



Community Distributed Generation Agreement

For Solar Photovoltaic System Installation under NYSERDA NY-Sun PV Incentive Program
for Residential and Small Commercial

Eligible Installer - "Installer" or "Sunrise Power Solutions"

Sunrise Power Solutions

60 Cain Drive

Brentwood, NY (631) 254-2968

info@getsunrise.com

Project Agency - "NYSERDA"

New York State Energy Research and Development Authority

17 Columbia Circle

Albany, NY 12203-6399

518-862-1090

Customer Number:

Customer Phone Number:

Customer/ Homeowner:

Customer Email:

Utility Company:

Customer Address:

Utility Account Number:

Referred By:

Utility Meter Number:

Sales Consultant:

Schedule A – Executive Summary

Installer Information

Sunrise Power Solutions
60 Cain Drive
Brentwood, NY 11717
(631) 254-2968
info@getsunriseeps.com

Customer Information

System Information

Total System Size
Watts Allocated Capacity (, watt Panels)

Location:_____

Fees and Cost Information

TOTAL SYSTEM COST:

Less NYSERDA PV Incentive*

**The NYSERDA PV Incentive amount is estimated based on current incentive levels. Should the incentive level change prior to application submittal to NYSERDA, the difference in price between the incentive levels will be reflected in Customer's Invoice following installation.*

Total Amount Due

County Sales Tax IF APPLICABLE

Federal Tax Credit, 30%**

***The tax credit amount may be taken out as a loan with a Sunrise Power Solutions recommended loan provider. The proceeds from the loan will go directly to Sunrise Power Solutions and the Customer is fully responsible for repayment of the loan to the loan provider. Loan terms will vary based on credit score.*

Customer is responsible for filing his/her taxes and any documentation necessary to receive the tax credits. Please consult a tax professional to determine eligibility for tax credits.

TOTAL NET COST

Deposit (Due with Signed Contract)

Amount Due at Install

Payment Per Month

Customer will be responsible for a \$.015 per watt yearly O&M Fee (subject to an annual escalator of 2.00%) to cover the leasing of the property, operations & maintenance of the PV System, and insurance.

Annual Electric Usage: kWh/per year

Estimated Production: kWh/per year

Customer Initials_____

Manager Initials_____

COMMUNITY DISTRIBUTED GENERATION AGREEMENT

THIS COMMUNITY DISTRIBUTED GENERATION AGREEMENT (this "Agreement") is made and entered into as of the _____ day of _____, 2018 (the "Effective Date") by and between Sunrise Power Solutions ("Installer") and _____ ("Customer"). Installer and Customer are sometimes referred to in this Agreement, individually, as a "party" and, collectively, as the "parties."

RECITALS

WHEREAS, the federal government offers certain tax credits and incentives (collectively, the "Tax Credits") associated with the installation, ownership and operation of a photovoltaic energy system (a "PV System") including, without limitation, the Residential Investment Tax Credits and the Commercial Investment Tax Credits together with all rules, regulations, requirements, orders, decisions and guidance thereunder and as may be supplemented, amended, superseded or replaced (collectively, the "Acts");

WHEREAS, the New York State Energy Research and Development Authority ("NYSERDA") offers certain incentives (collectively, the "Incentives") associated with the installation, ownership and operation of a PV System including, without limitation, the Incentives furnished under the NYSERDA Incentive Program PON 2112 together with all rules, regulations, requirements, orders, decisions and guidance thereunder as the same may be supplemented, amended, superseded or replaced (collectively, the "Program");

WHEREAS, end user electric energy consumers may be entitled to a credit offset against electric energy invoices from their public utility provider (the "Utility") to the extent of their participation in the installation, ownership and operation of a PV System (the "Utility Credit");

WHEREAS, Installer is in the business of and desires to design, assemble and install a certain PV System (the "Project") at the location (the "Project Location") more particularly described on Schedule A, annexed hereto and made a part hereof;

WHEREAS, Installer desires to facilitate and finance Customer's investment costs and expenditures associated with the Project;

WHEREAS, Customer desires, among other things, to participate in the installation, ownership and operation of the Project at the Project Location to avail Customer of the Tax Credits, the Incentives and the Utility Credits; and

WHEREAS, in order to facilitate and finance Customer's costs associated with the Project and in order to maximize the Tax Credits, the Incentives and the Utility Credits, Installer and Customer desire to enter into an arrangement under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. OBLIGATIONS OF THE PARTIES:

Obligations of Installer. Installer shall design, install, construct, operate, insure and maintain the Project at the Project Location at all times during the Term (as hereinafter defined) (collectively, the "Installer Services"). Installer shall perform the Installer Services and its obligations in accordance with all applicable industry standards and commercially reasonable practices. All equipment, materials, labor, tools, staff and other requirements, in any form whatsoever, necessary for the safe, efficient and professional provision of the Installer Services shall be furnished by and remain under the constant supervision and control of Installer. Installer shall procure and pay for all fees, permits and charges in connection with the Installer Services, and Installer shall secure and pay for all required authorizations for the Installer Services. Customer

agrees to provide reasonable assistance to us in obtaining such agreements, permits and approvals. The Project shall, at all times, be located at the Project Location. Customer shall have no right to enter onto the Project Location. Customer acknowledges and agrees that Installer shall retain sole control (access and otherwise) of the Project and the Project Location and Installer shall have the exclusive right to furnish the Installer Services and determine the Project Location. Customer shall not remove any of the Equipment (as hereinafter defined) from the Project unless previously agreed to. Installer shall be solely responsible for determining the method, details and means of the Installer Services.

Obligations of Customer. Customer shall purchase a portion of the Project as more particularly indicated on Schedule A. Customer shall take no actions to impose or cause to have imposed any claims, liens, pledges, rights of others, legal processes, or other encumbrances (collectively "Liens") on the Project, the equipment associated with the entire Project and/or Customer's portion of the equipment associated with the Project (the "Equipment"). Schedule A shall be amended, from time to time, to reflect the inclusion of any additional personal property, parts and accessories after the Effective Date. Customer authorizes Installer: (i) to fill in descriptive information in this Agreement including, but not limited to, serial numbers for the Equipment and to correct any errors or omissions that are necessary or desirable to effectuate the intent of the parties; (ii) to perfect Installer's interest in the Project, the Fees, the O&M Fees (as hereinafter defined) by filing financing statements or other similar instruments with or without Customer's signature. Customer further agrees to execute and deliver to Installer such supplemental documents and instruments as Installer shall deem necessary or desirable to effectuate the intent of the parties. Customer hereby irrevocably appoints Installer as Customer's attorney-in-fact to execute in Customer's name any such documents or instruments and to interface with the Utility in Customer's name in all respects related to the Project.

Subscriber Disclosure. For a summary of the terms contained in this Agreement, please see the Subscriber Disclosure Statement in Exhibit C.

2. PAYMENT AND FEE:

Fee. Subject to the terms and conditions set forth in this Agreement, Customer agrees to pay Installer the fee (the "Fee") as more particularly set forth on Schedule A. Customer's obligation to pay Installer the Fee shall survive the expiration of the Term or the earlier termination of this Agreement. The amount due from Customer upon the In-Service Date (as hereinafter defined) may be memorialized in a Promissory Note in favor of Installer. As used in this Agreement, the term "Fee" shall include any and all additional fees or other sums payable to Installer by Customer under this Agreement. The Fee is net to Installer and shall not be subject to reduction, offsets, counterclaims or deferment. So long as no Event of Default (as hereinafter defined) exists, Customer shall be entitled to quiet enjoyment and use of the Equipment during the Term.

Installer Payment Terms. For Customers not enrolled in automatic payments, payments are due and payable thirty (30) days from receipt of invoice and will include a \$8.00 administration fee. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at the rate of one and one-half percent (1.5%) per month, not to exceed the maximum interest rate allowable by law. Payment may be made by: (i) credit card (subject to a 3% credit card charge); (ii) check (subject to \$35 returned check fee); or (iii) money order.

Automatic Payments. If an automatic payment withdrawal is attempted but there are insufficient funds to cover the transaction, the Customer will be contacted by the Installer. Should this occur, the Customer will be charged a \$15.00 fee. The Customer must authorize Installer to reattempt the withdrawal, or submit the amount due by credit card, check, or money order within one week of the scheduled payment.

Termination and Refund of Deposit. Customer has the unrestricted right to rescind this Agreement without penalty or further obligation by calling the toll-free number provided in Article 21 within the (3) business days of receipt of the Agreement.

NYSERDA Payments. 100% of NYSERDA rebates/payments will be credited to the benefit of the Customer and is reflected in the price. The Customer and Installer recognize that NYSERDA will not make any payments without proof that all required permits and all other approvals have or will have been obtained by the time of ordering of equipment and that all requirements have been met. NYSERDA Incentives are granted on a first-come, first-served basis depending on application submission. Should the Customer fail to complete required NYSERDA paperwork such that the NYSERDA Incentive amount becomes less than as stated in Schedule A, Customer will be responsible for paying the difference in the NYSERDA Incentive amount, which will be reflected in Customer's invoice following installation.

3. CREDITS AND INCENTIVES:

Utility Credits. During the Term, Customer will receive the Utility Credit calculated as the ratio of the kWh output associated with the Equipment to the total kWh output for the entire Project as a credit on the Customer's invoice for electricity from the Utility at the address (the "Service Address") indicated on Schedule A, which Service Address must be located within the Utility's service territory. The Utility Credits will remain associated with the Service Address regardless of occupancy or ownership changes at the Service Address unless Customer, or Customer's successor or assignee, requests a transfer of the Utility Credits to another Service Address which transfers and changes must be approved and accepted by Installer in writing and shall not be unreasonably withheld. In the event the account for the Service Address associated with the Equipment is removed, disconnected, and/or not in service, Installer will make a reasonable attempt to contact Customer to determine another Service Address to transfer the Utility Credit to. During this time, the kWh output associated with the Equipment will be applied in a way deemed acceptable and reasonable by Installer. Nothing in this Agreement shall be deemed to alter or modify any rate, charge, term or condition of the electric service provided by any Utility to Customer.

Tax Credits. Customer shall be entitled to the Tax Credits associated with the Equipment. Customer is responsible for filing his/her taxes and any documentation necessary to receive the tax credits. Please consult a tax professional to determine eligibility for tax credits.

4. TERM AND END OF TERM:

Term and Termination. The term of this Agreement (the "Term") shall commence on the latter of the Effective Date or the date the Project is placed in-service (the "In-Service Date") and certified as operational by Installer. The Term shall end twenty-five (25) years from the In-Service Date.

In the event Installer terminates this Agreement due to any material violation or breach by Customer of any covenant, agreement, representation or warranty under this Agreement, Installer shall not have any duties or obligations hereunder and may reassign Utility Credits as Installer deems reasonably necessary and appropriate.

Termination for Convenience.

A. Prior to the In-Service Date, Installer expressly reserves the right to, upon thirty (30) days advance written notice to Customer, terminate this Agreement for its convenience for any reason, including but not limited to any change in the Acts, the Tax Credits, the Incentives, the Program, the Utility Credits or any change in laws, rules, regulations, requirements, decisions and/or guidance associated with the same and any amounts paid by Customer as a deposit over \$250, will be refunded back to Customer.

B. Customer has the right to terminate this Agreement for their convenience at any time prior to the commencement of installation of the PV System. Customer shall exercise such right to terminate for convenience by providing thirty (30) days prior written notice to Installer. If such termination for convenience occurs within the first thirty (30) days after full execution of this Agreement, Customer shall be charged a termination fee of \$250.00 as Installer's sole remedy for such termination. After thirty (30) days from the full execution of this Agreement, the Customer shall not be entitled to any deposit refund. In the event of such termination for convenience,

Installer shall also be compensated for the percentage of work completed and for its reimbursable expenses, if any.

In-Service Date. If In-Service Date occurs after the Effective Date, Customer will be placed on a waiting list. Installer will notify Customer in writing when the Project has achieved In-Service Date and Customer will begin accruing Utility Credits in the then-current Period.

If In-Service Date occurs before the Effective Date of the Agreement, Customer will begin accruing Utility Credits after the end of the next full Period.

End of Term. Within six (6) months of the end of the Term, Customer shall notify Installer in writing of Customer's desire to: (i) extend the Term for a (5) year period commencing at the end of the existing twenty-five (25) year term, (ii) enter into a new agreement for a new system, or (iii) permit Installer to recycle the PV System at the end the Term (collectively, the "End of Term Options").

5. OPERATIONS, MAINTENANCE, AND INSURANCE:

Installer shall, at all times during the Term, maintain and repair the Project and all of the Equipment. Installer shall be solely responsible for determining the method, details and means of all maintenance and repairs associated with the Project and the Equipment. At all times during the Term, Installer shall maintain insurance for the benefit of Customer that covers full replacement cost for damage to the Equipment ("Insurance"). Installer shall charge Customer a certain operations and maintenance fee (the "O&M Fee"), which O&M Fee is more particularly set forth on Schedule A. Subject to Customer's benefits under the Insurance, Customer assumes and shall bear all risk of loss and damage to the Equipment from any cause whatsoever, including, without limitation, the use, operation and storage thereof. No loss or damages to the Equipment or any part thereof shall impair Customer's obligations under this Agreement which shall continue in full force and effect, including but not limited to the obligation of Customer to pay the Fee. The O&M Fee is subject to change based on changes to the costs of operating, maintaining, and insuring both the Project and the Project Location.

6. REPRESENTATIONS AND WARRANTIES:

Each party represents and warrants to the other party each of the following: (i) Such party has the authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby; (ii) This Agreement, and such party's performance of its obligations hereunder, constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms; (iii) No consent, approval or action of, filing with or notice to any governmental or regulatory authority or any other non-governmental third party is required in connection with the execution, delivery and performance of this Agreement that has not been obtained by such party; (iv) The entry into and performance by such party of its obligations under this Agreement will not: (a) violate any judgment, order, law or regulation applicable to such party; or (b) result in any breach of, constitute a default under or result in the creation of any lien, pursuant to any contract, agreement, indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which such party is a party; (v) There are no suits or proceedings pending or threatened in any court or by any governmental agency against or affecting such party, which, if adversely determined, would have a material adverse effect on the ability of such party to fulfill its obligations under this Agreement or its financial condition or prospects. Installer warrants and agrees that the Equipment conforms to the specifications and requirements of the Project and that, as between Installer and Customer, the Equipment was delivered in good repair and that Customer has unconditionally accepted it hereunder "AS IS" and "WITH ALL FAULTS" as of the Effective Date. Notwithstanding the foregoing, Installer hereby agrees that Customer shall have the full benefit of all warranties issued by the manufacturer on the Equipment. All of the foregoing representations and warranties shall survive the

expiration of the Term or earlier termination of this Agreement.

7. CONDITIONS PRECEDENT

The obligations of Installer under this Agreement are subject to each of the representations and warranties of Installer set forth in this Agreement being true and correct, in all material respects and Customer's performance of all agreements and covenants required to be performed by it.

8. DISCLAIMER

INSTALLER IS NOT THE MANUFACTURER OF THE EQUIPMENT OR THE UTILITY. INSTALLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR THE PROJECT, THE ACTS, THE TAX CREDITS, THE INCENTIVES, THE PROGRAM AND/OR THE UTILITY CREDIT, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. CUSTOMER UNDERSTANDS AND AGREES THAT NO WARRANTY IS TO BE IMPLIED WITH RESPECT TO THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR THE FITNESS OF THE EQUIPMENT OR THE PROJECT FOR A PARTICULAR PURPOSE. INSTALLER MAKES NO REPRESENTATION OR WARRANTY AS TO ANY OF THE TAX CREDITS, THE INCENTIVES, THE PROGRAM OR THE UTILITY CREDITS, CUSTOMER'S QUALIFICATION FOR OR UNDER THE UTILITY CREDITS, OR THE OVERALL EFFICIENCY OR OPERATION OF THE PROJECT. INSTALLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING CUSTOMER'S TAX OR ACCOUNTING TREATMENT UNDER THIS AGREEMENT.

9. INDEMNIFICATION

To the fullest extent permitted by law, the Indemnifying Party shall indemnify, defend, protect and hold harmless the Indemnified Party, and its agents, employees, managers, officers and subsidiaries (collectively, the "Indemnitees") from and against any and all damages, costs, liabilities, losses, judgments, penalties, fines, claims and expenses, including without limitation, interest, reasonable attorneys' fees and all amounts paid in investigation, defense or settlement of any of the foregoing, to the extent arising out of any third party claim against any Indemnitees in connection with, arising out of or resulting from Customer's active participation in the Project, any material breach by the Indemnifying Party of its representations, warranties and obligations under this Agreement.

Customer shall defend, indemnify and hold the Indemnitees harmless, on an after-tax basis, against all income, sales, use, personal property, ad valorem, value added, leasing, stamp or other taxes, levies, imposts, fees, duties, charges or withholdings of any nature, including all license and registration fees, together with any penalties, fines or interest thereon (collectively, "Impositions") arising out of the transactions contemplated by this Agreement and imposed against Installer, this Agreement, the Tax Credits, the Incentives or the Equipment by the federal or any state or political subdivision thereof or any foreign government or taxing authority.

Each party's indemnification and other obligations under this Section shall survive the expiration of the Term or the earlier termination of this Agreement.

10. DEFAULT

A. Installer Default. Installer shall be in default of this Agreement if the following ("Installer Events of Default") shall occur: (i) Installer fails to perform any material obligation hereunder, such failure is material, such failure is not excused by Excusable Delay Events or other provisions of the Agreement, and Installer fails to commence a cure of the default within a commercially reasonable period of time and diligently proceed with the cure until completion. Upon an Event of Default by Installer, Customer may pursue remedies available at law or in equity.

B. Customer Default. Customer shall be in default of this Agreement if any of the following ("Customer Events of Default") shall occur: (i) Customer obstructs commencement of installation of the Project or fails to take any actions necessary for the interconnection of the Project; (ii) Customer fails to make any payment due under the terms of this Agreement, and fails to make such payment within sixty (60) days after receipt of notice thereof from Installer or (iii) Customer fails to perform any material obligation hereunder, such failure is material, such failure is not excused by Excusable Delay Events or other provisions of the Agreement, and such failure is not cured within: (A) ten (10) days if the failure involves a failure to maintain required insurance or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Installer identifying the failure. Upon an Event of Default by Customer, Installer may pursue remedies available at law or in equity.

11. TRANSFER, ASSIGNMENT, AND REPURCHASE:

The Customer may: (a) change the Service Address for which the credits will apply to another Service Address, or (b) with the express written consent of Installer, in its sole discretion, assign this Agreement to another individual or entity with the same Service Address or another Service Address located within the same utility and service territory. Customer must notify Installer of such proposed change or assignment in writing at least 60 days prior to the proposed effective date of such change or assignment. Notice must include the Customer's name and mailing address, the current address receiving credits, the new address to receive credits (if applicable), the name of the individual or entity being assigned this Agreement (if applicable) and the proposed effective date of such change or assignment.

Upon any assignment, gift, bequeathal, or other transfer of this Agreement, Customer will surrender all right, title and interest in and to this Agreement and the PV System as well as sign a Contract between Installer, Customer, and Assignee stating as such to make the assignment effective. Customer may not use this Agreement as security for any debt or obligation without the express consent of Installer.

No assignment will extend the Term of this Agreement unless otherwise discussed with Installer. If Installer assigns or otherwise transfers this Agreement, any and all of its rights or obligations are transferred as well.

If Customer moves from the Service Address Installer shall have the right, but not the obligation, to repurchase the Equipment from Customer at the then fair market value. If Installer exercises the repurchase option then, subject to Customer's receipt of the purchase price, this Agreement shall terminate and Installer will have no further obligations to Customer and may reassign credits as necessary.

12. CONFIDENTIALITY

The parties agree to keep secret and not disclose any information or data related to this Agreement, the Project, the Project Location or the Installer Services, except upon consent of the other party, disclosure to governmental agencies as required by law, or as reasonably necessary to perform obligations under this Agreement including, but not limited to, disclosure to Customer's agents, representatives, or assigns. Such information includes matters that Customer for itself conceived or developed as well as matters learned from the other parties in the process of participating in the Project. Customer shall not reveal, or disclose, sell, use, lecture upon, or publish any such information, or authorize anyone else to do so at any time either during or subsequent to the Term without the written consent of Installer. The provisions of this Section shall survive the expiration of the Term or earlier termination of this Agreement. THIS CONFIDENTIALITY REQUIREMENT SHALL NOT APPLY TO ANY MARKETING, ADVERTISING OR OTHER INFORMATION THAT IS IN THE PUBLIC DOMAIN THROUGH NO BREACH OF THIS AGREEMENT OR IS USED BY CUSTOMER FOR THE PURPOSE OF REFERRING NEW PV SYSTEM CUSTOMERS TO INSTALLER.

13. FORCE MAJEURE

A. Force Majeure Event. If either party is unable to timely perform any of its obligations (other than

payment obligations) under this Agreement in whole or in part due to a Force Majeure Event, that party will be excused from performing such obligations for the duration of the time that such party remains affected by the Force Majeure Event; provided, that such party uses commercially reasonable efforts to mitigate the impact of the Force Majeure Event and resumes performance of its affected obligations as soon as reasonably practical. The party affected by the Force Majeure Event shall notify the other party as soon as reasonably practical after the affected party becomes aware that it is or will be affected by a Force Majeure Event. If the Force Majeure Event occurs during the Term and impacts the ability of the Solar Facility to deliver electricity, the Term will be extended day for day for each day delivery is suspended due to the Force Majeure Event.

B. Extended Force Majeure. If a Force Majeure Event notified by either Party under paragraph (i) above continues for a consecutive period of one hundred eighty (180) days or more within a twelve (12) month period, then either Party may terminate this Agreement without either Party having further liability under this Agreement except liabilities accrued prior to termination. Notwithstanding the foregoing, if the Force Majeure Event can be corrected through repair or restoration of the Solar Facility or other actions by Installer and, prior to expiration of the initial one hundred eighty (180)-day period, Installer provides written evidence to you that it is diligently pursuing such actions, then you will not have the right to terminate this Agreement so long as we continue to diligently pursue such actions.

C. "Force Majeure Event" means any event or circumstance beyond the reasonable control of and without the fault or negligence of the affected party, including, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; piracy; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; animals; unavailability of electricity from the utility grid; and failure or unavailability of equipment, supplies or products outside of Installer's reasonable control or due to a Force Majeure Event.

D. Extension of Time. If we are delayed in achieving the Commercial Operation Date due to a Force Majeure Event, the time for achievement of Commercial Operation Date (if any), will be automatically extended to account for the impact of the delay.

14. REFERRALS:

For each referral made by Customer which results in a signed contract and completion of installation by Installer, the Customer may receive a referral fee. The referral fee structure is subject to change at Installer's sole discretion.

15. MEDIA RELEASE:

The Customer authorizes Installer to publish photographs, video, or audio taken before, during or after the installation of the PV System, for use in Installer's printed publications and website(s). The Customer acknowledges that participation in publications and websites produced by Installer is voluntary and they will receive no financial compensation. The Customer further agrees that participation in any publication and website produced by Installer confers no rights of ownership. The Customer hereby releases Installer, its contractors and its employees from liability for any claims by the Customer or any third party in connection with this participation.

16. LEASE.

For as long as Customer owns a share of the PV System, Customer agrees to sign any Lease Agreement as may be necessary with the owner(s) of the Project Location. A portion of the O&M Fee set forth on

Schedule A to this Agreement may be allocated to such rent under a Lease Agreement.

17. NYSERDA AND NYS EXCLUSION.

Neither NYSERDA nor the State of New York: (1) endorse any eligible installer; or (2) guaranty, warranty, or in any way represent or assume liability for any Work proposed or carried out by Installer. Additionally, NYSERDA is not responsible for assuring that the design, engineering and construction of the project or installation of any PV System is proper or complies with any particular laws, regulations, codes, licensing, certification and permit requirements, or industry standards. NYSERDA does not make any representations of any kind regarding the results to be achieved by the PV system or the adequacy of such measures.

18. RESCINDING AGREEMENT WITHOUT PENALTY. Customer has the unrestricted right to rescind this Agreement without penalty or further obligation by calling the number provided in Article 21 within the (3) business days of receipt of the Agreement.

19. DATA SHARING AND PRIVACY POLICY.

A. You and/or the Utility must provide us your electrical consumption history and other information, including, but not limited to, the following:

1. Your service address;
2. Your electric Utility account number;
3. Sales tax district used by the distribution Utility and whether the Utility identifies you as tax exempt;
4. Rate service class and subclass or rider by account and by meter, where applicable;
5. Electric load profile reference category or code, if not based on service class, whether your account is settled with the NYISO utilizing an actual 'hourly' or a 'class shape' methodology, or Installed Capacity (ICAP) tag, which indicates your peak electricity demand;
6. Your number of meters and meter numbers;
7. Whether you receive any special delivery or commodity "first through the meter" incentives, or incentives from the New York Power Authority;
8. Your Standard Industrial Classification (SIC) code (if applicable);
9. Your usage type (e.g., kWh), reporting period, and type of consumption (actual, estimated, or billed);
10. Whether your commodity service is currently provided by the utility;
11. Twelve (12) months, or the life of the account, whichever is less, of your data and, upon separate request by us, an additional twelve (12) months, or the life of the account, whichever is less, of your data, and, where applicable, demand information; if you have more than one meter associated with an account, the utility shall provide the applicable information, if available, for each meter; and
12. Electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs), and if requested in detail, an acceptable alternative format.

B. Privacy Policy. We have privacy and security policies and processes in effect that are designed to keep your data confidential and secure. A summary of those policies and processes is attached as Exhibit D.

C. Authorization to Release Utility Data. A form for authorizing us to receive your utility consumption and other data listed in Section 20(A) above is attached as Exhibit E.

20. Limitation of Liability.

A. To the maximum extent permitted by law, Installer's liability on all claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from the Agreement or from the performance or breach thereof shall in no case exceed the amount you have paid to us under this Agreement.

B. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL EITHER PARTY, THEIR EMPLOYEES AND CONTRACTORS BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF ANY PROPERTY, COST OF CAPITAL, COST OF PURCHASED POWER, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF THE CUSTOMER FOR SUCH DAMAGES.

21. Dispute Resolution.

Either Party may contact the New York Public Service Commission ("PSC") at any time regarding any disputes relating to this Agreement. A complaint or question may be filed with the PSC by telephone, letter, electronically, or in person at the PSC's offices in New York City, Albany or Buffalo.

If either to party this Agreement provides the other party written notice of a dispute that has arisen relating to this Agreement, then the parties agree to negotiate in good faith and attempt to resolve such dispute within 30 days after the date such notice is delivered. If the dispute remains unresolved thirty (30) days after the written notice is delivered, the parties may mutually agree to arbitration in Suffolk County, New York. Such arbitration shall be administered in accordance with the Construction Industry Mediation Rules of the American Arbitration Association in effect on the date that a Party gives notice of its demand for arbitration, and judgment on any award may be entered in any court of competent jurisdiction. If the parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

If the dispute, disagreement, or claim is directed to the CUSTOMER'S UTILITY COMPANY, Customer shall call Sunrise Solar at (631) 254-2968. A dispute, disagreement, or claim may be submitted to the New York State Department of Public Service by visiting their website at www.dps.state.ny.us, by calling 1 (800) 342-3377, or by writing to the following address: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223.

**QUESTIONS ABOUT BILLINGS OR OTHER
INQUIRIES? CALL (631) 254-2968
OUR CUSTOMER SERVICE CENTER IS OPEN
MONDAY THROUGH FRIDAY EXCEPT HOLIDAYS
(8:30 AM – 4:30 PM)**

22. Your Rights Under the New York Home Energy Fair Practices Act (HEFPA).

HEFPA Rights. The Customer is entitled to protections pursuant to the Home Energy Fair Practices Act, Part 11 of Chapter 16 of the Rules and Regulations of the State of New York ("HEFPA"), which covers but is not limited to third party notification rights; a prohibition against security deposits in certain

circumstances; limitations on estimated billing; limitations on back billing; and limitations on late charges. More information about Customer's HEFPA protections are available online at <http://www.dps.ny.gov>. An annual notification of Customer's rights under HEFPA will also be provided to Customer by CUSTOMER UTILITY COMPANY. If subsequent changes in applicable law require Sunrise Power Solutions to provide additional information about Customer's HEFPA rights, Sunrise Power Solutions shall provide Customer with such additional information within a reasonable time and in accordance with the provisions of HEFPA Section 18(a)(i).

23. MISCELLANEOUS

Estimated Production. The estimated production for the first year of operation set forth on Schedule A is based on various items including but not limited to, engineering design, and system loss factors. The estimated production is not a guarantee of kWh produced by the System. This Agreement does not contain any guarantees of: (a) a minimum level of performance or production of energy or (b) savings.

Change in Law. In the event there is a Change in Law after the Effective Date that is applicable to the Work, the PV System, the Project, the Solar Facility or any other obligation of the Installer hereunder and compliance with the Change in Law results in an increase in Installer's costs to perform its Work or complete the PV System or Project or Solar Facility or in a delay in performance of Sunrise Power Solution's obligations or otherwise affects Sunrise Power Solution's ability to perform any of its other obligations Work, the PV System, the Solar Facility or Project or in a delay in performance of Installer's obligations or otherwise affects Installer's ability to perform any of its other obligations, Installer will promptly submit to Customer a written notice setting forth: (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Installer's costs or delays performance of Installer's obligations or otherwise affects Installer's ability to perform any of its other obligations; and (iii) Installer's proposed adjustment to the Agreement to reflect such Change in Law. If Installer determines that such adjustment is not feasible, Installer will so notify Customer and Installer may terminate this Agreement for its convenience.

"Change in Law" shall mean any change in the law, regulations, the Acts, the Incentives, the Program, the Utility Credits or any change in laws, rules, regulations, requirements, decisions and/or guidance associated with the same.

Submission to Jurisdiction. The parties hereby irrevocably consent, to the maximum extent permissible by law, that any action or proceeding relating to this Agreement shall be brought, at the option of the party instituting the action or proceeding, in any court of general jurisdiction in Suffolk County, New York or in the United States District Court for the Southern District of New York. The parties waive any objection they may have to the conduct of any action or proceeding in any such court based on improper venue or forum non conveniens, waive personal service of any and all process upon it, and consent that all service of process may be made by mail or courier service directed to it at the address set forth herein and that service so made shall be deemed to be completed upon the earlier of actual receipt or ten days after the same shall have been posted. Nothing contained in this section shall affect the right of a party to serve legal process in any other manner permitted by law.

Amendment and Modification. This Agreement may be amended, modified or supplemented only by written agreement signed by the parties.

Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, representation, warranty, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting the waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement or condition shall not operate as a waiver of, or estoppel

with respect to, any subsequent or other failure.

Relationship of Parties. Nothing contained herein shall be construed to create a partnership, joint venture or other relationship between the parties. Parties are independent of each other.

Notices. All notices and other communications hereunder shall be in writing and shall be deemed given when delivered by hand, mailed by registered or certified mail (return receipt requested), postage prepaid, or overnight express mail, to the parties at their respective addresses set forth on Schedule A unless otherwise noted.

Governing Law. This execution, interpretation and performance of this Agreement shall be governed by the laws of the State of New York without giving effect to conflict of law or choice of law rules.

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by fax with the same binding effect as original ink signatures.

Severability. If any provisions of this Agreement shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect. If a court of competent jurisdiction determines that any portion of this Agreement is unenforceable, the parties agree that such court may reform such provision so that it is reasonable under the circumstances and that such provision, as reformed, shall be enforceable.

Parties in Interest. Nothing in this Agreement, express or implied, other than as otherwise specifically provided herein, is intended to or shall confer upon any person other than the parties hereto any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility, public service company or electric corporation as defined in New York Public Service Law § 2, or any similar entity that has a duty to provide service, is subject to rate regulation as a result of Provider's obligations or performance under this Agreement.

Entire Agreement. This Agreement, including all Schedules attached hereto embody the entire agreement and understandings of the parties hereto in respect to the subject matter hereof. Each party acknowledges that no other party has made any, or makes any promises, representations, warranties, covenants or understandings other than those expressly set forth herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter of this Agreement. In the event of a conflict between this Agreement and any document incorporated by reference into any of the Schedules hereto, the terms and conditions of this Agreement shall control.

EXHIBIT A

SCOPE OF WORK

CUSTOMER OBLIGATIONS

Project details outside of direct PV installation (i.e. tree removal, roof replacement, site work, etc.)

Sunrise Power Solutions OBLIGATIONS

Project details outside of direct PV installation (i.e. tree removal, roof replacement, site work, etc.)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective duly-authorized officers as of the date first above written.

Customer

Sunrise Power Solutions Representative

Signature

Signature

Name (Print)

Name (Print)

DATE

DATE

EXHIBIT B

ADDENDUM TO COMMUNITY DISTRIBUTED GENERATION AGREEMENT – THIRD PARTY LOANS AND ELIGIBILITY FOR TAX CREDITS

THIRD-PARTY LOANS

Customer understands that he/she may obtain a third-party loan in order to assist in paying the balance of the PV System. Such loan is taken out by the Customer and not by Installer. Proceeds of the loan will be paid directly to Installer, but Installer is not responsible for making any payments to any third-party loan provider on behalf of the Customer without any agreement in writing signed by Installer and Customer.

ELIGIBILITY FOR TAX CREDITS

As stated in the Community Distributed Generation Agreement, the Customer may be eligible for certain tax credits provided both by the Federal government and/or New York State. Such tax credits listed in the Purchase Agreement is an estimate based on the cost of the PV System. Customer's eligibility for tax credits may be affected by Customer's amount of taxable income and other factors that may affect Customer's tax liability.

The Customer is responsible for filing his/her taxes including any other documentation necessary to receive tax credits and is responsible for repaying any third-party loan. Customer is responsible for paying the tax credit portion of the System Cost regardless of what amount Customer may or may not receive in tax credits.

Installer does not provide tax advice. Customer should contact his/her tax professional to determine eligibility for tax credits.

By my signature, I acknowledge that I have completely read, fully understand, and agree with the above detailed information.

Customer

Signature

Name (Print)

DATE

EXHIBIT C

Sunrise Power Solutions COMMERCIAL PURCHASE DISCLOSURE FORM

(ON-SITE)

EXHIBIT D

Sunrise Power Solutions Data Privacy

Sunrise Power Solutions has the following policies:

1. Security Awareness Policy. This policy outlines how the company will periodically update and train staff on security.
2. Computer and Internet Usage Policy. This addresses employee Acceptable Use provisions.
3. Remote Access Policy. This policy addresses hardware and software used to connect to the company network remotely via VPN.
4. Firewall Policy.
5. Patch Management Policy.
6. IT Access Control Policy. This policy deals with how employees are granted access to resources (shared directories, applications, etc.), how access is maintained and revoked.
7. Physical Security Policy. This policy addresses security in the physical environment (doors, sensitive paperwork, etc.),
8. Incident Response Plan. This policy addresses what to do when the company has experienced a security breach.

Exhibit E

Authorization Form for Release of Utility Data

I, _____, having account # _____, hereby grant unlimited authority to **Sunrise Power Solutions** to act as my Agent with regards to actions and correspondence related to the Utility. I further authorize you to release to **Sunrise Power Solutions** any account information requested as well as act as an agent for my satellite accounts. **Sunrise Power Solutions** is granted full power to act on my behalf in the same manner as if I were personally present.

In order for Sunrise Power Solutions to sell the Utility Credits to you, you and/or the Utility must provide us your electrical consumption history and other information, including, but not limited to, the following:

1. Your service address;
2. Your electric Utility account number;
3. Sales tax district used by the distribution Utility and whether the Utility identifies you as tax exempt;
4. Rate service class and subclass or rider by account and by meter, where applicable;
5. Electric load profile reference category or code, if not based on service class, whether your account is settled with the NYISO utilizing an actual 'hourly' or a 'class shape' methodology, or Installed Capacity (ICAP) tag, which indicates your peak electricity demand;
6. Your number of meters and meter numbers;
7. Whether you receive any special delivery or commodity "first through the meter" incentives, or incentives from the New York Power Authority;
8. Your Standard Industrial Classification (SIC) code (if applicable);
9. Your usage type (e.g., kWh), reporting period, and type of consumption (actual, estimated, or billed);
10. Whether your commodity service is currently provided by the utility;
11. Twelve (12) months, or the life of the account, whichever is less, of your data and, upon separate request by us, an additional twelve (12) months, or the life of the account, whichever is less, of your data, and, where applicable, demand information; if you have more than one meter associated with an account, the utility shall provide the applicable information, if available, for each meter; and
12. Electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs), and if requested in detail, an acceptable alternative format.

All information obtained will be kept private and confidential and used by Sunrise Power Solutions only for utility and billing purposes.

Sunrise Power Solutions is implementing privacy and security policies and processes that are designed to keep your data confidential and secure.

This authorization will be valid for the Term of the Agreement.

ADDENDUM TO CUSTOMER AGREEMENT

NY-Sun Incentive Program



Please check appropriate box below.

____ This Agreement is related to a PV project receiving incentive funding under the NY-Sun Residential and Small Commercial Incentive Program

____ This Agreement is related to a PV project receiving incentive funding under the NY-Sun Commercial and Industrial Incentive Program

All Participating Contractors must incorporate this Addendum into the agreement between the Contractor and Customer (Agreement) for each PV project receiving incentives.

The following terms will apply to all NY-Sun supported PV projects under the Residential and Small Commercial Program or Commercial and Industrial Program:

Attorney Consultation: The Agreement to which this Addendum is attached and made part is a legally binding document; you may wish to consult with an attorney before signing.

Conflicting Terms: In the event of a conflict between the terms in any other contractual instrument between the Contractor and Customer and the terms of this Addendum, the terms of this Addendum shall control.

Assumption of Responsibilities: Should the Contractor or owner of the PV System sell or transfer ownership of the PV System during the term of the Agreement, the Contractor/owner agrees that it will alert Customer in advance of such transfer or sale, and that, during the duration of the term of the Agreement, either: (1) the Contractor will remain responsible to the Customer for all obligations and responsibilities stated herein, or (2) under the agreement of sale the buyer will assume all responsibilities to Customer stated herein, if applicable.

Incentives: The Contractor is required to disclose the full amount of the NYSERDA incentive to the end- use customer.

Inspection/Reporting/Commissioning: For quality control purposes, all parties including the Customers must provide NYSERDA or its representative with reasonable access to the PV System in order to conduct site inspections or remote monitoring services. Final incentive payment may be contingent on NYSERDA inspection of the installed PV System.

Publicity and Site Events: Customers and Contractors are required to collaborate with NYSERDA's Director of Communications should they prepare any press release or plan any news conference related to the PV System. NYSERDA is authorized to use PV System photographs in brochures, on its website, and in other print materials.

Tax Incentives: Customers are encouraged to consult the Internal Revenue Service (See www.irs.gov), the NYS Department of Taxation and Finance (See www.tax.ny.gov) and with an accountant/tax adviser for details on eligibility for the credit provided in the law, regardless of whether the Builder/Contractor has provided information regarding the expected tax benefits (real property, federal or state tax incentives, or sales and use tax exemptions).

ADDENDUM TO CUSTOMER AGREEMENT

NY-Sun Incentive Program



Net Metering: Customers are encouraged to consult with their local utility regarding eligibility for net metering.

Consumer Information: New York consumers and customers are encouraged to consult the New York State Office of the Attorney General web site for consumer information: http://www.ag.ny.gov/bureaus/consumer_frauds/tips/home_improvements.html

The NYS Consumer Protection Board offers additional information with the following publications: <https://www.dos.ny.gov/consumerprotection/publications.html>

Communication with Customer: Contractor and Customer agree that NYSERDA may, at NYSERDA's discretion, communicate by voice and/or written format with any PV System Customer with respect to any matter relevant to a proposed or installed PV System. Such communications may be in reply to an inquiry from a Customer or at NYSERDA's initiation.

Disclaimer: The Customer understands that neither NYSERDA nor the State of New York: (1) endorse any Contractor; or (2) guarantee, warranty, or in any way represent or assume liability for any work proposed or carried out by a Contractor or Installer. Additionally, NYSERDA is not responsible for assuring that the design, engineering and construction of the project or installation of any solar electric generation system is proper or complies with any particular laws, regulations, codes, licensing, certification and permit requirements, or industry standards. NYSERDA does not make any representations of any kind regarding the results to be achieved by the solar generation systems or the adequacy or safety of such measures.

The following term will apply ONLY to NY-Sun supported PV projects under the Commercial and Industrial Program:

Small Commercial Energy Assessment: For the Commercial and Industrial Program, the energy assessment is an ASHRAE level 1 walk through analysis, unless the customer is located in load zone J in which case the Contractor must submit the electric customer's Energy Star score as required under Plan NYC.

Customers will not be required to benchmark or implement energy efficiency measures as a pre-requisite for receiving a PV incentive, except as required for projects receiving the Affordable Solar residential added incentive.

ADDENDUM TO CUSTOMER AGREEMENT

NY-Sun Incentive Program



The following terms will apply ONLY to NY-Sun supported PV projects under the Residential and Small Commercial Program:

Incentives are only available for the installation of new equipment and PV Systems that have not been installed (partially or completely) prior to the *Project Application* achieving a status of "Submitted via Internet." Incentives will not be provided directly to Customers but are paid to the Contractor, who must apply the entire approved amount to the Customer's cost via a corresponding reduction in Customer's Total System Cost or total payments. The Project Invoice will be submitted by the Contractor or Builder once the system has been installed and interconnected.

Cost Estimate/Total System Price: The Customer has relied upon the Contractor to include any and all costs associated with the complete installation of the proposed PV system in the Agreement. If additional costs are sought from the Customer, the Agreement may be cancelled without penalty and the customer may seek a full refund of any deposit paid to Contractor or costs the Customer incurred under the Agreement, less any reasonable site visit fees charged by the Contractor.

Incentive Estimate: If the Contractor does not submit a completed Project Application to NYSERDA, or if the Project Application (a) is not approved by NYSERDA or (b) if NYSERDA approves a lower incentive, the Customer may terminate the Agreement without penalty and seek a full refund of any deposit paid to Contractor or costs he or she incurred under the Agreement, less any reasonable site visit fees charged by the Contractor.

Incentives: The Contractor is not permitted to collect the value of the incentive upfront and reimburse the customer upon completion of the project, or upon receipt of the NYSERDA incentive.

Review of System Design: NYSERDA may review the design of the PV System considering issues including, but not limited to, system layout, orientation, shading, expected output, etc. NYSERDA approval of the Project Application is contingent on adherence to the proposed system design. Contractors/Builders must receive approval from NYSERDA for any material modification of the proposed system or its components, or the incentive may be revoked.

Losses: All potential system output losses (after all equipment losses are applied) associated with shading, system orientation, tilt angle, etc. may not exceed 20% of optimal system output to receive the full incentive. Such losses must be detailed in each application package using industry accepted shading and orientation tools, verifiable assumptions and calculations. Systems with losses greater than 20% of optimal output due to shading and orientation issues may be considered on a case-by-case basis. However, any available incentives for these systems will be prorated by output loss. In cases where trees or any other obstruction must be removed or moved in order to meet the program rules, incentive payments will not be made until a new shading analysis and photos, verifying that the obstruction(s) have been removed are reviewed and approved by NYSERDA. Any trees or obstructions must be clearly labeled in the site map.

Warranty for Purchase Agreements: The Contractor shall offer a full/transferable warranty to the

ADDENDUM TO CUSTOMER AGREEMENT

NY-Sun Incentive Program



purchaser of the PV System installed under this Customer Purchase Agreement for a period of five (5) years after the Contractor has completed the installation and NYSERDA's final approval has been provided. This warranty covers all components of the system against breakdown or degradation in electrical output of more than ten percent from their original rated electrical output. This warranty covers the full cost, including labor and repair or replacement of defective components or systems. If a battery back-up is installed under this Agreement, the Contractor shall offer a full warranty to the purchaser for the battery system for a period of 2 years after installation. This warranty covers the battery system against breakdown and covers the full costs, including labor and repair or replacement of the battery.

Warranty for PPA/Leases: At a minimum, the Contractor shall offer a production guarantee to the Customer for the initial term of this Agreement. This production guarantee will provide the customer with compensation if the system produces less than the guaranteed output as specified in the PPA or lease agreement. Guaranteed output may not allow cumulative degradation in electrical output of more than one percent per year from the original rated electrical output for the initial term of this agreement. Under no circumstance will Customers be responsible for any labor and repair or replacement costs of defective components or systems over the initial term of this Agreement. Should the customer sell the residence at which this solar facility is located, the production guarantee is fully transferrable to a new lessee.

Green Jobs Green New York (GJGNY) Financing: Should an eligible residential customer who chooses to access GJGNY financing for their PV system project be unable to proceed with installation of the PV system, due to either the system not meeting the Program's eligibility requirements, or the customer is denied low-interest financing through GJGNY, the customer may terminate the Agreement without penalty and seek a full refund of any deposit paid to /Contractor or costs he or she incurred under the Agreement, less any reasonable site visit fees charged by the /Contractor.

PV system completion/commissioning: The Contractor agrees to complete the installation of the PV system, and request all necessary inspections, within 365 days of NYSERDA's approval of the Project Application. Unless written approval of an extension has been issued by NYSERDA, the Contractor will be required to return any and all incentive payments to NYSERDA if this milestone has not been met.

Residential Clipboard Energy Efficiency Assessment: The Contractor agrees to complete a clipboard energy efficiency assessment consisting of two main components: an interview of the home/building owners to ascertain energy use habits, and identify potential energy efficiency measures, especially low- and no-cost measures that could reduce the electricity load of the residence. The Participating Contractor shall conclude the assessment with a homeowner debriefing and provide the homeowner with a copy of the assessment report. Customers will not be required to implement the energy efficiency measures identified in the assessment as a pre-requisite to receiving the standard NY-Sun incentive.

For projects receiving the Affordable Solar additional incentive, the Contractor and the Customer are required to attest on the application that lighting and water efficiency measures are installed at the residence, meeting the requirements outlined for the Affordable Solar incentive in the NY-Sun Program Manual.

Small Commercial Energy Assessment: The Contractor will provide small commercial building

ADDENDUM TO CUSTOMER AGREEMENT

NY-Sun Incentive Program



owners with information on Energy Star's Portfolio Manager Benchmarking Tool or other equivalent tool and, if requested by the building owner, assist them to enter utility bill information into the Tool in order to produce an EUI (Energy use index)⁶ and, where applicable, an Energy Star score. Customers will not be required to benchmark or implement energy efficiency measures as a pre-requisite for receiving a PV incentive.

Affordable Solar Incentive - Contract Requirements: Contracts for PPA/lease projects receiving the Affordable Solar additional incentive shall not contain price escalators over the life of the agreement, and all projects receiving this incentive shall provide a cost savings to the customer over the life of the agreement, as documented by the Affordable Solar Residential Project Screening Tool included in the incentive application.

Contracts for PPA/lease projects participating in the TPO Pilot must reflect that the following requirements are met:

- The project is financed through a fully prepaid lease or PPA, with no outstanding financial obligation to the customer beyond the GJGNY loan.
- The project must provide annual customer cost savings of at least 50% per kWh for the lifetime of the GJGNY loan, as documented in the GJGNY pro-forma tool submitted with the incentive application.
- TPO Pilot projects must not exceed a GJGNY loan size of \$6,000.

General Business Law: If this Agreement is deemed to be a Home Improvement Contract under the NYS General Business Law §770, et seq., Customer is entitled to various notices. A description and explanation of this law can be accessed at <http://www.dec.ny.gov/lands/5341.html>. This Agreement may also be subject to the federal Consumer Leasing Act (15 USC 1667 et. seq). <http://www.federalreserve.gov/boarddocs/supmanual/cch/leasing.pdf>

Statement of Acknowledgement: By signing, all parties acknowledge that they have read and understand all of the above information and requirements and agree to abide by them.

Contractor: By signing below, the Contractor confirms that there is a fully-executed Agreement to install the PV project that has been signed by both Contractor and Customer and that the costs and incentives stated on the NYSERDA approved application for incentive funding are complete and accurate. The Contractor is responsible for keeping this document on file. NYSERDA may request, at any time, that a signed copy of this addendum be provided. Contractor further attests that the customer signature appearing below is the true and genuine signature of the customer and that it was affixed to this document on the date indicated.

Print Customer Name _____

Customer Signature _____ Date _____

Contractor Company Name _____

Contractor Name (Print) _____

Contractor Signature _____ Date _____



Certificate of Capital Improvement

After this certificate is completed and signed by both the customer and the contractor performing the capital improvement, it must be kept by the contractor.

Read this form completely before making any entries.

This certificate may not be used to purchase building materials exempt from tax.

Name of customer (print or type)	Name of contractor (print or type)
Address (number and street)	Address (number and street)
City State ZIP code	City State ZIP code
Sales tax Certificate of Authority number (if any)	Sales tax Certificate of Authority number (if any)

To be completed by the customer

Describe capital improvement to be performed:

Project name
Street address (where the work is to be performed) City State ZIP code

I certify that:

- I am the (mark one) ☐ owner ☐ tenant of the real property identified on this form; **and**
- the work described above will result in a capital improvement to the real property within the guidelines of this form; **and**
- this contract (mark one) ☐ includes ☐ does not include the sale of any tangible personal property that, when installed, does **not** become a permanent part of the real property (for example, a free-standing microwave or washing machine).

I understand that:

- I will be responsible for any sales tax, interest, and penalty due on the contractor's total charge for tangible personal property and for labor if it is determined that this work does not qualify as a capital improvement; **and**
- I will be required to pay the contractor the appropriate sales tax on tangible personal property (and any associated services) transferred to me pursuant to this contract when the property installed by the contractor does not become a permanent part of the real property; **and**
- I will be subject to civil or criminal penalties (or both) under the Tax Law if I issue a false or fraudulent certificate.

Signature of customer	Title	Date
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To be completed by the contractor

I, the contractor, certify that I have entered into a contract to perform the work described by the customer named above, and that I accept this form in good faith. (A copy of the written contract, if any, is attached.) I understand that my failure to collect tax as a result of accepting an improperly completed certificate will make me personally liable for the tax otherwise due, plus penalties and interest.

Signature of contractor or officer	Title	Date
------------------------------------	-------	------

This certificate is not valid unless all entries are completed.

Guidelines

When the customer completes this certificate and gives it to the contractor, who accepts it in good faith, it is evidence that the work to be performed will result in a capital improvement to real property.

A capital improvement to real property is an addition or alteration to real property that:

- (a) substantially adds to the value of the real property or appreciably prolongs the useful life of the real property, **and**
- (b) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself, **and**
- (c) is intended to become a permanent installation.

The work performed by the contractor must meet all three of these requirements to be considered a capital improvement. This certificate may not be issued unless the work qualifies as a capital improvement.

If a contractor performs work that constitutes a capital improvement, the contractor must pay tax on the purchase of building materials or other tangible personal property, but is not required to collect tax from the customer for the capital improvement.

For guidance as to whether a job is a repair or a capital improvement, see Publication 862, *Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property*.

A contractor, subcontractor, property owner, or tenant, may not use this certificate to purchase building materials or other tangible personal property tax free. A contractor's acceptance of this certificate does not relieve the contractor of the liability for

sales tax on the purchase of building materials or other tangible personal property subsequently incorporated into the real property

as a capital improvement unless the contractor can legally issue

for determining when floor covering constitutes a capital improvement do not apply to such flooring. The criteria stated in (a), (b), and (c) above apply to such flooring.

A certificate is accepted in good faith when a contractor has no knowledge that the certificate is false or is fraudulently given, and reasonable ordinary due care is exercised in the acceptance of the certificate.

If a contractor gets a properly completed Form ST-124 from the customer within 90 days after rendering services, and accepts it in good faith, the customer bears the burden of proving the job or transaction was not taxable.

If you are a contractor who installs items such as washing machines, clothes dryers, dishwashers, refrigerators, furniture, etc., which when installed or placed in real property do not become part of the real property, you must collect tax on your charge for the installation. The individual charge for any of these items is also taxable as the sale of tangible personal property.

If a contractor does not get a properly completed *Certificate of Capital Improvement* within 90 days, the contractor bears the burden of proving the work or transaction was a capital improvement. The failure to get a properly completed certificate, however, does not change the taxable status of a transaction; a contractor may still show that the transaction was a capital improvement.

The contractor must keep any exemption certificate for at least three years after the due date of the last return to which it relates, or the date the return was filed, if later. The contractor must also maintain a method of associating an exempt sale made to a particular customer with the exemption certificate on file for that customer.

Need help?



Form ST-120.1, *Contractor Exempt Purchase Certificate*. (See Publication 862 for additional information.)

The term *materials* is defined as items that become a physical component part of real or personal property, such as lumber, bricks, or steel. This term also includes items such as doors, windows, sinks, and furnaces used in construction.

Floor covering

Floor covering such as carpet, carpet padding, linoleum and vinyl roll flooring, carpet tile, linoleum tile, and vinyl tile installed as the initial finished floor covering in new construction, a new addition to an existing building or structure, or in a total reconstruction of an existing building or structure, constitutes a capital improvement regardless of the method of installation. As a capital improvement, the charge to the property owner for the installation of floor covering is **not** subject to New York State and local sales and use taxes. However, the retail purchase of floor covering (such as carpet or padding) itself is subject to tax.

Floor covering installed other than as described above does not qualify as a capital improvement. Therefore, the charges for materials and labor are subject to sales tax. The contractor may apply for a credit or refund of any sales tax already paid on the materials.

The term *floor covering* does **not** include flooring such as ceramic tile, hardwood, slate, terrazzo, and marble. The rules

Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.



Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.