

34852

SOLAR ENERGY POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this “PPA” or “Agreement”) is dated effective as of May 23, 2017 (the “Effective Date”), by and between PFMG Solar Long Beach, LLC, a Delaware limited liability company, its successors and assigns (“Provider”), and the City of Long Beach, a California municipal corporation (“Host or City”). Provider and Host are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Host desires to implement solar energy systems (each, a “System” and collectively the “Systems”) on a specified number of its properties (each System, located on each such property, a “Project” and collectively, the “Projects”);

WHEREAS, California Government Code §§ 4217.10 et seq. authorizes Host to enter into agreements, contracts and related facility leases with private sector entities for developing energy conservation and production projects;

WHEREAS, Host and Provider are entering into that certain Solar Site Easement Agreement (the “Easement Agreement”, which is incorporated herein by this reference), pursuant to which Host agrees to grant certain easement and license rights to Provider on and over a portion of a specified number of Host’s properties (with respect to each Project and as described in each relevant Easement Agreement, the “Property”) more particularly described in EXHIBIT A attached hereto as updated from time to time;

WHEREAS, Provider and its affiliates intend to install, finance, own and operate one or more Systems on each Property as described in EXHIBIT B and defined in Section 1.1 below; and

WHEREAS, Provider desires to deliver and sell to Host, and Host desires to receive and purchase from Provider, all of the Energy Output generated by each System during the Term in accordance with the terms and conditions of this Agreement;

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

Article I

DEFINED TERMS; RULES OF INTERPRETATION; RIGHT TO REQUEST SEPARATE POWER PURCHASE AGREEMENTS

1.1 Defined Terms. The definitions provided below and elsewhere in this Agreement will apply to the capitalized terms used in this Agreement:

“Affiliate” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“Annual Degradation Factor” shall mean the annual degradation factor of the Systems as set forth in EXHIBIT D.

“Applicable Law” means, with respect to any Governmental Authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of such Governmental Authority, enforceable at law or in equity, along with the interpretation and administration thereof by any Governmental Authority.

“Bankrupt” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within 30 days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to which, under the Applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Bankruptcy Code” means the United States Bankruptcy Code.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. If the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day.

“Capital Provider(s)” shall mean any and all individuals or entities or successors in interest thereof, providing capital or extending credit to Provider or an Affiliate of Provider with respect to the System(s), or investing equity in Provider or an Affiliate of Provider in a manner that will provide certain tax benefits from the System(s) to such individual or entity or successor in interest; (i) for the construction, term or permanent financing of the Projects; (ii) for working capital or other ordinary business requirement of the Projects (including but not limited to the maintenance, repair, replacement or improvement of a Project); (iii) for any development financing, bridge financing, credit enhancement or interest rate protection in connection with the Projects; (iv) for the ownership and operation of the Projects; or (v) for the purchase of the Projects and related rights and obligations of Provider.

“Commercial Operation” means that a System (i) has been completely installed and commissioned, including, but not limited to, the process of starting up and testing of all components, (ii) has been synchronized and is interconnected with the electrical utility grid pursuant to written authorization by the Utility, (iii) has completed Acceptance Testing, defined herein, and (iv) is capable of producing Energy Output.

“Commercial Operation Date” means the first day on which 1) a System reaches Commercial Operation, 2) is certified in writing by Provider to Host, and 3) begins production of Energy Output.

“Contract Year” means the consecutive 12 month period commencing on the Commercial Operation Date of the last System in the Project Portfolio.

“CP Cutoff Date” shall have the meaning ascribed to such term in Section 2.3.

“Defaulting Party” shall have the meaning ascribed to such term in Section 9.1.

“Delivery Point(s)” means the agreed location or locations where Energy is to be delivered and received under this Agreement, as specified in the final as-built plans and specifications of each System.

“Dispute” means any and all claims or disputes arising out of or relating to this PPA or any Easement Agreement, or the breach hereof or thereof.

“Early Termination Date” shall have the meaning ascribed to such term in Section 9.2.

“Easement Agreement” shall have the meaning ascribed to such term in the Recitals.

“Energy” means electric energy (three-phase, 60-cycle alternating current, expressed in kilowatt-hours).

“Energy Output” means the amount of Energy generated by a System and delivered to Host at the applicable Delivery Point, as metered in whole kilowatt-hours (kWh) at the Metering Devices. Subject to Article VII, all Energy Output delivered to Host at the relevant Delivery Point shall be equal to the energy measured at the Metering Devices.

“Energy Payment Rate” shall have the meaning ascribed to such term in Section 3.2 and EXHIBIT C.

“Energy Shortfall Payment” shall have the meaning ascribed to such term in EXHIBIT E.

“Environmental Financial Attributes” means each of the following financial rebates and incentives that is in effect as of the Effective Date or may come into effect in the future: (i) all monetary incentives and rebates, incentive tax credits or other tax benefits and accelerated depreciation (collectively, “allowances”), howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into

the air, soil or water attributable to the sale of Energy generated by a System; and (ii) all reporting rights with respect to such allowances. Environmental Financial Attributes, however, do not include Renewable Energy Credits, which are defined separately below.

“Estimated Annual Production” shall mean the expected Energy Output for each Contract Year as set forth in EXHIBIT D.

“Event of Default” shall have the meaning ascribed to such term in Section 9.1.

“Exercise Notice” shall have the meaning ascribed to such term in Section 13.7(a).

“Exercise Period” shall have the meaning ascribed to such term in Section 13.7(a).

“Extension Term” shall have the meaning ascribed to such term in Section 2.1(b).

“Fair Market Value” means the value of the System(s) as determined by the mutual agreement of Host and Provider. If Host and Provider cannot mutually agree to a Fair Market Value, then the Parties shall select an independent appraiser with experience and expertise in the solar photovoltaic industry in California to value such equipment. Such appraiser shall act reasonably and in good faith to determine the fair market value of the Projects as if the Projects were operational for the entire useful life thereof and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The costs of the appraiser shall be borne by the Parties equally. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be selected by random lot from two firms proposed by each Party.

“Force Majeure” means any event or circumstance that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the control, and not the result of the conduct, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, Force Majeure shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances or riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) action by a Governmental Authority resulting in a moratorium on the activities related to this Agreement; and (v) the inability of one of the Parties, despite its reasonable efforts, to obtain, in a timely manner, any Permit necessary to enable the affected Party to fulfill its obligations in accordance with this Agreement, provided that the delay or non-obtaining of such Permit is not attributable to the Party in question and that such Party has exercised its reasonable efforts to obtain such Permit. Force Majeure will not be based on (i) Host’s inability to use Energy purchased hereunder, (ii) Provider’s ability to sell Energy at a price greater than the price of Energy under this Agreement, or (iii) Host’s voluntary or involuntary shutting down or closing of the facilities located at the Property. Economic hardship of either Party shall not constitute Force Majeure.

“Governmental Authority” means any federal, state, regional, county, town, city or municipal government or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

“Governmental Charges” means all applicable federal, state and local taxes (other than taxes based on income or net worth), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy or this Agreement.

“Guaranteed Minimum Production” shall have the meaning ascribed to such term in EXHIBIT E.

“Host Termination Payment” means all amounts due and payable by the Host to Provider pursuant to Section 9.5.

“Indemnity Claims” means all losses, liabilities, damages, costs, expenses and attorneys’ fees, whether incurred by settlement or otherwise.

“Independent Appraiser” means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the Projects. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three years before his appointment have been) a director, officer or an employee of, or directly or indirectly retained as consultant or adviser to, Provider or any Affiliate of Provider or Host.

“Initial Term” shall have the meaning ascribed to such term in Section 2.1(a).

“Metering Device” means, with respect to a System, the revenue-grade meter or meter, and related equipment, used to measure, record, register and transmit information regarding the Energy generated by such System and delivered to the relevant Delivery Point. Such meter shall measure and log the following four parameters on a 15-minute average basis: (1) actual AC electricity production of the System (in kWh); (2) solar insolation measured in the global horizontal irradiation (GHI) in W/m²; (3) ambient air temperature (in °C); and (4) wind speed (in m/s).

“Nameplate Capacity” means the maximum rated output of a solar photovoltaic module under the specific conditions designated by the manufacturer as indicated on a nameplate physically attached to the solar photovoltaic module.

“Non-Defaulting Party” shall have the meaning ascribed to such term in Section 9.2.

“Notices” shall have the meaning ascribed to such term in Section 16.1.

“Permit” means any authorization, license, permit, certificate of authority, approval, registration, franchise, clearance or similar consent granted or issued by any Governmental Authority.

“Person” means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company, or any other entity of whatever nature.

“Preliminary Determination” shall have the meaning ascribed to such term in Section 13.5.

“Project” shall have the meaning ascribed to such term in the recitals.

“Project Portfolio” means, collectively, all of the Systems that achieve Commercial Operation.

“Project Portfolio Purchase Option” shall have the meaning ascribed to such term in Section 13.1.

“Property” shall have the meaning ascribed to such term in the recitals.

“Purchase Option” shall have the meaning ascribed to such term in Section 13.1.

“Purchase Price” shall have the meaning ascribed to such term in Section 13.2.

“Renewable Energy Credit” or “REC” means any and all credits, benefits, emissions reductions, offsets, reporting rights and allowances, howsoever entitled, attributable to the generation from any System, and its displacement of conventional energy generation, green-e tags (including tradable renewable certificates), or other transferable indicia denoting carbon offset credits or indicating generation of a particular quantity of energy from a renewable energy source by a renewable energy facility attributed to the Energy Output during the Term created under a renewable energy, emission reduction, or other reporting program adopted by a Governmental Authority, or for which a registry and a market exists (which, as of the Effective Date are certificates issued by Green-e in accordance with the Green-e Renewable Electric Certification Program, National Standard Version 1.3 administered by the Center of Resource Solutions) or for which a market may exist at a future time.

“Reporting Rights” means the right of Provider to report to any federal, state or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, or under any present or future domestic, international or foreign emissions trading program, that Provider owns all the Environmental Financial Attributes associated with the Energy Output and ownership of the System(s).

“Schedule of Definitions and Rules of Interpretation” shall have the meaning ascribed to such term in Sections 1.1 and 1.2.

“Separate System” shall have the meaning ascribed to such term in Section 13.1.

“Separate System Purchase Option” shall have the meaning ascribed to such term in Section 13.1.

“System” “Systems” or “System(s)” shall mean the solar electric generating facility or facilities installed and operated delivering Energy Output pursuant to this Agreement, as more particularly described in EXHIBIT B.

“System Assets” means each and all of the assets comprising each System, including, but not limited to, racking systems, trackers, shade structures, solar energy panels, mounting systems, inverters, integrators, improvements and other related equipment installed on the Property, electric lines required to connect such equipment to the relevant Delivery Point, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights, including any warranties reasonably necessary for construction, operation and maintenance of the relevant System.

“System Loss” means loss, theft, damage or destruction of a System or System Assets, or any other occurrence or event that prevents or limits such System from operating in whole or in part, resulting from or arising out of any cause (including casualty, condemnation or Force Majeure) other than (i) Provider’s negligence or intentional misconduct, (ii) Provider’s breach of maintenance obligations under the PPA, or (iii) normal wear and tear of the Projects.

“System Loss Amount” means the current fair market value of the System Assets with respect to a Project.

“Term” means the Initial Term and any Extension Term.

“Termination Value” shall mean the values set forth or described in EXHIBIT F, as such values may be revised in connection with the completion of the Projects.

“Transaction” means any transaction between the Parties under the terms of the PPA or the Easement Agreements or any other agreements, instruments, or undertakings between the Parties.

“Transfer Date” shall have the meaning ascribed to such term in Section 13.9.

“Utility” shall mean the electric distribution company responsible for electric energy transmission and distribution service at the Property. The Parties acknowledge and agree that, as of the date of this Agreement, the Utility is Southern California Edison.

1.2 Rules of Interpretation. In this Agreement, unless expressly provided otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this Agreement and a reference to a recital, Article, Section, subsection or paragraph of this Agreement or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this Agreement or other agreement in which it is used unless otherwise stated;

(b) references to this Agreement, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) a reference to a paragraph also refers to the subsection in which it is contained, and a reference to a subsection refers to the Section in which it is contained;

(d) a reference to this Agreement, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this Agreement or such other agreement, instrument or provision, as the case may be;

(e) a reference to a statute or other law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a Person includes a reference to the Person's executors and administrators (in the case of a natural person) and successors, substitutes (including Persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) "including" means "including, but not limited to," and other forms of the verb "to include" are to be interpreted similarly;

(j) references to "or" shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or");

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;

(m) if the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(n) a reference to (i) a month is a reference to a calendar month and (ii) a year is a reference to a calendar year;

(o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;

(p) a reference to time is a reference to the time in effect in California on the relevant date;

(q) if a payment prescribed under this Agreement to be made by a Party on or by a given Business Day is made after 5:00 pm on such Business Day, it is taken to be made on the next Business Day;

(r) the Parties acknowledge and agree that although this Agreement relates to more than one System to be installed and operated at more than one site controlled by Host, it is the Parties' express intent and agreement that the rights and obligations of the Parties with respect to each System are separate and independent from the rights and obligations of the Parties with respect to all other Systems (and the Parties are using one agreement to address multiple Systems for administrative convenience).

1.3 Right to Separate Agreements for Projects. If requested by Provider in order to facilitate the financing of the Projects and compliance with legal requirements for ownership and placement in service of the Systems, Host shall cooperate with Provider to replace this Agreement with two or more sets of independent power purchase agreements, each with a separate Provider Affiliate and relating to one or more Projects, on terms and conditions substantively identical to this Agreement (including without limitation a pro rata allocation of the Host Termination Payment; provided that if Host exercises its Purchase Option under a particular power purchase agreement, it shall, subject to Article XIII, be required to simultaneously exercise its Purchase Option under each other power purchase agreement.

1.4 Right to Update Certain Exhibits for Mutually Agreed Changes. The Parties acknowledge and agree that the configuration and location of the Projects as of the date of execution of this Agreement are preliminary and may be updated only by the written mutual agreement of the Parties after the Effective Date in order to reflect the updated design and engineering of the Projects and to address any existing lien or other security interest in the Property that may affect the location of the Projects. The Parties may amend Exhibits A, B, D, F and G of this Agreement and amend the existing Easement Agreements or execute additional Easement Agreements in order to account for any such mutually agreed changes to the configurations and locations of the Projects. Any such mutually agreed amendments to Exhibits A, B, D, F and G of this Agreement shall replace the relevant Exhibits then in effect and shall automatically become the newly effective Exhibits for purposes of this Agreement without any further approval of the governing body of the Host, subject to the delegation of authority in the authorizing resolution of the governing body of the Host initially approving this Agreement.

1.5 Right to Update for Host-Requested Changes. In addition to Section 1.4, if Host requests prior to the CP Cutoff Date a modification, re-design or re-location of one or more Projects that increases the capital costs of such Projects or adversely impacts the Estimated Annual Production of the System(s) or the Project Portfolio, Provider shall be entitled to an increase in the Energy Payment Rate and may amend EXHIBIT A through EXHIBIT F in order to account for such Host-requested changes. Such amendments agreed to by the Parties to the Energy Payment Rate and EXHIBIT A through EXHIBIT F shall replace the relevant Energy Payment Rate and Exhibits then in effect and shall automatically become

the newly effective Energy Payment Rate and Exhibits for purposes of this Agreement and Host acknowledges that any such change shall be processed without further approval from any governing board of the Host, subject to the delegation of authority in the authorizing resolution of the governing body of the Host initially approving this Agreement.

Article II

TERM, TERMINATION AND COMMERCIAL OPERATION

2.1 Term and Termination.

(a) Initial Term. The initial term of this Agreement (the “Initial Term”) shall commence on the Effective Date and shall be in effect until the sooner of (i) 11:59 pm Pacific Standard Time on the date of the twenty-fifth (25th) anniversary of the Commercial Operation Date of the last System of the Project Portfolio, or (ii) the date of this Agreement is validly terminated pursuant to the provisions herein.

(b) Extension Term. After the Initial Term the Parties may extend this Agreement for three (3) additional consecutive periods of five (5) years each (each such extension, an “Extension Term” and together with the Initial Term, the “Term”) on rates to be negotiated by the Parties prior to the commencement of an Extension Term, if either Party provides written notice to the other Party at least one hundred and eighty (180) calendar days prior to the expiration of the Initial Term or prior to the then applicable Extension Term and the other Party accepts in writing within thirty (30) Business Days of receipt of the written notice, so long as no material breach of this Agreement exists at the time of the notice. Each such Extension Term shall expire at 11:59 pm Pacific Standard Time on the respective applicable anniversary of the last day of the Term in existence prior to an Extension Term, unless earlier terminated earlier pursuant to Section 9.2.

(c) Early Termination by Provider. Provider shall have the right, but not the obligation, to terminate this Agreement during the Term upon the occurrence of (i) an unstayed order of a court or administrative agency having the effect of subjecting the sales of Energy Output to federal or state regulation of prices and/or service, (ii) elimination or alteration of one or more Environmental Financial Attributes or other change in law that results in a material adverse economic impact on Provider, or (iii) upon an event of Force Majeure pursuant to the terms of Section 8.3. In the event that Provider terminates this Agreement pursuant to this Section 2.1(c), this Agreement shall terminate without triggering the default provisions of this Agreement or the Termination Value, and with no liability of either Party to the other Party except such amounts then due and owing under this Agreement as of the date of such termination and the requirements for removal of the System(s) and restoration of Host’s Property upon Termination.

(d) Early Termination by Host. Host shall have the right to terminate this Agreement for any reason upon sixty (60) days’ prior written notice; provided that any such termination shall trigger the Host’s obligation to pay damages as set forth in Section 9.5 herein, including but not limited to the applicable Termination Value.

2.2 Construction of the Projects.

(a) Promptly following the execution of this Agreement, Provider shall commence pre-installation activities relating to the Projects, which shall include, without limitation, the following:

- (i) obtain or cause to be obtained complete financing for the installation of the Projects, including the investment of federal renewable energy tax credit equity, if any;
- (ii) obtain applicable performance-based financial incentives;
- (iii) obtain or cause to be obtained the legal right to use the Property for the installation, maintenance and operation of the Projects, subject to the terms of any proposed financing;
- (iv) obtain or cause to be obtained all government approvals, permits, contracts, and agreements required for installation, operation and maintenance of the Projects and delivery of Energy Output to Host;
- (v) obtain all necessary authority from any applicable regulatory entities for the operation of the Systems and sale and delivery of Energy Output to Host;
- (vi) enter into contract(s) for installation of the Projects, subject to the terms of any proposed financing; and
- (vii) enter into the Easement Agreements.

2.3 Commercial Operation. Provider shall use commercially reasonable efforts to cause the Commercial Operation Date of the last System of the Project Portfolio to occur on or before December 31, 2019 (the "Target Date"). Successful completion of the activities described in Section 2.2 above shall be conditions precedent to Provider's obligations to install and operate the Projects and otherwise perform its obligations under this Agreement. If by December 31, 2018, the Provider has provided written notice that the activities contemplated in Section 2.2 are not complete to its satisfaction (the "CP Cutoff Date") with respect to the Projects, Provider or Host may terminate this Agreement with respect to such Project or Projects without triggering the default provisions of this Agreement or any liability under this Agreement and the Agreement shall continue to be effective with regards to all other Projects, if applicable; provided that such option to terminate shall expire if written notice of termination is not provided to the other Party within thirty (30) days after the CP Cutoff Date. In the event that the System has not achieved Commercial Operation before the Target Date, the Parties may mutually agree to amend this PPA to revise the Target Date and Term of this PPA.

2.4 Notice of Commercial Operation. Provider shall notify Host when a System is capable of Commercial Operation, and shall in such notice certify to Host the Commercial Operation Date of such System.

2.5 Removal of Projects at End of Term. Except as otherwise provided herein, Provider shall, at Provider's sole cost and expense, within either (a) one hundred and eighty

(180) calendar days following the end of the Term or (b) to the extent required by Section 9.3 or 9.4, one hundred and eighty (180) calendar days following the Early Termination Date, and at Provider's sole cost and expense in the case of Section 9.3, remove the Projects from the Property on a mutually convenient date. Provider shall give forty-eight (48) hours written notice to the appropriate Project site administrator or Host liaison, whose name and contact information shall be given to Provider, before entry onto each Property for commencement of removal. Provider and its agents, consultants, and representatives shall have access at all mutually agreed-upon times to the applicable Property and the Projects for purposes of such removal. Provider is responsible to repair any and all damage caused to the applicable Property by its removal of the Projects. Each portion of the Property upon which the System(s) are (is) installed shall be returned substantially to its original condition to the extent reasonably possible and practical, excepting ordinary wear and tear.

2.6 Survival. Effective as of any termination of this Agreement, the Parties will no longer be bound by the terms and conditions of this Agreement, except to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations, arising under this Agreement prior to termination of this Agreement and that the obligations of the Parties under this Agreement with respect to indemnification will survive the termination of this Agreement and will continue (but only with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the termination of this Agreement) for a period of three (3) years following any termination of this Agreement.

Article III

PURCHASE AND SALE OF ENERGY; DELIVERY; GOVERNMENTAL CHARGES

3.1 Purchase and Sale of Energy. In accordance with the terms and conditions hereof, commencing on the Commercial Operation Date of the first System of the Project Portfolio and continuing throughout the remainder of the Term, Provider shall deliver to Host at the Delivery Point(s) as and when available, and Host shall accept delivery from Provider at the Delivery Point(s), all of the Energy Output. Neither Party shall seek to change any of the rates or terms of this Agreement by making a filing or application with any local, state or federal agency with jurisdiction over such rates or terms or exercise any rights a Party may have, if any, to seek changes to such rates or terms during the Term of this Agreement. Nothing herein shall affect either Party's right to pursue the Dispute Resolution procedures herein in the event that any dispute arises which may be characterized as either Party seeking a such a "change." Host acknowledges and agrees that solar power is an intermittent resource and that the Energy Output, which is dependent on the sun and other factors, will vary and that no particular amount of Energy Output is guaranteed or represented in amount or time of delivery other than as otherwise expressly guaranteed herein. Host further agrees to retain a source of electricity from the Utility.

(a) Host shall not make any alterations or repairs to the Projects which may adversely affect the operation and maintenance of the Projects without Provider's prior written consent, only in the event the such alterations or repairs are required to remedy any emergency, life safety risks to the Host or persons on the Host Property. If Host requires such alterations or repairs, Host shall give prior written notice to Provider, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and

give Provider the opportunity to advise Host in making such alterations or repairs in a manner that avoids damage to the Project, but, notwithstanding any such advice, Host shall be responsible for all damage to the Project caused by Host or its contractors. To the extent that temporary disconnection or removal of the Project is necessary to perform such alterations or repairs, such work and any replacement of the Project after completion of Host's alterations and repairs shall be done by Provider or its contractors at Host's cost. All such alterations and repairs by the Host under these circumstances shall be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

(b) After the Commercial Operation Date, Provider shall not make any alterations or repairs to the System(s) that result in a material increase of the Nameplate Capacity of the System(s) at the time of the Commercial Operation Date.

3.2 Price for Energy Output. Host shall pay Provider a payment equal to the total Energy Output for each month multiplied by the applicable Energy Payment Rate set forth in EXHIBIT C. Host shall make such monthly payment to Provider pursuant to Section 10.1.

3.3 Title and Risk of Loss. Title to and risk of loss of the Energy Output will pass from Provider to Host at the Delivery Points. Provider warrants that it will deliver the Energy Output to Host at the Delivery Points free and clear of all liens, security interests, claims, and other encumbrances. Host acknowledges that adjustments in the terms and conditions of this Agreement may be necessary to account for rule changes in the Utility control areas, that could not be anticipated at the date of execution of this Agreement or that are beyond the control of the Parties, and the Host agrees to make such commercially reasonable amendments as are reasonably required to comply therewith.

3.4 Governmental Charges.

(a) Host shall be responsible for and pay all Governmental Charges imposed directly on Host in connection with or relating to the delivery and sale of Energy Output by Provider to Host, whether imposed before, upon or after the delivery of Energy Output to Host at each Delivery Point.

(b) Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges. In the event the sale of Energy hereunder is to be exempted from or not subject to one or more Governmental Charges, promptly upon Provider's request therefore, Host shall provide Provider with all necessary documentation to evidence such exemption or exclusion.

3.5 No Shading. Host shall not cause or permit any interference with any System's insolation and access to sunlight, as such access exists as of the Commercial Operation Date of the System(s). Host shall trim or cause to be trimmed any shrubbery, trees or other growth on the Property or under its control that would interfere with any System's insolation; and if Host does not perform such obligation upon ten (10) days written notice to Host, Provider shall have the right to perform such services at Host's expense and/or pursue damages for any such shading that results in decreased System performance or production.

3.6 Permanent Facility Closure. Host acknowledges and agrees that notwithstanding any temporary or permanent closure of the facilities located at the Property or connected to the Delivery Point, Host's obligation to purchase and pay for all Energy Output shall continue uninterrupted during the Term.

3.7 Estimated Annual Production. Provider has estimated that the Systems will deliver the estimated annual production as indicated in EXHIBIT D (the "Estimated Annual Production")

(a) 90% Minimum Production. For each Contract Year, Provider guarantees the Project Portfolio shall deliver no less than the Guaranteed Minimum Production (as defined in EXHIBIT E), applicable for such Contract Year. Beginning on the last day of the third Contract Year that occurs after the Commercial Operation Date of the last System of the Project Portfolio, Host shall notify Provider in writing of any Energy Shortfall Payment (as defined in EXHIBIT E). The Energy Shortfall Payment shall be paid to Host pursuant to Section 10.1. Payment of the Energy Shortfall Payment shall be the sole and exclusive remedy available to the Host for the Provider failing to cause the Project Portfolio to deliver the Guaranteed Minimum Production, except as otherwise provided in this Agreement.

(b) Insolation. Prior to the Commercial Operation of the System(s), Provider shall disclose the initial insolation level assumed in its calculation of the Estimated Annual Production. During the Term, Provider shall track the insolation level at each Property, and upon Host's reasonable request shall provide Host with access to such insolation level data. In the event that the insolation level at any Property is more than three percent (3%) less than the initial insolation level assumed in the calculation of the Estimated Annual Production over a period of three (3) years, then the Estimated Annual Production shall be adjusted to reflect such long-term insolation reduction. Provider shall be entitled to such adjustment of the Estimated Annual Production no more than once every three (3) years so long as the insolation level does not exceed ten percent (10%) less than the assumed insolation level of the Estimated Annual Production in effect.

(c) Annual Degradation Factor. Provider and Host agree that in accordance with the Systems manufacturer's specifications, performance of the Systems will degrade by an Annual Degradation Factor as defined in EXHIBIT D for every year of operation. The Estimated Annual Production will be reduced by the Annual Degradation Factor every Contract Year during the Term. The Annual Degradation Factor will be applied to the kWh energy values of the weather-adjusted Estimated Annual Production (as defined in Exhibit E as the "Calculated kWh").

(d) Notwithstanding any term to the contrary in this Agreement, if any act or omission by Host results in the System having any reduced production or performance failure, then during any such period of time (i) Provider shall not be responsible or liable for or deemed in breach of this Agreement for any delay or failure of performance of its obligations under this Agreement including but not limited to the Guaranteed Minimum Production and (ii) Host shall promptly pay Provider for the value of the expected Energy Output of the System during such period of time based on the preceding twelve (12) months average production plus the value of any and all lost Environmental Financial Attributes as set forth in Article IV. Provider

will provide written notice of any reduced production or performance failure that may be attributable to an action or omission by Host within ten (10) Business Days of that attributed reduced production or performance failure.

(e) Report of System Performance. Within forty five (45) calendar days after the conclusion of each calendar year, beginning with the conclusion of the calendar year ending after the Commercial Operation Date of the Project Portfolio, Provider shall provide Host with a written report detailing the annual (i) production performance for each Project; and (ii) production performance for the entire Project Portfolio.

3.8 Host Curtailment. Notwithstanding any term to the contrary in this Agreement, if any conduct by Host inconsistent with this Agreement results in the System having any reduced production or performance failure, then during any such period of time (i) Provider shall not be responsible or liable for or deemed in breach of this Agreement for any delay or failure of performance of its obligations under this Agreement and (ii) Host shall promptly pay Provider for the value of the expected Energy Output of the System during such period of time based on the average production during the same time period previously measured since the Commercial Operation Date (i.e. period from April through March, etc.) plus the value of any and all corresponding and dependent Environmental Financial Attributes as set forth in Article IV.

Article IV

ENVIRONMENTAL FINANCIAL ATTRIBUTES

4.1 Title to Environmental Financial Attributes. Notwithstanding the purchase and sale of Energy pursuant to Section 3.1, all Environmental Financial Attributes relating to the Systems shall remain the property of Provider. Provider shall have all right, title, and interest in and to any and all Environmental Financial Attributes that relate to the Systems or the Energy Output during the Term, and Host shall have no right, title or interest in or to any such Environmental Financial Attributes.

4.2 Reporting of Ownership of Environmental Financial Attributes. Host shall not report to any Person that any Environmental Financial Attributes relating to the Systems.

4.3 Renewable Energy Credits. All Renewable Energy Credits relating to the Energy Output shall be the property of Host or its assignee, and Provider shall have no right, title or interest in or to any such Renewable Energy Credits and shall not report to any Person that any such Renewable Energy Credits belong to any Person other than Host or its assignee. Provider shall, from time to time, take all actions, prepare all documents, and make all filings as may be necessary to have certified and to transfer to Host all Renewable Energy Credits relating to the System or the Energy Output. Host shall, at Host's sole cost and expense, be responsible for the registration, establishment, and maintenance of all accounts and mechanisms necessary for receiving Renewable Energy Credits from the Provider, including but not limited to a Western Renewable Energy Generation Information System (WREGIS) account..

4.4 Cooperation with Environmental Financial Attributes. At Provider's request, Host shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Provider's right, title and interest in and to the Environmental Financial Attributes. Host shall take all reasonable measures to assist Provider in obtaining all Environmental Financial Attributes currently available or subsequently made available in connection with the System(s), to the extent such measures impose no substantial burden on Host's resources. If Host fails to act in good faith in completing documentation or taking actions reasonably requested by Provider, and such failure results in a loss of Environmental Financial Attributes, Host shall reimburse Provider for the full amount of such lost Environmental Financial Attribute, but only to the extent such loss of Environmental Financial Attribute is the actual result of Host's conduct. Provider shall have the sole responsibility of providing all education and training of Host and its personnel and agents adequate to inform Host and its personnel of the requirements of Environmental Financial Attributes, sufficient to put Host and its personnel on actual notice of all such requirements.

4.5 Impairment. Host shall not take any action or suffer any omission inconsistent with this Agreement at the Property that would have the effect of impairing the value to the Provider of the Environmental Financial Attributes. Host shall be solely responsible for notifying Provider of any action or omission that could impair such value and for consulting with Provider as necessary to prevent impairment of the value of the Environmental Financial Attributes. Host shall bear no liability for impairing the value to the Provider of the Environmental Financial Attributes if not adequately trained pursuant to Section 4.4 to be on actual notice that any particular conduct would result in such impairment.

4.6 Rebate Deposits. To the extent Provider pays any amounts due in connection with the application and reservation of performance based incentives under the California Solar Initiative (or any other applicable program), Provider shall be entitled to all such amounts that are refunded to the Host. Host shall remit all such refunds to the Provider within thirty (30) days of receiving any such refunded amounts.

Article V

CONSTRUCTION AND INSTALLATION OF THE SYSTEM

5.1 Installation and Removal. Subject to Section 5.3, Provider will cause each Project to be designed, engineered, installed and constructed substantially in accordance with the terms of this Agreement and the Easement Agreements and at the sole cost of the Provider. Host shall have the right to review and approve all construction plans (which shall include drawings in editable AutoCAD file format), which approval shall not be unreasonably denied, delayed or conditioned. Subject to the terms of the Easement Agreements and this Agreement, including Section 2.8 hereof, Provider shall perform the installation of the Projects in a manner that minimizes inconvenience to and interference with Host. Notwithstanding the foregoing, in the event that Provider determines in its sole discretion that it is unable to install or interconnect a Project at the applicable Property for any reason, it shall be under no obligation to do so, and this Agreement shall terminate with respect to such Project and be of no further force and effect upon written notice from Provider to Host to that effect. In the event that such elimination of System(s) by the Provider prior to installation materially reduces the average energy savings anticipated by Host from all Systems, Host shall have the option to terminate

the remainder of this Agreement without triggering the Default provisions hereof and without further liability to Provider. The termination of this Agreement for such eliminated System shall not affect the Energy Payment Rate that Host pays for the remaining Projects.

5.2 Third Party Inspections. Provider shall be entitled to select (subject to Host's approval not to be unreasonably withheld) any company that performs inspections of the materials and equipment for the design, engineering, procurement, construction or installation of the Projects, including, but not limited to, any inspections to verify the Systems' compliance with the Applicable Law.

5.3 Utility Approvals. Except as provided in Section 5.3 above, Provider shall be responsible for and bear all costs associated with applying for and obtaining all permits, licenses and approvals required for the installation, operation, and maintenance of the Projects, and costs associated with applying for all rebates and incentives. Provider shall be solely responsible for effecting the required interconnection and net metering approvals and agreements. Notwithstanding the foregoing, Host agrees to cooperate with Provider and use its best effort to assist Provider in obtaining all necessary permits, licenses and approvals in connection with the installation, operation and maintenance of the Projects, including but not limited to the submission of applications for interconnection of the Systems with the Utility and applications for the resale of excess power to the local utility. Upon request of Provider, Host shall execute all required interconnection and net metering applications and agreements, subject to Host's approval which shall not unreasonably be withheld. The Provider acknowledges that at all times Host is the sole owner and beneficiary of all net metering or similar credits or payments (not including incentives or rebates provided under the California Solar Initiative) for Energy Output exported to the electrical utility grid. Host shall provide such assistance to Provider at no cost to Host, and should Host for any reason incur any costs associated with such assistance, Provider shall reimburse Host for the full amount of such costs promptly upon receipt of written documentation of such costs from Host. Host shall not make any material changes to its electrical equipment at any Property after the date on which the applicable utility interconnection application is submitted unless any such changes, individually or in the aggregate, would not adversely affect the approval by such utility of such interconnection. Should the local electric utility or the local inspector fail to approve the interconnection of a System with respect to the applicable Property or require equipment in addition to the equipment contemplated by Provider in connection with such Property, Provider may terminate this Agreement immediately with respect to such System subsequent to notification from the local utility. The Parties shall not be obligated to proceed with the installation of any System if the applicable utility or inspector approvals are conditioned upon material upgrades to the existing electrical infrastructure and neither Party elects to provide for such upgrades.

5.4 Interconnection and Net Metering Agreements. Throughout the Term, following interconnection of each System, Host shall at all times comply with the customer requirements of all applicable interconnection and net metering agreements so as to maintain the effectiveness of such agreements for the resale of excess power to the Utility (so long as net metering has not been made unavailable by the Utility to the Host or to municipalities generally in the absence of individual net metering agreements). Neither Party shall perform any action that would result in the breach of the terms and conditions of such agreements. The

Provider acknowledges that at all times Host is the sole owner and beneficiary of all net metering or similar credits or payments for Energy Output exported to the electrical utility grid (not including incentives or rebates provided under the California Solar Initiative).

5.5 Host Cooperation and Responsibilities. Host will cooperate with Provider and any third parties with whom Provider contracts by providing access to each Property during working hours without unreasonable restrictions, subject to the requirements of Section 2.8 hereof. Host shall cooperate with Provider in obtaining and maintaining all permits and licenses required for Commercial Operation, provided there is no cost to Host. In connection with the construction of the Projects, Host shall have provided Provider (at no additional cost to Provider) with access to the utilities and communications services/infrastructure on the Premises as reasonably necessary to be used by Provider for the start-up, maintenance, repair, replacement and operation of the Projects, which utilities and communications services/infrastructure shall include access to onsite electricity, water, telephone and cellular signals. In addition, Provider shall have the right to install on the Premises, at its sole discretion and expense, equipment to enable wireless connection of each System to the internet at locations approved by the Host, in the Host's reasonable discretion.

(a) To the extent Provider uses any utilities and communications services/infrastructure, including access onsite electricity, water, and telecommunications capacity owned or paid for by Host during the installation of the Projects, or in substantial quantities during any repair or replacement of the Projects, Provider shall provide at its sole cost and expense metering facilities necessary to measure such utilities used or consumed by Provider and shall reimburse Host for the cost of such utilities.

5.6 Performance and Payment Bonds. Provider to shall deliver to Host evidence that the prime contractor performing the construction and installation services of the Systems maintains payment and performance bonding in favor of the Provider and meeting the following requirements. Such evidence shall be provided to the Host prior to the commencement of construction on any Property:

(a) Performance Bond. A bond issued by a corporate surety authorized to issue surety insurance in California, in a form commonly used for such purposes, in an amount equal to one hundred percent (100%) of the contract price payable under the contract securing the faithful performance of the contractor of its contract with Provider; and

(b) Payment Bond. A bond issued by a corporate surety authorized to issue surety insurance in California, in a form commonly used for such purposes, in an amount equal to one hundred percent (100%) of the contract price payable under the contract securing the payment of all claims for the performance of labor or services on, or the furnishing of materials for, the performance of the contract.

5.7 Prevailing Wages. This Project is subject to compliance with the prevailing wage provisions of the California Labor Code and the prevailing wage rate determinations of the Department of Industrial Relations. Provider shall comply, or cause to be complied, with all applicable provisions of the California Prevailing Wage Law, including the following:

(a) Wages.

(i) Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the Labor Code of California, the governing body of Host has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification, or type of workmen needed to execute the Agreement.

(ii) Per Diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided in Labor Code § 1773.1 apprenticeship or other training programs authorized by Labor Code § 3093, and similar purposes when the term "per diem wages" is used herein.

(iii) Each worker needed to execute the Work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements in accordance with Labor Code § 1773.1.

(iv) Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.

(v) Each worker in work on the System on Host's Property shall be paid not less than the prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between Provider, or any subcontractors of Provider, and such workers.

(vi) Provider shall, as a penalty to the Host, forfeit an amount as determined by the Labor Commissioner pursuant to Labor Code § 1775 for each calendar day, or portion thereof, for each worker paid less than the prevailing rate as determined by the director for such work or craft in which such worker is employed for any public work done under the contract by him or by any subcontractor under him. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Provider.

(vii) Copies of the determined prevailing wage rates are on file and available upon request at the Host's office. Host shall provide Provider with current prevailing wage rates, in writing. Provider shall post, or cause to be posted, at an appropriate conspicuous point on the Site, a schedule showing all determined general prevailing wage rates.

(viii) Any worker employed to perform work on the System which is not covered by any classification available in the Host office, shall be paid not less than the minimum rate of wages specified for the classification which most nearly corresponds with work to be performed by him, and that minimum wage rate shall be retroactive to the time of initial employment of the person in the classification.

(b) Record Of Wages Paid: Inspection. Pursuant to Labor Code § 1776, Provider stipulates to the following:

(i) Provider and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Project. Such records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information of such forms. The payroll records may consist of payroll data that are maintained as computer records, if printouts contain the same information as the forms provided by the division and the printouts are verified as specified in subdivision (a) of Labor Code § 1776.

(ii) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of Provider, or Provider's subcontractors, on the following basis:

(iii) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative.

(iv) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished to a representative of the Host, and to the Division of Labor Standards Enforcement, and Division of Apprenticeship Standards of the Department of Industrial Relations.

(v) A certified copy of all payroll records enumerated in subdivision (a) shall be made available to the public for inspection or copies thereof. However, a request by the public shall be made through either the Host, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to the above, the requesting party shall, prior to being provided the records, reimburse the costs of preparation by Provider, subcontractors, and the entity through which the request was made. The public shall not be given access to such records at the principal office of Provider or Provider's subcontractors.

(vi) Provider shall file, or caused to be filed, a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of the written request.

(vii) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, by the Host, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of Provider or subcontractors performing the work shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement

agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records.

(viii) Provider shall inform the Host of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five (5) working days, provide a notice of a change of location and address.

(ix) In the event of noncompliance with the requirements of this Section, Provider shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Provider must comply with this Section. Should noncompliance still be evident after such 10-day period, Provider shall pay a penalty in the amount prescribed by statute to the Host for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from the progress payment then due.

(x) The responsibility for compliance with this Section shall rest upon Provider.

(xi) Provider shall cause and ensure such payroll records shall be furnished directly to the Labor Commissioner in accordance with Labor Code § 1771.4(a)(3) and 8 California Code of Regulations § 16461(b) on a monthly basis (or more frequently if required by the Labor Commissioner) and in a format prescribed by the Labor Commissioner, and made available at all reasonable times at Provider's principal office to the persons authorized to inspect such records pursuant to Labor Code Section 1776.

(c) Hours Of Work.

(i) As provided in Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Provider stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by Provider or by the work or upon any part of the work contemplated by this contract is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed on the Host's Property by employees or subcontractors of Provider in excess of eight (8) hours per day and forty (40) hours during any one week upon this public work shall be permitted compensation of all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

(ii) Provider shall pay to the Host a penalty in the amount prescribed by statute for each worker employed in the execution of these Construction Provisions by Provider or by any Subcontractor for each calendar day during which such workman is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation to the worker so employed by Provider is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

(iii) Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to Host, unless otherwise agreed to by the parties.

(iv) Construction work under the Construction Provisions shall be accomplished on a schedule consistent with the normal and reasonable practices of Provider and in compliance with applicable ordinances.

(d) Apprentices.

(i) All apprentices employed by Provider to perform services under these Construction Provisions shall be paid the standard wage paid to apprentices under the regulation of the craft or trade at which that apprentice is employed, and shall be employed only at the work of the craft or trade in which that apprentice is registered. Only apprentices, as defined in Labor Code § 3077, who are in training under apprenticeship standards and written apprenticeship agreements under Chapter 4 (commencing at Section 3070), Division 3 of the Labor Code, are eligible to be employed under these Construction Provisions. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprenticeship agreements under which that apprentice is training.

(ii) When Provider to whom the work under these Construction Provisions is awarded by the Host or any Subcontractor under Provider, in performing any of the work under the Construction Provisions, employs workers in any apprenticeable craft or trade, Provider and Subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the Site of the public work, for a certificate approving Provider or Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. Provider or Subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade on the public work, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five (5) hours of labor performed by a journeyman, except as otherwise provided in Section 1777.5 of the Labor Code. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

(iii) “Apprenticeable craft or trade” as used in Labor Code § 1777.5 and this Article, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

(iv) Provider, or any Subcontractor which, in performing any of the work under this contract, employs journeymen or apprentices in any apprenticeable craft or trade and which is not contributing to a fund or funds to administer and conduct the apprenticeship programming of any craft or trade in the area of the Site of the public work, to which fund or

funds other Providers in the area of the Site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which that Provider employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as other Providers do, but where the trust fund administrators are unable to accept the funds, Providers not signatory to the trust agreement shall pay like amount to the California Apprenticeship Council. Provider or Subcontractor may add the amount of such contributions in computing their bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code § 227.

(v) The responsibility of compliance with Labor Code § 1777.5 and this Article for all apprenticeable occupations is with Provider.

(vi) The interpretation and enforcement of Sections 1777.5 and 1777.7 of the Labor Code shall be in accordance with the rules and procedures of the California Apprenticeship Council.

(e) Provider shall cause and ensure compliance with all DIR registration requirements in accordance with Labor Code sections 1725.5 and 1771.1 by all persons or firms providing or performing any work of construction, installation or modification of the systems under this Agreement. The foregoing includes, without limitation, compliance with DIR registration requirements at all times during performance of the work by the Provider and all of its subcontractors of any tier. Any subcontractors of any tier not properly registered with DIR shall be substituted in accordance with Labor Code section 1771.1.

5.8 Construction Conditions in EXHIBIT B. Provider shall comply with reimbursement obligations as described in EXHIBIT B - "Description of the Projects and Construction Conditions," either prior to commencement of construction or after completion, as applicable.

5.9 Safety Precautions and Programs. Provider shall ensure that its contractor and subcontractors performing work on the Easement Property comply with the following safety precautions.

(a) Provider's contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the construction and installation of the Systems, for maintaining all safety and health conditions on each site and for ensuring against and/or correcting any hazardous conditions on the site.

(b) The use of alcohol, drugs, or tobacco will not be permitted on Host property. All workers will present themselves with appropriate language, actions and work wear while on construction site.

(c) Provider's contractor shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents and overall jobsite safety for contractor/subcontractor employees and visitors.

5.10 Provider shall conduct testing of the System equivalent or superior to the CEC “Guide to Photovoltaic (PV) System Design and Installation” and coordinated with Host’s standards and requirements, as follows:

(a) String-level testing for all PV strings.

(b) Inverter testing for all inverters. The inverters will be commissioned on site by a qualified technician and will confirm that the inverter can be operated locally per specification and that automatic operations such as wake-up and sleep routines, power tracking and fault detection responses occur as specified.

(c) Testing of all System monitoring sensors.

(d) After Provider conducts all testing set forth above, Provider will submit a detailed test report to Host for review. The test report shall include all documentation of the Acceptance Testing and shall state all testing methods and methodologies used, any standards (such as ASTM and NFPA 70) used, all data collected, and complete analysis and results, as set forth below:

(e) Detailed test methods, including sample calculations and reference to standards as required or applicable, and list of tested equipment.

(f) Pre-test checklist to ensure readiness and any safety measures are in-place.

(g) Details of all necessary adjustments, balancing, required equipment isolation or configuration, test equipment and instruments, calibration, and personnel needed.

(b) The System is available for electricity generation for eight (8) continuous hours over five (5) consecutive days, using such instruments and meters as have been installed for making such assessment, and the System has been approved for interconnected operation by the Utility.

(a) Acceptance Criteria: For each test phase, specifically indicate what is considered an acceptable test result, the actual results of such testing indicate that the System is capable of generating electric energy for eight (8) continuous hours over five (5) consecutive days, using such instruments and meters as have been installed for such purposes, and the System has been approved for interconnected operation by the Local Electric Utility, then Provider shall send a written notice to Host to that effect in order to establish the Commercial Operation Date.

5.11 Conduct of Project Construction, Installation, Alteration, Operation, Repair, Maintenance and Removal. Throughout the Term of this Agreement, all work of construction, installation, alteration, operation, repair, maintenance and removal of the Projects shall conform with the following:

(a) Provider shall not leave debris under, in, or about the Property, but shall promptly remove same from the Property and dispose of it in a lawful manner.

(b) Provider shall remove rubbish and debris on a daily basis during the period of its activities at the Property.

(c) Provider shall provide fencing and/or demarcations around any shrubs or trees indicated to be preserved, sufficient to protect such foliage from substantial damage that might ordinarily occur during activities of the kind undertaken by Provider at the Property.

(d) Deliver personnel, tools, equipment and materials to the work area over route(s) reasonably designated by the Host, provided that Host ensures that Provider shall have all access rights necessary to use such designated routes.

(e) Confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits or the reasonable directions of the Host, not unreasonably encumber Property or overload any structure with materials, enforce all reasonable instructions of the Host regarding signs, advertising, fires, and smoking and require that all workers comply with all Host's regulations while on the Property.

(f) Upon completion activities on the Property, Provider shall remove temporary utilities, fencing, barricades, planking, sanitary facilities and all similar temporary facilities from Property.

(g) Provider shall remain solely liable to Host for all damages to Host's property caused or contributed to by Provider, its employees and/or agents and shall, upon written demand by District, restore all district property damaged by Provider, its employees and/or agents to substantially the condition in which it was prior to said damage occurring at the sole cost and expense of Provider.

5.12 Required Certifications. Provider shall, prior to commencement of any installation or construction of the Project, provide to Host, or cause to be provided to Host, all certifications attached hereto in Exhibit H. Provider hereby represents and warrants that all Certifications are true and correct, and that Provider shall, at all times, conform to the representations and requirements set forth therein as though fully set forth herein.

5.13 System Relocation. If Provider is unable to operate a System indefinitely or for any prolonged period of time, due to factors caused by the Host, including, but not limited to, Host-required shut off or decommissioning of a System or Systems, then Provider may relocate such System and install it, in its sole and absolute discretion, at mutually agreed upon site. Relocation costs shall be borne entirely by Host, and shall include Lost Revenues, the actual costs of relocation, including the repair of the vacated portion of the Property, design, engineering and installation of the System at a new location, permitting costs, if any, the costs of interconnection and any fees related to the installation and the Parties' entering into a new license agreement, as well as reimbursement to Provider for the loss of any and all tax benefits and Environmental Financial Attributes associated with the applicable System. Host's obligation to reimburse Provider for the loss of such tax benefits and Environmental Financial Attributes shall not be affected by any change in the person claiming the tax benefit or

Environmental Financial Attributes. Such costs shall be agreed upon in writing by the Parties prior to relocation, and both Parties shall use commercially reasonable efforts, if at all possible, to mitigate any such costs or losses of benefits during the relocation. If the Parties cannot agree on the terms of such relocation, Provider shall have no obligation to remove and/or decommission the System and Host shall be responsible for Lost Revenues, associated with the affected System or Systems. Any relocation shall effectively amend EXHIBIT B of this Agreement. "Lost Revenues" in this context means the Energy payment that the Provider would have received over the entire period of time of such loss were it not for the System shut-off, decommissioning or relocation as calculated using energy stimulation software selected by Provider using actual (a) solar insolation, (b) ambient air temperature, and (c) wind speed as measured by the data acquisition systems, and with all other model inputs typically used in calculating energy forecasts based on the final System design (as determined pursuant to the final permitted designs and drawings for the applicable Project, which energy forecast shall be confirmed and adjusted as necessary at the time of System commissioning). For the avoidance of doubt, Host's reimbursement conditions as set forth in this Section 5.13 do not in any way derogate from Host's obligations or Provider's rights and remedies for (a) Host's default or breach under this Agreement or (b) Provider's Lost Revenues.

Article VI

OWNERSHIP; MAINTENANCE OF PROJECT AND REPORTING REQUIREMENTS

6.1 Ownership of Projects by Provider.

(a) Provider shall own each Project, and shall be entitled to own, claim, retain and transfer any and all federal, state, or local Environmental Financial Attributes associated with the ownership of each System, including any federal income tax credits or grants, as well as any and all state or local incentives, credits or grants for the installation of solar energy facilities or the production of electricity from renewable energy sources, other than credits or payments for Energy Output exported to the electrical utility grid, including those described in any net metering or similar agreements, which shall remain the sole and exclusive property of Host.

(b) Host and Provider agree that each Project shall at all times be the personal property of Provider severable from the applicable Property and shall not become a fixture on such Property. Host shall not take any position on any tax return or on any other filings indicating or suggesting that it is anything other than a purchaser and user of electricity from the Projects. Host will at all times keep each Property free from any legal process or lien attributable to any act or omission of Host, and will give Provider immediate notice if any legal process or lien is asserted or made against a Project or against Host where a Project or any Property may be subject to any lien, attachment or seizure by any Person. If Host breaches its obligations under this Section 6.1(b), it shall promptly cause such liens to be bonded, discharged and released of record without cost to Provider, and shall indemnify Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in bonding, discharging and releasing such liens.

(c) Notwithstanding Sections 6.1(a), 6.1(b) and 17.2, Provider may finance any Project by means of a sale-leaseback financing, pursuant to which one or more third party

investors (directly or indirectly via a trust or another special purpose entity) will own such Project and lease it back to Provider.

(d) Host further covenants that with respect to any liens, security interests or other encumbrances to Host's title to any Property that may impact the Easements and/or a Project, Host shall enter into a subordination and non-disturbance agreement ("SNDA"), in recordable form approved by Provider (such approval not to be unreasonably withheld by Provider), with any third party who now has or may in the future obtain an interest in the Property (as defined in the applicable Easement Agreement), including, without limitation, any lenders to Host, Host's landlord or any lenders to the fee title owner, as applicable. Such SNDA shall (i) acknowledge and consent to the Provider's rights in the Easement Agreement, (ii) acknowledge that such third party has no interest in the Projects or Easements and shall not gain any interest in the Projects or Easements by virtue of the Parties' performance or breach of the Easement Agreement, (iii) subordinate such third party's interest in Property to the Easements and the Easement Agreement, (iv) acknowledge that Provider's rights in the Property granted under the Easement Agreement shall run with such Property throughout the term of such Easement Agreement, notwithstanding any sale, lease, transfer, assignment, mortgage, pledge or other alienation or encumbrance by such third party of the Property and (v) provided that so long as Provider shall not be in default under the Easement Agreement beyond the expiration of any applicable grace or cure period provided for thereunder, Provider's right of peaceable and quiet use and enjoyment of the Property pursuant to the Easements therein granted by Host shall not be disturbed by such third party.

6.2 Easement Agreements. Pursuant to the terms and conditions of the Easement Agreements, the Parties acknowledge and agree that with respect to each Project, Host is granting Provider certain easement and license rights over the portion of the Property upon which the Projects are located.

6.3 Maintenance of Projects by Provider and Host.

(a) Provider, at its own cost and expense, shall maintain each Project in good condition and repair in accordance with applicable contractor, subcontractor and vendor warranties and guarantees and manufacturer's instructions and specifications, all Applicable Laws and applicable standards with respect to the Projects, and the terms of this Agreement. In the event that criminal acts of third parties cause damage to a Project, Provider shall only be obliged to repair or replace such Project if such damage is material.

(b) Subject to subject to the requirements of Section 2.8 hereof, Provider and its agents, consultants, and representatives shall have access at all reasonable times (including under emergency conditions) to each Property and each Project, all Project operations, and any documents, materials and records and accounts relating thereto for purposes of inspection and maintenance of the Projects. During any inspection or maintenance of the Projects, Provider, and its agents, consultants and representatives shall comply with Host's reasonable safety and security procedures, and Provider and its agents, consultants and representatives shall conduct such inspection and maintenance in such a manner as to cause minimum interference with Host's activities and the activities of Host's tenants. Prior to entry onto a Property for

inspection and maintenance, Provider and its agents, consultants and representatives shall notify the site administrator.

6.4 Vandalism and Theft. Notwithstanding the foregoing, after the Commercial Operation of a Project, Host shall conduct routine visual observations of the Projects and shall notify Provider of any apparent theft, damage or vandalism to the Projects, including graffiti within two (2) business days of any such discovery.

(a) Host shall have the right, but no obligation to remove all graffiti and “tagging” of the following components of the Projects; provided, however, that Provider shall supply all paint that is reasonably required to remove graffiti from such Project components: columns, beams, purlins, steel racking, panel boxes, protection barriers and skirts located underneath solar modules, canopy bollards and other equipment hanging from columns.

(b) Provider shall be solely responsible for, and shall have the exclusive right to remove graffiti and “tagging” of the following components of the Project: inverters, combiner boxes, solar modules and all other electrical equipment having access to live disconnect switches from enclosures.

6.5 Safety and Security.

(a) Provider shall take all reasonably necessary safety precautions in providing the Energy Output and shall comply in all material respects with all Applicable Laws pertaining to the safety of persons and real and personal property.

(b) Host shall provide and take those measures related to the security and protection of the Projects only to the extent otherwise provided by Host in relation to its own property.

(c) Provider shall in its sole discretion be permitted, but not required, to install and operate security measures including, but not limited to, security surveillance, and non-injurious fencing around ground-mounted arrays, security and safety signage and safety billboards.

(d) Host shall fully cooperate with any efforts of Provider to educate teachers, parents and students regarding the safety and security of the Projects.

6.6 Emergency Response Planning. If requested by Provider, Host agrees to reasonably cooperate with Provider to establish an emergency response protocol in the event of any naturally or non-naturally occurring emergency situation (e.g. earthquake, flood, fire, bomb threat, public demonstration, state and federal declared emergencies) directly affecting the operation of the Projects or the Property.

Article VII

METERING DEVICES AND METERING

7.1 Metering Equipment. A Metering Device shall be installed for each System, and the Provider shall provide, install, own, operate and maintain the Metering Devices. Upon request, Host shall be entitled to direct and continuous electronic access to the software

platform of Metering Device which provides energy production data relating to the Systems for purposes of tying such data into the District's energy management system.

7.2 Measurements. Readings of any Metering Device shall be conclusive as to the amount of Energy Output; provided that if a Metering Device is out of service, is discovered to be inaccurate pursuant to Section 7.3, or registers inaccurately, measurement of Energy Output shall be determined in the following sequence: first, by estimating Energy Output during periods when such Metering Device was registering inaccurately by obtaining the product of (i) the average ratio of kWh of Energy Output per System generating capacity (measured in kW) of each other System whose Metering Device was in service and registering accurately during such period multiplied by (ii) the System generating capacity (measured in kW) of the System whose Metering Device was registering inaccurately, subject to reduction for any portion of the affected System not operating normally in accordance with the basis of design as such Systems are completed at time of the applicable Commercial Operation Date; and, second, applying such estimated Energy Output (a) for the actual period during which inaccurate measurements were made or (b) if no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, to an assumed period equal to one-half of the period from the date of the last previous test of such Metering Device through the date the inaccuracy was identified and corrected; provided, however, that, in the case of clause (b), the period covered by the correction under this Section 7.2 shall not exceed six (6) months.

7.3 Standard of Metering Device Accuracy; Resolution of Disputes as to Accuracy. The following steps shall be taken to resolve any disputes regarding the accuracy of a Metering Device:

(a) The Energy Output will be measured by commercial grade metering equipment provided and installed as part of the System.

(b) If either Party disputes the accuracy or condition of such Metering Device, such Party shall so advise the other Party in writing.

(c) Provider shall, within fifteen (15) Business Days after receiving such notice from Host or issuing such notice to Host, advise Host in writing as to Provider's position concerning the accuracy of such Metering Device and Provider's reasons for taking such position.

(d) If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may request a test of such Metering Device.

(e) If such Metering Device is found to be inaccurate by not more than two percent (2%), any previous recordings of such Metering Device shall be deemed accurate, and the Party disputing the accuracy or condition of such Metering Device under Section 7.3(a) shall bear the cost of inspection and testing of such Metering Device.

(f) If such Metering Device is found to be inaccurate by more than two percent (2%) or if such Metering Device is for any reason out of service or fails to register, then (i) Provider shall promptly cause such Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, and (ii) the Parties shall estimate the correct

amounts of Energy delivered during the periods affected by such inaccuracy, service outage or failure to register as provided in Section 7.2. If as a result of such adjustment the quantity of Energy Output for any period is decreased (such quantity, the "Energy Deficiency Quantity"), Provider shall reimburse Host for the amount paid by Host in consideration for the Energy Deficiency Quantity, and shall bear the cost of inspection and testing of such Metering Device. If as a result of such adjustment the quantity of Energy Output for any period is increased (such quantity, the "Energy Surplus Quantity"), Host shall pay for the Energy Surplus Quantity at the Energy Payment Rate applicable during the applicable Contract Year, and shall bear the cost of inspection and testing of such Metering Device.

Article VIII

LOSS, DAMAGE OR DESTRUCTION OF SYSTEM; INSURANCE; FORCE MAJEURE

8.1 System Loss.

(a) Provider shall bear the risk of any System Loss on each Property. Provider shall provide and maintain insurance against any System Loss, including business interruption insurance, in an amount not less than the System Loss Amount, with the loss payable to Provider.

(b) In the event of any System Loss that is less than total destruction or loss of any System, as defined under Section 8.1(c), this Agreement will remain in full force and effect and Provider shall, at Provider's sole cost and expense, repair or replace the Systems as quickly as practicable to the original Nameplate Capacity at time of the Commercial Operation Date. Provider shall be entitled to all proceeds of insurance with respect to damage to or loss of the Systems; provided, however, that proceeds paid on account of damage to the Property shall be paid to Host.

(c) Total Damage or Destruction.

(i) In the event of any System Loss that, in the reasonable judgment of Provider, results in damage, destruction or loss of (A) all or substantially all of any Project, (B) such magnitude that the cost to rebuild such Project would result in material economic impact to Provider, or (C) such magnitude that Provider's financing parties will not permit the use of insurance proceeds for the purpose of rebuilding the relevant Project(s), Provider shall, within twenty (20) Business Days following the occurrence of such System Loss, notify Host whether Provider is willing, notwithstanding such System Loss, to repair or replace the Projects subject to such total System Loss.

(ii) In the event that Provider notifies Host that Provider is not willing to repair or replace any Project subject to such System Loss, as described in Section 8.1(c)(i), (A) this Agreement will terminate with respect to such Systems, automatically effective upon the delivery of such notice, (B) from and after the date of delivery of such notice, each such System shall no longer constitute part of the Project Portfolio for all purposes hereunder and the aggregate payments with respect to the Project Portfolio under EXHIBIT D and EXHIBIT E shall be correspondingly reduced, (C) Provider shall, at Provider's sole cost and expense, remove each such Project from the Property as provided in Section 2.5, and (D) Provider shall

be entitled to all proceeds of insurance with respect to damage to or loss of the Systems, provided, however, that proceeds paid on account of damage to the Property shall be paid to Host.

8.2 Insurance. Provider shall procure and maintain the following types of insurance at Provider's sole expense for the duration of this Agreement, including any extensions, renewals, or holding over thereof, from insurance companies that are admitted to write insurance in the State of California or from authorized non-admitted insurers that have ratings of or equivalent to an A:VIII by A.M. Best Company:

(a) Commercial general liability insurance equivalent in coverage scope to ISO form CG 00 01 11 85 or 10 93 in an amount not less than Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in aggregate. Such coverage shall include but is not limited to broad form contractual liability coverage, cross liability protection, and products and completed operations. The City of Long Beach, its officials, employees, and agents shall be added as additional insureds by endorsement equivalent in coverage scope to ISO form CG 20 26 11 85 and such endorsement shall protect the City, its officials, employees, and agents from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out activities performed by or on behalf of the Provider or from this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, and agents.

(b) Commercial automobile liability insurance equivalent in scope to ISO form CA 00 01 06 92 covering symbol 1 (Any Auto) in an amount not less than One Million Dollars (\$1,000,000) combined single limit.

(c) Special perils "All Risk" property insurance in an amount sufficient to cover the full replacement value of Provider's personal property, improvements and equipment on the premises associated with this Agreement. With respect to damage to property, Host and Provider hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial insurance is available for said damage.

(d) Special perils "All Risk" property insurance in an amount sufficient to cover the full replacement value of Provider's Systems, including business interruption coverage for a period of up to twelve months, on the premises associated with this Agreement. With respect to damage to property, Host and Provider hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial insurance is available for said damage. With respect to this coverage, Host and Provider shall be loss payees as their interests may appear.

(e) Workers' compensation insurance as required by the State of California and, if workers' compensation is required, employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident or occupational illness. Provider agrees to obtain and furnish evidence to City of the waiver of Provider's workers' compensation insurance carrier of any right of subrogation against the City.

(f) Subcontractor Requirements. Require its subcontractors conduction work on any of the Property, including, but not limited to, its contractors and all tiers of subcontractors, if allowed, to procure and maintain the preceding types of insurance at subcontractor's sole expense for the duration of the construction, installation and any on-site maintenance, including any extensions, renewals, or holding over thereof, from insurance companies that are admitted to write insurance in the State of California or from authorized non-admitted insurers that have ratings of or equivalent to an A:VIII by A.M. Best Company:

(i) Commercial general liability insurance (equivalent in coverage scope to ISO form CG 00 01 11 85 or 11 88) in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in aggregate. Such coverage shall include but is not limited to broad form contractual liability coverage, cross liability protection, and products and completed operations coverage. The City of Long Beach, its officials, employees, and agents shall be added as additional insureds by endorsement (equivalent in coverage scope to ISO form CG 20 26 11 85) and such endorsement shall protect the City, its officials, employees, and agents from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out activities performed by or on behalf of the contractor or subcontractor or from this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, and agents.

(ii) Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92) covering symbol 1 (Any Auto) in an amount not less than One Million Dollars (\$1,000,000) combined single limit.

(iii) Professional liability or errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000) covering the work of any person or organization providing architectural, consulting, engineering, environmental, landscape architectural, surveying, real estate, soils engineering, or other professional services.

(iv) All Risk property insurance in an amount sufficient to cover the full replacement value of contractor's or subcontractor's personal property, improvements and equipment on the Property.

(v) Workers' compensation insurance required by the State of California and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident.

(g) Any self-insurance program or self-insured retention must be approved separately in writing by Host and shall protect the City of Long Beach, its officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention provisions.

(h) Each insurance policy shall be endorsed to state that coverage shall not be cancelled, nonrenewed or changed by either party except after thirty (30) days prior written notice to Host and shall be primary to Host. Any insurance or self-insurance maintained by

Host shall be excess to and shall not contribute to insurance or self-insurance maintained by Provider.

(i) Provider shall deliver to Host certificates of insurance and the required endorsements for approval as to sufficiency and form prior to commencement of this Agreement. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. Provider shall, at least thirty (30) days prior to expiration of such policies, furnish Host with evidence of renewals. Host reserves the right to require complete certified copies of all said policies at any time.

(j) Such insurance as required herein shall not be deemed to limit Provider's liability relating to performance under this Agreement. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this Agreement. Provider understands and agrees that, notwithstanding any insurance, Provider's obligation to defend, indemnify, and hold Host, its officials, agents, and employees harmless hereunder is for the full and total amount of any damage, injuries, loss, expense, costs, or liabilities caused by the condition of the Systems or in any manner connected with or attributed to the acts or omissions of Provider, its officers, agents, contractors, employees, subcontractors, licensees, vendors, patrons, or visitors, or the operations conducted by or on behalf of Provider, or the Provider's use, misuse, or neglect of the Project.

(k) Not more frequently than every three (3) years, if in the opinion of Host the amount of the foregoing insurance coverages is not adequate, Provider shall amend the insurance coverage as reasonable required by Host's Risk Manager or designee.

(l) Any modification or waiver of the insurance requirements herein shall be made only with the written approval of the Host's Risk Manager or designee.

(m) Provider shall maintain or caused to be maintain "all risk" property insurance covering each of the Projects during all periods (construction and operation) that Provider is the beneficial owner of such Projects. Provider agrees to waive subrogation in favor of Host and its affiliates under the "all-risk" property insurance policy being maintained pursuant to this provision.

(n) All insurance required hereunder shall waive the insurer's right of subrogation. The provisions of this Agreement shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies. The liability of the Parties shall not be limited by insurance.

8.3 Performance Excused by Force Majeure.

(a) Excused Performance. Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with the Agreement (other than the failure to pay amounts due hereunder), if and to the extent that such delay or failure is attributable to the occurrence of Force Majeure; provided that the Party claiming relief under this Section shall (i) immediately

notify the other Party in writing of the existence of the Force Majeure, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) Termination in Consequence of Force Majeure Event. If an event of Force Majeure shall have occurred with respect to a Project that has affected Provider's performance of its obligations hereunder and that has continued for a continuous period of ninety (90) days, then Provider shall have the right to terminate this Agreement with respect to such Project upon thirty (30) days' prior written notice to Host. Upon such termination for Force Majeure, neither Party shall have any liability to the other with respect to such Project (other than any such liabilities that have accrued prior to such termination), and the provisions of Article IX (Events of Default; Remedies) shall be inapplicable to such Project.

Article IX

EVENTS OF DEFAULT; REMEDIES

9.1 Events of Default. An "Event of Default" means, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(a) (a) the failure to make, when due, any payment required under this Agreement if such failure is not remedied within thirty (30) calendar days after written notice for all other payments; or

(b) Host, through conduct inconsistent with this Agreement, materially interferes with the operation or energy production of the System(s), including but not limited to any interference or interruption which results in the decommissioning of any System or any component thereof; or

(c) Host breaches or fails to maintain any applicable interconnection or net metering agreement between Host and the Utility; or

(d) such Party becomes Bankrupt; or

(e) such Party fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within ten (10) Business Days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party; or

(f) Host makes a transfer of the applicable Property without prior written notice to Provider, such Host transferee does not agree to be bound by the terms of the relevant Easement Agreement and this Agreement, or both;

(g) Any event of default by Host under any Easement Agreement, which is not cured within the applicable cure period as set forth in the Easement Agreement;

(h) Provider fails to maintain or repair the System in the event such maintenance or repair of the System is required to prevent injury or death to persons on Host's Property.

9.2 Remedies for Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing, the other Party (the “Non-Defaulting Party”) will, without (except as otherwise provided in Section 9.3) limiting the rights or remedies available to the Non-Defaulting Party under this Agreement or Applicable Law, have the right:

(a) by notice to the Defaulting Party, to designate a date, not later than thirty (30) Business Days after the date such notice is effective, as an early termination date (“Early Termination Date”) in respect of this Agreement;

(b) to withhold any payments due to the Defaulting Party under this Agreement; and

(c) to suspend performance due to the Defaulting Party under this Agreement, subject to the requirements of the consent executed pursuant to Section 17.2(b). In the event that the Non-Defaulting Party designates an Early Termination Date, this Agreement will terminate as of the Early Termination Date, unless the Event of Default has been cured prior to that date or the Defaulting Party is undertaking, and for only so long as the Defaulting Party continues to take, diligent efforts reasonably likely to cure such Default.

9.3 Host Removal Rights Upon Termination for Default. In the event that Host is the Non-Defaulting Party, and that Host elects to terminate this Agreement as provided in Section 9.2, Host will be entitled, in its sole and absolute discretion to require that Provider remove the Systems as provided in Section 2.5 (or Host may remove and have stored the Projects at Provider’s sole cost and expense if Provider fails to remove the Projects within one hundred and eighty (180) calendar days after the Early Termination Date; however, in any event that the Project is stored by Host and Provider fails to take possession of the stored Project or fails to reimburse Host the cost of storage prior to taking possession of the stored Project, Host shall be entitled to sell, by any reasonable method, such portions of the stored Project necessary to defray the cost of storage, and apply such proceeds to the cost of storage);

Host’s election of the remedy provided in this Section 9.3 is not intended to be exclusive and does not prevent Host from seeking any damages and remedies at law or in equity, subject to Section 9.8 below.

9.4 Provider Removal Rights Upon Termination for Default. In the event that Provider is the Non-Defaulting Party, and Provider elects to terminate this Agreement as provided in Section 9.2, Provider will be entitled to remove the Projects at Provider’s sole cost and expense. Provider’s election of the remedy provided in this Section 9.4 is not intended to be exclusive and does not prevent Provider from seeking any damages and remedies at law or in equity, subject to Section 9.8 below.

9.5 Termination Payment for Host’s Default. In addition to the exercise of any and all other remedies available under this Agreement or under Applicable Law upon termination of this Agreement as a result of an Event of Default by Host, Host shall be required to pay to Provider (i) any amount owed by Host to Provider for Energy Output delivered prior to the Early Termination Date, and (ii) as liquidated damages, the Termination Value set forth in

EXHIBIT F for the year in which the Early Termination Date occurs (“Host Termination Payment”). The Parties agree and acknowledge that given the complexity of the technology used by the Projects and the volatility of energy markets, actual damages to Provider would be difficult if not impossible to ascertain, and the Termination Value is a reasonable approximation of the damages suffered by Provider as a result of early termination of this Agreement. Within forty-five (45) calendar days of written demand by Provider to Host of amounts due under this Section 9.5, Host shall pay to Provider in immediately available funds the Host Termination Payment calculated in accordance with this Section 9.5. For the avoidance of doubt, upon Host’s payment of the Host Termination Payment to Provider, Host shall not acquire title to the System Assets, and except as set forth herein, both Parties’ obligations under this Agreement shall terminate immediately.

9.6 Closeout Setoffs. Upon the termination of this Agreement in its entirety and the termination of all the Easement Agreements, either Party will be entitled, at its option and in its discretion, to set off, against any amounts due and owing from the other Party under this Agreement or the Easement Agreements, any amounts due and owing from the other Party under this Agreement, or the Easement Agreements.

9.7 Remedies Cumulative. Except as provided in Sections 9.3 and 9.4, the rights and remedies contained in this Article IX are cumulative with the other rights and remedies available under this Agreement or at law or in equity.

9.8 Limitation on Liability. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE DEFAULTING PARTY’S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL OR INDIRECT DAMAGES EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO THIRD PARTY CLAIMS, AND SHALL NOT LIMIT THE INDEMNITY OBLIGATIONS OF THE PARTIES HEREUNDER.

Article X

INVOICING AND PAYMENT

10.1 Invoicing and Payment. Commencing on the first month after the Commercial Operation Date of the first System of the Project Portfolio, Provider shall submit an invoice for payment for Energy Output to Host on the first day of each month during the Term. All invoices under this Agreement will be due and payable not later than thirty (30) calendar days after receipt of the applicable invoice (or on the next Business Day). Host shall make payment to any account designated in writing by Provider.

10.2 Taxes. Each Party shall be responsible for the timely payment of all taxes (including, without limitation, any and all transfer taxes) imposed on that Party by law and arising out of or in connection with this Agreement. However, Host shall be responsible for the payment of any applicable transfer taxes arising upon the sale or transfer, if any, of ownership

of the Systems to Host pursuant to this Agreement. For the avoidance of doubt, and notwithstanding any term to the contrary in this Agreement, Provider will pay and be responsible for any sales or use tax imposed with respect to Provider's acquisition, installation and ownership of the Projects. Provider shall not be liable for any real property taxes or assessments associated with the Property, including any increased taxes or assessments on the Property caused by the presence of the Projects, or any taxes payable by or assessed against Host based on or related to Host's income or revenues. Host shall be responsible to pay any sales, use, excise, transfer and other similar taxes or assessments levied on the sale or deliveries of the Solar Services hereunder (regardless of whether such taxes or assessments are imposed on Provider or Host), together with any interest, penalties or additions to tax payable with respect to such taxes or assessments.

10.3 Late Payments. All undisputed amounts hereunder shall be paid by Host without set-off or deduction, other than as described under Section 9.6 hereof.

10.4 Disputed Amounts. Within thirty (30) days after receipt of any invoice, Host may provide written notice to Provider of any alleged error therein. Host shall timely pay all amounts not disputed in good faith, including the undisputed portion of any invoice, in accordance with Section 10.1. If Provider notifies Host in writing within 30 days of receipt of such notice that Provider disagrees with the allegation of error in the invoice, the Parties shall meet, by telephone conference call or otherwise, within ten days of Host's response for the purpose of attempting to resolve the dispute. If the Parties fail to resolve the dispute within 30 days after such initial meeting, such dispute shall be resolved pursuant to Article XV.

10.5 Records and Audits. Each Party will keep, for a period not less than three (3) years after the expiration or termination of any Transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such Transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to Transactions during such other Party's normal business hours.

Article XI

REPRESENTATIONS AND WARRANTIES; BUYER ACKNOWLEDGEMENT

11.1 Host Representations and Warranties. Host hereby represents and warrants to Provider that:

(a) It is a municipal corporation, duly organized, validly existing and in good standing under the laws of the State of California; that it has the power and authority to enter into and perform this Agreement; and that the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action. Host covenants that during the Term it shall remain a duly organized and validly existing legal entity with authority to conduct business in the State of California and shall have the power and authority to perform this Agreement; and

(b) There is (i) no pending, or to its knowledge, threatened, legal action or proceedings that could materially adversely affect its ability to perform its obligations under

this Agreement or Provider's right to construct, own, operate and maintain any Project, and (ii) no environmental liability, environmental claim, or to its knowledge, potential or threatened environmental claim, asserted or threatened, against any Property which would adversely affect Host's ability to perform under this Agreement or Provider's rights to construct, own, operate and maintain any System; and

(c) The execution, delivery and performance of this Agreement by Host will not result in a breach of, default under or violation of any Applicable Law, or the provisions of any authorization or in a breach of, default under or violation of any provision of its articles of incorporation or bylaws or any promissory note, indenture or any evidence of indebtedness or security therefore, material lease, material contract or other material agreement by which it or its property is bound; and

(d) To the best knowledge of the Host, as of the date hereof, no governmental approval or consent is required in connection with the due authorization, execution and delivery of this Agreement or the performance of the Host of its obligations hereunder which the Host has reason to believe that it will be unable to obtain in due course on or before the date required for Host to perform such obligations; and

(e) This Agreement constitutes a legal, valid and binding obligation enforceable against Host in accordance with its terms, except as the enforceability of such terms may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditor's rights generally; and

(f) It has not entered into any contracts or agreements with any other person regarding the provision of services at the Property contemplated to be provided by Provider under this Agreement; and

(g) It is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement and has made its own independent decision to enter into this Agreement; and

(h) It understands that the Provider is not acting as a fiduciary for or an adviser to it or its Affiliates; and

(i) That the various charges and fees contained in this Agreement are the result of arms' length transactions on the date of the execution and delivery of this Agreement; and

(j) Its real property interest in the Property is sufficient to carry it through the Term; and

(k) Subject to any Property for which Host shall obtain an SNDA in accordance with Section 6.1(b), Host further represents and warrants that there are no liens, security interests, claims and other encumbrances existing on any Property which would adversely affect Provider's rights to construct, own, operate and maintain the Systems on such Property and to perform its obligations under this Agreement; and

(l) None of the electricity to be generated by the Systems will be used to generate energy for the purpose of heating a swimming pool.

(m) (m) It has made all necessary findings in accordance with California Government Code Section 4217.12.

(n) The audited financial statements of the Host of the past three fiscal years, (i) were prepared in accordance with generally accepted accounting principles consistently applied throughout the respective periods covered thereby, except as otherwise expressly noted therein, and (ii) present fairly the financial condition of Host as of the dates thereof and results of its operations for the period covered thereby. Host further represents and warrants to Provider that (1) since the date of the most recent of the above-referenced audited financial statements, there has been no material adverse change in Host's financial condition and (2) Host shall provide its audited financial statements annually to Provider within thirty (30) days of completion.

11.2 Provider Representations and Warranties. Provider hereby represents and warrants to Host that:

(a) It is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Delaware, that it has the power and authority to enter into and perform this Agreement, and that the execution, delivery and performance of this Agreement has been duly authorized by all necessary limited liability company action on its part. Further, Provider covenants that during the Term it shall remain a duly organized and validly existing legal entity with authority to conduct business in the State of California and shall have the power and authority to perform this Agreement; and

(b) No suit, action, arbitration, legal, administrative or other proceeding is pending or, to the best of Provider's knowledge, has been threatened against Provider that would affect the validity or enforceability of this Agreement or the ability of Provider to fulfill its commitments hereunder, or that would, if adversely determined have a material adverse effect on Provider's performance of this Agreement; and

(c) The execution, delivery and performance of this Agreement by Provider will not result in a breach of, default under or violation of any Applicable Law, or the provisions of any authorization or a breach of, default under or violation of any provision of its certificate of formation or other organizational documents or any promissory note, indenture or any evidence of indebtedness or security therefore, material lease, material contract or other material agreement by which it or its property is bound; and

(d) This Agreement constitutes a legal, valid and binding obligation enforceable against Provider in accordance with its terms, except as the enforcement of such terms may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforceability of creditor's rights generally; and

(e) It is not an electrical public utility or electrical corporation as defined by Cal. Pub. Util. Code § 218(b).

11.3 Host Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366. Host acknowledges and agrees that, for purposes of this Agreement, Provider is not a “utility” as such term is used in Section 366 of the Bankruptcy Code, and Host agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Host is a debtor.

Article XII INDEMNITY

12.1 Indemnity.

(a) **Indemnification of Host by Provider.** Provider shall defend, indemnify and hold harmless Host and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from third party claims for death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from Provider’s performance under this Agreement. As part of this indemnity, Provider shall protect and defend, at its own expense, Host and their officers, employees, agents and independent contractors from any legal action including attorneys fees or other proceeding based upon such act, omission, breach or as otherwise required by this Section. Furthermore, Provider agrees to and does hereby defend, indemnify and hold harmless Host and their officers, employees, agents and independent contractors from every third party claim or demand made, and every liability, loss, damage, expense or attorneys fees of any nature whatsoever arising out of a third party claim or demand, which may be incurred by reason of:

(i) Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or this Agreement including but not limited to applicable requirements of the Americans with Disabilities Act (ADA), federal and state labor requirements (e.g., California Labor Code Section 1770 et seq.); or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with Provider’s conduct arising from or related to this Agreement, except for liability resulting from the sole or active negligence or the willful misconduct of Host.

(ii) Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Provider or any person, firm or corporation employed by Provider, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, arising out of or in any way connected with Provider’s conduct arising from or related to this Agreement, whether said injury or damage occurs either on or off Host property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of Host.

(iii) Any dispute between Provider and Provider’ subcontractors/ supplies/ sureties, including, but not limited to, any failure or alleged failure of the Provider (or any person hired or employed directly or indirectly by the Provider) to pay any subcontractor or

materialman of any tier or any other person employed in connection with Provider's conduct arising from or related to and/or filing of any stop notice or mechanic's lien claims.

(b) Provider, at its own expense, cost, and risk, shall defend (with counsel of Provider's selection, subject to approval and acceptance by Host, which acceptance and approval shall not unreasonably be withheld) any and all claims, actions, suits, or other proceedings that may be brought or instituted against Host, its officers, agents or employees, on account of or founded upon any cause, damage, or injury identified in this Section and shall pay or satisfy any judgment that may be rendered against Host, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

Article XIII **SYSTEM PURCHASE AND SALE OPTIONS**

13.1 Grant of Purchase Option. Provider hereby grants Host the right and option to purchase all of Provider's right, title and interest in and to (a) the total System Assets comprising the entire Project Portfolio (the "Project Portfolio Purchase Option") or (b) the System Assets comprising the System to be located at the City Place Lot C location separately (such System, the "Separate System," such purchase option, the "Separate System Purchase Option," and each of the Project Portfolio Purchase Option and the Separate System Purchase Option, a "Purchase Option"), on the terms set forth in this Article XIII. A Purchase Option shall be irrevocable by Provider, and may be exercised by Host in accordance with this Agreement.

(a) Purchase Option Upon Expiration of Term. Host may elect to exercise either Purchase Option at the conclusion of the Term by providing written notice to Provider of its intent to exercise the Purchase Option no later than one hundred eighty (180) calendar days prior to the end of the Term.

(b) Purchase Option Prior to Expiration of Term. Host may elect to exercise either Purchase Option on or after the 7th, 10th and 15th anniversary of the Commercial Operation Date of the last System of the Project Portfolio, and only at any time during such applicable year, by providing written notice to Provider of its intent to exercise the Purchase Option on any day within such year, provided that no uncured Event of Default by Host shall have occurred.

13.2 Calculation of Purchase Price. The purchase price (the "Purchase Price") payable by Host for the applicable System Assets under a Purchase Option shall be the greatest of (a) the aggregate Fair Market Value of all such System Assets as agreed between the Parties (or if no agreement, as is determined by the Independent Appraiser), and (b) the applicable Termination Value set forth in EXHIBIT F for the year in which the Purchase Price is to be paid.

13.3 Determination of Fair Market Value by Mutual Agreement of Parties. Within the first thirty (30) Business Days following the date of Provider's receipt of notice to exercise the Purchase Option, the Parties shall meet and utilize their best efforts to agree upon the Fair Market Value of the applicable System Assets. If the Parties are unable to agree upon such

Fair Market Value during this thirty (30) Business Day period, the Parties shall select an Independent Appraiser in accordance with Section 13.4.

13.4 Selection of Independent Appraiser. Within twenty (20) calendar days of the Parties' failure to establish fair market value pursuant to Section 13.3, Provider and Host shall mutually agree upon the selection of an Independent Appraiser. If Provider and Host do not agree upon the appointment of an Independent Appraiser within such twenty (20) Business Day period, then at the end of such twenty (20) Business Day period an independent appraiser shall be selected by random lot from two firms proposed by each Party.

13.5 Determination of Fair Market Value by Independent Appraiser.

(a) The Independent Appraiser shall, within twenty (20) Business Days of appointment, make a preliminary determination of the Fair Market Value (the "Preliminary Determination").

(b) Upon making such Preliminary Determination, the Independent Appraiser shall provide such Preliminary Determination to Provider and Host, together with all supporting documentation that details the calculation of the Preliminary Determination. Provider and Host shall have the right to object to the Preliminary Determination within twenty (20) Business Days of receiving such Preliminary Determination. If neither Party objects to the Preliminary Determination within such twenty (20) Business Day period, it shall be deemed accepted by both Parties. Within ten (10) Business Days after the expiration of such twenty (20) Business Day period, the Independent Appraiser shall issue the Independent Appraiser's final determination of Fair Market Value (the "Final Determination") to Provider and Host, which shall specifically address the objections received by the Independent Appraiser and whether such objections were taken into account in making the Final Determination. Except in the case of fraud or manifest error, the Final Determination of the Independent Appraiser shall be final and binding on the Parties.

13.6 Costs and Expenses of Independent Appraiser. Provider and Host shall each be responsible for payment of one half of the costs and expenses of the Independent Appraiser.

13.7 Exercise of Purchase Option.

(a) Host shall have twenty (20) Business Days from the date of the Final Determination, or, if Host and Provider have mutually agreed upon a Purchase Price, the date that the Parties agree upon a Purchase Price (such period, the "Exercise Period"), to exercise the Purchase Option, at the Purchase Price calculated pursuant to Section 13.2. Host must exercise its Purchase Option during the Exercise Period by providing a notice (an "Exercise Notice") to Provider. Once Host delivers its Exercise Notice to Provider, such exercise shall be irrevocable.

(b) Provider shall, upon at least three (3) Business Days' prior written notice from Host to Provider at any time during the Exercise Period, make the System Assets, including records relating to the operations, maintenance, and warranty repairs, available to Host for its inspection during normal business hours.

13.8 Terms of Projects Purchase. On the Transfer Date (a) Provider shall surrender and transfer to Host all of Provider's right, title and interest in and to the System Assets for which the Purchase Option was exercised and shall retain all liabilities arising from or related to the System Assets prior to the Transfer Date, (b) Host shall pay the Purchase Price, by certified check, bank draft or wire transfer and shall assume all liabilities arising from or related to such System Assets from and after the Transfer Date, and (c) both Parties shall (i) execute and deliver a bill of sale and assignment of contract rights containing such representations, warranties, covenants and other terms and conditions as are usual and customary for a sale of assets similar to such System Assets, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System Assets in Host, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third person consents and approvals and such similar documents as may be reasonably necessary to complete the sale of the System Assets to Host.

13.9 Transfer Date. The closing of any sale of the applicable System Assets (the "Transfer Date") pursuant to this Article will occur no later than forty-five (45) calendar days following the date on which the Independent Appraiser issues the Final Determination.

13.10 Assignment of Warranties or Supply Contracts. In the event Host exercises the Purchase Option pursuant to this Article XIII, Provider shall assign to Host any then-existing equipment warranties, and, at Host's request, any equipment, maintenance, operations or supply contracts pertaining to the ownership and operation of the applicable System(s).

13.11 Exercise of Separate System Purchase Option. From and after the Transfer Date associated with Host's exercise of the Separate System Purchase Option, the estimated or expected Energy Output of such Separate System will be excluded from the calculation of Estimated Annual Production and from the calculation of the Guaranteed Minimum Production, and the Separate System will no longer be a System or part of the Project Portfolio hereunder. Provider may replace EXHIBIT A through EXHIBIT F to acknowledge such changes, but such replacement is not required for such changes to be effective.

Article XIV CONFIDENTIALITY AND PUBLICITY

14.1 Confidentiality.

(a) The Parties hereby expressly acknowledge that only after this Agreement is ratified or approved by Host's Governing Board, including all attachments, it becomes a Public Record subject to disclosure, and neither Party is obligated to undertake any conduct toward avoiding disclosure hereof.

14.2 Publicity.

(a) The Parties share a common desire to generate favorable publicity regarding the Systems and their association with it. The Parties acknowledge that they each may, from time to time, issue press releases or other public statements regarding the System(s) and that they

shall reasonably cooperate with each other, subject to each Party's reasonable exercise of discretion, in connection with the issuance of such releases.

(b) Host shall have the right to display photographs of the System(s) in its advertising and promotional materials, provided that any such materials identify Provider as the owner, operator and developer of the Projects. Without limiting the foregoing, the Systems shall be named "PFMG Solar Systems at City of Long Beach", as applicable. On all signage at the Site, and in all publicly distributed materials and other public communications issued by either Party that refer to a Project by name, such name shall be followed by a statement to the effect that Provider owns and operates the Project. Provider shall have the right to display photographs of the Projects, and the buildings or land upon which the Projects may be installed, in its advertising and promotional materials, including Provider's website, without the consent of the Host; however, Provider shall be required to secure, through Host and in accordance with Host's Board Policies, Administrative Procedures and Applicable Law, consent of any of Host's students or staff appearing in such images prior to any publication.

Article XV

DISPUTE RESOLUTION

15.1 Dispute Resolution. Any bona fide dispute, controversy or claim arising out of or in connection with this Agreement (a "Dispute") shall be resolved in accordance with this Article XV.

(a) Either Party may deliver a notice to the other Party requesting the Dispute be referred to that Party's management. Any such notice shall include the names of the managers to resolve the Dispute. Any such notice shall be delivered within a reasonable period of time after the Dispute arises, but in no event more than four (4) years after expiration of the Term or other Termination of this Agreement. Within seven (7) Business Days after a receipt of notice, the other Party shall provide written notice to the requesting Party indicating a schedule for informal Dispute resolution, which informal resolution efforts shall commence substantially and in good faith within fourteen (14) Business Days of the notice of Dispute.

(b) If, after such Dispute resolution in accordance with paragraph (a) above remains unresolved, either Party may seek resolution in compliance with the mandatory notice and claim presentation procedures pursuant to Chapter 5 (commencing with Section 930) of Part 3 of Division 3.6 of Title 1 of the California Government Code. Either Party may seek a restraining order, temporary injunction, or other provisional judicial relief if the Party, in its sole judgment, believes that such action is necessary to avoid irreparable injury or to preserve the status quo. The Parties shall continue in good faith in the procedures hereunder despite any requests for provisional relief.

(c) During the conduct of any Dispute resolution procedures pursuant hereto the Parties shall continue to perform their respective undisputed obligations by virtue of the matters in Dispute.

(d) No termination of this Agreement following an Event of Default shall relieve the defaulting Party of its liability and obligations hereunder, and the non-defaulting Party may

take whatever action may appear necessary or desirable to enforce performance and observance of any obligations under this Agreement.

Article XVI
NOTICES

16.1 Notices. Any notice, demand, request, consent, approval confirmation or statements which is required or permitted under this Agreement shall be in writing and shall be given or delivered by personal service, Federal Express or comparable overnight delivery service, addressed to the Party receiving notice as specified below. Changes in such address and/or contact persons named shall be made by notice similarly given. Notices shall be deemed made upon actual personal delivery as shown by written delivery confirmation.

Host: City of Long Beach

Attention:

Provider: PFMG Solar Long Beach, LLC
c/o Spear Point Energy
Attention: Sam Houston
465 N. Mill Street, Suite 13
Aspen, CO 81611
Phone: (970) 920-2525

with copies to:

PFMG Solar, LLC
Attention: Chief Operating Officer
777 Center Avenue, Suite 200
Huntington Beach, CA 92647
Phone: (714) 465-4901

Holland & Hart LLP
Attention: Stephanie Edinger
555 17th Street, Suite 3200
Denver, CO 80202
Phone: (303) 295-9085

Article XVII
ASSIGNMENT; COOPERATION WITH FINANCING

17.1 Assignment; Binding Effect. The Parties shall not, without the prior written consent of the other, which consent will not be unreasonably withheld or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement or any Easement Agreement, whether voluntarily or by operation of law, and any such assignment or

transfer without such consent will be null and void. For purposes of this Section 17.1, consent will not be deemed unreasonably withheld or delayed if the assignee does not have a demonstrated creditworthiness equal to or greater than the assigning Party. Notwithstanding the foregoing, (a) changes in control of Provider shall not be deemed an assignment of this Agreement or any Easement Agreement, and (b) Provider shall, without the prior written consent of Host, be entitled to assign its rights and interests in the Environmental Financial Attributes and Renewable Energy Credits that it owns pursuant to Section 4.1 and Section 4.3. Host acknowledges that any such consent shall be processed without further approval from Host's governing body, subject to the delegation of authority in the authorizing resolution of the governing body of the Host initially approving this Agreement and at the discretion of the Long Beach City Manager.

17.2 Cooperation with Project Funding. Host acknowledges that Provider may finance or fund the development of each Project and Host agrees that it shall reasonably cooperate with Provider and its funding sources in connection with such financing or funding in accordance with the terms hereunder, including but not limited to (a) the furnishing of financial statements and other information relevant to Host's creditworthiness, as reasonably requested by Provider, (b) providing its consent to any assignment, lien or license of this Agreement, the Easement Agreement or the Projects for the benefit of any Capital Provider, which assignment may contain, but not be limited to, some or all of the terms described in EXHIBIT G, (c) providing such opinions of counsel and other matters as Provider and its financing parties may reasonably request, (d) providing consents and estoppels pursuant to Section 17.3, (e) removing any liens pursuant to Section 6.1, (f) executing necessary documents including providing certificates of incumbency and customary representation and warranties, and (g) obtaining SNDAs pursuant to Section 6.1; provided that Provider shall be responsible for and shall pay all costs and expenses in connection with Provider's financing, including the reasonable costs and fees associated with such opinions of counsel and other matters as Provider and any Capital Provider request.

17.3 Further Assurances; Estoppel. The Parties shall do such further acts, perform such further actions, execute and deliver such further or additional documents and instruments as may be reasonably required or appropriate to consummate, evidence, or confirm the agreements and understandings contained herein and to carry out the intent and purposes of this Agreement, including, without limitation, the obligations of Host as outlined in EXHIBIT G to consent to Provider's collateral assignment of this Agreement to financing parties and to provide notices and additional cure periods to the financing parties with respect to Provider Events of Default. Either Party hereto, without charge, at any time and from time to time, within five (5) Business Days after receipt of a written request by the other Party hereto, shall deliver a written instrument, duly executed, certifying to such requesting Party, or any other Person, firm or corporation specified by such requesting Party (such requesting Party includes, but is not limited to, a Provider financing party with respect to Provider Events of Default):

(a) 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;

(b) 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

(c) Such other information as may be reasonably requested by a Party hereto.

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.

Article XVIII MISCELLANEOUS

18.1 Governing Law. This Agreement will be governed by the laws of the State of California without giving effect to principles of conflicts of laws.

18.2 Entire Agreement; Amendments. This Agreement (including the exhibits, any written schedules, supplements or amendments) constitutes the entire agreement between the Parties, and shall supersede any prior oral or written agreements between the Parties, relating to the subject matter hereof. Any amendment, modification or change to this Agreement will be void unless in writing and signed by both Parties.

18.3 Non-Waiver. No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. Any waiver must be in a writing signed by the Party making such waiver.

18.4 Severability. If any part, term, or provision of this Agreement is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality, or enforceability of any other part, term, or provision of this Agreement, and shall not render this Agreement unenforceable or invalid as a whole. Rather the part of this Agreement that is found invalid or unenforceable will be amended, changed, or interpreted to achieve as nearly as possible the same objectives and economic effect as the original provision, or replaced to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision, within the limits of Applicable Law or applicable court decisions, and the remainder of this Agreement will remain in full force.

18.5 No Third Party Beneficiaries. Notwithstanding the protections for financing parties set forth in Section 17.2 and Exhibit G, nothing in this Agreement will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind.

18.6 No Recourse to Affiliates. This Agreement is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any parent, subsidiary,

partner, member, Affiliate, lender, director, officer or employee of the other Party for performance or non-performance of any obligation hereunder, unless such obligations were assigned to or assumed in writing by the Person against whom recourse is sought.

18.7 Relationships of Parties. This Agreement shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party.

18.8 Attorneys' Fees. If any action, arbitration, judicial reference or other proceeding is instituted between the Parties in connection with this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs incurred in bringing or defending such action or proceeding (at trial and on appeal) and/or enforcing any judgment granted therein. The prevailing Party shall be determined by the trier of fact based upon an assessment of which Party's major arguments or positions taken in the proceedings could fairly be said to have prevailed over the other Party's major arguments or positions on major disputed issues.

18.9 Counterparts. This Agreement may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this Agreement received by either Party by facsimile is binding upon the other Party as an original. Both Parties agree that a photocopy of such facsimile may also be treated by the Parties as a duplicate original.

18.10 Construction of Agreement. This Agreement and any ambiguities or uncertainties contained herein shall be equally and fairly interpreted for the benefit of and against all Parties to this Agreement and shall further be construed and interpreted without reference to the identity of the Party or Parties preparing this document, it being expressly understood and agreed that the Parties hereto participated equally in the negotiation and preparation of this Agreement or have had equal opportunity to do so. Accordingly, the Parties hereby waive the legal presumption that the language of the contract should be interpreted most strongly against the Party who caused the uncertainty to exist. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

18.11 Service Contract. The Parties intend this Agreement to be treated as a "service contract" within the meaning of Section 7701(e) of the United States Internal Revenue Code. Host will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchaser of electricity from the Systems.

18.12 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions consummated under this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that each of Provider and Host is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

18.13 Budget and Appropriations. The Host covenants to take such action as may be necessary to include all payments due under Section 10.1 of this Agreement (the "Payments") (to the extent the amounts of such Payments are known to the Host at the time its annual

budget is proposed) in its annual budget and to make the necessary annual appropriations for such Payments. To the extent the amount of such Payments becomes known after the adoption of the annual budget, such amounts shall be included and maintained in such budget as amended. The covenants of the Host shall be deemed to be a duty imposed by law and it shall be the ministerial duty of the Host to take such actions as are required by law to enable the Host to perform this Agreement. The obligation of the Host to make Payments hereunder shall constitute a current operating expense of the Host and shall not in any way be construed to be a debt of the Host, or the State, or any political subdivision thereof, nor shall anything contained herein constitute a pledge of general revenues, funds or moneys of the Host beyond the fiscal year for which the Host has appropriated funds to make Payments hereunder or an obligation of the Host for which the Host is obligated to levy or pledge any form of taxation or for which the Host has levied or pledged any form of taxation. Due to the constitutional limitations on cities pertaining to multiple year contracts, a “budget non-appropriation event” may occur in with the City of Long Beach’s appropriation for any year covered in this Agreement does not appropriate funds for the procurement of any utility services for City. During the continuation of a budget non-appropriations event as defined above, if the City does not otherwise have other funds available to make payments otherwise due on this Agreement, the City may not be in a position to pay for services provided under this Agreement until the budget non-appropriation event has terminated. City agrees that it shall use its best efforts to seek appropriations for utility services during this term of this Agreement.

18.14 Reimbursement of Host Legal Fees. Provider hereby agrees to reimburse the Host for all legal fees Host incurs in connection with this Agreement and the Projects, provided that the aggregate reimbursement by the Provider over the Term shall in no event exceed \$12,500.00. The Host shall submit an invoice of any such legal fees to the Provider and Provider shall remit such reimbursement within forty-five (45) days of receipt of any such invoice. for which it seeks reimbursement.

18.15 Exhibits and Schedules. Any and all exhibits and schedules referenced herein and/or attached hereto are hereby incorporated into this Agreement by reference.

- Exhibit A – Description of Property
- Exhibit B – Description of the Projects
- Exhibit C – Energy Payment Rate
- Exhibit D – Estimated Annual Production
- Exhibit E – Guaranteed Minimum Production
- Exhibit F – Termination Values
- Exhibit G – Form of Assignment
- Exhibit H.1– PREVAILING WAGE CERTIFICATION
- Exhibit H.2–WORKERS’ COMPENSATION CERTIFICATION
- Exhibit H.3–RESERVED
- Exhibit H.4–DRUG-FREE WORKPLACE CERTIFICATION
- Exhibit H.5–TOBACCO-FREE ENVIRONMENT CERTIFICATION
- Exhibit H.6–ASBESTOS & OTHER HAZARDOUS MATERIALS
CERTIFICATION
- Exhibit H.7–LEAD-PRODUCT(S) CERTIFICATION

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed by their duly authorized officers, all as of the day and year first above written.

HOST

City of Long Beach

By: PL West
Name: Patrick H. West
Title: City Manager
12/5/17

PROVIDER

PFMG Solar Long Beach, LLC

By: Al Nagy
Name: Al Nagy
Title: Authorized Signatory

APPROVED AS TO FORM
11/27, 2017
CHARLES PARKIN, City Attorney
By: Linda T. Vu
LINDA T. VU
DEPUTY CITY ATTORNEY

ACKNOWLEDGEMENT BY NOTARY PUBLIC

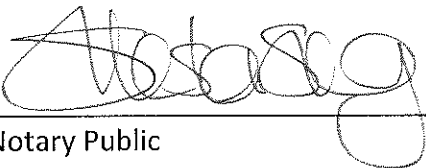
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of Orange)

On NOVEMBER 27 ²⁰¹⁷ before me, S. WESTON SIERING a Notary Public, personally appeared ALBERT NAGY _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Notary Public

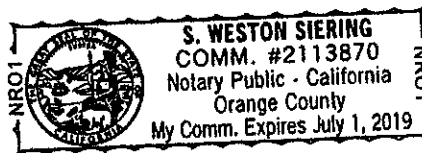


EXHIBIT A
DESCRIPTION OF PROPERTY

PROPERTY NAME	LOCATION ADDRESS
Airport Garage (Lot B)	4339 Donald Douglas Dr, Long Beach, CA 90808
Aquarium Parking Structure	200 Shoreline Dr S, Long Beach, CA 90802
City Place Lot A	50 E 6th St Lot A, Long Beach, CA 90802
City Place Lot B	50 E 5th St Lot B, Long Beach, CA 90802
City Place Lot C	51 E 3rd St Lot C, Long Beach, CA 90802
Emergency Communications & Operations Center	2990 Redondo Ave, Long Beach, CA 90806
East Division Police Substation	3800 E Willow St, Long Beach, CA 90806
Main Health Building	2525 Grand Ave, Long Beach, CA 90815
LB Gas & Oil Headquarters	2400 E Spring St, Long Beach, CA 90806
Pike Parking Structure	65 Cedar Ave, Long Beach, CA 90802
Public Works Yard	2600 Temple Ave, Long Beach, CA 90806

EXHIBIT B
DESCRIPTION OF PROJECTS

PROPERTY NAME	MOUNTING TYPE	APPROXIMATE SYSTEM SIZE (KW-DC)
Airport Garage (Lot B)	Parking Canopy	558.1
Aquarium Parking Structure	Parking Canopy	396.2
City Place Lot A	Parking Canopy	161.9
City Place Lot B	Parking Canopy	208.7
City Place Lot C	Parking Canopy	110.8
Emergency Communications & Operations Center	Parking Canopy	256.7
East Division Police Substation	Parking Canopy	136.3
Main Health Building	Parking Canopy	504.1
LB Gas & Oil Headquarters	Parking Canopy & Roof Mount	647.5
Pike Parking Structure	Parking Canopy	413.2
Public Works Yard	Parking Canopy	510.9
	Total	3904.3

CONSTRUCTION CONDITIONS

In connection with Provider's obligation to construct and install the Projects, Provider agrees to construct and install the Projects subject to the following conditions as set forth in the Design Ledger:

Design Ledger	
ALL SITES	<ol style="list-style-type: none">1. All carports shall be MbarC 4STEL design, or equivalent, with rectangular tube steel and welded connections.2. All columns and beams will be painted a single color. Conduits will be painted to match from grade to base of equipment.3. All conduits will be installed close to column.4. LED lighting will be provided under canopies where existing lighting is removed using only functional existing circuits.5. Bollards that support previous existing lighting will be removed to 12 inches below grade. Any light poles and fixtures removed will be returned to a single Host location.6. Concrete bollards will not be provided around the base of array columns.7. 10' Minimum clear height on all arrays. Provider shall make all efforts to maintain 10 ft. clearance.8. Site arrays will be divided into 4,000sf sections with a 1' gap for earthquake safety.9. All trees in the immediate vicinity of the arrays will be removed by Provider.10. Notice is to be given to the Host before removal of trees, so that they can manage community reaction.11. ADA parking stalls will be modified as required by applicable code.12. Underground boring will be used wherever practical to minimize surface disruption.13. Paving striping and patch back shall be limited to areas under new arrays where changes or construction damage has occurred. Asphalt/Concrete patching shall be required for all required trenching, bore pots and potholing.14. Any required concrete saw cutting shall have no overcuts.15. Existing irrigation required for removal or relocation shall be previously tested by Host to insure functionality. If possible, Host shall provide as-built irrigation plans and/or assist Provider in locating of existing valves, time clocks, stations and main lines. Provider shall repair, reconnect, and/or modify existing lines as needed to accommodate new column locations.16. Any and all required plant removal in existing planter areas shall be replaced with drought resistant plants from a list provided by Provider. Areas where irrigation is not present shall be excluded from any plant replacement.17. Inner parking lot island to be removed to grade (where applicable).18. PFMG Solar and the City prior to commencement of construction will walk each site to review, confirm and document the scope of landscape restoration for each site.19. Curbs where landscaping is to be removed shall be removed and brought flush to grade.

EXHIBIT C
ENERGY PAYMENT RATE

“Energy Payment Rate” means the electricity rates per kilowatt hour, as set forth in the tables below.

Year	Airport Garage (Lot B)	Aquarium Parking Structure	City Place Lot A	City Place Lot B	City Place Lot C	Emergency Communications & Operations Center
1	\$0.1075	\$0.1130	\$0.1100	\$0.1100	\$0.1125	\$0.0950
2	\$0.1117	\$0.1174	\$0.1143	\$0.1143	\$0.1169	\$0.0987
3	\$0.1160	\$0.1220	\$0.1187	\$0.1187	\$0.1214	\$0.1026
4	\$0.1206	\$0.1267	\$0.1234	\$0.1234	\$0.1262	\$0.1066
5	\$0.1253	\$0.1317	\$0.1282	\$0.1282	\$0.1311	\$0.1107
6	\$0.1302	\$0.1368	\$0.1332	\$0.1332	\$0.1362	\$0.1150
7	\$0.1352	\$0.1422	\$0.1384	\$0.1384	\$0.1415	\$0.1195
8	\$0.1405	\$0.1477	\$0.1438	\$0.1438	\$0.1470	\$0.1242
9	\$0.1460	\$0.1535	\$0.1494	\$0.1494	\$0.1528	\$0.1290
10	\$0.1517	\$0.1594	\$0.1552	\$0.1552	\$0.1587	\$0.1340
11	\$0.1576	\$0.1657	\$0.1613	\$0.1613	\$0.1649	\$0.1393
12	\$0.1637	\$0.1721	\$0.1676	\$0.1676	\$0.1714	\$0.1447
13	\$0.1701	\$0.1788	\$0.1741	\$0.1741	\$0.1780	\$0.1504
14	\$0.1768	\$0.1858	\$0.1809	\$0.1809	\$0.1850	\$0.1562
15	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
16	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
17	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
18	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
19	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
20	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
21	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
22	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
23	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
24	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623
25	\$0.1837	\$0.1931	\$0.1879	\$0.1879	\$0.1922	\$0.1623

EXHIBIT C (continued)
ENERGY PAYMENT RATE

“Energy Payment Rate” means the electricity rates per kilowatt hour, as set forth in the tables below.

Year	East Division Police Substation	Main Health Building	LB Gas & Oil Headquarters	Pike Parking Structure	Public Works Yard
1	\$0.1325	\$0.1575	\$0.1377	\$0.1105	\$0.1400
2	\$0.1377	\$0.1636	\$0.1431	\$0.1148	\$0.1455
3	\$0.1430	\$0.1700	\$0.1487	\$0.1193	\$0.1511
4	\$0.1486	\$0.1767	\$0.1544	\$0.1239	\$0.1570
5	\$0.1544	\$0.1835	\$0.1605	\$0.1288	\$0.1632
6	\$0.1604	\$0.1907	\$0.1667	\$0.1338	\$0.1695
7	\$0.1667	\$0.1981	\$0.1732	\$0.1390	\$0.1761
8	\$0.1732	\$0.2059	\$0.1800	\$0.1444	\$0.1830
9	\$0.1799	\$0.2139	\$0.1870	\$0.1501	\$0.1901
10	\$0.1870	\$0.2222	\$0.1943	\$0.1559	\$0.1975
11	\$0.1943	\$0.2309	\$0.2019	\$0.1620	\$0.2053
12	\$0.2018	\$0.2399	\$0.2098	\$0.1683	\$0.2133
13	\$0.2097	\$0.2493	\$0.2179	\$0.1749	\$0.2216
14	\$0.2179	\$0.2590	\$0.2264	\$0.1817	\$0.2302
15	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
16	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
17	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
18	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
19	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
20	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
21	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
22	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
23	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
24	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392
25	\$0.2264	\$0.2691	\$0.2353	\$0.1888	\$0.2392

EXHIBIT D
ESTIMATED ANNUAL PRODUCTION

The Estimated Annual Production (expressed in kilowatt hours) for each of the Systems is set forth in the tables below; provided that Estimated Annual Production amounts may be revised upon completion of the Project Portfolio to reflect the actual sizing and design of the Systems.

Annual Degradation Factor shall mean 0.70% per Contract Year.

Year	Airport Garage (Lot B)	Aquarium Parking Structure	City Place Lot A	City Place Lot B	City Place Lot C	Emergency Communications & Operations Center
1	921,854	642,235	271,261	349,784	185,599	423,983
2	915,401	637,739	269,362	347,335	184,300	421,015
3	908,993	633,275	267,476	344,904	183,010	418,068
4	902,630	628,842	265,604	342,489	181,729	415,141
5	896,312	624,440	263,745	340,092	180,457	412,235
6	890,038	620,069	261,899	337,711	179,194	409,349
7	883,808	615,729	260,065	335,347	177,939	406,484
8	877,621	611,418	258,245	333,000	176,694	403,639
9	871,478	607,138	256,437	330,669	175,457	400,813
10	865,377	602,889	254,642	328,354	174,229	398,007
11	859,320	598,668	252,860	326,056	173,009	395,221
12	853,304	594,478	251,090	323,773	171,798	392,455
13	847,331	590,316	249,332	321,507	170,596	389,708
14	841,400	586,184	247,587	319,256	169,401	386,980
15	835,510	582,081	245,853	317,022	168,216	384,271
16	829,662	578,006	244,133	314,802	167,038	381,581
17	823,854	573,960	242,424	312,599	165,869	378,910
18	818,087	569,942	240,727	310,411	164,708	376,258
19	812,360	565,953	239,042	308,238	163,555	373,624
20	806,674	561,991	237,368	306,080	162,410	371,008
21	801,027	558,057	235,707	303,938	161,273	368,411
22	795,420	554,151	234,057	301,810	160,144	365,832
23	789,852	550,272	232,418	299,697	159,023	363,272
24	784,323	546,420	230,791	297,599	157,910	360,729
25	778,833	542,595	229,176	295,516	156,805	358,204

EXHIBIT D (continued)
ESTIMATED ANNUAL PRODUCTION

The Estimated Annual Production (expressed in kilowatt hours) for each of the Systems is set forth in the tables below; provided that Estimated Annual Production amounts may be revised upon completion of the Project Portfolio to reflect the actual sizing and design of the Systems.

Annual Degradation Factor shall mean 0.70% per Contract Year.

Year	East Division Police Substation	Main Health Building	LB Gas & Oil Headquarters	Pike Parking Structure	Public Works Yard
1	225,186	820,581	1,039,957	691,616	843,860
2	223,609	814,837	1,032,678	686,775	837,953
3	222,044	809,133	1,025,449	681,968	832,087
4	220,490	803,469	1,018,271	677,194	826,263
5	218,946	797,845	1,011,143	672,454	820,479
6	217,414	792,260	1,004,065	667,746	814,736
7	215,892	786,714	997,036	663,072	809,032
8	214,381	781,207	990,057	658,431	803,369
9	212,880	775,739	983,127	653,822	797,746
10	211,390	770,308	976,245	649,245	792,161
11	209,910	764,916	969,411	644,700	786,616
12	208,441	759,562	962,625	640,187	781,110
13	206,982	754,245	955,887	635,706	775,642
14	205,533	748,965	949,196	631,256	770,213
15	204,094	743,722	942,551	626,837	764,821
16	202,665	738,516	935,953	622,449	759,468
17	201,247	733,347	929,402	618,092	754,151
18	199,838	728,213	922,896	613,766	748,872
19	198,439	723,116	916,436	609,469	743,630
20	197,050	718,054	910,021	605,203	738,425
21	195,671	713,028	903,650	600,967	733,256
22	194,301	708,036	897,325	596,760	728,123
23	192,941	703,080	891,044	592,582	723,026
24	191,590	698,159	884,806	588,434	717,965
25	190,249	693,272	878,613	584,315	712,939

EXHIBIT E
GUARANTEED MINIMUM PRODUCTION

I. Definitions

- A. “3-Year Average Annual Difference” means the average of the three most recent Annual Differences as calculated on the last day of each Contract Year; provided that if such calculation yields a negative number, the 3-Year Average Annual Difference shall be deemed to be zero (0).
- B. “3-Year Average Price Difference” means the average of the three most recent “Price Differences”; provided that if such calculation yields a negative number, the 3-Year Average Price Difference shall be deemed to be zero (0); where “Price Difference” means, for each Contract Year, the difference between the applicable rate charged by the local electric utility less the Energy Payment Rate, in each case for such Contract Year.
- C. “Actual kWh” means the actual electricity produced by the Project Portfolio over the Contract Year as measured by the Metering Device plus the amount of electricity in kWh that could not be delivered due to reasons attributable to the Host’s nonperformance under this Agreement or as a result of Force Majeure.
- D. “Annual Difference” shall have the meaning ascribed to such term in Section II. B of this EXHIBIT E.
- E. “Calculated kWh” means the amount of kWh expected to be produced in consideration of the final system design of each System (but before considering the Annual Degradation Factor) as calculated using PVSYST energy simulation software (or other software as commonly used to calculate solar production) using actual (1) solar insolation, (2) ambient air temperature, and (3) wind speed, as measured by the Metering Device (the “Actual Weather Data”).
- F. “Energy Shortfall Payment” shall have the meaning ascribed to such term in Section II. A of this EXHIBIT E.
- G. “Guaranteed Energy Price per kWh” means the amount per kWh as set forth in EXHIBIT C.
- H. “Guaranteed Minimum Production” shall have the meaning ascribed to such term in Section II. C of this EXHIBIT E.
- I. “kWh” means electric energy expressed in kilowatt-hours and measured by multiplying the amount of electric power delivered (measured in kilowatts) by the amount of time over which the electricity was consumed (measured in hours). One kilowatt-hour equals one thousand watt-hours.

J. "NREL" means the United States Department of Energy's National Renewable Energy Laboratory.

II. Production Guarantee.

A. Energy Shortfall Payment. The Host's sole remedy for Provider's failure to cause the Project Portfolio to satisfy the Guaranteed Minimum Production shall be payment in the amount equal to the product of the 3-Year Average Annual Difference multiplied by the 3-Year Average Price Difference (the "Energy Shortfall Payment").

B. Calculation of Annual Difference. The "Annual Difference" shall be calculated for each Contract Year and is the difference between Guaranteed Minimum Production for the Project Portfolio during such Contract Year less the Actual kWh delivered by the Project Portfolio during such Contract Year.

C. Guaranteed Minimum Production. For any Contract Year, the applicable "Guaranteed Minimum Production" for the Project Portfolio shall be the product of Calculated kWh multiplied by the difference of one (1) minus the Annual Degradation Factor (0.70%) raised to the power of the number of years passed since the first Contract Year which is then multiplied by 90%, expressed in formula as follows:

$$\text{Calculated kWh} \times (1 - Da)^{(GY - 1)} \times 90\%$$

Where Da is the Annual Degradation Factor, and GY is the ordinal rank of the applicable Contract Year whereby the first Contract Year is 1, the second Contract Year is 2, etc.

The process for obtaining Actual kWh and data for determining Calculated kWh for each Contract Year shall be as follows:

1. Initial Data Collection. During each Contract Year, Provider will collect Actual kWh and Actual Weather Data using the Metering Device. PVSYST (or other software commonly used to calculate solar production) will utilize actual weather data to arrive at Calculated kWh.

2. Contingency for Equipment Failure. In the event of hardware, communication, or other failure with the Metering Device, Provider will make commercially reasonable efforts to resolve the issue in a timely manner. In the event that data is lost, the following procedure will be used to account for such data when determining the Actual kWh:

a) With respect to lost meteorological data, Provider will substitute meteorological data from a nearby meteorological station that the Parties select for such purpose.

b) With respect to lost electrical data, Provider will read the cumulative electrical data directly from the local utility's electrical meter

and calculate the electricity generated during any missing interval. In the event that it is not possible to read the local utility's electrical meter due to a meter failure or other issue, Provider will reasonably estimate the electrical production during the missing interval by using the actual meteorological data provided by the Metering Device.

EXHIBIT F
TERMINATION VALUES

The Termination Values for the Project Portfolio is set forth in the tables below; provided that such Termination Values shall be revised upon completion of the Project Portfolio to reflect the actual sizing of the Project Portfolio.

Year	Termination Value for all sites except City Place Lot C	Termination Value for City Place Lot C
1	\$25,778,303.84	\$1,363,732
2	\$23,278,632.36	\$1,228,495
3	\$20,638,222.41	\$1,085,643
4	\$17,851,600.38	\$934,881
5	\$14,913,103.79	\$775,903
6	\$14,781,642.18	\$768,791
7	\$14,634,641.79	\$760,838
8	\$14,471,409.50	\$752,006
9	\$14,291,226.89	\$742,258
10	\$14,093,347.30	\$731,553
11	\$13,877,000.26	\$719,848
12	\$13,641,385.55	\$707,100
13	\$13,385,671.71	\$693,266
14	\$13,109,004.99	\$678,298
15	\$12,810,495.93	\$662,148
16	\$12,489,223.83	\$644,766
17	\$12,144,239.73	\$626,102
18	\$11,774,558.99	\$606,101
19	\$11,379,161.24	\$584,710
20	\$10,956,991.94	\$561,869
21	\$10,506,959.33	\$537,522
22	\$10,027,933.00	\$511,606
23	\$9,518,746.83	\$484,058
24	\$8,978,191.58	\$454,812
25	\$8,750,126.86	\$442,474

EXHIBIT G
FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT
(Solar Power Purchase Agreement)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment"), dated as of _____, 2017 (the "Effective Date"), is entered into by and among PFMG Solar, LLC, a Delaware limited liability company ("Assignor"), _____ ("Assignee"), and _____ ("Consenting Party") (each, a "Party," and collectively, the "Parties").

WHEREAS, Assignor and Consenting Party are parties to that certain Solar Energy Power Purchase Agreement dated as of _____ (the "PPA") relating to solar photovoltaic power plants totaling approximately _____ on [parking canopies and/or elevated structures] at sites located in _____ California (the "Sites") (unless otherwise defined herein, capitalized terms shall have the meaning given to them in the PPA);

WHEREAS, Assignor desires to fully assign and delegate to Assignee all of its rights, title, benefit, privileges, interest, liabilities and obligations in, to and under the PPA to Assignee, and Assignee desires to accept such assignment and delegation and assume all such rights, title, benefit, privileges, interest, liabilities and obligations, in accordance with the terms and conditions hereinafter set forth;

WHEREAS, the Assignee and Consenting Party desire and agree to make certain modifications to the PPA in conjunction with the Assignment; and

WHEREAS, Consenting Party desires to consent to this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants and provisions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Modification of PPA. The PPA is amended as follows:
 - a. Notices: In Section 16.1:
 - i. revise Provider's notice party information to be:

"If to Provider:

with a copy to:

2. Assignment of PPA. Assignor does hereby finally and irrevocably grant, assign, transfer, set over, convey and deliver to Assignee (i) all of Assignor's right, title and interest under the PPA, as modified pursuant to Section 1 above; and (ii) the right to enforce, whether at law or in equity or by any other means, all provisions of the PPA, as modified pursuant to Section 1 above.

3. Acceptance of Assignment and Assumption of Obligations and Liabilities. Assignee hereby accepts the transfers and assignments set forth in Section 2 and assumes the obligations of Assignor under the PPA, as modified pursuant to Section 1 above, arising or occurring on or after the Effective Date.

4. Consent to Assignment. Consenting Party hereby consents to the transfers and assignments to Assignee set forth in Section 2 and hereby releases Assignor from any and all liability under the PPA which arise on and after the Effective Date.

5. Other Agreements. Assignor, Assignee, and Consenting Party agree to fully cooperate and promptly execute any and all other agreements and documents related to the assignment and assumption of the PPA herein.

6. Benefits. This Assignment shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. Nothing express or implied in this Assignment is intended to confer upon any person, other than the Parties and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Assignment.

7. Additional Termination Right. Notwithstanding anything to the contrary set forth in this Assignment or in the PPA, the Parties agree that within sixty (60) days of the Effective Date if Assignee determines in its sole reasonable discretion, after performing reasonable real estate and title due diligence review of the Consenting Party's premises and sites that are the subject of the PPA, that there are any encumbrances or other matters of record affecting such premises and sites, including but not limited to any lack of third party consents, that may affect Assignee's ability to perform its obligations under the PPA, then Assignee may terminate all of this Assignment and/or the PPA by written notice to Assignor and Consenting Party, and in such event this Assignment and/or the PPA shall immediately terminate and be void and of no force or effect, and no Party shall have any further rights or obligations hereunder.

8. Captions. The captions of this Assignment are made for convenience only and shall not control or affect the meaning or construction of any provision of this Assignment.

9. Counterparts. This Assignment may be executed in counterpart, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

10. Governing Law. This Assignment shall be interpreted, and the rights and liabilities of the parties hereto shall for all purposes be governed by and construed and enforced in accordance with, the laws of the State of California applicable to agreements executed, delivered and performed within said state.

IN WITNESS WHEREOF, the Parties have executed and delivered this Assignment under proper authority as of the date first above written.

PFMG, LLC

By: _____
Name: Al Nagy
Title: Authorized Signatory

City of Long Beach

By: _____
Name: _____
Title: _____

H.1 PREVAILING WAGE CERTIFICATION

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project.

By: _____

Name:

Title: Authorized Signatory

H.2 WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.

By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

By: _____

Name:

Title: Authorized Signatory

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

H.3 Reserved

H.4 DRUG-FREE WORKPLACE CERTIFICATION

The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any state agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a state agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

The Host is not a "state agency" as defined in the applicable section(s) of the Government Code, but the Host is a local agency under California law and requires all contractors on Host projects to comply with the provisions and requirements of Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990.

Provider shall certify that it will provide a drug-free workplace by doing all of the following:

Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition.

Establishing a drug-free awareness program to inform employees about all of the following:

- The dangers of drug abuse in the workplace.
- The person's or organization's policy of maintaining a drug-free workplace.
- The availability of drug counseling, rehabilitation, and employee-assistance programs.
- The penalties that may be imposed upon employees for drug abuse violations.

Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required above, and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by section 8355(a), and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the Host determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the Contract awarded herein is subject to termination, suspension of payments, or both. I

further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of the aforementioned Act.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

By: _____

Name:

Title: Authorized Signatory

H.5 TOBACCO-FREE ENVIRONMENT CERTIFICATION

Pursuant to, without limitation, 20 U.S.C section 6083, Labor Code section 6400 et seq., Health & Safety Code section 104350 et seq. and Host Board Policies, all Host sites, including the Project site, are tobacco-free environments. Smoking and the use of tobacco products by all persons is prohibited on or in Host property. Host property includes buildings, grounds, City-owned vehicles and vehicles owned by others while on Host property.

I acknowledge that I am aware of the Host's policy regarding tobacco-free environments at Host sites, including the Project site and hereby certify that I will adhere to the requirements of that policy and not permit any of my firm's employees, agents, subcontractors, or my firm's subcontractors' employees or agents to use tobacco and/or smoke on the Project site.

By: _____

Name:

Title: Authorized Signatory

H.6 ASBESTOS & OTHER HAZARDOUS MATERIALS CERTIFICATION

Provider hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations "New Material Hazardous", shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Provider's work on the Project for Host.

Provider further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.

Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the Host's determination. The costs of any such tests shall be paid by Provider if the material is found to be New Hazardous Material.

All Work or materials found to be New Hazardous Material or Work or material installed with "New Hazardous Material" containing equipment will be immediately rejected and this Work will be removed at Provider's expense at no additional cost to the Host.

Provider has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

By: _____

Name:

Title: Authorized Signatory

H.7 LEAD-PRODUCT(S) CERTIFICATION

California Occupational Safety and Health Administration (CalOSHA), Environmental Protection Agency (EPA), California Department of Health Services (DHS), California Department of Education (CDE), and the Consumer Product Safety Commission (CPSC) regulate lead-containing paint and lead products.

Because the Provider and its employees will be providing services for the Host, and because the Provider's work may disturb lead-containing building materials, PROVIDER IS HEREBY NOTIFIED of the potential presence of lead-containing materials located within certain buildings utilized by the Host. All buildings built prior to 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

The CDE mandates that Hosts utilize DHS lead-certified personnel when a lead-based hazard is identified. Examples of lead-certified personnel include: project designers, inspectors, and abatement workers. Furthermore, since it is assumed by the Host that all painted surfaces (interior as well as exterior) within the Host contain some level of lead, it is imperative that the Provider, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (Including Title 8, California Code of Regulations, Section 1532.1). Any and all Work which may result in the disturbance of lead-containing building materials must be coordinated through the Host.

All contractors who disturb lead-based paint in a six-square-foot area or greater indoors or a 20-square-foot area outdoors shall comply with the Renovation, Repair and Painting Rule, shall receive training from a U.S. EPA-accredited training provider, and shall be certified by the U.S. EPA. Provider, its workers and subcontractors must fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

If failure to comply with these laws, rules, and regulations results in a site or worker contamination, Provider will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify and hold harmless the Host, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom. If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses and training shall conduct this Work.

It shall be the responsibility of the Provider to properly dispose of any and all waste products, including but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of Provider to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any site within the Host.

The undersigned hereby acknowledges, under penalty of perjury, that he or she has received notification of potential lead-based materials on the owner's property, as well as the existence of applicable laws, rules and regulations governing work with, and disposal of, such materials with which it must comply. The undersigned also warrants that he or she has the authority to sign on behalf of and bind the Provider.

By: _____

Name:

Title: Authorized Signatory

**WRITTEN CONSENT
OF THE
BOARD OF MANAGERS
OF
PFMG SOLAR, LLC**

The undersigned, being at least a majority of the members of the board of managers (the "Board") of PFMG Solar, LLC, a Delaware limited liability company (the "Company"), acting pursuant to the Fifth Amended & Restated Limited Liability Company Agreement of the Company and applicable law, hereby adopt and approve the following resolutions by written consent:

APPROVAL OF AUTHORIZED SIGNATORY

WHEREAS, the Company desires to enter into power purchase agreements for the projects set forth on Exhibit A attached hereto (the "Projects");

WHEREAS, the Board desires to approve Al Nagy as an authorized signatory for the power purchase agreements for the projects set forth on Exhibit A;

NOW, THEREFORE, BE IT RESOLVED, that the approval of Al Nagy as authorized signatory for the projects set forth on Exhibit A is hereby approved;

RESOLVED, that the Company's chief operating officer, Al Nagy is hereby authorized to execute power purchase agreements for projects set forth on Exhibit A.

[Signature Page Follows]

This Written Consent of the Board of Managers of PFMG Solar, LLC is executed as of September 30, 2017.

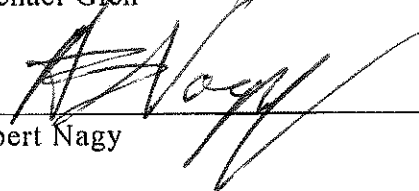
BOARD OF MANAGERS:



Sam Houston



Michael Glen



Albert Nagy

Exhibit A

Projects

Project	SPV Name (Proposed)	System size (kW DC)
City of Long Beach	PFMG Solar Long Beach, LLC	3,904