

## Community Solar Subscription Agreement

Company: [FACILITY SPV NAME]	Effective Date: Date of Last Signature
Customer/Utility Account Holder: [CUSTOMER FIRST NAME] [CUSTOMER LAST NAME]	Finalized Capacity: (Company will confirm after verification)
Utility Service Location: [CUSTOMER PHYSICAL ADDRESS BLOCK]	Customer Support: 720-782-7955 NYS Department of Public Service: 800-342-3377

### 1. **Introduction.**

This Community Solar Subscription Agreement (this “**Agreement**”) sets forth the terms and conditions under which you subscribe through [FACILITY SPV NAME] to a portion of the electric generating capacity of a utility-approved Community Distributed Generation solar garden for the Term of this Agreement in order to receive Bill Credits from the Utility so as to decrease your utility costs. “**Utility**” means the utility service provider listed under Appendix A. In this Agreement, you may be also referred to as “you”, “your” or “Customer”, and [FACILITY SPV NAME], together with its affiliates, successors and assigns, may also be referred to as “the Company” or “we” or “us” or “our”. Customer and the Company shall collectively be referred to herein as the “Parties” and individually as a “Party”.

This Agreement, with the Effective Date as of the date of the last signature, is a legally binding agreement with disclosures required by law, so please read everything carefully. This contract is subject to the New York Home Energy Fair Practices Act and Uniform Business Practices For Distributed Energy Resource Suppliers (HEFPA), which provides you with additional rights. HEFPA provides residential energy customers with comprehensive protections in areas such as, customer billing, and payment and complaint procedures. Additional information about your rights under HEFPA is available at the New York Department of Public Service website, <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/BFBBC5F20C80A1C685257687006F3A5C?OpenDocument>. Should any dispute arise under this Agreement, you should contact the New York State Department of Public Service for dispute resolution at the number provided above. If you have any questions regarding this Agreement, please ask your Community Solar Platform representative at the above number. The Company has designated Community Solar Platform as its agent for purposes of performing certain obligations and responsibilities under this Agreement.

Your rights and obligations under this Agreement may also be affected by the terms and provisions of the Program, referenced in Section 2 below, which may be obtained from the New York State Public Service Commission.

### 2. **General Information.**

As detailed below, the Utility currently participates in the Community Distributed Generation Program set forth in the New York State Public Service Commission *Order Establishing a Community Distributed Generation Program and Making Other Findings* dated July 17, 2015 and subsequent Orders in Case 15-E-0082, whereby the Utility is required to issue credits for generated solar electricity pursuant to the terms of the Tariff and program regulations (the “**Program**”). “**Tariff**” means the Utility tariff from the Utility to implement the Program, as approved by the New York Public Service Commission, together with any subsequent amendments and approvals thereto. This Program requires the Utility to issue credits on the bills for certain eligible customers (the “**Bill Credits**”) in exchange for receipt of solar electricity from a qualifying Community Distributed Generation facility.

We have constructed or intend to construct a utility-approved Community Distributed Generation facility as set forth in the Program, at the location set forth in Appendix A (the “**Facility**”). We will interconnect the Facility with the Utility pursuant to the terms of the Tariff, generator interconnection agreement, the Program, or other agreements required to be executed with the Utility (collectively, the “**Interconnection and Credit Agreements**” or “**ICA**”). We shall provide you further description of such Facility and notice of assignment to the Project

Company on or shortly after the Commercial Operations Date of such Facility by updating Appendix A in accordance with Section 2. By executing this Agreement, you agree to allow us to assign this Agreement to any eligible solar facility developed or managed by us (the "**Project Company**"), as described (or to be described at a future date) in Appendix A.

Under this Agreement, you will subscribe to a portion of the electric generating capacity of the Facility during the Term of this Agreement in order to receive Bill Credits from the Utility on your electric bill (the "**Solar Interest**").

**3. Term.**

- a. Term. The term of this Agreement shall commence on the Effective Date and continue for one (1) year (the "**Initial Term**"). This Agreement will automatically renew for successive terms of one (1) year (each, a "**Renewal Term**") unless either Party decides that it does not wish to renew this Agreement before the expiration of the Initial Term or any Renewal Term, as applicable, by notifying the other Party in writing at least ninety (90) days before the completion of the Initial Term or Renewal Term, as applicable. The Initial Term and any Renewal Term are collectively referred to as the "**Term.**" Notwithstanding the foregoing, this Agreement shall terminate after twenty-five years from the Facility's Commercial Operations Date unless earlier terminated in accordance with this Agreement, in which case the Term shall expire on the effective date of such early termination. "**Commercial Operations Date**" means the date on which the Facility generates electric energy on a commercial basis, and is interconnected to the local electrical distribution system as approved by the Utility. Such date shall be specified by us in Appendix A. If the Commercial Operations Date is not known by the Effective Date, we will provide you with notice of the Commercial Operations Date once known. Appendix A will be updated after the Commercial Operations Date with the Commercial Operations Date, Facility Location, Facility's total nameplate capacity, Customer's Capacity, Customer's Portion, and the Estimated Initial Annual Customer's Solar Output. Such updated Appendix A shall be added to this Agreement without the need for additional consent or signature of the Parties.
- b. Initial Accrual of Bill Credits. The Utility shall begin allocating Bill Credits to you upon the date (the "**Eligibility Date**") by which all of the following shall have occurred: (1) the Commercial Operations Date and (2) the Utility has added you to the Utility's Bill Credit allocation records (the "**Membership Information List**") which we update with the Utility from time to time to allocate Bill Credits obtained from the Utility in respect to solar electricity delivered to the Utility Meter located at the Facility and (3) you have been approved by the Utility, see Section 4.

**4. Acknowledgments Regarding the Program.**

- a. Program Limitation and Requirements. The Program imposes certain requirements and limits on participation in the Program (such limits, the "**Program Limitation**") as further described in Appendix B and incorporated into this Agreement.
- b. Your Subscription is Contingent on Allocation of Bill Credits by Utility. Your subscription is contingent upon and subject to the Utility's acceptance and allocation of Bill Credits to your Customer Account. "**Customer Account**" means Customer's account with the Utility for a location served by the Utility, and which must be in a rate class that is eligible as a CDG Satellite Account under the Program. During the Term of this Agreement, (i) if for any reason the Utility refuses to allocate a portion or all of the Bill Credits to your Customer Account on a temporary basis, this Agreement shall remain in full force and effect, but we shall promptly refund to you any amount paid to us by you for such Bill Credits which the Utility refused to credit to your Customer Account, and (ii) if for any reason the Utility refuses to allocate the Bill Credits to your Customer Account on a permanent basis, either Party may terminate this Agreement by written notice to the other Party. Notwithstanding anything to the contrary, this Section 4(b) does not apply to the extent that the reason that the Utility refuses to allocate Bill Credits to you is a result of you failing to pay your Utility bill or your breach of this Agreement.
- c. Additional Requirements. You acknowledge that, in connection with this Agreement, you must first satisfy our credit requirements, which are subject to change and provided to you separate and apart from this Agreement. We may terminate this Agreement if we determine that you are ineligible to participate in the Program and/or fail to satisfy our credit requirements.

5. **Customer's Subscription.**

- a. **Capacity Subscribed.** Commencing on the Eligibility Date and continuing throughout the remainder of the Term, you agree to subscribe to a Capacity sufficient to produce kWh equal to approximately 100% of your historic twelve-month electric energy usage. After verifying your prior twelve-month usage or estimated usage with the Utility, we shall notify you of your Capacity within the updated Appendix A. "**Capacity**" means the amount of capacity you subscribed to under this Agreement as detailed under Appendix A expressed in terms of kW AC.
- b. **Determination of Solar Output.** You acknowledge the measurement of the Facility Solar Output shall be based upon readings at the Utility Meter. Each month during the Term of this Agreement, the Utility will record the amount of solar electricity generated that month at the Facility and delivered to the Utility Meter, if available (the "**Facility Solar Output**"). The Utility will then multiply the Facility Solar Output by your Portion to arrive at the "**Customer Solar Output**" for that month in kWh. Customer Solar Output means the portion of the Facility production allocable to the Customer measured in kilowatt hours DC or "**kWh.**" The month over which such solar electricity is measured is referred to herein as the "**Production Month.**" "**Portion**" means your Capacity expressed in a percentage of the total nameplate capacity of the Facility. Your Portion shall be updated in Appendix A after the Commercial Operations Date.
- c. **Calculation of Bill Credits.** Bill Credits are calculated solely by the Utility based upon the terms and conditions of the Program. You acknowledge and agree that our sole obligation regarding payments to you is to request and use commercially reasonable efforts to require the Utility to deliver Bill Credits. We will provide the Utility with your information so that the Utility can post the appropriate amount of Bill Credits to your electric bill, pursuant to the allocations shown in the Membership Information List. Bill Credits to be applied on your electric bill are calculated using the Bill Credit Rate multiplied by your Customer Solar Output based upon the reading. "**Bill Credit Rate**" means the applicable Value of Distributed Energy Resources ("VDER") rate in effect at the time of energy generation (in \$/kWh) that is applicable to your service classification as may be periodically revised by the Utility based upon variations in the Utility's rate components from time to time, and approved by the New York State Public Service Commission in accordance with its *Order Regarding Value Stack Compensation* dated April 18, 2019; *Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters*, dated March 9, 2017; *Order on Phase One Value of Distributed Energy Resources Implementation Proposals, Cost Mitigation Issues, and Related Matters*, dated September 14, 2017; and subsequent Orders in Case 15-E-0751, as may be supplemented and amended. You understand that (i) the Bill Credits received by you for a particular Production Month will be reflected on your statement from the Utility as a monetary credit amount and not as an electricity quantity; and (ii) such Bill Credits will be reflected on your monthly invoice according to the Utility's billing cycle, and there may be a delay of up to three months after the Production Month in which the Bill Credits appear on your Utility invoice.
- d. **Title: Environmental Attributes and Tax Incentives Excluded.** You shall not be entitled to any ownership interest in, and as between you and us, we shall have title to, the Facility and all solar panels. You acknowledge and agree that your Solar Interest does not include any Environmental Attributes associated with the Facility, and you agree that you will not claim any Environmental Attributes. "**Environmental Attributes**" means any credit, benefit, reduction, offset, financial incentive, tax credit and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) all environmental and renewable energy attributes and credits, Renewable Energy Certificates ("RECs") of any kind and nature resulting from or associated with the Facility and/or its electricity generation, (ii) government financial incentives, (iii) greenhouse gas offsets, (iv) investment tax credits (including any grants or payments in lieu thereof), tax deduction, incentives or depreciation allowances established under any federal or state law, and (v) other allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar energy generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the Facility and/or its electricity generation.
- e. **Taxes.** You shall be responsible for any applicable sales, use, import, excise, value added, or other taxes or

levies (other than our income taxes) associated with this Agreement.

- f. Distribution of Excess Bill Credits. **“Excess Bill Credits”** means additional Bill Credits allocated to your Customer Account by the Utility, which shall temporarily increase the regular Bill Credit distribution associated with your Customer Solar Output. We may at any time direct the Utility to apply Excess Bill Credits to your Customer Account if not in violation of Program Limitations. You agree to pay us ninety percent (90%) of any Excess Bill Credits received by you in accordance with this Section. Such amount shall be included on your next invoice and paid through ACH in accordance with Section 6, unless otherwise agreed in writing.

## 6. Payment

- a. Bill Credit Payment. Except as provided in Section 6(c) below, the Bill Credit Payment for each month is (i) ninety percent (90%) of the Bill Credits attributable to the Customer’s Solar Output for the prior Production Month plus (ii) ninety percent (90%) of the Excess Bill Credits received by you, if applicable under Section 5(f).
- b. Invoice for Bill Credit Payment. Each month following the Eligibility Date (except as provided in Section 6(c) below), you will electronically receive a monthly statement from us showing the Bill Credit Payment amount due from you on or about the 60th day after the end of the Production Month upon which such Bill Credit Payment is based including any previous balance and late fee, if applicable (the **“Invoice”**). The Invoice shall be based on readings from the Utility Meter, if available. In the event the Utility does not provide Utility Meter readings at all or on a timely basis, the Invoice shall be based on readings at the Facility Meter. **“Facility Meter”** means our electric meter located at the Facility and used to measure the solar electricity generated at the Facility. You shall pay all invoiced amounts owed to us within thirty (30) days of the date of the Invoice. All invoices shall be paid by the Company approved payment method you select. Once you select a Company approved payment method, you shall execute the applicable Payment Authorization Form and provide us the necessary payment information. You agree to inform us of any changes to your payment information within ten (10) days of any change.
- c. Consolidated Billing. **“Consolidated Billing”** means the utility net crediting process of subtracting the applicable Bill Credit Payment from the net of Customer’s total Bill Credits, in accordance with the New York Public Service Commission’s December 12, 2019 *Order Regarding Consolidated Billing for Community Distributed Generation* in Case 19-M-0463, as may be amended and supplemented by subsequent New York Public Service Commission Orders. Notwithstanding anything to the contrary, under the Program, we can elect to sign up for Consolidated Billing at any time once Consolidated Billing has been implemented by the Utility. For all Production Months in respect to which we have elected to participate in Consolidated Billing, the Utility will credit you ten percent (10%) (the **“Bill Credit Savings Rate”**) multiplied by the total Bill Credits attributable to the Customer’s Solar Output for the Production Month as determined pursuant to this Agreement. The remaining Bill Credits (minus any administrative fees) would go directly to us. Thus, you would only see the Bill Credit savings on your electric bill. For Production Months under Consolidated Billing, you shall not owe the Bill Credit Payment nor shall you receive a separate Invoice from us.
- d. Records and Audits. Each Party shall keep, for a period of not less than three (3) years after the date of each Invoice, records sufficient to permit verification of the accuracy of billing statements, charges, computations and payments reflected on such Invoice. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party’s records pertaining to such Invoice during the other Party’s normal business hours. We shall, at your request (such request to not occur more than annually), provide documentation of the amount of electricity generated by the Facility and/or the calculation of the Bill Credit Payments and Bill Credit calculations under Consolidated Billing, as applicable, provided that you provide us with your Utility bills for the time in question.
- e. Annual Report. After the Commercial Operations Date, we shall provide you with an annual report detailing the total Bill Credits you received on your Utility bill and the total Bill Credit Payments you made for the prior year. Such annual report will be provided to you prior to March 31<sup>st</sup> of each year for the prior year.

**7. Customer Information.**

Within ten (10) days of any request therefor by the Utility or us, you will provide to the Utility or us all applications, documentation and information required by the Utility to evaluate your qualification and eligibility for participation in the Program. You further agree to execute the Consent to Disclose Utility Customer Data set forth in Appendix D. We may use your customer information you provide in Appendix A for reporting purposes to governmental entities and as outlined in Appendix D. To help us carry out the terms of this Agreement, and interact with the Utility in regard to requirements of the Program, you agree that we have permission to submit to the Utility and/or obtain from the Utility your customer information listed in Appendix A, and usage information. You further agree that we may share such information with Community Solar Platform as necessary for Community Solar Platform to perform as our agent under this Agreement.

**8. Changes in Location and Capacity.**

a. Change in Location.

- i. Advance Notice. You agree to provide us with ninety (90) days advance notice if you are moving, intend to close your Utility account, or of any other change which may cause you to not be the Utility's customer at the Utility Service Location.
- ii. New Eligible Service Location within same Utility Service Territory. If you change your Utility Service Location, this Agreement shall continue for the new location if: (i) the billing meter at the new premise is within the same service territory as the Utility serving the associated Facility or another one of our facilities that has available capacity, and (ii) you are established as the customer of record for electric service with the Utility at the new premises. You shall take all steps and provide all information required by the Utility under the Program to substitute your new service location as the Utility Service Location under this Agreement, and this Agreement shall continue in effect. We shall update the Membership Information List. After the Utility has verified eligibility and accepted the updated Membership Information List, you will continue to receive Bill Credits in accordance with the terms of this Agreement. We shall update Appendix A with your new Utility Service Location, without the need for additional consent or signature.
- iii. Other Termination of Utility Service. If you cease to be a Utility customer for electric service at the Utility Service Location and your new service location is not eligible to participate in the Program or at our Facility, we may terminate this Agreement under Section 10(e).

b. Decrease in Capacity. In accordance with Program Limitations, we may decrease your Capacity in the event your Capacity exceeds your actual electrical usage from time to time.

c. Transfer to a Replacement Customer. You may be permitted to transfer all of your Capacity to a replacement customer as long as (i) such transfer is made in compliance with all terms and conditions of the Program, including Program Limitations; (ii) the replacement customer is eligible under the Program; (iii) you have no outstanding obligations in connection with your Customer Account or payments due under this Agreement; and (iv) you obtain our prior written consent, which consent may be withheld in our sole discretion. As a condition of any such transfer, you and the proposed transferee shall provide us with all requested documentation and information related to the transfer, and confirmation of qualification by the Utility to participate in the Program. Upon execution of a new agreement with the replacement customer, this Agreement will terminate.

**9. Your General Agreements.**

In connection with this Agreement you represent, covenant, and agree that:

- a. The Customer Information you provide in Appendix A is accurate and that you are eligible to participate in the Program.
- b. You agree to keep your Utility account for the Utility Service Location in active status and pay your electric bill on time. You agree to make no claim against us or our affiliates or assigns for amounts which may be payable to you from the Utility under the Program or in connection with this Agreement.

- c. You have not granted or placed or allowed others to place any liens, security interests, or other encumbrances on the Bill Credits, and you will not do so during the Term of this Agreement.

**10. Termination.**

- a. Termination of Program. In the event the Utility ceases to offer the Program or a comparable substitute, or in the event that there is a change in the Program such that you are no longer eligible to participate in the Program, then either Party may terminate this Agreement after you cease to receive Bill Credits.
- b. Termination Based on Lease. If the lease where the Facility is located is terminated for any reason and not subsequently reinstated, this Agreement will terminate at such time without liability to either Party.
- c. Termination Based on Our Default. You may terminate this Agreement if we materially fail to fulfill any of our obligations as expressed in this Agreement, and such failure continues for more than sixty (60) days after written notice from you of such failure. To terminate this Agreement in accordance with this Section, you may not have any uncured material default at the time of such termination.
- d. Termination Based on Your Default. You will be in material default of this Agreement and we may terminate this Agreement for your material default should any of the following occur:
  - i. You fail to make any payment when due under this Agreement and such failure continues for a period of thirty (30) days after written notice from us.
  - ii. Any of the representations set forth in this Agreement shall be or become untrue, or you fail to fulfill any of your other material obligations as expressed in this Agreement, and such failure continues for more than thirty (30) days after written notice to you of such failure.
  - iii. You fail to pay your Utility bills on a timely basis, your Utility account is closed without providing us notice as set forth in this Agreement, or you assign or transfer this Agreement without our prior written consent.
  - iv. You become insolvent, file for bankruptcy, or make an assignment for the benefit of your creditors, or an involuntary bankruptcy petition is filed against you.
- e. Termination Prior to Operation. Prior to the Commercial Operations Date, either Party may terminate this Agreement without penalty if we have not achieved the Commercial Operations Date for the Facility or the Facility fails to qualify as a Community Distributed Generation Facility in accordance with the Program and the Tariff within thirty-six (36) months after the Effective Date; provided that such thirty-six month period shall be extended on a day-to-day basis for any Force Majeure or action or inaction on the part of the Customer or Utility.
- f. Force Majeure. “**Force Majeure**” means any event or circumstance not within the reasonable control of the Company which precludes the Company from carrying out, in whole or in part, its obligations under this Agreement. If a Force Majeure event occurs, the Company shall not be deemed to be in default during the Force Majeure event, provided that: (i) the Company gives you written notice within thirty (30) days describing the occurrence and the anticipated period of delay; (ii) no obligations of the Party which were to be performed prior to the Force Majeure shall be excused; and (iii) the Company shall use commercially reasonable efforts to remedy the Force Majeure. If any Force Majeure lasts longer than 90 days, and the Company determines in good faith that such Force Majeure substantially prevents, hinders or delays the Company’s performance of any of its obligations, then either Party may upon written notice terminate the Agreement without further liability, except that neither Party shall be relieved from any payment obligations arising under this Agreement prior to the Force Majeure.
- g. Termination for Convenience. You may terminate this Agreement at any time for any reason with ninety (90) days prior written notice to us. If this Agreement is terminated pursuant to this Section, then all Bill Credits received by you prior to such termination shall be retained by you and you agree to pay us the Bill Credit Payment with respect to any Bill Credits that have or may continue to be allocated to you by the Utility after termination until the Membership List can be updated by us, which may take up to six (6) months.

- h. Effect of Termination. Upon termination of this Agreement for any reason, (i) we shall remove you from the Membership List upon the next update to the Utility, which may take up to six (6) months, (ii) we shall have no further obligation to deliver, and you shall have no further obligation to subscribe to, any Bill Credits from us, provided, however, (a) that you shall pay us the Bill Credit Payments with respect to any Bill Credits that have or may continue to be allocated to you by the Utility until the Membership List is updated with the Utility and (b) with respect to Production Months with Consolidated Billing, you shall repay to us the net amount of Bill Credits you receive on your Utility account until we can find a replacement customer and the Utility accepts the updated Membership Information List. In connection with the foregoing sentence, both Parties agree to execute any documents as may be reasonably required by the Utility. Subject to the limitations set forth in this Agreement, each Party reserves and shall have all rights and remedies available to it at law or in equity with respect to the performance or non-performance of the other Party hereto under this Agreement.

**11. Dispute Resolution.**

- a. Should any dispute arise under this Agreement, you should contact the New York State Department of Public Service for dispute resolution at the number provided above.
- b. Complaints. For any concerns or complaints regarding this Agreement, please contact your Community Solar Platform representative at 720-782-7955. The Community Solar Platform representative shall acknowledge such complaint within two (2) days of receipt and respond within fourteen (14) days thereof whether in writing or by phone call. We shall keep a record of all customer concerns or complaints.
- c. Dispute Resolution. If you dispute the amount of any Bill Credit Payment due under this Agreement, you shall within ninety (90) days after the billing period upon which such dispute is based provide your Community Solar Platform representative written notice explaining the dispute, along with documentation sufficient to support your claim, or you shall be deemed to have waived your dispute. Any dispute between you and us arising out of or relating to this Agreement (a "*Dispute*") shall in the first instance be addressed by taking the following steps: (1) by informal negotiations between you and us following an exchange of written notice of and response to said Dispute and for a period of time not to exceed forty-five (45) days unless extended by mutual agreement; and if not resolved by negotiations, then (2) such Dispute shall be finally settled through litigation in a United States District Court in New York, or if such court does not have jurisdiction over such Dispute, in the Supreme Court of the State of New York. For such purposes, each Party irrevocably submits to the jurisdiction of such courts (or, if such courts do not have or decline to exercise such jurisdiction, then any United States federal court of competent jurisdiction) and waives its right to any jurisdictional defense that such litigation is brought in an inconvenient forum. Neither you nor we will notify the Utility of any such Dispute until after you have provided your Community Solar Platform representative with such notice of Dispute and our forty-five (45) day response period, and any agreed extension, has ended. Following that period, you may contact the Utility regarding any unresolved Dispute to the extent it involves the amount of any Bill Credits you believe are due to you.
- d. Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.
- e. Jury Waiver. EACH PARTY HEREBY IRREVOCABLY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION IN ANY COURT IN ANY JURISDICTION BASED UPON OR ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER TRANSACTION OR DOCUMENT RELATED TO THIS AGREEMENT.

**12. Notices.**

In the event that any notice or other communication is required or permitted to be given hereunder, such notice or communications will be in writing and may be delivered in person or sent by certified mail, overnight courier, sent electronically to the address of the addressee as specified below. Except as otherwise provided, all such notices or other communications will be deemed to have been duly given and received upon receipt.

If to Company: [FACILITY SPV NAME]  
c/o Community Solar Platform

PO Box 270730  
Louisville, CO 80027  
Attn: Sales Ops

with a copy by email to legal@communitysolarplatform.com

If to Customer: [CUSTOMER FIRST NAME] [CUSTOMER LAST NAME]  
[CUSTOMER MAILING ADDRESS]  
[CUSTOMER EMAIL]

We may, at our option, engage a third-party service provider to manage our obligations and communications pursuant to this Agreement. Any notice, consent or other communication from such third-party provider shall be as effective as if provided directly by us.

**13. Additional Agreements.**

- a. Confidentiality. You agree to keep the terms of this Agreement in strictest confidence and trust and to not disclose the terms hereof to any other entity or person or use, disseminate, or otherwise distribute any such information for your benefit or for the benefit of another, except for the limited purpose of facilitating the business relationship with us and the transactions contemplated herein or as required by law, including as may be required by the New York State Public Service Commission or regulatory authority.
- b. Service Contract. Your community solar subscriber benefits under this Agreement, including the Bill Credits related to your Solar Interest, will be treated as a service contract under Internal Revenue Code Section 7701(e), and its various subparts.
- c. DISCLAIMERS OF WARRANTIES: WE DO NOT WARRANT OR GUARANTEE ANY MINIMUM PRODUCTION, SOLAR OUTPUT, OR BILL CREDIT AMOUNT. DURING THE TERM, YOUR ALLOCATION OF BILL CREDITS MAY VARY DUE TO WEATHER CONDITIONS, OUTAGES AT THE FACILITY OR ON THE UTILITY GRID, OR FOR OTHER REASONS. WE DO NOT SELL, TRANSMIT OR DISTRIBUTE SOLAR ELECTRICITY TO YOU UNDER THIS AGREEMENT. WE DO NOT PROVIDE YOU WITH OWNERSHIP OF, OR ANY INTEREST IN, ANY SOLAR PANELS, UTILITY INCENTIVES, TAX INCENTIVES, ENVIRONMENTAL ATTRIBUTES, OR RENEWABLE ENERGY CREDITS UNDER THIS AGREEMENT, ALL OF WHICH WILL BE OWNED BY US AND USED BY US AS WE MAY DETERMINE FROM TIME TO TIME. WE DO NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF THE FACILITY OR ANY PART THEREOF. WE DO NOT REPRESENT OR WARRANT THAT THERE WILL BE NO CHANGES TO THE TARIFF OR THE PROGRAM OR THE BILL CREDIT RATE, OR THAT THE UTILITY WILL NOT MAKE ANY CORRECTIONS OR ADJUSTMENTS TO METER READINGS. WE DO NOT REPRESENT OR WARRANT THAT ANY CHANGE TO STATE OR FEDERAL LAW OR CHANGES TO THE UTILITY TARIFF OR THE PROGRAM WILL NOT ADVERSELY AFFECT YOU OR WILL NOT CAUSE YOU TO BE INELIGIBLE FOR THE PROGRAM. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY AUTHORIZED REPRESENTATIVE OF THE COMPANY SHALL CREATE A WARRANTY. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, WE DO NOT MAKE ANY WARRANTY OR GUARANTEE TO YOU, EXPRESS, IMPLIED, STATUTORY, COMMON LAW OR OTHERWISE, AND ASSUME NO OTHER LIABILITIES, WHETHER IN CONTRACT OR IN TORT, WITH RESPECT TO THE SUBJECT MATTER HEREOF OR IN CONNECTION HEREWITH, AND YOU HEREBY DISCLAIM, WAIVE AND RELEASE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED OR IMPOSED BY LAW INCLUDING ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THESE LIMITATIONS CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT.
- d. LIMITATION ON DAMAGES: Notwithstanding any other provision of this Agreement to the contrary, the entire liability of either Party to the other for any and all claims of any kind arising from or relating to this Agreement, including any causes of action in contract, tort, strict liability or otherwise, will be limited to direct actual damages only, subject in all cases to an affirmative obligation of a Party to exercise commercially reasonable efforts to mitigate its damages. Notwithstanding the foregoing, our liability to you will in no event exceed the amount paid by you to us under this Agreement in excess of the Bill Credits you have received under this Agreement. We shall have the right to set-off and net against any amounts owed to us by



you under this Agreement.

WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST OPPORTUNITIES OR LOST PROFITS WHETHER ARISING OUT OF OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT OR ARISING OUT OF AGREEMENTS WITH UNRELATED THIRD PARTIES.

- e. Assignment. You may not assign this Agreement nor assign or transfer the Bill Credits, except in accordance with Section 8(c) of this Agreement. We may assign this Agreement, or any of our rights, duties, or obligations under this Agreement, to another entity or individual, including any affiliate, whether by contract, change of control, operation of law, collateral assignment or otherwise, without your prior written consent. We may in our sole discretion, from time to time, transfer you to another affiliated Facility, provided that you receive similar rights and benefits as hereunder. We shall provide you with written notice of such transfer and an updated Appendix A with the new Facility information. Such updated Appendix A shall be deemed to be added to this Agreement and such transfer may be made without the need for additional consent or signature of the Parties.
- f. Survival. In the event of expiration or early termination of this Agreement, the following sections shall survive: Sections 4, 10, 11, 12, and 13.
- g. Entire Agreement. This Agreement, together with its appendices and exhibits, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.
- h. Severability. Should any terms of this Agreement be declared void or unenforceable by any arbitrator or court of competent jurisdiction, such terms will be amended to achieve as nearly as possible the same economic effect for the parties as the original terms and the remainder of the Agreement will remain in full force and effect.
- i. No Partnership. Nothing contained in this Agreement will constitute either Party to this Agreement as a joint venturer, employee, or partner of the other, or render either Party to this Agreement liable for any debts, obligations, acts, omissions, representations, or contracts of the other, including without limitation your obligations to the Utility for electric service.
- j. Amendments; Binding Effect; Waiver. Except as otherwise permitted in this Agreement, this Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by all of the Parties to this Agreement or their respective successors in interest. This Agreement inures to the benefit of and is binding upon the Parties and each of their respective successors and permitted assigns. No waiver of any provision of this Agreement will be binding unless executed in writing by the Party making the waiver.
- k. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart.
- l. Further Assurances. From time to time each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of the Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement. No Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section.

#### **14. Right to Cancel.**

You, the buyer, may cancel this transaction at any time prior to **midnight of the third business day** after the Effective Date. See the attached notice of cancellation form (attached hereto as Appendix C) for an explanation of this right.

[Signatures on Following Page]

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

CUSTOMER

By: [ES]

Name: [CUSTOMER FIRST NAME] [CUSTOMER LAST NAME]

COMPANY

[FACILITY SPV NAME]

By: [FACILITY SPV SIGNATURE]

Name: [FACILITY SPV MANAGER]

List of Appendices to Agreement

Appendix A: Customer and Facility Information

Appendix B: Program Limitations

Appendix C: Right to Cancel

Appendix D: Consent to Disclose Utility Customer Data

## Appendix A

### Customer and Facility Information

(This Appendix will be completed by us and an updated copy of this Appendix will be provided upon the later of (i) the Commercial Operations Date and (ii) thirty (30) days after the Effective Date of this Agreement.)

**Customer Name(s):** [CUSTOMER FIRST NAME] [CUSTOMER LAST NAME]

**Email:** [CUSTOMER EMAIL]

**Tel:** [CUSTOMER PHONE]

**Name of Utility:** [UTILITY NAME]

**Utility Service Location:** [CUSTOMER ADDRESS BLOCK]

**Customer's Utility Account Number:** [CUSTOMER UTILITY ACCT]

**Customer's Capacity (kW):** **PENDING UPDATE**

**Portion (% of Facility capacity):** **PENDING UPDATE**

**Estimated Initial Annual Solar Output:** **PENDING UPDATE**

**Facility Name:** [FACILITY SPV NAME]

**Facility Location:** [FACILITY SPV ADDRESS BLOCK]

**Total Facility Nameplate Capacity (kW):** [FACILITY SIZE]

**Commercial Operations Date:** **PENDING UPDATE**

## Appendix B

### Program Limitations and Requirements.

- a. Program Limitation. The Program Limitations include the following: (1) your Capacity shall not exceed an amount sufficient to produce kWh in excess of one-hundred percent (100%) of your electrical energy consumption during the most recent 12-month billing period, (2) your Capacity must produce a minimum of 1,000 kWh per year, and (3) your Utility Service Location must be within the Utility service territory in which the Facility is located. You agree that the Estimated Initial Annual Solar Output from your Capacity as set forth in Appendix A shall not exceed the Program Limitation. **“Estimated Initial Annual Solar Output”** means the Solar Output estimated to occur during the 12-month period following the Commercial Operations Date. You also acknowledge that your participation (or the participation of others at the same Utility Service Location) in other Utility programs relating to renewable energy payments, credits or rebates may further limit the Portion, Bill Credits or Capacity which you can receive, or which may be attributed to you in connection with this Agreement and the Program. You agree that we are not obligated to request, and that the Utility is not obligated to make any payment or provide Bill Credits to the extent your Capacity exceeds the Program Limitation. We reserve the right to decrease your Capacity in order to maintain your compliance with the Program Limitation. You acknowledge that the Program Limitation set forth in this Section is derived from the Program, and that this Agreement will be deemed automatically amended to incorporate any changes to corresponding provisions in the Program.
- b. Program Requirements. To participate in the Program, you must in addition to other applicable requirements (i) be and remain a customer of the Utility for electric service throughout the Term of this Agreement, (ii) assist in designating your Customer Account to which the Utility can post Bill Credits (which shall be at the Utility Service Location shown in Appendix A unless changed pursuant to the Agreement), and (iii) be and remain in compliance with all requirements of this Agreement and the Program throughout the Term of this Agreement.

**Appendix C**  
**Cancellation Right**  
(Copy 1)

Right to Cancel. As set forth in Section 14 of the Community Solar Subscription Agreement (the “Agreement”), you may cancel the Agreement, without penalty or obligation, by sending your Community Solar Platform representative a written cancellation notice within three (3) business days of the date you signed the Agreement. To cancel the Agreement, deliver a signed and dated copy of the below Notice of Cancellation (or any other written cancellation notice identifying you and the Agreement) postmarked no later than midnight of the date that is three business days from the date you signed the Agreement. If you do not provide your Community Solar Platform representative a written cancellation notice within that three-day period, you will no longer have a right to cancel the Agreement and you will remain liable for performance of all your obligations under the Agreement.

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***Note: The following form is made available for the purpose of cancelling the Agreement pursuant to Section 14 of the Agreement within the three-day cancellation period described above. If you are not choosing to cancel the Agreement within the three-day period described above, you should not sign this form.***

***Two copies of this form are included so that if you do choose to cancel the Agreement by delivering this form to us within that time, you will still have a copy of this form.***

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**Notice of Cancellation**

Date of Transaction: [TODAYS DATE]

You may cancel this transaction, without any penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the Agreement and any negotiable instrument executed by you will be returned within 10 days following receipt by us (Community Solar Platform) of your Notice of Cancellation. If you cancel, you must make available to us at our address, in substantially as good condition as when received, any items of value delivered to you under the Agreement.

I, \_\_\_\_\_ hereby sign this Notice of Cancellation on \_\_\_\_\_, [TODAYS YEAR], and have caused it to be delivered to Community Solar Platform on or before midnight of the date that is three business days from the date I signed the Agreement.

Customer's Signature: \_\_\_\_\_

**Appendix D**

**Consent to Disclose Utility Customer Data**

**Utility: [UTILITY NAME]**

Please provide the following information. All requested information must be provided for the consent to be valid.

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**Authorized Recipient of Data:** Community Solar Platform and its Affiliates

Phone 720-782-7955

Email: [customercare@communitysolarplatform.com](mailto:customercare@communitysolarplatform.com)

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**Data to be Released:**

Utility, denoted above, will provide to Community Solar Platform and/or its affiliates (CSP), via an (electronic) data exchange processes or otherwise, initial and ongoing account information. This information exchange will include, but is not limited to: account number, address, contact information, kWh consumption history, revenue billing period, present meter reading, present meter reading date, account status (active / inactive), disconnect date of account, total monthly electric bill amounts, total monthly bill credits, billing rate code and other information as necessary ("Customer Data").

As a customer of CSP and subscriber in the Community Distributed Generation program, you further understand that the data furnished will only be used by CSP or its affiliates to adequately manage your Solar Subscription, perform CSP's obligations under any Customer Agreement and maintain compliance with the Program.

CSP and its affiliates may not use any of your identified information for any other purpose and will keep your information confidential in accordance with the terms of the Customer Agreement.

Disclosure dates: Up to one month prior to the date this document was executed, as evidenced below, and the continual release and export of Customer Data until such consent is terminated as provided herein.

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**To be Completed by Utility Customer:**

I agree that I am the Utility customer of record for my utility account. I understand that Utility has a policy regarding disclosure of my Customer Data and I accept that policy. Furthermore, I understand that disclosure of my Customer Data by Utility may also be required by law or if I authorize its disclosure.

I agree to allow Utility to release to CSP and its affiliate, Customer Data described above for the purposes described above. I understand and agree that such data may reveal information about the way I use energy at my premises.

I understand that once my Customer Data has been provided to CSP, the Utility will have no control over and no responsibility for CSP's use of the data.

This consent shall terminate upon termination of the customer agreement between CSP and you.

By my signature, I affirm that I am customer of record and that everything in this document is true and correct. The undersigned and CSP agree that CSP may make agreements with me by electronic means. I agree that this consent, whether in paper or electronic form, has the same legal effect and is authentic and valid. Furthermore, I agree to

receiving information and other communications relating to my consent in electronic form. By applying a signature below, I agree to the above terms and conditions governing my consent.

**Electronic Signature of Utility Customer of Record:**

By way of electronic signature below, I am agreeing to all terms of this request. I have read, understand, accept and agree to the terms herein above associated with this Consent to Disclose Utility Customer Data.

**Utility Electric Account Numbers**

**[CUSTOMER UTILITY  
ACCT]**

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[ES]

*Signature of Utility Customer of Record*

[SIGNATURE DATE]

*Date Signed*