

SOLAR POWER FACILITY IMPLEMENTATION AGREEMENT

This SOLAR POWER FACILITY IMPLEMENTATION AGREEMENT (this “Agreement”), dated as of [___], 2016 (the “Effective Date”), is entered into by and between Carbon Lighthouse Inc., a Delaware Corporation (“Developer”), and [___], a [___] (“Owner”).

RECITALS

WHEREAS, Developer designs, constructs and installs photovoltaic facilities and all the necessary ancillary systems, to make available electric energy to Owner;

WHEREAS, Owner desires to retain Developer to provide, and Developer desires to provide, complete fixed-price turnkey design, engineering, procurement, construction, installation service for a solar photovoltaic facility with a target nameplate capacity of [_____] [kW-AC], as more fully described in Exhibit A (the “Solar Facility”), to be located at [___], [owned/leased] by Owner (the “Premises”), on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Developer, intending to be legally bound, hereby agree as follows:

ARTICLE 1

DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, references to a “Section,” “Article,” “Exhibit” or “Schedule” shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. A reference to a Person includes its permitted successors and permitted assigns.

ARTICLE 2

DEVELOPER RESPONSIBILITIES

2.1 General Services of Developer. Developer shall, on a fixed-price turnkey basis, design, engineer, procure all equipment for, erect, install, test, start-up, and perform related activities for the successful completion of the Work and the delivery of the Solar Facility in compliance with this Agreement. Developer shall perform all tasks required or reasonably implied by the Scope of Work necessary to deliver to Owner the Solar Facility meeting the requirements of this Agreement on the terms set forth herein.

2.2 Compliance with Laws. Throughout the performance of all aspects of the Work, Developer shall comply with, and shall ensure that each Subcontractor complies

with, all applicable Laws (including, without limitation, Laws relating to Hazardous Materials) and all applicable requirements of the Local Electric Utility, in each case in all material respects.

2.3 Environmental and Hazardous Material Regulations. In the event Developer encounters on the Site any substance reasonably believed to be a Hazardous Material, Developer shall immediately stop work in the affected area and notify Owner of the condition. Until receipt of written instructions from the Owner, Developer shall not resume work in the affected area. Any Liabilities arising out of the existence of any Hazardous Material on the Site shall be subject to the provisions of Section 10.2.

2.4 Structural Engineering. Developer shall perform all structural engineering work, the cost of which will be paid by Developer. If performance of the structural engineering work reveals any Unanticipated Conditions, then Developer shall be entitled to a Change Order pursuant to Section 7.4.

2.5 Specific Services of Developer. Without limiting the generality of Sections 2.1 and 2.2, Developer shall perform all of the specific tasks in accordance with the Scope of Work and the Project Schedule, subject to any Change Orders pursuant to ARTICLE 7, in order to achieve Substantial Completion and Final Acceptance in accordance with ARTICLE 4.

ARTICLE 3 **OWNER RESPONSIBILITIES**

3.1 Access to Site. Owner shall provide Developer with (i) reasonable access (ingress and egress) to the Site and work areas (including appropriate laydown and storage areas for Equipment and staging areas) that Developer reasonably requires for completion of the Work relating to the Solar Facility so as to facilitate Developer's performance of the Work and at other times reasonably requested by the Developer necessary to enable Developer to perform its obligations hereunder in accordance with the Project Schedule, (ii) reasonable access to construction utilities, if any, available for Developer's use in the performance of the Work and (iii) the ability to assert control over areas of the Site as required for performance and protection of the Work, access to the Site at reasonable times in order to permit Developer to perform under the warranty in Section 8.1(b). Owner represents and warrants that as of the Effective Date, it shall have obtained any approvals from the landlord, the mortgage holder, or any other third party necessary for Developer to perform the Work.

3.2 Required Approvals. Owner shall provide Developer with such reasonable assistance as Developer may request in obtaining any Governmental Approvals required for the successful completion of the Work as required by applicable Laws. Developer shall pay the costs of these Government Approvals.

3.3 Owner's Representative. Owner shall designate in writing an Owner's Representative to represent Owner and to receive communications from Developer. Owner's Representative shall have full authority to act for Owner under this Agreement;

provided, that Owner's Representative shall under no circumstances have the authority to amend (except for the issuance of Change Orders), terminate or assign this Agreement.

3.4 Duty to Cooperate. Owner shall throughout the performance of the Work cooperate with Developer and perform its responsibilities, obligations and services under this Agreement in a timely manner to facilitate Developer's timely and efficient performance of the Work and Developer's obligations under this Agreement. Owner shall provide timely reviews and approvals and no such review or approval shall exceed the time set forth in the Project Schedule for such review or approval, and for any such review or approval not made in accordance with the Project Schedule, Owner shall be deemed to have waived its right to such review or approval.

3.5 Utilities. Owner shall provide all of the utilities used or required at the Site in connection with the installation, start up, commissioning and testing of the Solar Facility.

3.6 High Speed Internet Connection; Monitoring. Owner shall maintain and make available to Developer a functioning indoor Internet connection with an available Ethernet port and standard AC power outlet within fifty (50) feet of the Solar Facility's AC/DC inverter(s). The communication link must be a 10/100 Mbps Ethernet connection that supports common internet protocols (TCP/IP and DHCP). Owner will maintain such connection so that Owner, Developer and Subcontractors may remotely monitor the production by the Solar Facility. Developer shall provide and connect the necessary equipment to enable such Solar Facility monitoring and allow Customer access to all data generated. All ongoing cost for such monitoring shall be paid by Developer, the manufacturer of the Solar Facility's inverters or other third party.

3.7 Security. Owner shall be solely responsible for maintaining physical security of the Equipment, Solar Facility and the Premises at all times, including work areas on the Site containing any Equipment. Owner will not conduct, allow or permit activities on, in or about the Premises, or in close proximity to the Solar Facility, that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the Solar Facility or Equipment. Prior to Final Acceptance, Owner shall not contract, allow or permit any officer, employee, representative, agent or any other party acting by, through or under Owner to access, perform service on, inspect, alter, modify or otherwise interfere with the Solar Facility without prior written approval of Developer.

ARTICLE 4

PROJECT SCHEDULE, COMPLETION, COMMISSIONING AND ACCEPTANCE

4.1 Project Schedule. Developer shall install the Solar Facility and perform all Work hereunder in accordance with the Scope of Work and the Project Schedule. Developer shall use commercially reasonable efforts to meet the dates of completion set forth in the Project Schedule. Developer shall be responsible for timely procurement and delivery of all Equipment and for obtaining all Governmental Approvals necessary to commence construction as planned and to continue the Work in accordance with the Project Schedule, subject to Section 6.4 and ARTICLE 7.

4.2 Installation; Commissioning Procedures.

(a) Conduct of Tests. As soon as possible after installation of all Equipment necessary, as determined by Developer in its sole discretion, to render the Solar Facility mechanically, electrically, and structurally complete, Developer shall begin to conduct, or cause to be conducted, the Commissioning Procedures, in accordance with this Section 4.2. Developer may perform and re-perform any number of Commissioning Procedures, and Developer, at its discretion, may prematurely terminate any Commissioning Procedures.

(b) Owner Personnel. Developer shall provide Owner at least two (2) Business Days prior notification of the commencement of the Commissioning Procedures. Owner, at its sole expense, may arrange for its representatives (including technical or engineering consultants) to be present at the Site throughout Developer's conduct of any Commissioning Procedures in order to monitor the taking of measurements to determine the level of performance of the Solar Facility, all in accordance with the Commissioning Procedures.

4.3 Substantial Completion. When Developer considers that the criteria for Substantial Completion have been met, including successful completion of the Commissioning Procedures in accordance with Section 4.2, Developer shall so notify Owner in writing and provide Owner with a completed Substantial Completion Checklist.

ARTICLE 5 **COMPENSATION AND PAYMENT**

5.1 Agreement Price. As consideration for Developer's agreement to install the Solar Facility and the strict performance by Developer of the Work and all other Services hereunder, Owner shall pay Developer in cash the fixed amount of \$[____] as modified by Change Orders (the "Agreement Price").

5.2 Taxes. Owner shall be responsible for any taxes, fees or charges imposed or authorized by any Governmental Authority due to Developer's sale of the System to Owner (other than income taxes imposed upon Developer). All credits, rebates, and other tax benefits with respect to ownership of the System shall accrue to Owner.

5.3 Payment Schedule. Exhibit D sets forth the Payment Schedule for the Agreement Price. The Payment Schedule shall be used as the basis for preparation of progress invoices as set forth below, and, except as otherwise set forth herein, shall establish the amount to be paid to Developer on an aggregate basis through each month of the Project Schedule. Progress payments shall be made in accordance with the percentages set forth in the Payment Schedule.

5.4 Late Payment. Any amount not paid by Owner on the Payment Due Date shall accrue interest at fifteen percent (15%) per annum as of the Payment Due Date up to and including the date received by Developer.

5.5 Down Payment. On the Effective Date, Owner shall pay to Developer the amount set forth in Exhibit D.

5.6 Commence Construction Payment. On the date that Developer commences construction of the Solar Facility, Owner shall pay to Developer the amount set forth in Exhibit D.

5.7 Substantial Completion Payment. Upon submission to Owner of the completed Substantial Completion Checklist, Owner shall pay to Developer the amount set forth in Exhibit D.

5.8 Final Acceptance Payment. When Developer delivers notice to Owner that the criteria for Final Acceptance has been achieved, Owner shall pay to Developer the amount set forth in Exhibit D.

ARTICLE 6

TITLE; LOSS OR DAMAGE; FORCE MAJEURE

6.1 Title. Developer warrants that legal title to and ownership of the Work shall pass to Owner as set forth herein free and clear of any and all liens, claims, security interests or other encumbrances. Title to drawings, specifications and like materials provided by Developer shall pass to Owner as set forth in Section 6.2. Title to all other Work and Equipment shall pass to Owner when the Final Acceptance payment is made by Owner therefor in accordance with this Agreement. Developer shall deliver to Owner such assignments, bills of sale or other documents as reasonably requested by Owner to evidence such transfers of title.

6.2 Rights in Drawings, Etc. Developer shall cause to be assigned to Owner, following Developer's receipt of the Substantial Completion Payment, all right, title and interest in all drawings, specifications and like materials created by Developer in connection with the Work; provided, however, that Owner shall not, by virtue of this Section 6.2 or any other provision of this Agreement, acquire any interest in any formulas, patterns, devices, trade secrets, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights (collectively, "Proprietary Rights"), or similar items which are the property of Developer, whether or not used or provided to Owner in connection with the Solar Facility. If any intellectual property which is the subject of such Proprietary Rights is incorporated into any of the drawings, specifications or other materials assigned to Owner pursuant to this Section 6.2, Developer hereby grants to Owner an irrevocable, perpetual, and royalty free license (assignable to Owner's successors in interest) to retain, use, modify, damage and destroy such materials (into which such intellectual property was incorporated) solely in connection with the operation and maintenance of the Solar Facility; provided, however, that in no event shall Owner use such materials for the benefit of any other project or share any such items with any third parties, except as may be necessary for the such operation or maintenance of the Solar Facility.

6.3 Risk of Loss. Except as set forth in Section 3.8 or otherwise herein, Developer shall have the full responsibility for care, custody and control of material and Equipment incorporated into the Work (including all Equipment and materials used in

connection therewith) and shall bear the risk of loss thereof until transfer of title to Equipment, at which time risk of loss shall pass to Owner.

6.4 Ownership of Data. As between Owner and Developer, Owner shall have exclusive ownership of all data, including, without limitation, all energy production data, data generated by the DAS and any other data related to the performance of the Solar Facility. Owner hereby grants to Developer a non-exclusive, royalty-free, fully-paid, irrevocable right and license to use such data for as long as the Solar Facility remains on Site.

6.5 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for Owner's obligation to pay money in a timely manner for services actually performed by Developer or other liabilities actually incurred by Owner, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE 7 **CHANGES**

7.1 Owner Requested Change Orders. Owner may request by Change Order any change in the Work, whether such changes are modifications, accelerations, alterations, additions, or deletions. All such changes shall be made in accordance with this ARTICLE 7 and shall be considered, for all purposes of this Agreement, as part of the Work after written acceptance thereof by Developer (which acceptance shall not be unreasonably withheld). Developer shall perform all changes to the Work included in Change Orders issued by Owner and accepted by Developer in accordance with this ARTICLE 7; provided, however, Developer shall have no obligation to perform such

changes to the Work until the Parties agree in writing on the effects of a Change Order on the Agreement Price, or on any other provision hereof, except as provided in Section 7.3.

7.2 Developer Requested Change Order. Developer may propose Change Orders to Owner if those Change Orders improve the Solar Facility, are required by a Governmental Authority as a condition to issuance of any Governmental Approval, or are otherwise advisable for the Work. Owner's approval of such Change Order shall not be unreasonably withheld, conditioned or delayed. This shall not affect the obligation of Developer to perform the Work and to deliver the Solar Facility in accordance with the terms of this Agreement, except as otherwise set forth in the Change Order or in Sections 7.3 or 7.4.

7.3 Compensation for Change Orders. In the event that any Change Order affects the Work, there shall be an equitable adjustment of the payments and time of performance under this Agreement, as agreed by the Parties.

7.4 Unanticipated Conditions. If any unusual or unanticipated conditions exist or arise at the Site such as Hazardous Materials, structural or geotechnical deficiencies, environmental conditions, pollution or archeological findings not known to Developer as of the Effective Date (collectively, "Unanticipated Conditions"), which conditions would involve the incurrence by Developer of any expenses or delays to correct such conditions, Developer shall submit a request for approval of the corrective work and payment of the related expenses to Owner pursuant to a Change Order, the approval of which by Owner shall not be unreasonably withheld, conditioned or delayed, and such corrective work shall be deemed incorporated into the Scope of Work and such related expenses shall increase the amount of the Agreement Price; provided, however, if any Unanticipated Conditions exist or arise then the Change Order submitted by Developer in connection with such Unanticipated Conditions shall be deemed to be automatically approved by Owner.

ARTICLE 8 **WARRANTIES**

8.1 Warranties.

(a) Except as expressly set forth in Section 8.1(b) or Article 12, Developer does not make (and hereby expressly disclaims) any other warranties of any kind whatsoever. Developer shall not be liable for any defect or deficiency to the extent that the same results from the specific written direction of Owner relating to the Work and/or the Solar Facility, provided that any such defect or deficiency is not the result of Developer's failure to properly perform the Work in accordance with this Agreement.

(b) Developer hereby warrants that for the period commencing with the Substantial Completion Date and ending five (5) years after such date: (i) the Solar Facility will be free from material defects in workmanship and that all rooftop penetrations made in connection with the installation of the Solar Facility shall be watertight; (ii) all Work will be performed in accordance with Prudent Industry Standards and all requirements of this Agreement; and (iii) the

Work, including but not limited to each item of Equipment incorporated therein, will be new and shall conform in all material respects with the plans and specifications prepared in accordance with this Agreement and all descriptions set forth herein (the “Warranty”). For the avoidance of doubt, Developer is not providing any warranty with respect to any photovoltaic panels, inverters, racking or any other component of the Solar Facility. Furthermore, Developer guarantees that for ten years, the Solar Facility will deliver at least 90 percent of the Projected Savings as listed in the table in Exhibit D. Refunds pursuant to this performance guarantee will be assessed on an annual basis for the term of the project. At the end of each successive twelve (12) month anniversary of the Commercial Operation Date the amount of the energy savings realized by the Owner shall be calculated by Developer in its reasonable discretion using reasonable methods and subject to the exclusions and adjustments described below. For weather data, Developer shall reference United States government data sources such as the National Renewable Energy Laboratory’s TMY3 data or the National Oceanic and Atmospheric Administration’s data, and for historical annual utility escalation rates data, Developer shall reference United States government data sources such as the Department of Energy’s Energy Information Administration state-level data for the State in which the Property is located. If during each twelve (12) month anniversary review, the savings are determined to be less than 90 percent of the Projected Savings, Developer shall owe Owner an amount equal to the difference. Developer shall elect, in its discretion, to (i) send a refund equal to this amount to Owner, or (ii) make adjustments to the Solar Facility (including the installation of additional equipment) which will result in an increase in future actual savings and any amount that would have been refunded shall be carried forward to the next twelve (12) month anniversary review; provided that Developer may not elect this clause (ii) for two successive twelve (12) month anniversary reviews in a row. If during twelve (12) month anniversary review, the actual savings are determined to be greater than the Projected Savings, this surplus amount will be carried over to future twelve (12) month anniversary reviews and used to offset any future amounts that would have been refunded. Developer may use its reasonable discretion to equitably adjust the actual savings to account for the occurrence of any of the following events, which such events are not covered by the performance guarantee. Owner Actions: loss or restriction of Developer’s access to the Property; loss or restriction of Developer’s access to applicable utility and building management system data; loss of internet connection to relevant equipment; building load profile, use, or operational change; inadequate equipment or system maintenance; Equipment failure (e.g., failure of grid); and inaccurate information about facility, operations at facility, load profile, utility costs, or state of equipment provided by Owner representatives to Developer. Other Events: Conditions beyond the control of Developer that result in lower savings including but not limited to unexpected weather and above or below historical average utility rate increases; any significant new sources of shade that affect solar array production; any changes to applicable law or regulation, including but not limited to energy, mechanical, electrical, or other governmental codes that occur during the Term that affect the Services, equipment or systems through which energy savings are being delivered.

(c) In conjunction with achievement of Substantial Completion, Developer hereby agrees to assign to Owner and Owner agrees to assume, all Subcontractor, supplier and manufacturer warranties to the extent assignable, and thereafter Owner shall pursue all warranty claims thereunder directly with such Subcontractors, suppliers and manufacturers; provided, that (i) all inverters shall have a minimum manufacturer warranty period of ten (10) years and (ii) all photovoltaic panels shall have a minimum manufacturer warranty period of twenty (20) years,

including a minimum linear degradation manufacturer warranty of no more than one percent (1%) degradation per year during such period.

8.2 Remedies. If the Warranty is breached, Developer shall, upon notice from Owner of a valid Warranty claim, at Developer's sole option, repair, replace, and/or correct the applicable Work on a reasonably expedited basis while minimizing any impact of the failure on Solar Facility availability and functionality. Owner shall permit Developer all access to the Solar Facility necessary or useful to perform Developer's warranty obligations under this Agreement. All costs of Developer's performance of its warranty obligations shall be borne by Developer, including any removal, replacement and reinstallation of Equipment and materials necessary to gain access to defective Work.

8.3 Warranty Exclusions. The Warranty obligations do not extend to Work that is damaged by or other potential warranty claims arising from: (a) the negligent acts or omissions of Owner or its contractors, agents, employees, representatives or any other Person acting on behalf of Owner (other than Developer); (b) Force Majeure Events; (c) any Equipment that is not maintained and operated in accordance with all Equipment Documentation; (d) normal wear and tear; (e) any alteration, repair or replacement made without the prior written approval of Developer or contrary to instructions from Developer; (f) roof repair or maintenance (other than with respect to rooftop penetrations); or (g) site work, including but not limited to, grading and landscape maintenance, if applicable (collectively, "Non-Developer Work"). If Owner requests warranty service on the Solar Facility from Developer, then upon Developer's request Owner shall provide to Developer all records related to Non-Developer Work. In the event that the warranty service requested is related to Non-Developer Work or is covered by any assigned manufacturer warranty: (i) Developer shall have no obligation to complete such warranty service; and (ii) Developer may, in Developer's sole discretion, provide Owner with an estimate to complete such warranty service on a time and materials basis, which Owner may accept or decline in Owner's sole discretion.

8.4 NO IMPLIED WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, DEVELOPER MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND DEVELOPER DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

ARTICLE 9

LIMITATIONS ON LIABILITY

9.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, Developer's total aggregate liability arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed the

Agreement Price. Notwithstanding the foregoing, to the extent an Indemnified Party seeks indemnity or contribution from Developer: (a) in the case of Developer's gross negligence, willful misconduct or fraud; or (b) with respect to third party claims, the limitation of liability set forth in this Section 9.1 shall not apply.

9.2 No Consequential Damages. Notwithstanding any other provision of this Agreement, in no event, whether as a result of breach of contract, tort liability (including negligence), strict liability or any other cause of action, and whether arising before or after the Substantial Completion Date, shall either Party be liable to the other Party for special, indirect, exemplary or consequential damages of any nature whatsoever, including losses or damages caused by reason of loss of use, loss of profits or revenue, interest charges, cost of capital, claims of customers, or the benefit of any investment tax credit, federal grant, or depreciation.

9.3 Intent. Except in cases of fraud, willful misconduct or gross negligence, the Parties intend that the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability, and indemnity and hold harmless provisions expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability or breach of contract of the Party released or whose liability is waived, disclaimed, limited, apportioned or fixed by any such provision, and shall extend to such Party's Affiliates and its and their partners, shareholders, directors, officers, employees and agents. The Parties also intend and agree that such provisions shall continue in full force and effect notwithstanding the completion, termination, suspension, cancellation, rescission, or expiration of this Agreement.

ARTICLE 10

INDEMNIFICATION

10.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, save harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from any claim for physical damage to or physical destruction of any part of the Solar Facility, or death of or bodily injury to any person, to the extent caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party.

10.2 Environmental IndemnityIndemnification by Developer. Notwithstanding any other provision hereof, Developer shall indemnify, defend and hold harmless Owner and its Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Site of any Hazardous Material to the extent such Hazardous Material is deposited, spilled, released or otherwise caused by Developer or any of its Subcontractors or agents.

(b) Indemnification by Owner. Notwithstanding any other provision hereof, Owner agrees to indemnify, defend and hold harmless Developer and its Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below, or near the Site of any Hazardous Material, except to the extent such Hazardous Material is deposited, spilled, released or otherwise caused by Developer or any of its Subcontractors or agents.

ARTICLE 11

DEFAULT AND REMEDIES; TERMINATION

11.1 Owner Events of Default. The following shall constitute events of default on the part of Owner (each, an “Owner Event of Default”) under this Agreement:

(a) If Owner fails to make any payment required hereunder within ten (10) days after written notice thereof from Developer;

(b) If Owner makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Owner, or if Owner files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against Owner (but not by Owner) such proceeding is not dismissed within sixty (60) days of such filing;

(c) If Owner fails to comply with any material terms of this Agreement not otherwise set forth as an Owner Event of Default in this Section 11.1 and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by Developer to Owner to cure the same or, if such failure cannot be cured within thirty (30) days, Owner fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice; or

(d) If any representation or warranty of Owner in this Agreement proves to have been false or misleading in any material respect when made, and Owner has not, within thirty (30) days after written notification thereof from Developer, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on Developer resulting therefrom, all to the reasonable satisfaction of Developer.

11.2 Developer Remedies Upon Owner Event of Default. Upon the occurrence and continuation of an Owner Event of Default, Developer has the right to terminate this Agreement upon ten (10) days written notice. Upon such termination by Developer, Owner shall pay to Developer a sum equal to: (a) the Agreement Price, multiplied by the percentage of Work completed, plus (b) Developer’s reasonable demobilization costs and any cancellation penalties; less (c) the aggregate of amounts paid to Developer for the Work prior to such termination; less (d) any recoverable deposits paid to Equipment suppliers.

11.3 Developer Events of Default. The following shall constitute events of default on the part of Developer (each, a “Developer Event of Default”) under this Agreement:

(a) If Developer fails to make any payment required hereunder within ten (10) days after written notice thereof from Owner;

(b) If Developer makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Developer, or if Developer files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against Developer (but not by Developer) such proceeding is not dismissed within sixty (60) days of such filing;

(c) If Developer fails to comply with any material terms of this Agreement not otherwise set forth as a Developer Event of Default in this Section 11.3 and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by Owner to Developer to cure the same or, if such failure cannot be cured within thirty (30) days, Developer fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than one hundred eighty (180) days after such notice; or

(d) If any representation or warranty of Developer in this Agreement proves to have been false or misleading in any material respect when made, and Developer has not, within thirty (30) days after written notification thereof from Owner, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on Owner resulting therefrom, all to the reasonable satisfaction of Owner.

11.4 Owner Remedies Upon Developer Event of Default Upon the occurrence and during the continuation of a Developer Event of Default, Owner has the right to terminate this Agreement upon ten (10) days written notice. If any termination for cause by Owner pursuant to this Section 11.4 is ultimately determined to have been wrongful, then such termination shall be deemed an Owner Event of Default.

(b) If Owner terminates this Agreement pursuant to this Section 11.4, upon Owner’s request, Developer shall withdraw from the Site, shall assign to Owner such of Developer’s subcontracts, purchase orders and permits as Owner may request, and shall deliver and make available to Owner all Equipment Documentation reasonably necessary to permit Owner to complete or cause the completion of the Work, and in connection therewith Developer authorizes Owner and its agents to use such Equipment Documentation in completing the Work. Owner shall have the right to take possession of all Equipment for which Owner has made payment to Developer in accordance with ARTICLE 5, and Developer shall remove such materials, equipment, tools, and instruments used by and any debris or waste materials generated by Developer in the performance of the Work, as Owner may direct. Developer shall not be entitled to receive any further payments under this Agreement except for payments for Work performed prior to such termination.

11.5 Termination for Force Majeure. If a Force Majeure Event affects the performance of the claiming Party for ninety (90) consecutive days, the non-claiming Party may terminate this Agreement upon not less than thirty (30) days prior written notice to such Party. Termination of this Agreement under this Section 11.5 shall not relieve the Parties of their obligations that accrued prior to the onset of the Force Majeure Event. Subject to the foregoing sentence, such termination shall be deemed a “no fault” termination, and neither Party shall pay damages to the other Party for termination of this Agreement pursuant to this Section 11.5 due to a prolonged Force Majeure Event.

11.6 Termination for Adverse Regulatory Change. If an Adverse Regulatory Change occurs and continues for sixty (60) consecutive days, Developer may terminate this Agreement upon not less than thirty (30) days prior written notice to Owner. Termination of this Agreement under this Section 11.6 shall not relieve the Parties of their obligations that accrued prior to the onset of the Adverse Regulatory Change. Subject to the foregoing sentence, such termination shall be deemed a “no fault” termination, and neither Party shall pay damages to the other Party for termination of this Agreement pursuant to this Section 11.6 due to an Adverse Regulatory Change.

ARTICLE 12 **REPRESENTATIONS**

12.1 General Representations and Warranties. Each Party hereby represents and warrants to the other Party that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors’ rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will

not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 13

NOTICES

13.1 Writing. Except as set forth in Section 13.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party at the address set forth below:

If delivered to Owner, to it at [_____]
Attention: [_____]
[**ADDRESS 1**]
[**ADDRESS 2**]
[**CITY, STATE, ZIP**]
Phone: [(____) ____-____]
Facsimile: [(____) ____-____]
Email: [_____]

If delivered to Developer, to it at [_____]
Attention: [_____]
[**ADDRESS 1**]
[**ADDRESS 2**]
[**CITY, STATE, ZIP**]
Phone: [(____) ____-____]
Facsimile: [(____) ____-____]
Email: [_____]

Each Party shall have the right to change the place to which notice shall be sent or delivered or to specify one additional address to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party. All notices shall be effective upon receipt.

13.2 Technical Communications. Any technical or other communications pertaining to the Work shall be between the Project Manager and Owner's Representative or other representatives appointed by the Project Manager or Owner's Representative. Each Party shall notify the other in writing of the name of such representatives. Developer's Project Manager or other designated representatives shall be reasonably satisfactory to Owner, have knowledge of the Work and be available at all reasonable times for consultation.

ARTICLE 14

INSURANCE

14.1 Owner Insurance. Upon delivery of materials or equipment to the Site including, without limitation, PV modules, rails, disconnects and inverters, Owner shall bear all risk of loss or damage to such items from any type of physical harm, theft or damage not directly resulting from the actions of Developer. Owner shall be responsible for purchasing and maintaining its own Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence and Workers' Compensation Insurance as may be from time to time required under applicable federal and state law. Owner shall purchase and maintain property insurance in a form acceptable to Developer for the full replacement cost of the Solar Facility upon delivery of materials and through the Commercial Operation Date. This insurance shall include as named insureds Owner and Developer, solely for the pendency of the installation project and shall insure against loss from the perils of Fire, Extended Coverage, and shall include "All Risk" insurance for physical loss or damage.

14.2 Developer Insurance. Developer and any Subcontractors it selects to install the Solar Facility shall maintain the following insurance coverages in full force and effect: (a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law, and (b) Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence.

ARTICLE 15

MISCELLANEOUS

15.1 Ownership of Environmental Attributes. As between Owner and Developer, Owner shall own all Environmental Attributes arising out of the Solar Facility.

15.2 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

15.3 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

15.4 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by Owner or Developer constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

15.5 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 14.5 shall be void and unenforceable.

15.6 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA EXCLUDING ANY CHOICE OF LAW RULES.

(b) Resolution by Parties. Any and all claim, dispute or controversy relating to this Agreement, shall, to the extent permitted by law and subject to Section 5.16, be resolved by final and binding arbitration (except to the extent that final and binding arbitration of disputes is prohibited by California law). The arbitration shall be conducted by and submitted to a single arbitrator ("Arbitrator") selected by the Parties from and administered by the San Francisco, California office of JAMS ("JAMS"), in accordance with its then existing Comprehensive Arbitration Rules & Procedures. Each Party shall bear its own attorneys' fees, costs and disbursements arising out of the arbitration, and shall pay an equal share of the fees and costs of the Arbitrator(s) and JAMS; however, the Arbitrator(s) shall be authorized to determine whether a Party is the prevailing Party and, if so, to award to that prevailing Party reimbursement for its reasonable attorneys' fees, costs and disbursements (including, for example, expert witness fees and expenses, photocopy charges, travel expenses, etc.), and/or the fees and costs of the Arbitrator(s) and JAMS. The Arbitrator(s) shall, within fifteen (15) calendar days after the conclusion of the arbitration hearing, issue a written award and a written statement of decision describing the material factual findings and conclusions on which the award is based, including the calculation of any damages awarded. Absent the filing of an application to correct or vacate the arbitration award under California Code of Civil Procedure sections 1285 through 1288.8, each Party shall fully perform and satisfy the arbitration award within 15 days of the service of the award. Judgment on the award may be entered by any court of competent jurisdiction. By agreeing to this binding arbitration provision, the Parties understand that they are waiving certain rights and protections which may otherwise be available if a dispute were determined by

litigation in court, including, without limitation, the right to seek or obtain certain types of damages, the right to a jury trial, certain rights of appeal, and a right to invoke formal rules of procedure and evidence. No action arising from or related to this Agreement, or the performance thereof, shall be commenced by either party against the other more than one year after the Substantial Completion Date.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, Owner and Developer shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

15.7 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

15.8 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

15.9 Status of the Parties. Developer and its Subcontractors shall be independent contractors to Owner with respect to the Work, irrespective of whether such Subcontractors are approved by Owner, and neither Developer nor its Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of Owner in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

15.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of Owner and Developer, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

15.11 Amendments. Except for any Change Order issued pursuant to ARTICLE 7, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by both Parties.

15.12 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

15.13 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

15.14 Survival. The provisions of ARTICLE 1, ARTICLE 6, ARTICLE 8, ARTICLE 9, ARTICLE 10, ARTICLE 11, 11.6, ARTICLE 13, and ARTICLE 15 shall survive termination of this Agreement for any reason.

15.15 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

15.16 Owner Rights. Developer and the transactions contemplated by this Agreement are subject to certain requirements under, and Customer is afforded certain rights and privileges pursuant to, the Laws of the State of New York, including the Uniform Business Practices for Distributed Energy Resource Suppliers and certain additional regulations, orders, and determinations issued by the Department of Public Service and the Public Service Commission of the State of New York. Owner has the right to certain disclosures about the transactions contemplated by this Agreement, as such disclosures may be updated from time to time by Governmental Authorities, and which are attached hereto as Exhibit E (the “Disclosure Statement”). In the event of any conflict between the final Disclosure Statement and any term of this Agreement, the Disclosure Statement shall control. Additionally, Owner is entitled to refer disputes with Developer to the Department of Public Service. If Owner has any inquiries or complaints that the Developer is unable to resolve, Owner has the right to call the Department of Public Service Helpline at 1-800-342-3377. Owner may file a complaint on the Helpline or by following the instructions at <http://www.dps.ny.gov/complaints.html>.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Solar Power Facility Engineering, Procurement and Construction Agreement to be executed by their duly authorized representatives as of the Effective Date.

OWNER:

[____]

DEVELOPER:

[____]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Schedule 1.1

Definitions

“Adverse Regulatory Change” means (i) a change in Law or the interpretation thereof, a change in utility rate structure, or a decision, determination, order, or other action of the New York Public Service Commission (or any successor thereto) or any Governmental Authority that has, or is reasonably expected to have, a material adverse effect on Developer, Developer’s ability to perform its obligations under this Agreement, or Developer’s ability to finance the Solar Facility.

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term “control” (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

“Agreement” has the meaning set forth in the Recitals, and shall include all Exhibits hereto.

“Agreement Price” has the meaning set forth in Section 5.1.

“Arbitrator” has the meaning set forth in Section 14.6.

“Business Day” means any day other than a Saturday, Sunday or legal holiday in San Francisco, California [or ____].

“Change Order” means a written order signed by Owner and Developer authorizing a change in the Work or an adjustment in the Agreement Price or schedule for performance or delivery of the Work.

“Commissioning Procedures” means a test of the output of the Solar Facility in accordance with Exhibit B and Section 4.2.

“Day” or “day” means a calendar day, unless expressly specified otherwise.

“Developer” has the meaning set forth in the Recitals, and shall include all successors and permitted assigns of Developer.

“Developer Event of Default” has the meaning set forth in Section 11.3.

“Direct Costs” means Developer’s actual and verifiable cost of labor, support labor, material, equipment, services, tools, supplies, subcontracts, jobsite facilities, utilities, and jobsite staffing necessary to perform the Work.

“Disclosure Statement” has the meaning set forth in Section 15.16.

“Dispute” has the meaning set forth in Section 11.6.

“Effective Date” has the meaning set forth in the Recitals.

“Environmental Attributes” means renewable energy credits under any state renewable portfolio standard or federal renewable energy standard, voluntary renewable energy credits certified by a non-governmental organization, pollution allowances, carbon credits and similar environmental allowances or credits and green tag or other reporting rights under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Equipment” means all of the equipment, materials, apparatus, structures, supplies and other goods required by the terms of this Agreement to complete the Work and to be incorporated into the Solar Facility. Equipment shall not include any materials, apparatus or tools owned by Developer or any Subcontractor that are used to complete the Work but are not contemplated under this Agreement to become part of the Work or the Solar Facility.

“Equipment Documentation” means copies or originals of all recommended operating specifications, warranties, manuals, test reports, vendor information and all other similar information obtained or prepared, and to be delivered, by Developer in accordance with the terms of this Agreement.

“Final Acceptance” means the final acceptance of the Work by Owner.

“Force Majeure Event” means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, or total casualty to equipment. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event).

“Governmental Approvals” means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

“Governmental Authority” means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Solar Facility or its operations, or the health, safety or environmental conditions of the Premises or the Site or otherwise over the Parties.

“Hazardous Material” means any waste, chemical or other substance or material that is defined as “hazardous” or “toxic” or by any other similar term under any applicable Law relating to environmental, health or safety matters.

“Indemnified Parties” has the meaning set forth in Section 10.1.

“Law” means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, restraint, order, decree, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal, including the requirements set forth in the codes and standards set forth in the Scope of Work.

“Liabilities” has the meaning set forth in Section 10.1.

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

“Owner” has the meaning set forth in the Recitals, and shall include all successors and permitted assigns of Owner.

“Owner Event of Default” has the meaning set forth in Section 11.1.

“Owner’s Representative” means the person designated by Owner in accordance with Section 3.3 to act as Owner’s primary point of contact with Developer.

“Parties” means Owner and Developer.

“Party” means Owner or Developer.

“Payment Schedule” means the payment schedule set forth in Exhibit D, according to which Developer earns progress payments against the Agreement Price during the Work in accordance with the provisions of ARTICLE 5.

“Person” means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

“Premises” has the meaning set forth in the Recitals.

“Project Schedule” means the Project Schedule attached hereto as Exhibit C.

“Proprietary Rights” has the meaning set forth in Section 6.2.

“Prudent Industry Standards” means those standards of care and diligence normally practiced by solar photovoltaic facility engineering, construction and installation firms in performing services of a similar nature in a similar jurisdiction in which the Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any given solar photovoltaic facility under consideration.

“Scope of Work” means the Scope of Work attached hereto as Exhibit A.

“Services” shall mean those services provided by Developer to Owner in accordance with ARTICLE 2 of this Agreement.

“Site” means the location of the Solar Facility on the Premises as further described in Exhibit A.

“Solar Facility” means the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, transformers, disconnects, combiners, switches, wiring devices and wiring, more specifically described in the Scope of Work and interconnected with the Owner and the Local Electric Utility, to be designed and constructed by Developer as further defined in the Scope of Work.

“Subcontractor” means any Person with whom Developer enters into an arrangement for the performance of any portion of the Work or for the supply of services to Developer, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Work, and the legal or personal representatives, successors, and assigns of such Person.

“Substantial Completion” means that: (a) Developer has completed the Commissioning Procedures and the Solar Facility has met the Minimum Performance Criteria and (b) Developer has completed the Substantial Completion Checklist and submitted it to Owner.

“Substantial Completion Checklist” means the list of events and conditions that must be achieved and satisfied for Substantial Completion to occur.

“Substantial Completion Date” means the date on which Developer notifies Owner that Substantial Completion has occurred.

“Substantial Completion Payment” has the meaning set forth in Section 5.7.

“Unanticipated Conditions” has the meaning set forth in Section 7.4.

“Warranty” has the meaning set forth in Section 8.1(b).

“Work” means all phases of Developer’s performance of its obligations under this Agreement, including engineering, design, procurement, construction, erection, installation, training, start up (including calibration, inspection and start up operation), testing, and operation with respect to the Solar Facility.

Exhibit A

Preliminary Description of Solar Facility and Scope of Work

Solar Array Size: XXX kWp-DC

Solar Modules: (Insert type of panels) or equivalent

Inverters: (Insert type of inverters) or equivalent

System components Include:

Solar modules, inverters, racking system, wire kits, switches and other equipment necessary for system start-up, and data monitoring system.

Design Documents, Installation Contractor(s) Selection and Management:

- Produce and provide electrical and layout drawings of the System. Drawings will consist of a complete site plan showing location of the array, inverters, and routing of the conduits, an elevation plan showing panel visibility from the street and any details necessary for the plan check & permitting.

- Take inventory of known challenges on site including: physical space constraints, space usage requirements, power service limitations, facility operational functions and schedules, and others.

- If necessary, design, or have designed, engineering drawings for submission to Authority Having Jurisdiction.

- Identify qualified contractor(s) and arrange site walkthrough(s), if necessary. During walkthrough, familiarize Contractors with all required materials quantities, quality of existing materials, access to the site and equipment, and all related information necessary to develop an understanding of the required scope of work and all field conditions.

- Update scope of work documents, if necessary, to account for any additional installation challenges identified during walk-throughs. Set all due dates for project questions and final proposals.

- Answer all information requests from contractor(s). Make public to all contractors answers to general project questions (due dates, proposal addendums, etc.) or technical inquiries (line voltage, roofing material, etc.).

- If necessary, submit engineering drawings to Authority Having Jurisdiction, manage inspector site visits, follow up until approval is received, and obtain stamped drawings.

- Establish schedule of installation with Contractor(s) and Client to ensure the work is performed in a safe and timely manner.

- Work with the necessary, qualified and selected Contractors to perform Installation Work. Pay for the total cost of the selected Contractors, including all time and material, and supervise the integration of the project.

- Ensure the project has minimal impact on Client operations by managing construction including meeting with contractors, Client staff and maintenance personnel, and any other key stakeholders that may be affected by the construction tasks. Facilitate questions and ensure the contractors and stakeholders understand the project scope.

- Manage the work schedule to help avoid delays and ensure the work is proceeding smoothly through regular phone calls and site visits. Act as liaison between the Client staff and contractor to plan around special events or situations which will preclude temporarily shutting down equipment.

- Ensure accurate documentation of equipment and work performed.

- Ensure reasonable care is taken to protect rooftops from any and all damage during the Installation Period and to coordinate with Client's roofing contractor to ensure roofing warranty is maintained after installation is complete.

Exclusions: Unforeseen groundwork, upgrades or repair to customer or utility electrical infrastructure, upgrades or repair to building structure or to roofing system, payment bonds, performance bonds, tree removal, tree trimming, requirements for the payment of prevailing wages.

Exhibit B

Commissioning Procedures

Acceptance Testing and System Commissioning:

- Support for interconnection application and permitting and verification that the system is installed according to design specifications
- Conduct an inspection, test and commissioning procedure to insure that the System is installed in a professional manner and consistent with Prudent Industry Practices. A record of the installation and the major components including modules, inverters, transformers, and source circuit combiners will be documented in a test and Commissioning report.
- Test and verify that all non-current-carrying metal parts are solidly grounded and all equipment and System grounding is installed and functional per the National Electrical Code.
- Test and verify that phase sequencing, fuse continuity, and open circuit voltage are within manufacturers recommended range at the DC disconnect.
- Test and verify that all inverters are operating effectively within the typical start up time and record the DC operating voltage, phase currents, and inverter power.
- Collect and compile other information in the field and/or from sources such as NOAA necessary to verify equipment and algorithms are performing as predicted.
- Conduct comprehensive analysis of field data to assess if systems are operating as expected and determine if savings are delivered as expected.
- Compare actual hourly performance of systems to previously modeled hourly conditions, normalizing for weather and solar resource. Investigate and determine possible causes for discrepancies between modeled and actual savings and operations.
- Provide a complete operation and maintenance manual for the System. The manual will include: a copy of any required submittals of filing, product cut sheets, product operation manuals, product warranties; and supplier and installer contact information.

Exhibit C
Project Schedule

Exhibit D

Payment Schedule

Milestones	Percentage of Agreement Price	Approximate Dates
Down payment		
Commence Construction		
Mechanical Completion		
Substantial Completion		
Final Acceptance		

Projected Savings

Year	Projected Savings Amount
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

Exhibit E

Disclosure Statement

Generation System Disclosure Form	
Customer Information	[Include Name, Service Address, Mailing Address (if different), and Contact Information]
Distribution Utility	[Indicate Customer's electric distribution utility]
Overview	<p>This document describes your [list generation type (e.g., solar, hydroelectric)] [list contract type (e.g., power purchase agreement, lease, purchase)]. In the event that the terms in this statement conflict with terms appearing elsewhere in your contract, the terms in this statement are controlling. Read this document and the contract carefully so that you fully understand this agreement.</p> <p>[Briefly explain the contract type; e.g., for a PPA, "Under this contract, you will purchase power from a generation system installed on your property." For non-purchase agreements, note that the customer will not own the system.]</p>
Price, Fees, and Charges	<p>[Describe financial structure of agreement, including specific price or price per kWh or specific explanation of how price per kWh will be determined, amounts and due dates for up-front payments, or other charges or fees, including both recurring and non-recurring charges. Include Total Cost or Total Estimated Cost for Lease and Purchase contracts. For any charges or fees that will increase or vary, indicate how much, based on what, and what notice will be provided]</p> <p>[If applicable, list credits, incentives, or rebates that customer will receive or will sign over to Provider, and indicate whether Provider or customer is responsible for applying for each credit, incentive, or rebate and whether Provider or customer will receive each credit, incentive, or rebate]</p>
Installation	[Identify system location on property, approximate installation start and completion date, and whether provider or customer is responsible for arranging interconnection with utility. Provide

	name and contact information of installer if different from provider.]
System Size and Generation	[Identify system size, estimated gross annual electricity production in kilowatt-hours (kWh) from the System in the first year of operation, estimated annual electricity production decrease due to system aging (degradation), and estimated system lifetime]
Maintenance and Repairs	<p>[Either explain terms of contract providing for system maintenance or state “This contract does not include System Maintenance, the upkeep and services required or recommended to keep the System operating as intended.”]</p> <p>[Either explain terms of contract providing for system repairs or state “This contract does not include System Repairs, actions needed to fix malfunctions.”]</p> <p>[State whether warranty is included with contract.]</p> <p>[Provide name and contact information of Maintenance/Repair Provider if different from provider.]</p>
Roof Warranty	[Either explain terms of contract providing roof warranty or state “Your roof is not warrantied against leaks or other damage resulting from System installation.”]
Length of Agreement and End of Contract Term	<p>[Description of term in months or years]</p> <p>[Description of what will happen at the end of the contract, e.g., system ownership, renewal options, buy-out options, system removal options.]</p>
Early Termination and Selling Your Property	<p>[Description of terms regarding early termination of agreement, including specific fees and charges or specific explanation of how fees or charges will be determined and any situations where fees would be waived.]</p> <p>[Description of terms related to sale of property, including terms related to transfer of contract to new owner, terms related to moving system to new property, or terms related to early termination charges in the case of sale of property.]</p>
Estimated Benefits	[Provide an estimate of how many kWh of generation the customer will receive annually. Indicate whether that generation will be provided as kWh bill credits or as monetary bill credits based on the Value Stack. If a savings estimate was provided in

Exhibit D

	marketing or other communications (or at the provider's option if one was not previously provided), provide an estimate of the dollar value of the credits associated with that generation, based on the utility baseline or estimate of the Value Stack, and the net savings resulting from a comparison of the estimated value to the contract price.]
Guarantees	<p>[Either explain method in which savings are guaranteed or state "This contract does not guarantee savings."]</p> <p>[Either explain guarantee of specific level of system production or state "This contract does not guarantee a minimum level of system performance or production of energy."]</p>
Data Sharing and Privacy Policy	[Explain what data, if any, will be requested from the customer's utility and how the data will be used. Explain or provide a link to provider's data privacy policies.]
Right to Cancel Without Penalty	You have the right to terminate the contract without penalty within three business days after signing the contract by notifying Provider at [provide telephone number, email address, and other appropriate contact information].
Customer Rights	If you have inquiries or complaints that the Provider is unable to resolve, you have the right to call the Department of Public Service Helpline at 1-800-342-3377. You may file a complaint on the Helpline or by following the instructions at http://www.dps.ny.gov/complaints.html .
Other Important Terms	<p>[Additional information here at Provider's option; this row can be deleted if not used]</p> <p>[If the provider will make any security filings, including liens, fixture filings, or UCC-1 filings, that must be disclosed in this section.]</p>
Preparer Name	[Name of sales representative]

Signature of Authorized Company Official or Representative:

Date:

Signature of Customer:

Date:

