, in or under the Premises, or operations or maintenance of the Premises required to comply with Environmental Laws with respect to Pre-Existing Environmental Conditions.

(h) Environmental Indemnification by Purchaser. Purchaser shall indemnify, hold harmless and defend Provider from and against all claims, pay costs and expenses, and conduct all actions required under Environmental Laws in connection with (i) the existence at, on, above, below or near the Premises of any Pre-existing Environmental Conditions, and (ii) any Hazardous Materials released, spilled or deposited at, on above or below the Premises by the Purchaser. Purchaser shall promptly notify Provider if it becomes aware of any Hazardous Materials, or any deposit, spill, or release of any Hazardous Materials at, on, above, below or near the Premises.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties of Both Parties. In addition to any other representations and warranties contained in this Agreement, each Party represents and warrants to the other as of the Effective Date that:

- (a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;
- (b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;
- (c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;
- (d) this Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy and other similar laws now or hereafter in effect;
- (e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein;

(f) its execution and performance of this Agreement and the transactions contemplated hereby do not and will not constitute a breach of any term or provision of, or a default under, (i) any contract, agreement or Governmental Approval to which it or any of its Affiliates is a party or by which it or any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws; and

(g) its execution and performance of this Agreement and the transactions contemplated hereby do not and will not require any consent from a third party, excluding any Governmental Approvals from any Governmental Authority, that are not identified in the Special Conditions.

8.2 Representations of Purchaser. Purchaser represents and warrants to Provider as of the Effective Date that:

(a) Purchaser acknowledges that it has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected security interest (the "Security Interest") in the System to a Financing Party;

(b) To Purchaser's knowledge, the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Premises;

(c) Purchaser is aware of no existing lease, mortgage, security interest or other interest in or lien upon the Premises that could attach to the System as an interest adverse to Provider's Financing Party's Security Interest therein;

(d) To Purchaser's knowledge, there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under this Agreement;

(e) To Purchaser's knowledge, Purchaser has identified and disclosed to Provider in the Special Conditions (i) all Environmental Documents in Purchaser's possession or control, (ii) all CCRs, Governmental Approvals or other restrictions imposed under Applicable Laws with respect to the use of the Premises that could affect the construction and operation of the System within Purchaser's possession or control, and (iii) all environmental reports, studies, data or other information relating to the use of the Premises by Provider within the Purchaser's possession or control;

(f) To Purchaser's knowledge, the Premises is in compliance with Environmental Laws, and that Purchaser holds and is in compliance with all Governmental Approvals required for the ownership and any current operations or activities conducted at the Premises; and

(g) Purchaser has identified in the Special Conditions and delivered to Provider all material reports and information concerning the presence or release of Hazardous Materials on, in or under the Premises in Purchaser's possession or control.

Any Financing Party shall be an intended third-party beneficiary of this Section 8.2.

8.3 EXCLUSION OF PROVIDER WARRANTIES. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING THE SPECIAL CONDITIONS, THE INSTALLATION WORK, SYSTEM OPERATIONS, AND ENERGY SERVICES PROVIDED BY PROVIDER TO PURCHASER PURSUANT TO THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING THE SPECIAL CONDITIONS, NO OTHER WARRANTY TO PURCHASER OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM, THE ENERGY SERVICES OR ANY OTHER SERVICE

PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY PROVIDER.

9. TAXES AND GOVERNMENTAL FEES.

9.1 Purchaser Obligations. Purchaser shall reimburse and pay for any documented taxes, fees or charges imposed or authorized by any Governmental Authority and paid by Provider due to Provider's sale of the Energy Services to Purchaser (other than income taxes imposed upon Provider). Provider shall notify Purchaser in writing with a detailed statement of such amounts, which shall be invoiced by Provider and payable by Purchaser. Purchaser shall timely report, make filings for, and pay any and all sales, use, income, gross receipts or other taxes, and any and all franchise fees or similar fees assessed against it due to its purchase of the Energy Services. This Section 9.1 excludes taxes specified in Section 9.2.

9.2 Provider Obligations. Subject to Section 9.1 above, Provider shall be responsible for all income, gross receipts, ad valorem, personal property or real property or other similar taxes, including any possessory interest taxes that may be created as provided in Revenue & Taxation Code section 107 and 107.6, and any and all franchise fees or similar fees assessed against it due to its ownership of the System, use of the Premises, or grant of the License provided herein.

10. FORCE MAJEURE.

10.1 Definition. "Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labor disputes (except strikes or labor disputes caused solely by employees of Provider or as a result of such party's failure to comply with a collective bargaining agreement); and (v) action or inaction by a Governmental Authority (unless Purchaser is a Governmental Authority and Purchaser is the Party whose performance is affected by such action nor inaction). A Force Majeure Event shall not be based on the economic hardship of either Party, or upon the expiration of any lease of the Premises by the Purchaser from the owner of the Premises.

10.2 Excused Performance. Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement (other than the failure to pay amounts due hereunder), if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; *provided*, the Party claiming relief under this Article 10 shall as soon as practicable after becoming aware of the circumstances constituting Force Majeure (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter; *provided*, Purchaser shall not be excused from making any payments and paying any unpaid amounts due in respect of Energy Services delivered to Purchaser prior to the Force Majeure Event performance interruption. Subject to Section 10.3 below, the Parties agree that to the extent permitted by Applicable Law, the Term of this Agreement shall extend on a day for day basis for every day in which the occurrence of a Force Majeure Event has affected either Party's performance of its obligations hereunder.

10.3 Termination in Consequence of Force Majeure Event. If a Force Majeure Event shall have occurred that has affected Provider's performance of its obligations hereunder and that has continued for a continuous period of one hundred eighty (180) days, then either Party shall be entitled to terminate this Agreement upon ninety (90)

days' prior written notice to the other Party. If at the end of such ninety (90) day period such Force Majeure Event shall still continue, this Agreement shall automatically terminate. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination, including but not limited to Provider's obligations to remove the System and restore the Premises as set forth herein), and Purchaser shall have no obligation to pay the Early Termination Fee or Pre-Installation Termination Payment.

11. DEFAULT.

11.1 Provider Defaults and Purchaser Remedies.

(a) Provider Defaults. The following events shall be defaults with respect to Provider (each, a "Provider Default"):

- (i) A Bankruptcy Event shall have occurred with respect to Provider;
- (ii) Provider fails to pay Purchaser any undisputed amount owed under the Agreement within thirty (30) days from receipt of notice from Purchaser of such past due amount; and
- (iii) Provider breaches any material representation, covenant or other term of this Agreement and (A) if such breach can be cured within thirty (30) days after Purchaser's written notice of such breach and Provider fails to so cure, or (B) Provider fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed.

(b) Purchaser's Remedies. If a Provider Default described in Section 11.1(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Article 12, Purchaser may terminate this Agreement with no penalty or liability whatsoever, including but not limited to the Early Termination Fee or Pre-Installation Termination Payment, and exercise any other remedy it may have at law or equity or under this Agreement.

11.2 Purchaser Defaults and Provider's Remedies.

(a) Purchaser Default. The following events shall be defaults with respect to Purchaser (each, a "Purchaser Default"):

- (i) A Bankruptcy Event shall have occurred with respect to Purchaser;
- (ii) Purchaser breaches any material representation, covenant or other term of this Agreement if (A) such breach can be cured within thirty (30) days after Provider's notice of such breach and Purchaser fails to so cure, or (B) Purchaser fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed, such longer cure period not to exceed ninety (90) days; and
- (iii) Purchaser fails to pay Provider any undisputed amount due Provider under this Agreement within thirty (30) days from receipt of notice from Provider of such past due amount.

(b) Provider's Remedies. If a Purchaser Default described in Section 11.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Article 12, Provider may terminate this Agreement and upon such termination, (A) Provider shall be entitled to receive from Purchaser the Early Termination Fee set forth on Schedule 3, Column 1 of the Special Conditions, and (B) Provider may exercise any other remedy it may have at law or equity or under this Agreement.

11.3 Cross Default. With respect to any Systems that are co-located at the same Premises, if a Party defaults under this Agreement, it shall also be a default of such Party under the Agreement(s) related to the other co-located System(s); *provided*, a cure of the original default shall be a cure of any such cross default. In the event of a

cross default, the non-defaulting Party shall be entitled to exercise its rights with respect to this Agreement and all such other Agreements, including terminating all such Agreements and, if Provider terminates one or more Agreements due to a Purchaser Default, Purchaser shall pay the Early Termination Fees for all such terminated Agreements.

11.4 Removal of System. Upon any termination of this Agreement pursuant to this Article 11 and payment of the Early Termination Fee (if applicable), Provider will remove the System pursuant to Section 2.4 hereof.

12. LIMITATIONS OF LIABILITY.

12.1 Except as expressly provided herein, neither Party shall be liable to the other Party or its Indemnified Persons for any special, punitive, exemplary, indirect, or consequential damages, losses or damages for lost revenue or lost profits, whether foreseeable or not, arising out of, or in connection with this Agreement.

12.2 A Party's maximum liability to the other Party under this Agreement, shall be limited to the aggregate Estimated Remaining Payments as of the date of the events giving rise to such liability, *provided*, the limits of liability under this Section 12.2 shall not apply with respect to (i) indemnity obligations hereunder in respect of personal injury or environmental claims and (ii) any obligation of Purchaser to pay Energy Service Payments, the Early Termination Fee, or the Option Price, (iii) any obligation of Provider to pay for Lost Savings in accordance with the Special Conditions and (iv) if applicable, any obligation of Provider to remove the System and restore the Premises in accordance with Section 2.4.

13. ASSIGNMENT.

13.1 Assignment by Provider. Provider shall not sell, transfer or assign (collectively, an "Assignment") the Agreement or any interest therein, without the prior written consent of Purchaser, which shall not be unreasonably withheld, conditioned or delayed; *provided*, Purchaser agrees that Provider may assign this Agreement without the consent of the Purchaser to an Affiliate of Provider or any party providing financing for the System. In the event that Provider identifies a secured Financing Party in the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser shall comply with the provisions set forth in Exhibit B of these General Terms and Conditions and agrees to provide such estoppels, acknowledgments and opinions of counsel as Provider may reasonably request from time to time. Any Financing Party shall be an intended third-party beneficiary of this Section 13.1. Any Assignment by Provider without obtaining the prior written consent and release of Purchaser, when such consent is required by this Section 13.1, shall not release Provider of its obligations hereunder.

13.2 Acknowledgment of Collateral Assignment. In the event that Provider identifies a secured Financing Party in the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser hereby acknowledges:

(a) The collateral assignment by Provider to the Financing Party, of Provider's right, title and interest in, to and under this Agreement, as consented to under Section 13.1 of this Agreement.

(b) That the Financing Party as such collateral assignee shall be entitled to exercise any and all rights of lenders generally with respect to Provider's interests in this Agreement.

(c) That it has been advised that Provider has granted a first priority perfected security interest in the System to the Financing Party and that the Financing Party has relied upon the characterization of the System as personal property, as agreed in this Agreement in accepting such security interest as collateral for its financing of the System.

Any Financing Party shall be an intended third-party beneficiary of this Section 13.2.

13.3 Assignment by Purchaser. Purchaser shall not assign this Agreement or any interest therein, without Provider's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any Assignment by Purchaser without the prior written consent of Provider shall not release Purchaser of its obligations hereunder.

14. NOTICES.

14.1 Notice Addresses. Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other Party (or Financing Party, as the case may be) at the addresses set forth in the Special Conditions, or at such other address as may be designated in writing to the other Party from time to time.

14.2 Notice. Unless otherwise provided herein, any notice provided for in this Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand delivered, upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next Business Day if sent at any other time), on the Business Day after being sent when sent by overnight delivery service (Saturdays, Sundays and legal holidays excluded), or five (5) Business Days after deposit in the mail when sent by U.S. mail.

14.3 Address for Invoices. All invoices under this Agreement shall be sent to the address provided by Purchaser. Invoices shall be sent by regular first class mail postage prepaid, unless another means of delivery is specified by Purchaser, such as email delivery of invoices.

15. CONFIDENTIALITY.

15.1 Confidentiality Obligation. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the financing, design, operation and maintenance of the System or of Purchaser's business ("Confidential Information") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its officers, directors, members, managers, employees, agents, contractors, consultants, Affiliates, lenders (existing or potential), investors (existing or potential) and potential third-party assignees of this Agreement or third-party acquirers of Provider or its Affiliates (provided and on condition that such potential third-party assignees be bound by a written agreement restricting use and disclosure of Confidential Information) (collectively, "Representatives"), in each case whose access is reasonably necessary. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party.

15.2 Permitted Disclosures. Notwithstanding any other provision herein, neither Party shall be required to hold confidential any information that:

- (a) Becomes publicly available other than through the receiving Party;
- (b) Is required to be disclosed by a Governmental Authority, under Applicable Law, including but not limited to the California Public Records Act (see Section 18.16 herein concerning CPRA requests), or pursuant to a

validly issued subpoena or required filing, but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement;

(c) Is independently developed by the receiving Party; or

(d) Becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

15.3 Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement; *provided*, no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Purchaser agrees that Provider may, at its sole discretion, take photographs of the installation process of the System and/or the completed System, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Purchaser permission and the installation site shall not be disclosed beyond the type of establishment (such as “Retail Store,” “Distribution Center,” or such other general terms), the city and state.

15.4 Enforcement of Confidentiality Obligation. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article 15 by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Article 15. To the fullest extent permitted by Applicable Law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article 15, but shall be in addition to all other remedies available at law or in equity.

16. INDEMNITY.

16.1 Provider’s Indemnity.

(a) Subject to Article 12, Provider agrees that it shall indemnify and hold harmless Purchaser, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the “Purchaser Indemnified Parties”) from and against any and all Losses incurred by Purchaser Indemnified Parties to the extent arising from or out of the following: any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Provider’s negligence or willful misconduct. Provider shall not, however, be required to reimburse or indemnify any Purchaser Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Purchaser Indemnified Party.

(b) Provider represents and warrants that it has the legal right to license any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates or other documents that Provider or its subcontractors or consultants prepare or cause to be prepared pursuant to this Agreement. Provider shall indemnify, defend, and hold Purchaser harmless against claims brought by a party for any breach of this representation due to Provider’s negligence or willful misconduct.

16.2 Purchaser's Indemnity. Subject to Article 12 and to the extent permitted by Applicable Law, Purchaser agrees that it shall indemnify and hold harmless Provider, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the "Provider Indemnified Parties") from and against any and all Losses incurred by Provider Indemnified Parties to the extent arising from or out of any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Purchaser's negligence or willful misconduct. Purchaser shall not, however, be required to reimburse or indemnify any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Provider Indemnified Party.

17. INSURANCE.

17.1 Generally. Purchaser shall maintain the following insurance coverages in full force and effect throughout the Term either through insurance policies or acceptable self-insured retentions: (a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law, (b) Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence, and (c) automobile insurance with commercially reasonable coverages and limits. Additionally, Provider shall carry adequate property loss insurance on the System which need not be covered by Purchaser's property coverage. The amount and terms of insurance coverage will be determined at Provider's sole discretion. Provider shall comply with the insurance provisions set forth in Exhibit E.

17.2 Certificates of Insurance. Each Party, upon request, shall furnish current certificates evidencing that the insurance required under Section 17.1 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insured agrees to give the other Party thirty (30) days' written notice before the insurance is cancelled or materially altered.

17.3 Additional Insureds. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear.

17.4 Insurer Qualifications. All insurance maintained hereunder shall be maintained with companies either rated no less than A:VII as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1. Notwithstanding the foregoing, Provider acknowledges that Purchaser is self-insured and a member of a self-insuring risk pool, Yolo County Public Agency Risk Management Insurance Authority (YCPARMIA), and Provider agrees that such self-insurance shall satisfy Purchaser's insurance requirements herein.

18. MISCELLANEOUS.

18.1 Integration; Exhibits. The Agreement, together with the Exhibits and Schedules attached thereto or incorporated by reference, constitute the entire agreement and understanding between Provider and Purchaser with respect to the subject matter thereof and supersedes all prior agreements relating to the subject matter hereof which are of no further force or effect. The Exhibits and Schedules attached to this Agreement, including these General Terms and Conditions as incorporated by reference, are integral parts of this Agreement and are an express part of this Agreement. In the event of a conflict between the provisions of these General Terms and Conditions and any applicable Special Conditions, the provisions of the Special Conditions shall prevail.

18.2 Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Purchaser.

18.3 Industry Standards. Except as otherwise set forth herein, for the purpose of this Agreement the normal standards of performance within the Energy Services industry in the relevant market shall be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

18.4 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Provider or Purchaser shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

18.5 [Reserved].

18.6 Limited Effect of Waiver. The failure of Provider or Purchaser to enforce any of the provisions of this Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

18.7 Survival. The obligations under Section 2.4 (Removal of System), Section 7.1 (Provider Covenants), Sections 7.2(d), (e), (f), (g) and (h) (Purchaser Covenants), Section 8.3 (Exclusion of Warranties), Article 9 (Taxes and Governmental Fees), Article 12 (Limitation of Liability), Article 14 (Notices), Article 15 (Confidentiality), Article 18 (Miscellaneous), all payment or indemnification obligations accrued prior to termination of this Agreement, or pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement shall survive the expiration or termination of this Agreement for any reason.

18.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to any choice of law principles. The Parties agree that venue for legal actions or proceedings arising under this Agreement shall be exclusively vested in the state court in the County of Yolo. The Parties waive to the fullest extent permitted by Applicable Law any objection it may have to the laying of venue of any action or proceeding under this Agreement in the state court located in the County of Yolo.

18.9 Severability. If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

18.10 Relation of the Parties. The relationship between Provider and Purchaser shall not be that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Provider and Purchaser, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

18.11 Successors and Assigns. This Agreement and the rights and obligations under this Agreement shall be binding upon and shall inure to the benefit of Provider and Purchaser and their respective successors and permitted assigns.

18.12 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

18.13 Electronic Delivery. This Agreement may be duly executed and delivered by a Party by execution and facsimile or electronic, "pdf" delivery of the signature page of a counterpart to the other Party.

18.14 Liquidated Damages Not Penalty. Purchaser acknowledges that the Early Termination Fee constitutes liquidated damages, and not penalties, in lieu of Provider's actual damages resulting from the early termination of this Agreement. Purchaser further acknowledges that Provider's actual damages may be impractical and difficult to accurately ascertain, and in accordance with Purchaser's rights and obligations under this Agreement, the Early Termination Fee constitutes fair and reasonable damages to be borne by Purchaser in lieu of Provider's actual damages.

18.15 Third Party Beneficiaries. Except as expressly provided elsewhere in this Agreement, this Agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the Parties.

18.16 California Public Records Act. The County is a public agency subject to the disclosure requirements of the California Public Records Act (“CPRA”). If Provider’s proprietary information is contained in documents or information submitted to County, and Provider claims that such information falls within one or more CPRA exemptions, Provider must clearly mark such information “CONFIDENTIAL AND PROPRIETARY,” and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Provider prior to such disclosure. If Provider contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it must – at its sole cost and expense - obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Yolo County before the County is required to respond to the CPRA request. If Provider fails to obtain such remedy within the time the County is required to respond to the CPRA request, County may disclose the requested information. Provider further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney’s fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Provider.

18.17 Conflict of Interest; Political Reform Act Disclosure Requirements. If applicable, Provider shall comply with all applicable requirements governing avoidance of impermissible client conflicts; and federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et seq., the California Political Reform Act (California Government Code section 87100 et seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County. In accepting this Agreement, Provider covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Provider further covenants that, in the performance of this Agreement, it will not use any contractor or employ any person having such an interest.

18.18 Non-Discrimination. Provider certifies that any service provided or work performed pursuant to this Agreement shall be without discrimination based on race, color, national origin, religion, sex (including pregnancy, childbirth, and related medical conditions), disability, age, citizenship status, genetic information, marital status, sexual orientation, gender identity, medical conditions, or political affiliations or activities in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the County Board of Supervisors or the Administrator. For the purpose of this Agreement, distinctions on the grounds of race, color, national origin, religion, sex (including pregnancy, childbirth, and related medical conditions), disability, age, citizenship status, genetic information, marital status, sexual orientation, gender identity, medical conditions, or political affiliations or activities include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; or treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit.

19. NON-APPROPRIATION.

19.1. Covenants Regarding Appropriations. Purchaser covenants that payments under this Agreement shall, for the purposes of appropriations, be deemed equivalent to and categorized as all other utility payments, including electricity, water, gas, and/or sewer. It is the present intention and expectation of

the Purchaser that the applicable budgetary entity, within the limits of available funds and revenues, will make an appropriation of a sufficient amount to fund such utility payments, including Purchaser's obligations hereunder, during each fiscal year of the Term; provided, however, this declaration of intent shall not be binding upon the Purchaser in any future fiscal year, except to the extent of any previously appropriated funds. Purchaser shall use reasonable good faith efforts to have funds properly budgeted, appropriated, allotted, or otherwise made available for all utility payments, including this Agreement (including obtaining legislative and other authorizations for use of such funds) and to satisfy such conditions in a timely manner.

All payments made by Purchaser under this Agreement shall constitute currently budgeted expenditures and shall not constitute or give rise to a general obligation debt, an indebtedness, or multiple-fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of any constitutional or statutory provisions or limitation.

19.2 Non-Appropriation Event. If an appropriation for this Agreement is not made for Purchaser by the applicable budgetary entity for any fiscal year of Purchaser during the Term, notwithstanding Purchaser complying with Section 19.1 above (a "Non-Appropriation Event"), Purchaser shall promptly give notice of such Non-Appropriation Event (the "Non-Appropriation Notice"). Notwithstanding the occurrence of a Non-Appropriation Event or the delivery of a Non-Appropriation Notice, Purchaser will not interrupt or impair the delivery of Energy Services or jeopardize Provider's sale, transfer or other monetization of Environmental Attributes or Solar Incentives.

19.3 Provider's Options. Following receipt by Provider of a Non-Appropriation Notice, Provider, in its sole discretion, may (a) terminate this Agreement or (b) continue to keep the System on-site with no obligation to operate. Under the circumstances of (b), other than with respect to the purchase and sale obligations for Energy Services, all obligations of Purchaser and Provider under this Agreement shall remain in full force and effect.

19.4 Provider's Notice to Purchaser. Within thirty (30) days of Provider's receipt of the Non-Appropriation Notice, Provider shall give notice to Purchaser of Provider's election among options (a) and (b) under Section 19.3. If Provider does not provide notice to Purchaser of Provider's election under this Section within such period, Provider shall be deemed to have elected option (b) under Section 19.3, provided that, if Purchaser elects or is deemed to have elected option (b) and if a Non-Appropriation Event is continuing, Provider may subsequently change its election at any time upon written notice to Purchaser. 19.5 Termination Election. If Provider elects option (a) under Section 19.3 the Agreement shall terminate and Provider shall be required to remove the System as set forth in the Agreement. Upon termination, under option (a) of Section 19.3, neither Party shall have any further liability to the other Party, except for A) liabilities that arose prior to termination, B) Provider's obligation to remove the System pursuant to the Agreement and C) any liability of Purchaser for any failure to comply with the requirements of this Section 19. For the avoidance of doubt, upon termination under option (a) of Section 19.3, Purchaser shall not be required to pay an Early Termination Fee.

[Remainder of page intentionally left blank.]

Exhibit A.1
of General Terms and Conditions

[PURCHASER'S LETTERHEAD]

[Landlord's Address]

Attn: Authorized Representative

Re: Proposed Energy System Installation at [Address of Premises]. Lease dated [] between [PURCHASER] and [LANDLORD] (the "Lease")

Dear Authorized Representative:

As has been discussed with you, [PURCHASER] ("Purchaser") and [FFP Entity], LLC ("Provider") have entered into an Energy Services Agreement, pursuant to which Provider will install, finance, operate, and maintain a [solar photovoltaic] [battery storage] system at the above-referenced premises which [PURCHASER] leases from you pursuant to the Lease. By signing below and returning this letter to us, you confirm that:

1. The [solar photovoltaic] [battery storage] system and the renewable energy (including environmental credits and related attributes) produced by the system are personal property, and shall not be considered the property (personal or otherwise) of [LANDLORD] upon installation of the system at the premises. Landlord consents to the filing by Provider of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises.
2. Provider or its designee (including finance providers) shall have the right without cost to access the premises in order to install, operate, inspect, maintain, and remove the [solar photovoltaic] [battery storage] system. [LANDLORD] will not charge Purchaser or Provider any rent for such right to access the premises.
3. [LANDLORD] has been advised that the finance providers for the [solar photovoltaic] [battery storage] system have a first priority perfected security interest in the system. Provider and the finance providers for the [solar photovoltaic] [battery storage] system (including any system lessor or other lender) are intended beneficiaries of [LANDLORD]'s agreements in this letter.
4. [LANDLORD] will not take any action inconsistent with the foregoing.

We thank you for your consideration of this opportunity and we look forward to working with you in our environmental campaign to increase the utilization of clean, renewal energy resources.

Very truly yours,

[PURCHASER]

By: _____

Name:

Title:

Acknowledged and agreed by:

[LANDLORD]

By: _____

Name:

Title:

Exhibit B

Certain Agreements for the Benefit of the Financing Parties

Purchaser acknowledges that Provider will be receiving financing accommodations from one or more Financing Parties and that Provider may sell or assign the System or this Agreement and/or may secure Provider's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such Financing Party, Purchaser agrees as follows:

(a) Consent to Collateral Assignment. Purchaser consents to either the assignment, sale or conveyance to a Financing Party or the collateral assignment by Provider to a Financing Party, of Provider's right, title and interest in and to this Agreement.

(b) Notices of Default. Purchaser will deliver to the Financing Party, concurrently with delivery thereof to Provider, a copy of each notice of default given by Purchaser under this Agreement, inclusive of a reasonable description of Provider default. No such notice will be effective absent delivery to the Financing Party. Purchaser will not mutually agree with Provider to cancel, modify or terminate this Agreement without the written consent of the Financing Party, however, this provision shall not be interpreted to limit any termination rights of either Party as set forth in the Agreement.

(c) Rights Upon Event of Default. Notwithstanding any contrary term of this Agreement:

i. The Financing Party shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement and only in the event of Provider's or Purchaser's default. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

ii. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Purchaser hereby gives it the option to do so.

iii. Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party) in lieu thereof, the Financing Party shall give notice to Purchaser of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

iv. Upon any default not reasonably susceptible to cure by a Finance Party, including, without limitation, rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of the Financing Party made within ninety (90) days of such default, Purchaser shall enter into a new agreement with the Financing Party or its designee having the same terms and conditions as this Agreement.

(d) Right to Cure.

i. Purchaser will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice by sending notice to the Financing Party (at the address provided by Provider) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement. The Parties agree that the cure rights described herein are in addition to and apply and commence following the expiration of any notice

and cure period applicable to Provider. The Parties' respective obligations will otherwise remain in effect during any cure period; *provided*, if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional ninety (90) days.

ii. If the Financing Party (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Sub-section (c)(i) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

Exhibit C

Requirements Applicable to the Installation Work

Section B.1 Prohibition Against Use of Tobacco. All properties and facilities owned, leased or operated by the Purchaser are tobacco-free work places. No person on, at or in any Purchaser-controlled property or facility, including, without limitation, the Premises, may smoke, chew or otherwise use tobacco products. Provider shall be responsible for: (i) informing any and all persons present on or at the Premises on account of the Installation Work about the Purchaser's tobacco-free policy; and (ii) strictly enforcing such policy with respect to the Premises. The Purchaser, Provider, and each Subcontractor shall require that any person present on or at the Premises on account of the Installation Work who violates such policy must permanently leave the Premises, and shall prohibit such person from thereafter being present or performing any of the Installation Work on or at the Premises.

Section B.2 Prohibition Against Use of Drugs.

(a) Purchaser Drug-Free Policy. All properties and facilities owned, leased or operated by the Purchaser are drug-free work places. No person on, at or in any Purchaser-controlled property or facility, including, without limitation, the Premises, may: (i) engage in the unlawful manufacture, dispensation, possession or use, including being under the influence, of any controlled substance, (ii) possess or use any alcoholic beverage, or (iii) use any substance which may cause significant impairment of normal abilities. Provider shall be responsible for: (i) informing any and all persons present on or at the Premises on account of the Installation Work about the Purchaser's drug-free policy; and (ii) strictly enforcing such policy with respect to the Premises. The Purchaser, Provider, and each Subcontractor shall require that any person present on or at the Premises on account of the Installation Work who violates such policy must permanently leave the Premises, and shall prohibit such person from thereafter being present or performing any of the Installation Work on or at the Premises.

(b) Drug-Free Workplace Certification. Provider is hereby made subject to the requirements of Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990.

Section B.3 Compliance with Labor Requirements. The Installation Work is a "public works" project as defined in Section 1720 of the California Labor Code ("Labor Code") and made applicable pursuant to Section 1720.6 of the Labor Code. Therefore, the Installation Work is subject to applicable provisions of Part 7, Chapter 1, of the Labor Code and Title 8 of the California Code of Regulations, Section 16000 et seq. (collectively, "Labor Law"). Provider acknowledges that, as provided by Senate Bill 854 (Stats. 2014, Ch. 28), the Project is subject to labor compliance monitoring and enforcement by the California Department of Industrial Relations ("DIR").

Section B.4 Compliance with Labor Code Requirements. Provider must be, and shall be deemed and construed to be, aware of and understand the requirements of the Labor Law that require the payment of prevailing wage rates and the performance of other requirements on public works projects. Provider, at no additional cost to the Purchaser, must: (i) comply with any and all applicable Labor Law requirements, including, without limitation, requirements for payment of prevailing wage rates, inspection and submittal (electronically, as required) of payroll records, interview(s) of workers, et cetera; (ii) ensure that its Subcontractors are aware of and comply with the Labor Law requirements; (iii) in connection with Labor Law compliance matters, cooperate with the DIR, the Purchaser and other entities with competent jurisdiction; and (iv) post all job-site notices required by law in connection with the Installation Work, including, without limitation, postings required by DIR regulations. A Subcontractor that has been debarred in accordance with the Labor Code, including, without limitation, pursuant to Sections 1777.1 or 1777.7, is not eligible to bid on, perform, or contract to perform any portion of the Installation Work. Wage rates for the Installation Work shall be in accordance with the general prevailing rates of per-diem wages determined by the Director of Industrial Relations pursuant to Labor Code Section 1770. The following Labor Code sections are by this reference incorporated into and are a fully operative part of the Contract, and Provider shall be responsible for compliance therewith:

(a) Section 1735: Anti-Discrimination Requirements;

- (b) Section 1775: Penalty for Prevailing Wage Rate Violations;
- (c) Section 1776: Payroll Records;
- (d) Sections 1777.5, 1777.6 and 1777.7: Apprenticeship Requirements;
- (e) Sections 1810 through 1812: Working Hour Restrictions;
- (f) Sections 1813 and 1814: Penalty for Failure to Pay Overtime; and
- (g) Section 1815: Overtime Pay.

Section B.5 Requirements for Payroll Records. Provider must comply with all applicable provisions of Labor Code Sections 1776 and 1812, which relate to preparing and maintaining accurate payroll records, and making such payroll records available for review and copying by the Purchaser, the DIR Division of Labor Standards Enforcement, and the DIR Division of Apprenticeship Standards. The payroll records must be certified and made available as required by Labor Code Section 1776.

Section B.6 Contractor Registration. On and after March 1, 2015, no contractor may bid on a public works project unless the contractor is, and no subcontractor may be listed in any bid for a public works project unless the subcontractor is, currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. On and after April 1, 2015, no contractor or subcontractor may be awarded a contract for work on a public works project, or may perform any work on a public works project, unless the contractor or subcontractor is currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1725.5 for an unregistered contractor to submit a bid authorized by Business and Professions Code Section 7029.1 or Public Contract Code Section 20103.5, if the contractor is registered at the time the contract is awarded.

Section B.7 Permits and Licenses. Without limiting anything set forth in Section B.7 of this Exhibit C, Provider, its Subcontractors, and all of their respective employees and agents: (i) shall secure and maintain in force at all times during the performance of the Installation Work such licenses and permits as are required by law; and (ii) shall comply with all federal and State, and County laws and regulations, and other governmental requirements applicable to the System or the Installation Work. Provider or its subcontractors shall obtain and pay for all permits and licenses required for the performance of, or necessary in connection with, the Installation Work, and shall give all necessary notices and deliver all necessary certificates to the Purchaser, and shall pay all royalties and license fees arising from the use of any material, machine, method or process used in performing the Installation Work. Provider shall be solely responsible for all charges, assessments and fees payable in connection with any such licenses, permits, materials, machines, methods, and processes.

Section B.8 Failure to Comply with Applicable Prevailing Wage Requirements. Any stop orders issued by the Department of Industrial Relations against Provider or any subcontractor that affect Provider's completion of the Installation Work, including any delay, shall be Provider's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Provider caused delay and shall not be compensable by Purchaser. Provider shall defend, indemnify and hold the County, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Provider or any of its subcontractors.

Exhibit D

Construction and Technical Requirements

I. Technical Requirements

1. General Technical Requirements

In an effort to assure reliability, quality, and longevity of the System, and to establish a minimum quality level whereby the Purchaser would consider a buyout, the County provides the following general technical requirements and product specifications to which the Provider shall comply.

A. Structural responsibility - All structures, including array structures, shall be designed to resist dead, live, plus wind and seismic loads for the area. Thermal loads caused by expected fluctuations of component and ambient temperatures must be combined with all the above-load combinations. Structural adequacy of buildings, roofs, or structures impacted by the addition of the System, shall be the responsibility of the Provider. These calculations must be stamped and approved by a registered professional engineer with appropriate experience.

All System components must be built such that the structure complies with applicable California Building Code and wind uplift requirements per the American Society of Civil Engineers Standard for Minimum Design Loads for Buildings and Other Structures (ASCE 7). The structure must be able to withstand design wind speeds of at least 92 mph (3-second gusts). "Withstand" means no-damage and power output can continue at wind speeds less than 92 mph. The minimum no-damage, no power interruption design earthquake load and frequency shall be consistent with Siesmic Design Category D.

The parking area System support structures at the Premises shall be constructed as elevated solar support structures. The System support system design must be coordinated with the existing parking layout on the structure. This may include a variety of canopy configurations (single aisle, double aisle, single column, cantilever design, etc) so as to minimize column obstructions with vehicular traffic and allow for maximum flexibility of space configurations. The elevated PV system layout must also accommodate Fire Department access and fire protection requirements.

B. Corrosion Resistance - All structural components, including array structures, shall be painted, coated, or otherwise protected in a manner commensurate with the minimum 20-year design life. Particular attention shall be given to the prevention of corrosion.

C. Codes and Standards- All systems must be installed in accordance with all applicable requirements of the California Building Standards Code, including the California Building Code and California Electrical Code, including but not limited to Article 690, and other applicable codes and regulations as outlined by the National Fire Protection Association (NFPA).

In addition, all work shall be designed and installed in accordance with the latest edition of all applicable codes, standards, and recommendations of the following agencies:

ANSI – American National Standards Institute

ASHRAE - American Society Of Heating, Refrigeration, and Air Conditioning Engineers

ASCE - American Society of Civil Engineers

ASME - American Society of Mechanical Engineers

CAL OSHA - California /Occupational Safety and Health Administration

CBSC - California Building Standards Commission

CEC - California Energy Commission

ETL - Electrical Testing Laboratories

IEEE - Institute of Electrical and Electronic Engineers

ICEA - Insulated Cable Engineer's Association

IAEI - International Association Of Electrical Inspectors

IPMVP - International Performance Measurement and Verification Protocol

NFPA - National Fire Protection Association

NEMA - National Electrical Manufacturers Association

NESC - National Electrical Safety Code

NETA - National Electrical Testing Association

NEC - National Electrical Code

UL - Underwriters Laboratories

Other codes that may apply to the overall installation include:

- IEEE 1547 -Standards for interconnections of Distributed Resources with Electric Power Systems.
- ANSI/IEEE Std 928-1986 IEEE recommended criteria for terrestrial photovoltaic power systems.
- ANSI /IEEE 519- 1992 recommended practices and requirements for harmonic control in electrical power systems
- IEEE 929-2000, "Recommended Practice for Utility Interface of PV Systems
- 50kW and below
- IEEE Std. 1526-2003 IEEE recommended practice for testing the performance of stand-alone photovoltaic systems.
- Rules For Construction of Underground Electric Supply and Communication Systems, General Order No. 128, Public Utilities Commission of the State of California, (G.O.128), July 1974 edition; and
- Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems, International Electrical Testing Association (NETA), 1995 edition.
- ASTM B3-74 (1980) Specifications for Soft or Annealed Copper Wire

-AIEC CS6-84 Specifications for Ethylene Propylene Rubber Insulated Shielded Power Cables Rated 5 through 69 kV

-IEEE 48-1975 Standard Test Procedures and Requirements for High-Voltage Alternating Current Cable Terminations

-NEMA WC 8 R 1982 Ethylene-Propylene-Rubber-Insulated Wire and Cable for the Transmission and Distribution of Electrical Energy

-NEMA WC 3 Rubber-Insulated Wire and Cable for the Transmission and Distribution of Electrical Energy

-NEMA W7 Cross-Linked-Thermosetting-Polyethylene-Insulated Wire and Cable for Transmission & Distribution of Electrical Energy

-The Pad-mounted transformer, disconnect switches and all components shall be designed, manufactured and tested in accordance with the latest applicable ANSI, IEEE, NEMA and UL standards including the following:

-ANSI/IEEE C37 – Circuit Breakers, Switchgear, Relays, Substation and Fuses.

-ANSI C57.12; 13 – Standard General Requirements for Distribution, Power and Regulating Transformers.

-IEEE 48 - Test Procedures and Requirements for High voltage AC cable Termination.

-ANSI C57.98 – Guide for Transformer Impulse Tests.

-ANSI C57.109 – Guide for Transformer Through Fault Current Duration.

-NEMA PB 2 - Dead Front Distribution Switchboards.

-NEMA SG-4 – Power Circuit Breakers & Power Switchgear Assemblies.

-NEMA TR1 - Requirements for Liquid Filled Transformers.

-ANSI/IEEE C12.1 – Code for Electricity Metering.

-ANSI/ASTM D3487 – Standard Specification for Mineral Insulating Oil Used in Electrical Apparatus.

American Society for Testing and Materials (ASTM):

1. ASTM B 3: Soft or Annealed Copper Wire.

2. ASTM B 187: Copper Bus Bar, Rod, and Shapes.

Underwriters Laboratories, Inc. (UL) 467: Grounding and Bonding Equipment. -- Systems must be designed and installed using UL (or approved equivalent) listed components.

In addition to the above, specific requirements for individual components of the PV system include but are not limited to the guidelines found below.

D. PV Modules:

The PV modules shall be UL 1703 and/or UL 61730 listed and currently on the California Energy Commission list of Eligible Renewable Equipment. In addition, all modules must have a minimum 20-year warranty.

The Provider shall create a uniform appearance of the arrays and spacing between individual modules and panels should be uniform. As much as possible, all mechanical hardware, conduit, junction boxes, and other equipment should be concealed beneath and/or behind the array when practical or required by applicable code.

E. Inverters/Isolation Transformer Combination Equipment:

In addition to being listed to UL 1741, inverters must also be unused and of recent manufacture and listed on the California Energy Commission's (CEC) current Eligibility List. Inverters must be sized to properly accommodate the DC input from the PV panels under all expected electrical, thermal, and other operational conditions and be designed for normal unattended operation.

The inverter must contain all self-protection features as stated in IEEE 929 including over and under voltage and frequency safeguards. An integral, anti-islanding protection scheme shall prevent the inverter from feeding power to the PG&E grid in the event of a utility outage.

Inverter efficiency shall be rated at greater than or equal to 94.5%.

The inverter shall include provisions for automatic operation including start up, shut down, self-diagnosis, and fault detection.

Inverter shut off and reset toggle switches shall be provided.

The inverter must have a continuous power rating that exceeds the PV array output and AC current distortion at rated power must be less than 5% Total Harmonic Distortion (THD) at all power output loadings.

The inverters shall be interconnected to the customer's electrical panel per code and utility requirements.

The inverters shall be housed in an appropriately waterproof and dust proof enclosure, or in a building. The inverters shall have provisions to prevent moisture condensation and entrance of rodents into air intake or exhaust ports. The inverter enclosure shall take into consideration the effects of direct sunlight and extreme weather such that the inverters are appropriately shielded from the elements. The inverter enclosure should be well ventilated so that the inverters operate safely at or near their maximum power point (MPP).

The following specific codes and standards shall apply to the inverter installation and operation:

- ANSI /IEEE 519 1981 Guide for Harmonic Control of Static Power Controllers.
- ANSI Test Code C57, 12.91 for Factory Tests of Dry Type Transformers.

F. Balance of System (BOS) Components:

The system shall be comprised of UL (or approved equal) listed components where these components are available.

G. Combiner Boxes

Combiner boxes will be UL listed as appropriate or Listed to 1741 or equal.

H. Circuit Disconnects Switches and Enclosures:

Enclosures shall be surface mounted type, unless otherwise noted, and of NEMA type 3R, waterproof.

Disconnect Switches shall be DC or AC rated, as appropriate, with appropriate ampere ratings as required. They shall be UL listed and of NEMA type 3R, waterproof, meet proper AIC requirements, be correctly rated for DC or AC operation, as appropriate, and be “load-break” capable.

Disconnects and enclosures must be properly supported and braced to seismic zone requirements, where required.

When used for disconnecting, disconnects for branch circuit protection shall be located per code.

Switchgear must be accessible. The location of the disconnect switch may be acceptable as long as it is accessible 24/7 and approved by the applicable local utility provider.

I. Fuses:

All low voltage fuses for disconnects must be current limiting UL class J, RK1, or RK5 and of the appropriate voltage, delay or non delay characteristic, and current rating to provide both complete short circuit and overload protection per NEC sections regarding component protection.

Fuses in the combiner boxes protecting PV string branch circuits must be UL class CC midget type, be in “shock-safe” type fuse holders “touch safe”, providing load break disconnect capabilities when changing fuses. Midget fuses and fuse holders used in these circuits must be fully DC rated and adequate DC short circuits withstand capability must be provided for all power situations including “back-fed” conditions.

All fuses and other protective devices and holders must be engineered to safely protect system components under “worst case” expected field conditions, including temperature extremes.

PV panel strings must be individually protected from short circuit conditions that may originate within the panels themselves. String level fusing is all that will be offered.

J. Wiring and Connectors:

Wire shall be copper or alum and sizes referred to on the Provider’s drawings must refer to American Wire Gauge (AWG) sizes where appropriate or sizes in kcmil or MCM where appropriate.

For medium voltage conductors, splices, and other related items, please refer to applicable local utility provider specifications.

Installation of copper wires, cables, and connection devices shall be in accordance with the manufacturer’s instructions and currently adopted version of the California Electrical Code. Cables must not be bent to a smaller radius than is recommended by the manufacturer.

Voltage drop must be limited to 2% on main AC circuit and 3% on DC circuits, including losses in conductors and through all fuses, blocking diodes, and termination points.

K. Raceways:

Steel conduit system shall meet the following specifications:

1. UL Listed: The galvanized rigid steel conduit must be UL Listed. All conduit, fittings, and accessories must be new, unused material. Applicable UL standards may include: UL 6 Standard for Safety, Rigid Metal Conduit, UL 514B Standard for Safety, Fittings for Conduit and Outlet Boxes. EMT should be recognized as acceptable.
2. The galvanized rigid steel conduit shall be hot dip galvanized inside and out with hot galvanized threads.

L. Connections to Existing Circuit Breakers:

The appropriate volt circuit breakers, with the required AIC rating shall be utilized and shall be noted on the one line diagram.

The Provider shall supply a step-up transformer to match the voltage of the local utility distribution system if required. The step-up transformer shall be compatible with utility standards for voltage, phasing and grounding. This transformer shall be housed in the dust-tight and rain-tight enclosure. It may be dry type or liquid-filled type. For oil filled transformers, the Provider shall provide an adequate oil containment system if required to meet SPCC regulations. PCBs shall not be permitted.

The step-up transformer shall include an automatic positive load-breaking means of disconnect (e.g., switch, circuit breaker, etc.) on the high side. The disconnect means shall be provided to disconnect all phases simultaneously.

M. Grounding:

Provide driven-ground rod or equal per code when specified and provide green equipment ground conductors sized in accordance with NEC on main AC power circuit and DC collector circuits. If required by code, ground rods shall be copper clad steel ¾ inch * 10 feet unless otherwise indicated on one line diagram. Appropriate tie in and grounding of the entire System, including roof-mounted components, shall be per NEC-250 requirements.

N. Operational Identification and Warnings:

Project Sign:

Proposers shall install signs for instruction or warning identifying that a solar PV system is operational on the premises at appropriate locations and that there are potentially multiple power sources on the premises.

2. General Documentation Requirements

The Proposer shall identify an appropriate location for the solar PV inverter equipment and its related components and environmental control systems that will meet the following criteria:

- Ease of maintenance and monitoring
- Efficient operation
- Low operating losses
- Secured location and hardware

- Compatibility with existing facilities

The following documents generated by the Provider as part of this project shall also be provided to the County for review and record purposes.

1. Project schedule, updated monthly or sooner should significant changes occur
2. Design basis
3. Equipment and system sizing computations
4. Design computations
5. Construction detail drawings
6. Construction plans, compliance documents, and project permits
7. All electrical drawings, single line, physical layout, wiring diagrams
8. All documents submitted to and provided by regulatory permitting, jurisdictional agencies and applicable utility service provider
9. Commissioning plans, reports and records
10. Operation and maintenance manuals and warranty information

All documents shall be prepared according to current industry standards.

All deliverables shall be submitted, depending on their type, separately in draft and final document format. Final documents shall be inclusive of all comments and/or issues raised during the review of draft documents.

All draft and final deliverables shall be submitted in 1 digital copies available for download on a cloud server, unless otherwise specified. All digital deliverables shall be in the latest version of the applicable software. Formatting for 11 x 17 drawing print size is preferred. Digital copies shall include required drawings in AutoCAD and Adobe Acrobat PDF format and required specifications and design reports in MS Word and Adobe Acrobat PDF formats.

3. Regulatory, Permit, and Licensing Requirements

All work undertaken per this Agreement shall be in accordance with all Local, State and Federal laws, ordinances, regulations and standards.

Prime and sub contractors shall possess current valid California contracting licenses for the applicable classification of work performed; properly licensed or certified individuals shall carry out all professional work.

It will be the sole responsibility of the Provider herein to seek and obtain all permits including, but not limited to, those from the County's Department of Community Services for final compliance reviews, building permits and inspections; applicable utility service provider for utility interconnection applications and final interconnection, and any other relevant permits. Any necessary land use entitlements and environmental reviews are excluded from Providers scope. The Provider shall be responsible for and shall obtain all necessary permits for the project, wherein the County will be the signatory only if required and appropriate. The Provider shall be responsible for all costs including all fees and taxes regardless of the signatory. The

Provider shall supply and install all equipment required to interconnect the solar PV systems to applicable local utility provider. The Provider shall fulfill all application, study, and testing procedures to complete the interconnection process.

4. Construction, Operation and Maintenance General Obligations and Warranties

The Provider shall provide its own construction office or trailer on the site during construction and shall include temporary electricity, if needed, by the local electric utility. Purchaser shall not provide office or storage space for the Provider's use. Purchaser agrees to turn over work area for construction.

Throughout the construction of the photovoltaic project, the Provider shall keep the site free from accumulations of waste material, debris or rubbish. The Provider shall remove all waste, rubbish, tools, and surplus materials from the work site and keep the area clean. Clean up shall be performed in accordance with established safety and proper disposal procedures and in accordance with all applicable federal, state and local laws, rules, and ordinances.

The Provider will be responsible for all aspects of maintaining the PV array and BOS, including but not limited to cleaning the arrays, replacing broken or worn out system components, performing maintenance in accordance with equipment manufacturer recommendations, and ensuring that every part of the array is operating according to design, producing the maximum amount of power possible and free of power quality issues.

The Provider shall secure the following minimum warranties for the System, which shall be fully transferable if the buyout option is exercised:

- Any warranty required to qualify a PV system for available rebates or incentives
- 25-year PV panel warranty
- 10-year inverter warranty

II. Engineering and Construction Requirements

1) DESIGN PHASE

a) Standard of Care

- Provider must perform services in accordance with those standards of care that are generally recognized as being used by competent persons in its area of specialty in the State of California.
- Provider must perform services in compliance with all applicable federal, state and local codes, statutes, laws, regulations and ordinances, including environmental, energy conservation, and disabled access requirements.
- All designs must comply with all regulations and standards of the fire marshal having jurisdiction over the project.
- Provider must use its best efforts to verify interpretations of applicable law, codes, regulations, and ordinances, from the appropriate government agency(s) and authorities having jurisdiction over the project. Such efforts will be undertaken in accordance with the acceptable standard of care for this type of project.

b) Signing and Stamping Documents

- Permit set documents and must be signed and stamped by the design professional(s) as appropriate to the discipline of work.
- CD documents will not be stamped
- As-builts will not be stamped

2) PERMITS FROM THE OFFICE OF THE FIRE MARSHAL

a) OVERVIEW

- Installation and acceptance permits are required from the Office of the Fire Marshal, having the jurisdiction of the project.
- The licensed professional engineer is responsible for completing the installation permit application, submitting the permit application to the Office of the Fire Marshal, and receiving the approved permit before proceeding with work. No work may proceed without receipt of an approved Fire Marshal permit.
- The Fire Marshal shall conduct compliance inspections, and final acceptance inspections, of the Provider's work related above items of work. The "compliance inspections" are for Fire Marshal compliance only and do not relieve the provider from performing all work to the standards established by the entirety of the contract documents.

3) FIRE PROTECTION PLAN

- a) Provider shall prepare and submit to Purchaser a written fire protection plan. The written fire protection plan.
- b) At a minimum the fire protection plan shall include:
- i) The name and phone number of the Provider representative responsible for compliance with the written fire protection plan.
 - ii) Procedures for:
 - (1) Reporting emergencies to the local fire department;
 - (2) Emergency notification, evacuation and/or relocation of all persons at the premises.
 - (3) Hot work operations;
 - (4) Management of hazardous materials, if any;
 - (5) Removal of combustibile debris, if any; and
 - (6) Maintenance of emergency access roads.

4) GENERAL

a) DEFINITIONS

- i) Hot Work - Hot work includes any operations capable of initiating fires or explosions, including cutting, welding, brazing, soldering, grinding, thermal spraying, thawing pipe, torch applied roofing, or any other similar activity.
- ii) Fire Marshal – Office of the Fire Marshal, Santa Clara County

b) ACCESS TO WORK

- i) The Provider must provide Purchaser continuous access to the work.

c) USE OF PREMISES

- i) Provider must confine operations at the Premises to areas permitted by law, ordinances, permits and the contract documents, and must not unreasonably encumber the Premises with any materials, equipment, temporary structures, or temporary measures.
- ii) Provider's employees, or others subject to the Provider's control, are not permitted to reside on the Premises in temporary living facilities.

d) WORKPLACE ENVIRONMENT

- i) The use or possession of alcohol, weapons, or illegal controlled substances by the Provider, or others subject to the Provider's control, on County property is prohibited.
- ii) The Provider must ensure and maintain a workplace environment free of personal harassment and intimidation.
- iii) Conduct that creates an intimidating, hostile, or offensive workplace environment is prohibited. Such conduct includes, but is not limited to, the following:
 - Verbal harassment, e.g., [epithets](#), derogatory comments or [slurs](#);
 - Physical harassment, e.g., assault, impeding or blocking movement, gestures, staring, or any physical interference with normal work or movement;
 - Visual forms of harassment, e.g., derogatory posters, letters, poems, graffiti, cartoons, or drawings.
- iv) Unwelcome and unwanted sexual advances constitute sexual harassment that is prohibited. For example, requests for sexual favors and verbal or physical conduct of a sexual nature are prohibited.
- v) It is the responsibility of the Provider to:
 - Inform its employees and Subcontractors that behavior that creates an intimidating, hostile, or offensive workplace environment is prohibited;
 - Create a workplace environment that is free from harassment; and,
 - Take corrective action to stop prohibited behavior/conduct.
- vi) If in the reasonable opinion of the Purchaser's Authorized Representative, any employee of the Provider or Provider's subcontractor violate the prohibitions of this workplace environment, Provider must immediately remove that person or subcontractor from the Project upon Purchaser's request, and such person or subcontractor must not be permitted to perform further work on the Premises.

e) DISRUPTION OF PURCHASER'S NORMAL OPERATIONS

- i) Provider must give timely advance notice to Purchaser of work that is likely to be disruptive to Purchaser's normal operations at or near the Premises. If Provider does not so advise Purchaser, Purchaser has the right to temporarily suspend Provider's work or to require Provider to modify its work operations to eliminate any disruption, and Provider is not entitled to any adjustment in the kWh Rate for any delay or additional costs associated therewith.

f) CLEANUP

- i) Provider must continuously keep the Premises and surrounding areas free from waste materials and/or rubbish caused by its operations or rubbish from any source that accumulates within the Premises and any other area designated by the Purchaser's Project Manager for use by the Provider.
- ii) Upon completion of the work or any designated part thereof, Provider must promptly remove all its waste materials, rubbish and debris, and all its tools, construction equipment, machinery and surplus materials from the Project area or the completed part.

g) DISPOSAL OF MATERIAL OUTSIDE PROJECT AREA

- i) To the extent that Provider discovers any hazardous materials it shall be bring the existence of such hazardous materials to Purchaser's attention and Purchaser shall dispose and pay for the proper disposal of such hazardous materials.
- ii) Hazardous Materials: must comply with all legal requirements, including but not limited to containerization, labeling, manifesting, transportation, disposal site, and use of properly trained personnel. No later than 15 Days after Provider's request for Final Inspection, Provider must submit

copies of all Hazardous Waste Manifests signed by Toxic Substances Disposal Facilities (“TSDF’s”) and certificates of disposal, to prove that Provider has legally disposed of such materials. Submit four (4) copies of each manifest. All cost are to be covered by County for this type of disposal.

h) INTENTIONALLY LEFT BLANK

i) TRENCHING AND EXCAVATION

- i) Before any excavation, Provider must, pursuant to California Government Code [§4216](#) and [Cal/OSHA 8CCR1540](#), outline the excavation in white paint (preferably chalk or water base), provide two workdays notice to Underground Service Alert (1-800-227-2600), obtain a locator number, and follow all necessary procedures to avoid underground facility damage.

j) AIR POLLUTION CONTROL

- i) Provider and each subcontractor must comply with all air pollution control rules, regulations, ordinances, statutes, and project-specific permit requirements of the Bay Area Air Pollution Control District and all other regulatory agencies that apply to any work performed.

k) WATER POLLUTION CONTROL

- i) Provider must comply with all Federal, State and local water pollution prevention and storm drain pollution prevention rules, regulations, ordinances, statutes, guidelines.
- ii) If required by law, ordinance, regulation, code, permit or the requirements of the Agreement, Provider must prepare a Project Specific Storm Water Pollution Prevention Program (SWPPP).
- iii) Provider must exercise every reasonable precaution to protect storm drains, channels and all bodies of water from pollution, and must conduct and schedule operations so as to avoid or minimize muddying and silting of any waters. Provider must construct whatever facilities are necessary or requested by Purchaser to provide prevention, control and abatement of water pollution.
- iv) No provision of the Agreement relieves Provider of responsibility for compliance with California Fish and Game Code [§5650](#) et seq, and [§12015](#) et seq, and applicable regulations of the Regional Water Quality Control Board, Yolo County flood control and water district requirements, or other applicable statutes relating to prevention and removal of water pollution.
- v) Compliance with water pollution requirements does not relieve Provider from responsibility to comply with all provisions of the Agreement, particularly Provider’s responsibilities for damage and preservation of property.

l) SOUND CONTROL

- i) The Provider must comply with all CAL OSHA requirements.
- ii) The Provider must comply with all local sound control and noise level rules, regulations, and ordinances that apply to any work performed pursuant to the requirements of the Agreement.
- iii) Each internal combustion engine, used for any purpose on the project or related to the project, must be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler
- iv) Noise level from and hours of Provider’s operations, that are located within city limits, must comply with city ordinances or requirements. Provider’s operations in the County’s unincorporated areas or areas which border a city, town or other county must comply with the noise level requirements per the Yolo County Ordinance Code or requirements adopted by other jurisdictions, whichever are more stringent.
- v) Noise level requirements apply to all equipment used in the project including, but not limited to, trucks, transit mixers, generators, air-tools, or equipment that may or may not be owned by the

Provider. The use of loud sound signals must be avoided in favor of warning lights except those required by safety laws for the protection of personnel.

m) WORKER'S SANITARY PROVISIONS & USE OF PURCHASER'S FACILITIES

- i) Provider must conform to the rules and regulations for sanitary provisions established by the State, the County of Yolo, and any other applicable jurisdictions.
- ii) Provider must provide and maintain toilets for use by its employees and the employees and representatives of the Purchaser. These accommodations must be maintained in a neat and sanitary condition, and must comply with all applicable laws, ordinances and regulations pertaining to public health and sanitation.
- iii) Provider's personnel must not use Purchaser's facilities without Purchaser's express written permission, which will be at Purchaser's sole discretion. Such Purchaser's facilities include but are not limited to toilet facilities, food service facilities (cafeteria and coffee shop), utilities services of any kind, carts, fire extinguishers (except in emergencies), parking, storage space and any other facilities and services.

n) SUBMITTALS

i) General

- Purchaser's review of submittals is for general compliance. Provider is solely responsible for all quantities, dimensions, weights, gauges, materials, fabrication processes, construction methods, coordination with the work of other trades, and construction safety precautions. Purchaser's review does not relieve the Provider of responsibility for errors and omissions in the submittals or from responsibility for proper fitting and construction of the work, nor from furnishing materials.
- When certification of materials, systems or equipment is required by the Agreement, Purchaser are entitled to rely upon the accuracy and completeness of such certifications and the calculations and other professional analysis supporting the certifications.

ii) Provider's Responsibilities

- Provider must, at its own expense, provide for Purchaser's review of all submittals required by the Agreement.

o) COMPLIANCE WITH LAWS AND REGULATIONS

- i) Provider must keep informed of governmental regulations that may affect the work. Provider must observe and comply with, and must cause all agents, employees, subcontractors and suppliers to observe and comply with said regulations.

p) TAXES, UTILITIES, PERMITS, AND FEES

- i) Taxes: Provider must pay any or all taxes imposed by Federal, State, or local governments, including but not limited to Federal excise tax and all State and local sales and use taxes. Purchaser will not furnish any tax exemption certificate or any document designed to exempt Provider from payment of any tax on labor, services, materials, transportation, or any other items provided by Provider pursuant to the Agreement.

ii) Utilities:

- Unless otherwise stated Provider will pay for the installation, metering and consumption of all "temporary" utilities. "Temporary" utilities include electrical, water and sewer for the following through project completion:
- To operate the Provider's field office;

- To power and operate construction tools, temporary lighting, concrete, mortar and grout mixing and placement operations; and
- iii) Permits & Fees: Provider must obtain and pay for all building permits, encroachment permits, and all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the work, unless otherwise provided in the Agreement. Conditional Use Permits and CEQA are excluded.
- Providers must give all necessary notices and comply with all laws, ordinances, rules, regulations and lawful orders relating to the work, and to the preservation of the public health and safety.
 - If Provider performs any work contrary to such laws, ordinances, orders, rules and regulations, Provider shall bear all costs attributable thereto.
 - Upon receipt, Provider must Submit four (4) copies of all Provider obtained permits to the Purchaser.
 - Provider must arrange, coordinate, and pay for all permit-related inspections unless otherwise provided in the Agreement.
- iv) Royalties & License Fees: Provider must pay all royalties and license fees, and must defend all suits or claims for infringement of any patent rights and save Purchaser and its Consultants on this Project harmless from loss on account thereof.
- v) Recycling: Provider shall comply with all recycling requirements required to obtain a building permit.
- q) PATENTS
- i) Provider must assume all costs arising from the use of patented materials, equipment, devices or processes used on or incorporated in the work, and must indemnify and hold harmless Purchaser and Purchaser's authorized representatives and consultants, from all suits at law, or actions of every nature for, or on account of the use of any patented materials, equipment, devices or processes.

5) SUBCONTRACTORS

a) SUBLETTING AND SUBCONTRACTING

- i) The Provider must adhere to the rules governing subcontracting as set forth in the Subletting and Subcontracting Fair Practices Act.
- ii) The Provider is responsible for all work performed pursuant to the requirements of the Agreement, including work subcontracted to others. All persons engaged in the work of the project are the responsibility of and subject to the control of the Provider.
- iii) No subcontractor will be recognized as such, and all persons engaged in the work will be considered as employees of Provider who is responsible for their work.
- iv) When any subcontractor fails to execute a portion of the work in a manner satisfactory to Purchaser, the Provider must remove such subcontractor immediately upon written notice from Purchaser, and the subcontractor must not again be employed on the project.

b) SUBCONTRACTOR'S CONTRACTUAL OBLIGATIONS

- i) Provider's subcontracts and agreements must preserve and protect Purchaser's rights pursuant to the Agreement with respect to the subcontractor's or supplier's work so the subcontracting thereof will not prejudice such rights. Provider must require each subcontractor to enter into similar agreements with its sub-subcontractors.
- ii) Provider must make available to each proposed subprovider and supplier, prior to execution of the subcontract or agreement, redacted copies of the Agreement to which the subprovider or supplier will be bound and, upon written request of the subcontractor or supplier, identify to the subcontractor or

supplier any terms and conditions of the proposed subcontract or agreement that may be at variance with the Agreement. Each subcontractor must similarly make copies of all such documents available to its proposed sub-subcontractors.

c) CONTROL OF SUBCONTRACTORS

i) Provider must:

- Schedule and coordinate the work of all subcontractors;
- Instruct all subcontractors to consult with other subcontractors to ascertain the locations of their various materials including stored materials and to familiarize themselves with their own material locations, making such changes as required to obtain the best results;
- Instruct all subcontractors to schedule their work and cooperate with the other subcontractors to avoid delays, interferences, and unnecessary work, to conform to the construction schedule and make installations when and where directed.
- Make all necessary changes, including removing and reinstalling of materials, at their sole expense if they fail to check with other subcontractors, and their installed work is later found to interfere with work of other subcontractors.
- Follow up to ensure that all subcontractors install their work when and where directed.

d) STOP NOTICES

- i) Purchaser will comply with California Civil Code Title 15, Chapter 4, [§3179](#) and following, regarding stop notices.
- ii) All stop notices must be sent to the Purchaser.

5.5 PURCHASER'S OTHER WORK

Contractor agrees to coordinate its work with any existing or planned work of Purchaser.

6) PROTECTION OF PERSONS AND PROPERTY; DEPARTMENT OF COMMUNITY SERVICES APPROVAL

a) SAFETY PROVISIONS

- i) Provider is solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of work. This requirement applies continuously and is not limited to normal hours of work. No act, service, drawing or construction review, acceptance or other act by Purchaser or any representative of Purchaser is intended to include review of the adequacy of Provider's safety measures at or near the Premises, at any place of fabrication, or anywhere else.
- ii) Provider must take all necessary precautions on the work for the safety of its workers, of Purchaser's employees and the public, and must comply with all applicable Federal, State, and local safety laws and codes to prevent accidents or injury to persons on, about, or adjacent to where the work is being performed.
- iii) Provider must erect and properly maintain at all times, as required by the conditions and progress of the work, all appropriate safeguards for the protection of workers and the public, and post danger signs warning against construction hazards, such as fire, toxics, pesticides, chemicals, odors, noise, vibration, equipment operations, obstructions, falling objects, falls and all other construction-related hazards.
- iv) Provider must designate a responsible member of its organization who will be present on the Premises and who has the duty for prevention of accidents. Provider shall inform Purchaser by email of the name, email, and phone number of Provider's responsible member of its organization who will be present on the Premises and who has the duty for prevention of accidents.

b) PUBLIC SAFETY AND CONVENIENCE

- i) Provider must provide for the safety of the public during construction and conduct its operations to minimize the amount of work posing potential hazards to the public.
- ii) Provider must keep all walkways clear. Provider must protect pedestrians from falling objects and water runoff.
- iii) Provider's equipment must enter and leave the Project area via access routes designated or accepted in writing by Purchaser, and move in the direction of public traffic at all times. All movements on or across publicly traveled ways must not endanger public traffic.
- iv) Provider must immediately remove any spillage, debris, dirt, or mud resulting from hauling operations along or across any publicly traveled way.
- v) Provider must minimize inconvenience or obstruction to the public. When Provider's operations create a condition hazardous to the public, Provider must furnish, erect, and maintain such temporary fencing, barricades, , signs, and other devices as are necessary for direction of the public or to avoid accidents, damage, or injury to the public. Provider must furnish such flagmen and guards as are necessary to direct the public or to give adequate warning of any hazardous conditions.

c) PROTECTION AND RESTORATION OF PROPERTY

- i) Provider must immediately repair any damage, arising from or in consequence of the performance of the Agreement, to improvements or property, whether above or below the ground, private or public, within or adjacent to the project.
- ii) In an emergency affecting the safety of life or property, including adjoining property, Provider must act at its discretion, with notice to Purchaser, to prevent such threatened loss or injury. Provider must maintain adequate protection against damage to life and property involved in project and on property adjacent.

d) PRESERVATION OF CULTURAL RESOURCES

- i) Pursuant to the [National Historic Preservation Act of 1966](#), State laws and County ordinances, the following procedures are implemented to ensure historic preservation of cultural resources discoveries.
- ii) In the event potentially historical, architectural, archaeological or cultural resources (hereinafter "resources") are discovered during subsurface excavations at the Premises, the following procedures apply:
 - (1) Provider to temporarily suspend all operations at the location of such potential resources.
 - (2) A qualified consultant must be utilized to assess the value of such resources and make recommendations.
 - (3) If the consultant determines that the potential find is indeed a cultural resource, Purchaser will, as expeditiously as possible, advise Provider in writing of the action to be taken regarding the find, and the anticipated time frame and extent of any work suspension.

e) Department of Community Services Approval

o OVERVIEW

- The Provider's work, including submission of Provider-required designs and calculations, and actual on-site work, is subject to approval by the the County of Yolo's Department of Community Services (including, but not limited to, the Planning Division and Building Division). The Provider's work is subject to code-compliance inspections by a Building Official. These inspections are for code compliance only and do not relieve the Provider from performing all work required.

- The Provider must obtain all permit and subsequent revisions as needed prior to construction work.
 - FEES
 - All plan check and building permit fees, as well as all trade permit fees, i.e.: plumbing, electrical, mechanical, etc., will be paid for directly by the Provider.
 - EXECUTION
 - No work shall commence until the Provider has secured approval from the Building Official and posted a Building Permit Record Card at the jobsite. This card shall be maintained available at the jobsite by the Provider until the project has been signed off as “complete” by the Building Official or his designated representative.
 - Work shall not proceed beyond the point indicated in each successive milestone section of the Building Inspection Card without obtaining the approval of the Building Official. The Building Official, when requested by the Provider, shall make the requested inspections and shall indicate that portion of the work that is satisfactory as completed, or shall notify the Provider wherein the same fails to comply with the applicable building codes. Any portions that do not comply shall be corrected by the Provider at the Provider’s expense, and a request for re-inspected will be made.
 - The process of obtaining Building Official approval of specific work takes place as follows:
 - The Provider shall inspect the work prior to requesting inspection by Building Official.
 - The Provider will request and coordinate the inspection by Building Official.
 - The Provider shall notify the Purchaser’s project representative to be present at the time of inspection by the Building Official.
 - Special Inspections. In addition to the inspections specified above, the Provider is responsible for contracting for special inspection services to provide inspections during construction as delineated in the California Building Code. All costs for these special inspections will be included in the Provider’s Proposal for the performance of the work.

7) COMMISSIONING REQUIREMENTS

a. DEFINITIONS – the following definitions apply to this commissioning section.

- Startup: The initial starting or activating of dynamic equipment. Refers to the equipment manufacturer’s field quality control process and procedures required to activate equipment.
- System(s): Group of components and equipment functioning as a unit or performing a common function. (i.e. automatic transfer switch, meter test, controls, etc.).
- System Components: Equipment that act/operate “individually” but are essential to the operation of a System.
- Test Equipment Calibration Certifications: reports of traceable calibration of test equipment to industry standards by certified agencies.
- Test Procedures: The step-by-step process which must be executed to test the performance of a given set of functions and/or operational modes.
- Test Requirements: Requirements specifying what modes and functions, etc. shall be tested.

b. GENERAL

- Systems and equipment shall be commissioned in order to achieve the following specific objectives:
 - Verify and document that equipment is installed, started, and operates properly pursuant to the requirements of the Agreement and manufacturer's specifications, instructions and recommendations.
 - Identify deficient systems, equipment and/or installations as early as possible to facilitate timely corrective action minimizing schedule impact.
 - Verify and document that equipment and systems receive complete operational checkout by installing providers, vendors and manufacturers.
 - Verify and document equipment and system performance.
 - Verify completeness of operations and maintenance.
 - The commissioning process does not reduce the responsibility of the Provider to perform and complete all work in accordance with the requirements of the Agreement.
- c. COMMISSIONING TEAM Commissioning process should be defined by the Purchaser -
- It is the intent that all members of the Commissioning Team cooperate with each other to fulfill their individual responsibilities and support the overall commissioning process.
 - The Commissioning Team consists of:
 - Purchaser representatives
 - Provider and Provider's commissioning authority

d. PROVIDER'S COMMISSIONING RESPONSIBILITIES

The Provider has overall responsibility to ensure acceptable performance of all systems to be commissioned.

e. EXECUTION

Acceptance documentation: Provider shall provide a copy to Purchaser of the accepted functional performance test results certified by the Provider, as meeting the specifications for each system or piece of equipment.

f. FUNCTIONAL PERFORMANCE TESTING

- Provider shall develop a Functional Performance Tests Plan (FPTP) and associated Functional Performance Tests (FPT).
- THE CONTROLS SYSTEM SHALL NOT BE FULLY FUNCTIONALLY TESTED UNTIL ALL POINTS HAVE BEEN CALIBRATED AND PRE-FUNCTIONAL CHECKLISTS ARE COMPLETED.
- Functional Performance Testing will require that the Provider operate Systems through a full range of checks and tests in order to determine if Systems, and interfaces between Systems, function in accordance with the Agreement. In this context, "function" includes:
 - ALL MODES AND SEQUENCES OF CONTROL OPERATION;
 - STARTING, STOPPING, AND PROPER OPERATIONS;
 - COMPLIANCE WITH ALL SPECIFIED RESPONSES TO EMERGENCY CONDITIONS.

g. COMMISSIONING ACCEPTANCE PROCEDURES

Provider must notify the Purchaser at least **seven** (7) calendar days prior to starting Functional performance tests.

h. NON-CONFORMANCE

- If acceptable performance is not achieved:
 - If there is no dispute on the deficiency and the responsibility to correct it:
 - PROVIDER DOCUMENTS THE DEFICIENCY AND THE ADJUSTMENTS OR ALTERATIONS REQUIRED TO CORRECT IT.
 - PROVIDER CORRECTS THE DEFICIENCY AND NOTIFIES THE PURCHASER THAT THE EQUIPMENT IS READY TO BE RETESTED.

i. FINAL COMMISSIONING TEST DOCUMENTATION

As a condition of achieving Milestone Completion, the Provider shall compile and submit a final report containing all documents generated throughout the commissioning process, to include: completed and signed pre-functional tests, organized by system; completed and signed functional tests, organized by system; completed and signed performance period testing reports, organized by system. The report shall be submitted electronically.

SYSTEMS TO BE COMMISSIONED

FIRE PROTECTION

- All other necessary to fully comply with the performance of the system

ELECTRICAL

- Electrical metering, monitoring, and control systems
- All other necessary to fully comply with the performance of the system

Exhibit E

Provider Insurance Requirements

- A. During the Term, Provider shall at all times maintain, at its expense, the following coverages and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.
1. Minimum Coverages (as applicable) - Insurance coverage shall be with limits not less than the following:
 - a. **Comprehensive General Liability** – \$2,000,000/occurrence and \$4,000,000/aggregate
 - b. **Automobile Liability** – \$1,000,000/occurrence (general) and \$500,000/occurrence (property) [include coverage for Hired and Non-owned vehicles.]
 - c. **Professional Liability/Malpractice/Errors and Omissions** – \$1,000,000/occurrence and \$2,000,000/aggregate (If any engineer, architect, attorney, accountant, medical professional, psychologist, or other licensed professional performs work under a contract, the contractor must provide this insurance. If not, then this requirement automatically does not apply.) If Provider’s General Contractor maintains this insurance, Provider shall not be required to maintain a separate policy for this coverage.
 - d. **Workers’ Compensation – Statutory Limits/Employers’ Liability** - \$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)
 2. The County, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers’ compensation and professional liability coverages. [NOTE: Evidence of additional insured may be needed as a separate endorsement due to wording on the certificate negating any additional writing in the description box.] It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.
 - a. The Additional Insured coverage under the Provider’s policy shall be “primary and non-contributory” and will not seek contribution from the County’s insurance or self insurance and shall be at least as broad as CG 20 01 04 13.
 - b. The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non contributory basis for the benefit of the County of Yolo (if agreed to in a written contract or agreement) before the County’s own Insurance or self insurance shall be called upon to protect it as a named insured.
 3. Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall be payable on a “per occurrence” basis unless the County Risk Manager specifically consents in writing to a “claims made” basis. For all “claims made” coverage, in the event that the Provider changes insurance carriers Provider shall purchase “tail” coverage covering the term of this Agreement and not less than three years thereafter. Proof of such “tail” coverage shall be required at any time that the Provider changes to a new carrier prior to receipt of any payments due.
 4. Intentionally Omitted.
 5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the County Risk Manager. All self-insured retentions (SIR) must be disclosed to Risk Management for

approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied either by the named Insured or Yolo County.

6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Director (ten (10) days for delinquent insurance premium payments).
 7. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by the County Risk Manager.
 8. The policies shall cover all activities of Provider, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.
 9. For any claims relating to this Agreement, the Provider's insurance coverage shall be primary, including as respects the County, its officers, agents, employees and volunteers. Any insurance maintained by the County shall apply in excess of, and not contribute with, insurance provided by Provider's liability insurance policy.
 10. The insurer shall waive all rights of subrogation against the County, its officers, employees, agents and volunteers.
- B.** Prior to commencing the Installation Work pursuant to this Agreement, Provider shall furnish the current certificates evidencing that the insurance required herein is being maintained.
- C.** During the term of this Agreement, Provider shall furnish the County with certificates reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement.
- D.** Provider agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by Provider agree to be bound to Provider and the County of Yolo in the same manner and to the same extent as Provider is bound to the County of Yolo under the Contract Documents. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of the Owner Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The Provider **and/or Provider's General Contractor** shall require all Subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and Provider/**and or Provider's General Contractor** will provide proof of compliance to the County of Yolo.

[End of Exhibit E]

Exhibit F

Provider Payment Bond

BOND NO. _____

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the County of Yolo, State of California, ("Owner") has awarded to _____ ("Contractor/Principal") a contract (County Agreement No. _____, dated _____, YEAR, referred to as the "Agreement") for the work described as _____. The Agreement is incorporated by this reference into this Payment Bond ("Bond"); and

WHEREAS, Contractor/Principal is required to furnish a bond in connection with the Agreement and pursuant to California Civil Code section 9550;

NOW, THEREFORE, we,

_____ the undersigned Contractor/Principal, and _____, ("Surety"), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the County of Yolo, and to any and all persons, companies, or corporations entitled by law to file stop payment notices under California Civil Code Section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum of _____ DOLLARS (\$ _____), which such sum being not less than one hundred percent (100%) of the total amount payable by the Owner under the terms of the Agreement, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Contractor/Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code section 9100; or fail to pay for any materials, provisions, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Section 9550 et seq.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition,

alteration or modification in, to, or of any contract, plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Owner and Contractor/Principal or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

Any notice to Surety may be given in the manner specified in the Agreement and delivered or transmitted to Surety as follows:

Attn: _____

Address: _____

City/State/Zip: _____

Phone: _____

Fax: _____

Email: _____

IN WITNESS WHEREOF, two identical counterparts of this Bond, each of which shall for all purposes be deemed an original thereof, have been duly executed by Contractor/Principal and Surety above named, on the ____ day of _____, 20__.

_____ (SEAL)

Contractor/Principal

By: _____

Contractor's Representative

Contractor/Principal's Address

City, State, Zip

_____ (SEAL)

Surety

By: _____

Surety's Representative

Surety's Address

City, State, Zip

Telephone Number

NOTE: Signatures of those executing for Surety must be properly acknowledged. The bond must be accompanied by a properly acknowledged Power of Attorney from the Surety authorizing its agent to bind it to this bond. A copy of such Power of Attorney must be on file with the Yolo County Clerk.

[Notary Acknowledgments to be Added.]

Exhibit F

Provider Performance Bond

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the County of Yolo, organized and operating under the laws of the State of California, (hereinafter referred to as the "County") has awarded to _____, (hereinafter referred to as the "Contractor") an agreement for **Contract No.** _____, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the County in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the County, its officials, officers, employees, and authorized volunteers, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by the County in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by the County, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the County from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the County's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the County to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the County's option:

- i. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- ii. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder, the Surety and the County, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the County under the Contract and any modification thereto, less any amount previously paid by the County to the Contractor and any other set offs pursuant to the Contract Documents.
- iii. Permit the County to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the County under the Contract and any modification thereto, less any amount previously paid by the County to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the County may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the County, when declaring the Contractor in default, notifies Surety of the County's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

[Notary Acknowledgments to be Added.]

