

Buyer Initial's \_\_\_\_\_

## **CONTRACT FOR THE SALE OF GOODS AND SERVICES**

This contract for the Sale of Goods and Services (the "Sales Contract") is made on

**Between:** Max Solar INC. (the "Seller"), a corporation organized and existing under the laws of the State of New York, with its head offices located at 19 North Broad Street, Carthage, NY 13619.

**And:** **Example Customer** (the "Buyer"), who currently resides at 505 Example St., Henderson, NY 13601, USA (the "Home")

**Definitions:** Interconnection – An electrical connection between the inverters of the Solar Photovoltaic System and the electrical grid via the meter of the Buyer.

Estimate- A document furnished to the Buyer for the purposes of giving the Buyer an approximate assessment as to the financial commitment to Seller.

Invoice – A document furnished to the Buyer detailing final pricing for the items purchased requesting payment for the items or services detailed therein.

Secured Area – An area capable of holding product awaiting installation the area must be secured in good faith by the receiving party and insured then against the risk of loss by the buyer.

### **1. Sale of Goods and Performance of Service**

Seller shall sell, transfer and deliver to the buyer on or before a date yet to be determined, but that can be agreed on to be executed with the Buyer. The property and services will be listed in the attached Estimate and subsequent invoice(s).

When Seller is notified by the Buyer in writing or by phone that the preparations and appropriate approvals have been satisfied the "installation phase" can commence, Seller will then appropriately invoice Buyer. Once Buyer has complied with section 4 of Sales Contract, Seller shall in a timely manner order and perform an installation of all product invoiced. Should discrepancies be found during post installation inspection, Seller agrees to correct any discrepancies caused by Seller, to comply with local code with no charge for labor during the correction; Buyer agrees to cover the cost of any additional product required by code not estimated.

Sale of Goods and Services not covered by this agreement and/or the aforementioned estimate will require the execution of an Amendment to the Sales Contract.

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## **2. Identification of Goods**

Identification of the goods to this agreement shall not be deemed to have been made until both buyer and seller have specified that the goods in question are to be appropriated to the performance of this agreement.

## **3. Consideration**

Buyer shall accept the goods and services and pay the sum of the invoice(s) for the goods and services as agreed.

## **4. Payment Clause**

Buyer agrees to pay for the invoices due in the following manner:

- An invoice will be provided to Buyer prior to the ordering of product or services needed for the specific phase. (National Grid On Bill Recovery Customers Exempt see Below)
- Buyer shall satisfy the specific invoice in full by means of Cash, Certified Check, or Personal Check that is verified cleared. (National Grid On Bill Recovery Customers Exempt see Below)
- Seller shall then in a timely manner place a purchase order with various distributors to satisfy the specific invoice paid in full. (National Grid On Bill Recovery Customers Exempt see Below)
- The buyer shall receive shipment of product to the predetermined Secure Area to await installation.
- Seller shall perform contract to completion

Labor overruns, outside of pre-billed labor contained in the invoice(s), will be due upon services rendered, and will be brought to the attention of Buyer by Seller directly as soon as practicable.

Unsatisfied balances will accrue interest at a rate of 25% APR from the date of invoice.

## **5. Receipt Construed as Delivery**

Goods shall be deemed received by buyer when delivered to the Secure Area. Any correspondence with a return receipt from address on file will be considered delivered.

## **6. Risk of Loss**

The risk of loss from any casualty to the goods, regardless of the cause shall be on the Seller until the goods have been received by the Buyer.

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#### **7. Warranty of No Encumbrances**

Seller warrants that the goods are now free, and at the time of delivery shall be free from any security interest or other lien or encumbrance.

#### **8. Warranty of Title**

Furthermore, the Seller warrants that at the time of signing this agreement the Seller neither, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Seller in the goods.

#### **9. Right of Inspection**

Buyer shall have the right to inspect the goods on arrival and, with 5 business days after delivery, Buyer must give notice to Seller of any claim for damages on account of condition, quality or grade of goods, and buyer must specify the basis of the claim of Buyer in detail. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of goods by Buyer.

#### **10. Warranty of Labor**

Seller exclusively warrants all workmanship ("Workmanship Warranty") of installation to Buyer for a period of Twenty Five years from the date of completion.

This warranty will be null and void at the sole discretion of Seller if any installed product has Modifications, improvements, or additions by any party not expressly approved by Seller during this period in writing.

It is understood by the Buyer that the goods purchased may have their own warranty and that those warranties are separate from any warranty made by Seller.

Seller accepts responsibility for any damage caused by any person in the employ of Seller to the Buyer's goods, New Home, or property. Claims made against Seller should be allowed to be settled before being submitted to any third party.

#### **11. Indemnity**

To the extent allowed by law, Buyer shall save and hold harmless, indemnify, protect and defend Seller, Seller's employees, agents, assigns, and successors from any and all claims or liens of any type arising from the negligence and or willful misconduct of Buyer. This does not include indemnity for Seller's own negligence and or willful misconduct.

#### **12. Sales Tax and Estimated Rebates or Credits**

Buyer shall submit a St-124 as required by law to release the Seller, an agent of the New York State Taxation Department 47-3900536, from charging the appropriate sales tax on the invoices due. It is the duty of the Buyer to determine by filling out the ST-124 that it is indeed a capital

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improvement as defined in the documents instructions. It is understood that unless otherwise specified the invoices assume that Capital Improvement is being made by the customer and therefore not listed on the invoices.

At the time of the Sales Contract, New York State has authorized Seller to collect only county tax if Capital Improvement is not valid as an additional incentive.

Estimated rebates and Tax Credits shown by Seller should be verified in all cases by a tax professional. Seller is not a tax professional.

### 13. Dispute Resolution – Applicable Law Arbitration

PLEASE CONSIDER THIS SECTION CAREFULLY - Should a "Dispute" arise that is covered or not covered by this Sales Contract or any other contract mutually entered or that is considered illegal and nonbinding. Negotiations should begin immediately to obtain a mutual agreement without arbitration. Settlement agreements can be proposed at anytime by either party.

**This section excludes undisputed claims to debt by Seller.** The Seller retains the right to use fair collections practices against Buyer which may include litigation in a court of law. If the debt claim is disputed, it will go through arbitration prior to going to collections. The debt claim must be disputed by the Buyer in writing within 30 days after receiving notice from the Seller, otherwise the debt will be considered undisputed.

Should arbitration be needed an unbiased third party shall be appointed by Seller and the arbitration method selected based on the circumstance. The outcome of this arbitration is binding on both parties, and final. This outcome will be enforced by the court having jurisdiction. Arbitration is exclusively used in place of your right to use the civil system by going to Court, including the right to a jury, or participate in a class action lawsuit. **The outcome is determined by an Arbitrator exclusively, and not a Judge or jury.**

In addition to any award from arbitration, and to the extent the law allows, any costs that arise from either arbitration, including filing fees, and legal fees, the prevailing party shall be reimbursed.

In summary, both parties have herein agreed that all disputes will be resolved solely by Arbitration, neither party has the right to litigate the Dispute in court against the other, including a jury trial, class action lawsuit, or engage in discovery except discovery allowed by Arbitration. The outcome of Arbitration is final and binding to the extent of governing laws.

### 14. Estimation of System Performance

Buyer, associates, or third parties involved in the prediction of system performance for the purposes of estimating energy production and system size do so in a manner that is generally accepted in the industry, including but not limited to system modeling and shading analysis. Data provided by government agencies such as the National Renewable Energy Laboratory (NREL) and the New York State Energy Research and Development Authority (NYSERDA) have been relied on in the prediction of the performance of your system. Other factors effecting

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system performance degradation not covered under the warranty of the manufacturer may occur, such as soiling, growth of foliage, or changes in weather affecting irradiance. Buyer agrees to hold Seller harmless for any unforeseen discrepancies in system performance not caused by the negligence of Seller or Sellers' Employees.

It should also be further understood that although system performance was predicted for the buyers' site based on annual averages those averages could and likely will change over the life of the system. Should this occur and additional components are needed, Seller will in good faith match, sell, and install those components to buyer at fair market value anytime during the 25 year workmanship warranty.

#### **15. Verification, Marketing, and Data Collection policy**

Seller reserves the right to audit photographically or with video the project prior, during, and immediately after installation to allow verification for records, insurance, government incentive programs, and the performance of this Sales Contract. Re-audit or deviation from this policy will be requested from Buyer in writing if necessary. No discernable customer information will be used in the audit including addresses, license plates, vehicles, persons, aside from Seller or Employees of Seller unless required by insurance or government incentive programs.

The Seller prefers use certain audit photographs of the project for marketing purposes including but not limited to MaxSolarINC.com, news media, and sales publications. **If the Buyer wishes to opt out** of having their system used for marketing please indicate buy writing in the space below this paragraph. If the buyer agrees – leave space below blank.

I WISH TO OPT OUT OF MARKETING-

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Long term on-site data collection solely is of system performance and weather. It is used exclusively for records, insurance, government incentive programs, and maintenance. The collection of this data is necessary and in some cases mandatory. This information is confidential and therefore cannot and will not be released without permission in writing from Buyer.

#### **16. NYSERDA Affordable Solar Program and On Bill Recovery**

In addition to the agreements entered into between NYSERDA / NYSERDA Affiliates and Buyer related to this transaction. Buyer agrees to hold Seller harmless against any action taken by NYSERDA if buyer has been found to have violated any of the provisions of the NYSERDA agreements. If due to these violations Seller's funds are withheld by NYSERDA in association to this transaction, Buyer is liable to pay the remaining balance on receipt.

#### **17. Cancellation - Federal Right of Rescission Law**

This Sales Contract can be cancelled anytime in writing prior to the beginning of the fourth day after signing. Any refundable monies will be returned to the Buyer also Seller will return any incentives received. Although none are known at this time the Buyer agrees to pay and hold seller harmless to any penalties imposed by third parties including and not limited to government incentive programs, banking institutions, and power companies.

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**18. NY State Department of Public Department of Public Service**

The buyer may have rights under the New York State Home Energy Fair Practices Act. (HEFPA). Inquiries about HEFPA may be made with the Department of Public Service. For consumer complaints that cannot be resolved with the company, you may contact the New York State Department of Public Service (DPS). DPS complaints may be directed as follows: Website: [www.dps.ny.gov/complaints](http://www.dps.ny.gov/complaints), Phone: DPS Helpline at 1-800-342-3377 (M-F 8:30a -4:00p), or Mail: Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223

**19. Signatures**

**I the undersigned Buyer hereby have reviewed and initialed each page of the Sales Contract and acknowledge that I have received a complete original for signing. By signing I understand this to be a legal and binding contact between Seller and Buyer, and have the legal right to sign this document.**

Seller: \_\_\_\_\_ Date: \_\_\_\_\_  
Max Solar INC. Chief Operations Officer, Jon-Paul T. Vanier

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

**End of Sales Contract Document Page 6 of 6 with 18 Parts Total**

**See Referenced and Attached Photovoltaic System Estimate and any Addendums**