**MASTER SOLAR POWER PURCHASE AGREEMENT**

This Master Solar Power Purchase Agreement (this “**Agreement**”) is entered into by and among the Seller, the Purchaser Homeowners listed below and the City of Parlier, a California municipal corporation (the “City”) (each a “**Party**” and collectively the “**Parties**”), as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021 (the “**Effective Date**”).

|  |  |  |  |
| --- | --- | --- | --- |
| **Purchaser or Homeowner:** | With respect to energy generated by each System (as defined herein), the Homeowner listed on each attached Exhibit (“**Exhibit**”): | **Seller:** | Parlier Home Solar LLC |
| **Address** | Attn:   | **Address** | Attn:  |
| **Phone** |  | **Phone** |  |
| **E-mail** |  | **E-mail** |  |
|  |  |  |  |
| **City or Programmatic Participant** | City of Parlier, California  |  |  |
| **Address** | Attn:   |  |  |
| **Phone** |  |  |  |
| **E-mail** |  |  |  |
| **Premises Title** | Title to the Premises defined herein is held by individual Homeowners  | **Additional****Seller Information** | Seller is owner of personal property and all other interests in the Systems |

**RECITALS**

**WHEREAS**, this Agreement sets forth the terms and conditions of the City’s programmatic participation as described in Section 2(c), below of this agreement and makes reference to the purchase and sale of solar generated electric energy from the solar panel systems, described in the Exhibits (each a “**System**”) and installed on the residences on the premises described in the Exhibits (each a “**Premises**”);

**WHEREAS**, each System is described in a separate Exhibit (numbered 1, 2, 3, etc.), describing the System and Premises, and constituting agreement by the Homeowner that it agrees to host the System and make payments for the energy generated by the System as set forth in this Agreement;

**WHEREAS**, by means of a written and executed amendment to this Agreement additional Systems may be added to this Agreement;

**AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions and Interpretation**: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
2. **Construction of System and Purchase and Sale of Electricity.**
	1. **Construction of Systems**. Seller is obligated to construct the Systems described in the Exhibits subject to the conditions and terms of this Agreement, including Sections 6(a) and 6(c). Seller’s obligation to construct each System includes design, engineering, equipment procurement, selection of contractors, insurance, construction, warranties, interconnection to the electric grid, and provision of an operation and maintenance (“**O&M**”) agreement for the System.
	2. **Purchase and Sale of Electricity**. Homeowner shall purchase from Seller, and Seller shall sell to Homeowner, all of the electric energy generated by each System during the System’s Initial Term and any Additional Terms (as defined in the Exhibit for the System, and collectively defined as the “**Term**”).
		1. For each System, electric energy generated by the System will be delivered to the Homeowner at the delivery point identified in the System’s Exhibit (the “**Delivery Point**”). Homeowner shall take title to the electric energy generated by each System at the System’s Delivery Point, and risk of loss will pass from Seller to Homeowner at the Delivery Point. Homeowner may purchase electric energy for the Premises from other sources if the electric requirements at the Premises exceed the output of the System. Any purchase, sale and/or delivery of electric energy generated by a System prior to being granted permission to operate by the Homeowner’s electric utility (as defined below) shall not be treated as purchase, sale and/or delivery of limited amounts of test energy and shall not indicate that the System has been put in operation by the purchase, sale and/or delivery of such test energy.
		2. An Energy Storage System (the “**ESS**”) will be installed as a part of each System for use by the Homeowner under the terms of this Agreement. The ESS capabilities, including backup power during periods of grid-outage, the avoidance of peak pricing from the utility, and the earning of optimized net metering credits, as well as use of the software used to operate and manage the ESS, are available to the Homeowner provided, however, the ESS shall be available to for Demand Response, Voltage Support, Virtual Power Plant or other ancillary services utilizing the energy stored in the ESS to deliver services other than energy to Homeowner (collectively, “**Grid Services**”), which the Seller retains the sole authority to utilize in the future. The Homeowner acknowledges the use of the ESS, and the software, are consideration for the Third Party Beneficiary operation of the ESS for Grid Service, with any such value accruing to the Third Party Beneficiary and not to the Seller or Homeowner. The Homeowner agrees that the ESS, including stored or available energy capacity and power, may be used for Grid Services, at any time, and without notice, for up to 3% of the hours each Contract Year.
	3. **Programmatic Participation**. The City is a Programmatic Participant, as detailed and limited, in this Agreement. The City will earn revenue, as described in Sections 2.c.i and ii below, for such Programmatic Participation, which shall be deposited into the Escrow Account (defined in Section 4 below) for distribution to City as described in Section 4.f below.

### **Revenue to City**. The City has already, and shall continue to, provide support and promotional services of the solar program described in this Agreement, and providing information to its citizens about the availability of the program**.** The City’s Programmatic Participation shall consist of and be strictly limited to support and promotional services concerning of the representation made to homeowners reflected by this agreement that it has reviewed the terms on which homeowners are to be provided with electric energy by the System, the qualifications of the Seller to provide that service and has determined that the System provided by Sellers to homeowners is an enforceable obligation of the Seller to the homeowners, subject to other applicable law concerning rescission or termination of contracts or the assignment of contracts or contract rights and other law that, depending on the circumstances, may result in the unenforceability of the obligation imposed on Seller by this agreement and by it’s agreements with homeowners. Programmatic Participation shall also include the distribution of information to homeowners supplied by Seller which the City has deemed and determined to be truthful information. For the Programmatic Participation, the City shall earn [Five Percent (5%)] of the gross revenues earned by Seller from the sale of energy described in this Agreement (the “City Distribution”). The City Distribution will be deposited into the Escrow Account monthly from payments received from the Homeowners.

### **Program Administration**. The City **will not** participate in administering the solar program established under this Agreement and assumes none of the obligations imposed on Seller by this Agreement or any System agreement with any homeowner. For the purposes of this Agreement, a Homeowner’s notice to City **will not** constitute a notice to Seller under this Agreement. Seller’s notice to City, if any, regarding a System **will not** constitute Seller’s notice to the respective Homeowner. If, in the future, the Seller and the City determine that the City will participate in administration of the solar program, then the City and the Seller will enter into a separate agreement.

1. **Term and Termination**.

## **Initial Term.** The initial term (“**Initial Term**”) for each System shall commence on the date the Homeowner receives permission to operate (the “**PTO Date**”) from the entity authorized and required under applicable law to provide electric distribution service to the Facility (the “**Utility**”) as set forth in the System’s Exhibit, and continue for the length of time specified in the Exhibit unless earlier terminated as provided for in this Agreement. Seller will give Homeowner copies of certificates of completion or similar documentation from Seller’s contractor and the interconnection or similar agreement with the Utility.

## **Additional Terms.** Prior to the end of the Initial Term of a System or of any applicable Additional Term of that System, as defined below, if Homeowner has not exercised its option to purchase the System, the Parties may mutually agree to extend the applicability of this Agreement to the System on the terms and conditions set forth herein for the number and length of additional periods specified in the System’s Exhibit (each such additional period, an “**Additional Term**”) by a Party giving the other Party written notice of its desire to extend the applicability of this Agreement to the System. Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term of a System or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall accept or reject that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If the offer to extend the applicability of this Agreement to a System is accepted by the other Party, the Additional Term shall begin immediately upon the conclusion of the System’s Initial Term or the then-current Additional Term on the same terms and conditions as set forth in this Agreement. If a Party receiving the request for an Additional Term rejects or is deemed to reject the offer, the applicability of this Agreement to the particular System shall terminate at the end of the System’s Initial Term (if the same has not been extended) or the then-current Additional Term.

## **Termination Due to Contract Price Adjustments or Lack of Project Viability**. If, at any time prior to the date that Seller or its installation contractor has begun physical installation of a System on a Premises (“**Commencement of Installation**”) (i) circumstances arise which have been excluded from Contact Price calculations pursuant to Section 12 of the Exhibit, or Seller determines that the installation of the System will not be technically or economically viable for any other reason, and (ii) the Parties have attempted to negotiate a Contract Price adjustment for thirty (30) days following written notice from Seller without reaching agreement, either Party may terminate this Agreement with respect to such System by providing ten (10) days’ prior written notice to the other Party. No Party shall be liable for any damages in connection with such termination. After Commencement of Installation, the Contract Price shall not be subject to further adjustment.

1. **Billing and Payment**.

## **Monthly Charges.** Each Homeowner shall pay Seller monthly for the electric energy generated by the System on its Premises and delivered to its Delivery Point during the prior calendar month at the $/kWh rate shown in its Exhibit (the “**Contract Price**”) for the applicable Contract Year. The monthly payment for such energy will be equal to the sum of the applicable $/kWh rate for each System multiplied by the number of kWh of energy generated by that System during the applicable month, as measured by the System’s meter, measured in kilowatt hours (kWh) in alternating current. The first “**Contract Year**” means the 12 (twelve) month period beginning at 12:00 AM on the PTO Date through the end of the calendar month that is twelve months after the PTO Date. For example, the first Contract Year for a System with a PTO Date of June 2, 2021 would end at 11:59 PM on July 31, 2022. Each subsequent Contract Year shall be for the next twelve calendar months.

## **Monthly Invoices.** Within five (5) business days after the end of the prior calendar month, Seller shall download or otherwise determine the System’s kWh production for the prior calendar month, and generate and send an invoice, via the method described below, to Homeowner stating (i) the number of kWh of electric energy produced by the System and delivered to the Delivery Point for the period, (ii) the rate (including taxes) applicable to, and charges incurred by, Homeowner under this Agreement and (iii) the total amount due from the Homeowner (“**Monthly Charges**”). The invoice shall be sent via electronic mail, or other suitable electronic means, or by US Mail if the Homeowner opts out of paperless billing, to the email, or Premises address, listed in the Exhibit for the System. Each Homeowner will remit payment due Seller as indicated on the invoice.

## **Taxes.** Each Homeowner shall pay all applicable taxes on the energy the System produces. This shall not include any income taxes or similar taxes imposed on Seller’s revenues due to the sale of energy under this Agreement, or personal property taxes imposed on the System(s), all of which shall be Seller’s responsibility.

## **Seller’s reporting and explanatory obligations**. Seller will report to City and Homeowners each calendar year the calculated annual utility electric bill savings for the past twelve months, solar production and the portion of the Homeowner’s total consumption of kilowatt-hours (“**kWh**”) offset, and an amount of total savings based on the original kWh savings calculation times the last twelve months’ annual utility electric rates.

## **Payment Terms.** Amounts due by Homeowners under this Agreement shall be due and payable to Seller net thirty (30) days from receipt of invoice. A Homeowner payment shall be late if it is not received within 5 business days after the end of the net 30 days from invoice (the “**Late** **Payment**”).

## **Escrow Account and City Distribution**. Seller shall establish an escrow account (the “Escrow Account”) as the source of funds used to pay City Distributions for its Programmatic Participation. Initial funding of the Escrow Account shall be from the deposits collected pursuant to Section 4.f.iii below.

## **Disbursement Procedure to City.**  The City Distribution shall be paid by Seller from funds deposited into the Escrow Account; earned through Programmatic Participation. The Escrow Account shall be managed by Seller to hold funds that may be released to the City *provided, however* that the City Distribution may only be released to City if the balance in the Escrow Account is greater than an amount equal to [$500] times the number of Homeowners participating in the Agreement (the “Deposits”); which such Deposits shall not be available for City Distribution. A full or partial payment of the City Distribution may be released to City from funds available in the Escrow Account in excess of the amount of the Deposits, or that set by Seller, whichever is more, and not more than is earned through Programmatic Participation. The City Distribution shall be paid starting at the end of the 23rd month of the Program, and after a total of 2400 payments have been received from Homeowners, to allow time for the Escrow Account to build. Thereafter, City Distribution of from Escrow Account, may occur annually from the first distribution date provided Escrow Account minimums are satisfied. . Seller shall provide a statement to the City, together with the City Distribution, that sets forth the calculation of the amount, if any, of the City Distribution, on at least an annual basis.

## **Seller Payment into and Use of Escrow Funds**. The Seller shall, within 15 days of the end of the prior Homeowner invoice payment period, deposit the City Distribution earned by City’s Programmatic Participation, into the Escrow Account. The deposit of these funds shall continue for the remainder of the Agreement provided Programmatic Participation is not interrupted or this Agreement not otherwise terminated, but will not include any payment for a Homeowner in default. In the event of a Homeowner’s Late payment Seller may use Escrow Account funds, exclusive of any Homeowner paid deposit, to cover a Late Homeowner payment. In the event of Homeowner default Homeowner’s deposit is forfeited to the Escrow Account and will not be returned at the end of the Agreement. If the Homeowner’s payment arrives after the withdrawal of funds have been made from the Escrow the Homeowner’s payment in full shall be paid directly into the Escrow Account. In the event of Homeowner Default, and disconnection of the System, the average kWh/kW production of the remaining Systems, or at the Seller’s option, the reasonable monthly anticipated production of the System, had it remained in operation, will be calculated and the amount owed to the Seller will be deducted from the Escrow Account, but not billed to the Homeowner, as if the System and payments had occurred as normal. In the event the Escrow Account is depleted or unable to make a payment to cover a Homeowner payment, the amount owed to Seller shall continue to accrue unless and until the Homeowner payments are made in full. In no event shall City Distribution be made unless the Escrow Account is returned to a minimum balance as determined by the Escrow Account.

## **Refundable Deposit**. The Seller shall provide the deposits for the Homeowners, which shall be refundable to Seller.

1. **Environmental Attributes and Environmental Incentives**.
	1. Unless otherwise specified in the Exhibit, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Homeowner’s purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the Systems, all of which shall be retained by Seller. Homeowner shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Homeowner shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Homeowner or to City, such amounts shall immediately be paid over to Seller.
	2. “**Environmental Attributes**” means any and all Renewable Energy Credits, other credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the Systems, the production of electrical energy from the Systems and their displacement of conventional energy generation. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags tradable renewable credits and Green-e® products.
	3. “**Environmental Incentives**” means any and all credits, rebates, subsidies, payments or other incentives that relate to self–generation of electricity, the use of technology incorporated into the Systems, environmental benefits of using the Systems, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the Systems or any Governmental Authority.
	4. “**Governmental Authority**” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the California Public Utilities Commission), or any arbitrator with authority to bind a party at law.
	5. “**Renewable Energy Credit**” means a renewable energy credit or certificate under any state renewable portfolio, standard or federal renewable energy standard, voluntary renewable energy credit certified by a non-governmental organization, pollution allowance, carbon credit and any similar environmental allowance or credit and green tag or other reporting right under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program, in each case relating to the construction, ownership, use or production of energy from a System, provided that RECs shall not include Incentives.
	6. “**Tax Credits**” means any and all (a) investment tax credits, (b) production tax credits and (c) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the Systems.
2. **Conditions to Seller’s Obligations**.

## **Conditions to Seller’s Obligations Prior to Condition Satisfaction Date**. Seller’s obligations under this Agreement are conditioned on the completion of the following conditions to Seller’s reasonable satisfaction, or waiver in writing thereof, on or before the Condition Satisfaction Date for a System, as defined in the Exhibit:

### Receipt of all necessary zoning, land use, consumer protection releases, and building permits;

### Execution of all necessary agreements with the Utility for interconnection of the System to the Premises’ electrical system and/or the Utility’s electric distribution system.

## **Failure of Conditions.** If either of the conditions listed in subsection (a) are not satisfied by the Condition Satisfaction Date, and the Parties are unable to agree to an extension of that Condition Satisfaction Date, then Seller or Homeowner may terminate the applicability of this Agreement to the System upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default of the Seller under this Agreement.

## **Commencement of Construction**. For each System, Seller’s obligation to commence construction and installation of the System is conditioned on Homeowner executing a “design acceptance” to be included as the final page of Homeowner’s Exhibit.

## **System Design Approval**. Seller shall provide each Homeowner with a copy of each System design as submitted for approval to the authority having jurisdiction for the necessary zoning, land use and building permits (“**Authority Having Jurisdiction**”) prior to installation of that System. Failure by the Homeowner to respond within such [five (5)] day period shall be deemed approval of the design. If AHJ or Homeowner disapproves the design, Seller shall modify the design and resubmit it for AHJ and/or Homeowner’s approval. If the System design modifications requested render the System non-viable, including inadequate economics, as determined by Seller in its sole discretion, Seller may terminate this Agreement with respect to that System under Section 3(c) above.

1. **Seller’s Rights and Obligations**.

## **Permits and Approvals**. For each System, Seller, with Homeowner’s and City’s reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

## any zoning, land use and building permits required to construct, install and operate the System; and

## any agreements and approvals from the Utility necessary in order to interconnect the System to the Utility’s electric distribution system.

Homeowner shall cooperate with Seller’s reasonable requests to assist Seller in obtaining such agreements, permits and approvals, including, without limitation the execution of documents required to be provided by Homeowner to Utility. If Programmatic Participant is the Authority Having Jurisdiction, Programmatic Participant shall cap each permit, including all accessory fees, for a System at a cost of $500,or the maximum allowed by State law, whichever is less. If Programmatic Participant is not the Authority Having Jurisdiction, Seller may request Programmatic Participant to assist in the establishment of reasonable permit costs from the Authority Having Jurisdiction. Seller will utilize standard permit package documents for each System, to minimize Authority Having Jurisdiction staff labor.

## **Standard System Repair and Maintenance.** Seller shall construct and install each System. During the Term of each System, Seller will operate and perform all routine and emergency repairs to, and maintenance, washing and cleaning of the System at its sole cost and expense, except for any repairs or maintenance resulting from Homeowner’s negligence, willful misconduct or breach of this Agreement. Seller shall not be responsible for any work done by others on any part of a System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of a System by anyone other than Seller or Seller’s contractors. If any System requires repairs for which Homeowner is responsible, Homeowner shall pay Seller for diagnosing and correcting the problem at Seller or Seller’s contractors’ then current standard rates. Seller shall provide Homeowner with reasonable notice prior to accessing the Premises to make standard repairs.

## **Data.** Seller shall make data regarding performance of each System available electronically to City and the Homeowner at the same time that the data becomes available to Seller, via ESS Provider’s Software, with the expectation that City may elect to present or use such data on its website, on electronic displays, or in publications.

## **Breakdown Notice.** Seller shall notify the Homeowner within twenty-four (24) hours following Seller’s discovery of (i) any material malfunction in the operation of a System or (ii) an interruption in the supply of electrical energy from a System. Seller shall designate personnel and establish procedures such that each may provide notice of such conditions requiring Seller’s repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Homeowner shall notify Seller, immediately upon the discovery of an emergency condition affecting any System.

## **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from a System to its Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service and to limit any such suspension of service to weekend or off-peak hours. Scheduled and unscheduled maintenance and repairs shall be undertaken at Seller’s sole cost and expense, except as provided in this Agreement.

## **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement, provided, however, that such contractors and subcontractors shall be duly licensed and insured, and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors.

## **Liens and Payment of Contractors and Suppliers.** For each System,Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under any agreements for engineering, procurement and construction of the System and shall keep the Premises and Home free and clear of any liens related to such charges.. For each System, Seller will timely post notices of non-responsibility in or upon the Premises, as provided by law. For each System, Seller shall indemnify City and Homeowner for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Premises.

## **No Warranty.** NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY. The remedies set forth in this Agreement shall be Homeowner’s sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise. Seller represents that it is entering into one or more O&M Agreements relating to the Systems. In the event the Homeowner obtains ownership of a System (such as through the exercise of the purchase option), Seller shall provide to Homeowner all then existing manufacturers’ warranties applicable to the System.

1. **Purchaser’s Rights and Obligations**.

## **License to the Premises; Facility Access Rights.** For each System, Homeowner grants to Seller and to Seller’s agents, employees, contractors and assignees an irrevocable non-exclusive license running with the Premises (the “**License**”) for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (ii) performing all of Seller’s obligations and enforcing all of Seller’s rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters necessary to interconnect the System to Homeowner’s electric system, to the Utility’s electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify the Homeowner prior to entering the Premises except in situations where there is imminent risk of injury to persons or damage to property. The term of the License for a System shall continue until the date that is one hundred and twenty (120) days following the end of the Term for the System, or the termination of applicability of this Agreement to the System (the “**License Term**”). During the License Term for a System, Homeowner shall ensure that Seller’s rights under the License and Seller’s access to the Premises are preserved and protected. Homeowner shall not interfere with nor shall permit any third parties to interfere with such rights or access. Upon the expiration of the License Term, Seller agrees to promptly execute and record any and all documents, releases, or other instruments to terminate the License as reasonably requested by Homeowner.

## **OSHA Compliance.** Seller and any of Seller’s subcontractors shall ensure that all federal and state occupation and safety requirements, including without limitation the Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.

## **Maintenance of Homes.** . Homeowner shall cooperate with Seller to ensure that sufficient sunlight can reach the solar panels of the System, subject to applicable law and the rights of any third parties. Homeowner will maintain the home such that the home’s interconnection to the Utility’s electric distribution system is not interrupted and at all times and will not cause cessation of electric service to the Premises from the Utility.

### Homeowner shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of any System or that could reasonably be expected to adversely affect a System. Subsequent to the discovery of such damage or loss and upon notice from Seller accompanied by a written structural analysis report to Homeowner revealing any issues impacting the suitability of the roof of a Premises to continue to host the roof-mounted component of the System at that Premises, Seller shall (a) notify Homeowner whether Seller intends to make or cause to be made such repairs or modifications (“**Repairs**”) as necessary to continue to host the roof-mounted component of the System and (b) no later than the close of business five (5) business days after receipt of the written structural analysis report, elect to either (i) promptly cause such Repairs to be constructed at its sole cost and expense or (ii) terminate the roof-mounted component of the System.

### In the event that Seller elects to cause such Repairs to be constructed, Homeowner shall make all reasonable accommodations necessary to facilitate the construction of the Repairs. In the event that Seller elects to terminate the roof-mounted component of a System, Homeowner shall notify Seller within five (5) business days whether it intends to promptly cause such Repairs to be constructed at its sole cost and expense. In the event that Homeowner elects to not cause such Repairs to be constructed, the roof-mounted component of that System shall be terminated.

## **No Alteration of Facility.** Homeowner acknowledges that alterations or repairs of the Premises could impact the output or normal function of the System, and that such impact may have a negative result on the savings to the Homeowner and payment to Seller. As a precaution for this potential impact Homeowner may, at any time prior to alteration or repair of the Premises, contact Seller for a free determination of potential negative impact to the System and, if none are identified as foreseeable by Seller then Seller will have waived the right a request for future adjustments to the alterations or repairs. If Homeowner has not contacted Seller for such a determination, and Seller can reasonably demonstrate that the System’s output or normal function has been negatively impacted by such alterations or repairs, Seller shall work with Homeowner, at Homeowner’s cost, to mitigate such negative impact or, if the System’s output cannot or will not not be returned to the pre-alteration or repair level, Seller may adjust the PPA rate to restore, but not exceed, the original economic value of the PPA to the Seller before the changes, with such adjustments based on the expected revenue from the production of energy before such alterations were made. In no case may this adjustment result in Seller receiving more revenue from the Homeowner than Seller would have received prior to the alteration.

## **Outages**. Each System shall be permitted to be offline for a total of twenty-four (24) daylight hours (each, a “**Scheduled Outage**”) per Contract Year during the System’s Term, which total includes all Outage hours undertaken by Seller for maintenance or repairs for which a Homeowner is responsible or requested by a Homeowner other than due to the fault or negligence of Seller. During each Scheduled Outage Homeowner shall not be obligated to accept or pay for electricity from the System; provided, however, that Homeowner must notify Seller in writing of each such Scheduled Outage at least ninety-six (96) hours in advance of the commencement of a Scheduled Outage. If and to the extent the System is off line for more than twenty-four (24) daylight hours per Contract Year for reasons other than a Force Majeure event, Homeowner agrees to pay and/or reimburse Seller for energy that would have been generated and other revenues and Tax Credits that would have been received with respect to such energy, on the terms and conditions provided herein. Determination of the amount of energy that would have been produced during the removal or disconnection of a System shall be based on the highest performance achieved by the System in the prior year, adjusted for the average insolation at the Premises during the calendar month or months of disconnection, as reported by an independent source.

## **Liens.** Homeowner acknowledges that the System is Personal Property of the Seller and shall not knowingly allow any liens, or other security interests, encumbrances or pledges to be made thereon except those that are initiated or approved by Seller.

## **Insolation.** Homeowner understands that unobstructed access to sunlight (“**Insolation**”) is essential to Seller’s performance of its obligations and a material term of this Agreement. Homeowner shall where possible, take reasonable steps to ensure the System’s Insolation. If Homeowner becomes aware of any activity or condition that could diminish the Insolation of the System, Homeowner shall notify Seller shall cooperate with Seller in preserving the System’s existing Insolation levels and work in good faith, and as a beneficiary of the System’s good performance, in helping Seller if and as insolation is compromised by third-parties.

1. **Removal of System at Expiration**.

Upon the expiration or earlier termination of the applicability of this Agreement to a System (provided Homeowner does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Premises from which a System is removed shall be returned to its original condition excluding the removal of System equipment or other support structures that would expose the Premises to leaks or reduced structural integrity, and in no case shall Seller’s removal of a System affect the integrity of Homeowner’s roof, which shall be as leak proof as it would have been had the System not been installed. Seller shall leave each Premises in neat and clean order. If Seller fails to remove or commence substantial efforts to remove a System by such agreed upon date, Homeowner shall have the right, at its option, to remove and/or dispose of the System in any manner Homeowner deems appropriate in its absolute discretion and restore the Premises to its original condition (other than ordinary wear and tear) at Seller’s cost.

1. **Measurement**.

Each System’s electricity output during the Term shall be measured by Seller’s monitoring equipment, which shall be revenue grade that meets ANSI-C12.20 standards for accuracy (the “**Monitor**”). The System shall include an independent internet connection, utilizing cellular or other technology, by which the Monitor will report production, and other measurements, for use in billing and other administrative functions pursuant to this Agreement. Seller shall install the Monitor at or reasonably proximal to the Delivery Point for each System to measure the output of the System in alternating current. The Monitor shall meet the general commercial standards of the solar photovoltaic industry or the required standard of the Utility. Seller shall calibrate the Monitor in accordance with manufacturer’s recommendations. Notwithstanding the foregoing, Homeowners may install, or cause to be installed, their own revenue-grade meter at the same location as Seller’s Monitor. If there is a discrepancy between the data from a Homeowner’s meter and the data from the Seller’s Monitor of greater than two percent (2%) over the course of a Contract Year, or Homeowner may request that Seller calibrate the Monitor at Seller’s cost.

1. **Default, Remedies and Damages**.
	1. **Default.** For Seller or an individual Homeowner, a Party that fails to perform its responsibilities as listed below, or experiences any of the circumstances listed below, shall be deemed to be the “**Defaulting Party**”, the other Party shall be deemed to be the “**Non-Defaulting Party**”, and each event of default shall be a “**Default Event**”:
		1. Failure of a Homeowner to pay their invoice for 3 months, or for any Party to fail to pay any other amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party, of such failure to pay (“**Payment Default**”);
		2. Failure of a Party to substantially perform any non-monetary material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
		3. If any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
		4. Homeowner loses its rights to occupy and enjoy the Premises;
		5. (Removed)
		6. A Homeowner prevents Seller from installing a System or otherwise failing to perform in a way that prevents the delivery of electric energy from a System, or functioning of any energy efficiency improvements. Such Default Event shall not excuse Homeowner’s obligations to make payments that otherwise would have been due under this Agreement; or
		7. If, for six (6) consecutive months, a System does not produce at least 80% of the estimated production for such six-month period after adjustments for weather and unusual air particulates, and Homeowner provides notice to Seller of system underperformance, and Seller fails to correct the System underperformance within ninety (90) days of such notice.

## **Remedies**.

## The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event, may suspend performance of its obligations under this Agreement, may terminate this Agreement with respect to the relevant System upon twenty (20) days prior written notice to the Defaulting Party, and may pursue any remedy under this Agreement, at law or in equity, including an action for damages.

## **Damages Upon Termination of this Agreement by Default**. Upon a termination of this Agreement with respect to a System by the Non-Defaulting Party, the Defaulting Party shall pay a Termination Payment determined as follows (the “**Termination Payment**”):

##### **Seller**. If Seller is the Defaulting Party with respect to its obligations to an individual Homeowner, that Homeowner may terminate this Agreement with respect to the System on its Premises and elect to either, (i) purchase the System at Fair Market Value minus any amounts owed by the Homeowner to the Seller, or (ii) require a Termination Payment equal to the cost of removal of the System

##### **Homeowner**. If a Homeowner is the Defaulting Party, Seller may temporarily turn off and lock the System for as long as Payment Default exists. Upon Homeowner paying any amount in Default, or otherwise bringing their account current under this Agreement, and payment of a reactivation charge of [$50], Seller will reactivate the System.

##### **Representations, Warranties and Covenants**.

##### **General Representations and Warranties.** Each Party represents and warrants to the other Parties the following as of the Effective Date:

##### Such Party is an individual or an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors’ rights generally).

##### Other Agreements. Neither the execution and delivery of this Agreement by such Party nor the performance by such Party of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which such Party is a party or by which such is bound. Notwithstanding the foregoing, in the event there are conflicts between any other agreement and this Agreement the terms of this Agreement shall control.

##### **Homeowner’s Representations, Warranties and Covenants.** Each Homeowner represents and warrants to Seller the following as of the Effective Date:

### License. Homeowner has title to or a leasehold or other property interest in the Premises on which each System will be located and has the full right, power and authority to grant the License contained in Section 8(a). Such grant of License does not violate any law, ordinance, rule or other governmental restriction applicable to Homeowner or the Premises and is not inconsistent with and will not result in a breach or default under any agreement by which Homeowner is bound or that affects the Premises.

### Accuracy of Information. All information provided by Homeowner to Seller, as it pertains to the Premises’ physical configurations, or Homeowner’s planned use of the Premises, and Homeowner’s estimated electricity requirements at the Premises, is accurate to the best of Homeowner’s knowledge in all material respects.

### Status. Neither Homeowner nor City is subject to regulation as a public utility or a public utility holding company.

### Hazardous Substances. There are no Hazardous Substances at, on, above, below or near the Premises.

### No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

### **Seller’s Representations, Warranties and Covenants**. Seller represents and warrants to Homeowner and City that Seller has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for Seller to own its assets, carry on its business and to execute and deliver this Agreement; and Seller is in compliance with all laws that relate to this Agreement in all material respects.

1. **System and Home Damage and Insurance**.
	1. **System and Home Damage**.

### Seller’s Obligations. If a System is damaged or destroyed other than by Homeowner’s gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term of the System, Seller shall not be required to restore the System, but may instead terminate the applicability of this Agreement to the System, unless Homeowner agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System “AS-IS” at the System’s Fair Market Value.

### Homeowner Obligations. If a Premises is damaged or destroyed by casualty of any kind or any other occurrence other than Seller’s gross negligence or willful misconduct, such that the operation of the System at that Premises and/or Homeowner’s ability to accept the electric energy produced by the System are materially impaired or prevented, Homeowner shall promptly repair and restore the Premises to its pre-existing condition; provided, however, that if more than 50% of the Premises is destroyed during the last five years of the Initial Term or during any Additional Term, Homeowner may elect either (A) to restore the Premises or (B) to pay the Termination Payment for the System and all other costs previously accrued but unpaid under this Agreement related to the System and thereupon terminate the applicability of this Agreement to the System.

### **Insurance Coverage.** At all times during the Term , Seller and Homeowner shall maintain the following insurance:

### Seller’s Insurance. Seller shall maintain (A) property insurance on the System for the replacement cost thereof, (B) commercial general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, and (C) workers’ compensation insurance as required by law. Seller shall assure that all contractors hired by Seller, and any of their subcontractors, maintain insurance coverage at or above the level required of Seller under this section.

### Homeowner Insurance. With Homeowners cooperation Seller shall identify a Homeowner Insurance policy held by Homeowner, and maintained in good standing, before commencing installation. If inadequate insurance is identified (that being of an amount insufficient to rebuild the home) prior to System installation Seller may, without default, terminate the Agreement. **Policy Provisions.** All insurance policies held by Seller and Homeowner shall conform with minimum insurance standards as required by the State of California.

## **Certificates.**  Certificates of insurance evidencing the above required coverage shall be provided to parties to this Agreement at the written request by the other Parties. A Party’s receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

## **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

1. **Ownership; Option to Purchase**.

## **Ownership of Systems**. Throughout the Term of each System (except as otherwise permitted in Section [17](#bookmark=id.39kk8xu)), Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes (unless otherwise specified on the Exhibit), and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Premises where the System is located. Each of the Seller and Homeowner agree that the Seller (or the designated assignee of Seller permitted under Section [17](#bookmark=id.39kk8xu) is the tax owner of the Systems and all tax filings and reports will be filed in a manner consistent with this Agreement. The Systems shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Homeowner covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Premises on notice of the ownership of the Systems and the legal status or classification of the Systems as personal property. If there is any mortgage or fixture filing against any Premises which could reasonably be construed as prospectively attaching to the System located at that Premises as a fixture, Homeowner shall notify Seller and work collaboratively with Seller to seek some form of disclaimer or release from such lienholder. If Homeowner is the fee owner of the Premises, Homeowner consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Home is located.

## **Option to Purchase**. So long as the respective Homeowner is not in default of this Agreement, and the 60th month of the Agreement has passed, Homeowner may purchase the System from Seller for a purchase price equal to the Fair Market Value of the System. Homeowner must provide a notification to Seller of an intent to purchase a System at least ninety (90) days and not more than one hundred eighty (180) days prior to the decision to purchase the Systeem, or end of the System’s Initial Term or Additional Term, as applicable. Any such purchase shall be on an as-is, where-is basis, and Seller shall not provide any warranty or other guarantee regarding the performance of the System, provided, however, that Seller shall assign to Homeowner any manufacturers warranties that are in effect as of the purchase, and which are assignable pursuant to their terms.

## Seller shall also provide Homeowner all System operation and maintenance manuals and logs in Seller’s possession and provide Homeowner basic training on the operation and maintenance of the System upon Homeowner’s reasonable request. Upon purchase of the System, Homeowner shall assume complete responsibility for the operation and maintenance of the System and liability for the performance of (and risk of loss for) the System, and, except for any Seller obligations that survive termination under Section [21(d](#bookmark=id.1opuj5n)), Seller will have no further liabilities or obligations hereunder for the System.

## **Determination of Fair Market Value**. “**Fair Market Value**” means, the amount that would be paid in an arm’s length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the System, and advances in solar technology, energy storage, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the valuation. Seller shall determine Fair Market Value of a System within thirty (30) days after the Homeowner has exercised its option to purchase the System. Seller shall give written notice to the Homeowner of such determination, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation and factual support for such assumptions, figures and values. If Homeowner objects to Seller’s determination of Fair Market Value within thirty (30) days after Seller has provided written notice of such determination, the Parties shall select an accredited independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the particular System. Such an appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Homeowner and Seller equally. Upon purchase of a System, Homeowner will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder with respect to the System.

1. **Indemnification and Limitations of Liability**.
	1. **General**. Each Party (the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the “**Indemnified Parties**”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “**Liabilities**”) resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 12 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 15a however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 15(c). Seller specifically indemnifies Programmatic Participant for any damages or liabilities alleged or found in judgement by Homeowners participation in this Agreement and Homeowners agree to hold harmlessProgrammatic Participant for any activity or participation associated with the Agreement.
	2. **Notice and Participation in Third Party Claims**. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a “**Claim**”), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 15(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

## **Environmental Indemnification**. Seller shall indemnify, defend and hold harmless all of Purchaser’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near any Premises of any Hazardous Substance (as defined in Section 15(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Homeowner shall indemnify, defend and hold harmless all of Seller’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near any Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about any Premises or any deposit, spill or release of any Hazardous Substance.

## “**Hazardous Substance**” means any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

## **Limitations on Liability**.

### **No Consequential Damages**. Except with respect to indemnification for third party claims pursuant to this Section 15 and damages that result from the willful misconduct of a Party, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. The Parties agree that (1) in the event that Seller is required to recapture any Tax Credits or other tax benefits as a result of a breach of this Agreement by Homeowner, such recaptured amount shall be deemed to be direct and not indirect or consequential damages, and (ii) in the event that Seller is retaining the Environmental Attributes produced by the System, and a breach of this Agreement by Homeowner causes Seller to lose the benefit of sales of such Environmental Attributes to third parties, the amount of such lost sales shall be direct and not indirect or consequential damages.

### **Actual Damages**. Except with respect to indemnification for third party claims pursuant to Section 15 and damages that result from the willful misconduct of Seller, Seller’s aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Homeowner under this Agreement. The provisions of this Section (15)(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against Seller must be brought within three (3) years after the cause of action accrues.

1. **Force Majeure**.

## “**Force Majeure**” means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; 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; the binding order of any Governmental Authority or the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); and the unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence).

## Except as otherwise expressly provided to the contrary in this Agreement, if a Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Parties prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

## Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Homeowner’s ability to make payment.

## If, with respect to a particular System, a Force Majeure event continues for a period of one hundred and eighty (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then at any time during the continuation of the Force Majeure event, a Party may terminate this Agreement without the other Party having further liability under this Agreement except: (a) liabilities accrued prior to termination, (b) Seller shall remove the System as required under Section [9](#bookmark=id.48pi1tg) (but Homeowner shall reimburse Seller for Seller’s removal costs if the Force Majeure Event affects Homeowner and Homeowner elects to terminate the Agreement with respect to that System). Notwithstanding the foregoing, if the Force Majeure Event can be corrected through repair or restoration of the System or other actions by Seller and, prior to expiration of the initial one hundred eighty (180) day period, Seller provides written evidence to Homeowner that it is diligently pursuing such actions, then Homeowner shall not have the right to terminate this Agreement so long as Seller continues to diligently pursue such action.

1. **Assignment and Financing**.

## **Assignment**. This Agreement may not be assigned in whole or in part by a Party without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, with t the prior written consent of Homeowner, which consent shall not be unreasonably withheld or delayed , (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the Systems to any Financing Party (as defined below), (ii) directly or indirectly assign this Agreement and the Systems to an affiliate or subsidiary of Seller, (iii) assign this Agreement and the Systems to any entity through which Seller is obtaining financing or capital for the Systems and (iv) assign this Agreement and the Systems to any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller’s obligations hereunder by the assignee). In the event of any such assignment, the Seller shall be released from all its liabilities and other obligations under this Agreement. Any assignment of Seller’s rights and/or obligations under this Agreement, shall not result in any change to Homeowner’s and City’s rights and obligations under this Agreement. Homeowner’s and City’s consent to any other assignment shall not be unreasonably withheld if Homeowner and City have been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the Systems and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the Systems, to provide the services and assume the representations, warranties and indemnities contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Seller.

## **Financing**. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. “**Financing Parties**” means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the Systems, or if applicable, means, if applicable, any person to whom Seller has transferred the ownership interest in the Systems, subject to a leaseback of the Systems from such person. In connection with an assignment pursuant to Section [17](#bookmark=id.39kk8xu)[a](#bookmark=id.2nusc19) (i)-(iv), Homeowner agrees to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable, and approval of such Financing Parties.

##

## A Homeowner may, by providing notice to Seller, assign this Agreement:

### To a buyer of a Homeowner’s residence that is enrolled in this program, subject to execution of documentation satisfactory to Seller, and at or prior to closing on the purchase of the real-property, whereby the buyer assumes all of the rights and duties of Homeowner under this Agreement, and receipt by the Seller of Deposit from the new buyer. Seller shall not object to any such assignment of this Agreement. Provided the amount of the Homeowner’s deposit has not been exceeded by their default, any funds remaining from the original Homeowner’s deposit will be reimbursed by the Seller to the original Homeowner when the Seller has received the documents and funds specified in 17(d)(i) above. However, if Seller supplied the Deposit the Deposit will innur to Seller.

1. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. All public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.
2. **Change in Law**.

“**Change in Law**” means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller’s obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller, or the City of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by City from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to all Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to other Parties except with respect to payment of amounts accrued prior to termination.

1. **Vacated Premises**
	1. **Vacation of Premises**. Homeowner’s permanent vacation of the Premises, either through abandonment or foreclosure, as determined by judicial proceedings, prior to the expiration of the Term will be treated as a default by Homeowner.
	2. **Termination**. Seller shall have the sole right, but no requirement, to remove the System from the vacated Premises and Seller shall have the right to record a lien against the Premises for collection against future sale of the Premises.
2. **Miscellaneous Provisions**
	1. **Choice of Law**. The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.
	2. **Arbitration and Attorneys’ Fees**. Any dispute arising from or relating to this Agreement shall be arbitrated in Fresno County, California. The arbitration shall be administered by the American Arbitration Association (“AAA”) pursuant to its then current Commercial Arbitration Rules with a sole neutral arbitrator selected in accordance with the AAA Commercial Arbitration Rules, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, any dispute may be mediated prior to arbitration subject to any party’s right to initiate arbitration of the dispute. The prevailing party, as determined by the arbitrator, in any dispute arising out of this Agreement shall be entitled to reasonable attorneys’ fees, costs, AAA administrative fees, and arbitrator’s fees and expenses.
	3. **Notices**. All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either Party may specify in writing. Each Party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.
	4. **Survival**. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 12 (Representations and Warranties), Section 7(h) (No Warranty), Section 13(b) (Insurance Coverage), Section 15 (Indemnification and Limits of Liability), Section 18 (Goodwill and Publicity), Section 21(a) (Choice of Law), Section 21(b) (Arbitration and Attorneys’ Fees), Section 21(c) (Notices), Section 21(g) (Comparative Negligence), Section 21(h) (Non-Dedication of Facilities), Section 21(j) (Service Contract), Section 21(k) (No Partnership) Section 21(m) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 21(o) (No Third Party Beneficiaries).
	5. **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
	6. **Right of Waiver**. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Parties is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); *provided*, *however* that a Party shall not be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party’s exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Parties of any other requirements or obligations. No failure of a Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy shall constitute a waiver of any other right or remedy contained herein or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Unless otherwise expressly stated in writing, a waiver of performance shall not constitute a continuous waiver or a waiver of future performance.
	7. **Comparative Negligence**. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
	8. **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by a Party of its facilities or equipment to the public or any part thereof. No Party shall knowingly take any action that would subject the other Parties, or their facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. No Party shall assert in any proceeding before a court or regulatory body that another Party is a public utility by virtue of such Party’s performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the Systems in accordance with Section 9 of this Agreement.
	9. **Estoppel**. Each Party hereto, without charge, at any time and from time to time, within twenty (20) business days after receipt of a written request by another Party hereto, shall deliver a written instrument, duly executed, certifying: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such Party the other Party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
	10. **Service Contract**. The Parties intend this Agreement to be a “service contract” within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Homeowner will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the Systems.
	11. **No Partnership**. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.
	12. **Full Agreement, Modification, Invalidity, Counterparts, Captions**. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by the Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
	13. **Forward Contract**. The transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.
	14. **No Third Party Beneficiaries**. Except as specifically provided herein and for permitted assignees and Financing Parties permitted under Section[17](#bookmark=id.39kk8xu), this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other person.
	15. **Bonding**.
		1. Performance bond liability. Any performance bond issued for a System will cease one (1) year from the completion of construction of the System. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond one year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.
		2. Payment bond liability. Any payment bond issued will cease at the termination of any time required by law.
		3. Performance Guarantee. Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first-above written.

|  |  |
| --- | --- |
| **Homeowner:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature: Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Programmatic Participant:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature: Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **Seller:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature: Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Exhibit (Exhibit Template)**

**[HOMEOWNER NAME] System**

**Basic Terms and Conditions**

All terms are as defined in the Master Power Purchase Agreement (“Master Agreement” or “PPA”) dated \_\_\_\_\_\_\_\_\_\_\_ between Purchaser Homeowner, Parlier Home Solar LLC (“Seller”) and City of Parlier (“Programmatic Participant”):

**FOR AVOIDANCE OF DOUBT, AND IN ADDITION TO THE CALIFORNIA SOLAR CONSUMER BILL OF RIGHTS WHICH CALIFORNIA LAW REQUIRES YOU TO SIGN BEFORE ACCEPTING THIS AGREEMENT, THE TERMS OF THIS AGREEMENT RELATED TO THE PURCHASE AND SALE OF ELECTRICITY, INSTALLATION OR OPERATION OR THE SYSTEM, OR DEFAULT OR REMEDY RELATED THERETO, IS EXCLUSIVELY BETWEEN YOU AND PARLIER HOME SOLAR LLC (SELLER). THE TOWN OF PARLIER IS NOT RESPONSIBLE IN ANY WAY FOR ANY CLAIMED OR MISSED FINANCIAL SAVINGS, LOST VALUE OR OTHER REPRESENTATIONS UNDER THIS AGREEMENT. YOU ALONE, WITHOUT RECOURSE TO, OR REPRESENTATION BY, THE TOWN OF PARLIER ARE EXECUTING THIS AGREEMENT.**

1. **Name: \_\_\_\_\_\_\_\_\_\_\_\_\_** (“**Homeowner**”)
2. **Premises Address: \_\_\_\_\_\_\_\_\_\_\_\_**
3. **Homeowner Email**: \_\_\_\_\_\_\_\_\_\_\_\_\_
4. **System Description:** Provided on pages 3 and 4 of this Exhibit.
5. **Initial Term:** Twentyyears, beginning on the PTO Date.
6. **Additional Terms:**  Up to two Additional Terms of five (5) years each, by mutual agreement of Homeowner, Seller, and Guarantor.
7. **Current Utility Tariff/Rate:** [\_\_\_\_\_\_\_\_\_/~$0.25/kWh]
8. **New Utility Tariff:** [\_\_\_\_\_\_\_\_]
9. **Contract Price:**

|  |  |  |
| --- | --- | --- |
| Contract Year | PPA $/kWh | Escalation Rate |
| 1 | tbd w/updated rate analysis at engineering |
| 2 |  |
| 3 |  |
| 4 |  |
| 5 |  |
| 6 |  |
| 7 |  |
| 8 |  |
| 9 |  |
| 10 |  |
| 11 |  |
| 12 |  |
| 13 |  |
| 14 |  |
| 15 |  |
| 16 |  |
| 17 |  |
| 18 |  |
| 19 |  |
| 20 |  |

1. **Condition Satisfaction Date:** \_\_\_\_tbd\_\_\_\_\_, 202\_
2. **Anticipated Construction Start Date:** February 1, 2021
3. **Anticipated Permission to Operation Date:**  \_\_\_tbd\_\_\_\_\_, 202\_
4. **System** **Installation**: The Contract Price was calculated including and excluding the following, and is subject to adjustment pursuant to Section [3.c](#bookmark=id.1302m92):

|  |  |
| --- | --- |
| Includes: | [X] Design, engineering, permitting, installation, interconnection, monitoring, rebate application and paperwork processing of the System.  [X] Limited Manufacturers’ Equipment Warranties.  [X] List of Approved Subcontractors [\_] Any like substantive equipment, in the sole discretion of the Seller.[X] State or Utility Rebate, if any. Describe: \_California SGIP Battery Rebate\_\_ |
| Excludes: | 1. Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles),
2. upgrades or repair to the Premises or Utility electrical infrastructure, payment bonds, performance bond(s), prevailing wage construction,
3. Snow removal, tree removal, tree trimming, mowing and any landscape improvements,
4. Decorative fencing and/or any visual screening materials, decorative enhancements to solar support structures (including: painting, paint matching, masonry/stone work, and any lighting not required to meet the minimum code compliance).
5. Removal of existing light fixtures, light poles, or concrete light post bases. The LED retrofit aspect of this program applies to bulbs only. Fixtures can be added at a price to be determined.
6. Roof structural reinforcement, membrane maintenance or reroofing work.
7. Structural upgrades to the Premises, including ADA upgrades.
8. Installation of public information screen or kiosk (including accompanying internet connection, power supply, technical support and ADA access).
9. Changes in System(s) design(s) caused by any inaccuracy or ambiguity in information provided by Homeowner, including information regarding Homeowner’s energy use, and the Premises, including building plans and specifications.
 |

1. **Terms and Conditions**

The Master Agreement is between Homeowner, Seller and Programmatic Participant covering the power produced by the solar system (the “System”) installed at the address listed above (the “Home”). Homeowner agrees to host the System described in this Exhibit for the Initial Term and any Additional Term, and make payments for energy generated by the System, subject to the terms of the Master Agreement. Homeowner acknowledges and agrees to the terms of the Master Agreement.

The following is a general explanation of Homeowner’s obligations under the Master Agreement, and the remedy available to the Seller if Homeowner is in default. To the extent there is any inconsistency between these terms and the Master Agreement, the Master Agreement controls.

**Homeowner Obligations**: Homeowner agrees:

* + - * 1. To approve or disprove the System design within five (5) business days after receipt. After five days the design shall be deemed accepted;
				2. To make monthly payments to the Seller at the Contract Price for the electricity generated by the System;
				3. To maintain the Home and Premises in good condition and repair, including electrical equipment, sufficient for the System to operate as anticipated under this PPA;
				4. To maintain electric service to the Home and Premises from the Utility, and to notify the Seller promptly of any matters of which it is aware regarding any damage to or loss of the System, or that could reasonably be expected to adversely affect the System;
				5. Not to make alterations or repairs to the Home or Premises which could adversely affect the operation and maintenance of the System without the Seller’s prior written consent;
				6. Not to conduct activities in or about the Premises or the Home that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System;
				7. Not to permit any activity or condition that would diminish the System’s unobstructed access to sunlight and to notify Seller if you become reasonably aware of any such activity, that is out of your control, that may block sunlight;
				8. To grant a license for Seller to be on-site for construction and maintenance of the System;
				9. Not to attempt any cleaning, repair, or maintenance of the System, which is the sole responsibility of Seller, and to operate the System in accordance with standard operating procedures and using the provided Software;
				10. Not to claim to have ownership of the Environmental Attributes of the System, or the Investment Tax Credit, or any Grid Services values, or other benefits associated with System ownership or operations;
				11. To hold homeowners insurance as required by your mortgage lender; and
				12. To notify the Seller in the event of any System damage or failure.

**Remedies in Case of Default**: If Homeowner is in default, the Seller may take any one or more of the following actions:

* + - * 1. Terminate the System from the Master Agreement;
				2. Take any reasonable action to correct the default or to prevent loss; any amount paid will be added to the Monthly Payment amount and will be immediately due;
				3. Disconnect, turn off or take back the System;
				4. Require Homeowner, at its expense, to return the System or make it available to Seller in a reasonable manner;
				5. Proceed, by appropriate court action, to enforce performance and to recover damages for the breach;
				6. Report such non-operational status of the System to the Utility, informing them that Homeowner is no longer net metering;
				7. Charge a reasonable reconnection fee for reconnecting the System to the utility or turning the System back on after disconnection or turn off due to the default;
				8. Recover from Homeowner (i) a payment equal to the purchase price as set forth in this agreement plus (ii) all taxes, late charges, penalties, interest and all or any other sums then accrued or due and owing; or
				9. Use any other remedy available to the Seller by law.
				10. The Seller may submit to credit reporting agencies (credit bureaus) negative credit reports that would be reflected on Homeowner’s credit record if Homeowner does not pay any amounts due as required.
1. **NOTICE OF RIGHT TO CANCEL.**

HOMEOWNER MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE IT SIGNS THIS CONTRACT. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

1. **NOTICE OF SYSTEM DAMAGE OR FAILURE**

Homeowner agrees to notify the Seller immediately in the event of damage to the System or System failure:

Telephone (24 hours/7 days):

Email: (24 hours/7 days):

1. **Acknowledgement of Continuing Utility Invoice.** By initialing below Homeowner acknowledges that they will remain a customer of the Utility and will continue to be responsible for any Utility charges, including monthly meter connection, non-bypassable charges, and any net-importation of kWh, over the course of a year due to more kWh being used than are produced by the System, annually.

HOMEOWNER:

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Seller consents to make the System subject to the Master Agreement:

CITY: SELLER:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**Exhibit (continued)**

**[Homeowner Name] System Description**

1. **System Location:** [Premises Street Address, City, CA 99999]
2. **System Size (DC kW):** {...}
3. **Expected First Year Energy Production (kWh):** {...} (anticipated degradation of 0.5%/yr)
4. **Expected Structure: [\_]** Ground Mount [X] Roof Mount [\_] Parking Structure [\_] Other
5. **Expected Module(s) and quantity:**  [ ]
6. **Expected Inverter(s) and quantity:** [ ]
7. **Utility:** [ ]
8. **Lead Contractor:** [ ]
9. **Operation & Maintenance Contractor:** [ ]
10. **Facility and System Layout:** see aerial photograph and conceptual drawing below, showing placement of the solar modules and inverters, access points for installation and service of the System, and energy Delivery Point.

**Exhibit (continued)**

**Early Buyout or Termination Payment**

Payment for Early Buyout or Termination is specific to the System described in this exhibit, but is due from Purchaser under the conditions described in Section 11 of the Master Agreement between Seller and Purchaser.

|  |  |
| --- | --- |
| Contract Year | Payment Amount |
| 1 | XX |
| 2 | XX |
| 3 | XX |
| 4 | XX |
| 5 | XX |
| 6 | XX |
| 7 |  |
| 8 |  |
| 9 |  |
| 10 |  |
| 11 |  |
| 12 |  |
| 13 |  |
| 14 |  |
| 15 |  |
| 16 |  |
| 17 |  |
| 18 |  |
| 19 |  |
| 20 |  |
| 21 |  |
| 22 |  |
| 23 |  |
| 24 |  |
| 25 |  |
| After Year 25 | Fair Market Value |

**Exhibit (continued)**

**Design Approval and Authorization to Install Seller’s Personal Property**

**In the Licensed Area of Homeowner’s Premises**

Under the Master Solar Power Purchase Agreement dated as of \_\_\_\_\_\_\_\_\_\_\_\_ for purchase and sale of electrical energy (the “**Master Agreement**”) between the Homeowner and the Seller, the Homeowner does hereby approve the design and installation of Seller’s personal property on the Premises indicated below.

Homeowner acknowledges that Seller’s Personal Property (the equipment comprising the System) is being installed in accordance with the License granted by the Master Agreement. This License allows Seller’s System to occupy the certain portions of the Premises required for the Personal Property to function as intended under the terms of the Agreement.

**Description of Premises, License Area, and System**

Premises:

Owner of Premises / Design Authorization:

Legal Description of Premises and Licensed Area:

Date of Commencement of License:

Parties to License:

Seller:

Homeowner:

DESIGN:

[insert design and description as submitted to permitting authority]

TERM OF LICENSE:

The term of the License shall be until the last day of the calendar month in which the twentieth (20th) anniversary of the Commercial Operation Date (as that term is defined in the Master Agreement) occurs, subject to any Additional Terms or early termination pursuant to the terms of the Agreement, plus one hundred and twenty (120) days.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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