

SITE LICENSE AGREEMENT FOR PHOTOVOLTAIC SYSTEM

AGREEMENT NUMBER: L-_____

THE CALIFORNIA DEPARTMENT OF GENERAL SERVICES (DGS),

THE CALIFORNIA DEPARTMENT OF [INSERT DEPARTMENT NAME] (HOST)

AND

_____ (LICENSEE)

FOR THE LICENSED AREA LOCATED AT

(SITE) _____, (CITY) _____, CA, (ZIP) _____

DATED: _____, 20____

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SITE LICENSE AGREEMENT

This SITE LICENSE AGREEMENT ("SLA") is dated _____, 20__ for reference purposes only and is by and among the State of California, acting by and through the Department of General Services (the "DGS"), the _____ ("HOST") and _____, ("LICENSEE"). The Parties agree as follows:

WITNESSETH:

WHEREAS, the State of California ("State") Legislature allows for State agencies to enter into energy saving contracts that provide for the design, financing, installation and maintenance of alternative energy supply sources for electrical or thermal energy pursuant to Section 388 of the Public Utilities Code; and

WHEREAS, the State owns the fee simple title to certain real property located in the **City** of _____, **County of** _____, State of California (the "Real Property"), under the control and jurisdiction of HOST, upon which certain improvements are located and are commonly known as _____, (the "Site"); and

WHEREAS, LICENSEE desires to obtain, and the DGS and HOST desire to provide, a non-exclusive revocable license (the "License") to use a designated area of the Site (the "Licensed Area") to install, construct, maintain and operate the System, which area is more fully defined and described in Exhibit B; and

WHEREAS, upon completion of the System, as more specifically described in Exhibit C, LICENSEE desires to sell, and HOST desires to purchase, Electricity; and

WHEREAS, CONTRACTOR and HOST, with the approval of the DGS, have this same date entered into the SPPA for the provision of Electricity by CONTRACTOR to HOST, which SPPA is attached as Exhibit D; and

NOW, THEREFORE, in consideration of the above recitals and mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS AND COMPLIANCE WITH SPPA

1.1. Definitions. Except as specifically provided to the contrary in this SLA, or unless the context clearly requires otherwise, the capitalized terms in this SLA (including any exhibits, attachments and appendices) shall have the meanings set forth in Exhibit A.

1.2. Compliance with SPPA, including Remedies. The SPPA is hereby incorporated by reference into this SLA. In particular, any default by LICENSEE or CONTRACTOR, as applicable, under the SPPA, shall be deemed a default by LICENSEE under this SLA, and the provisions in the SPPA regarding the Parties' default, termination, and remedies shall also apply to this SLA. Should any provision, term or requirement in this SLA be in conflict with any provision, term or requirement in the SPPA, this SLA shall be controlling.

2. TERM

- 2.1. Term.** The Term shall commence on the Effective Date and continue for a period of twenty (20) years after the Commercial Operation Date, unless terminated earlier pursuant to the provisions in this SLA. The "Termination Date" is the date on which this SLA terminates.
- 2.2. No Post-Termination Use Right.** This SLA shall terminate as of the Termination Date without any further notice thereof by the DGS or HOST, and LICENSEE shall have no right to use the Licensed Area after the Termination Date except as expressly provided in this SLA.

3. GRANT OF LICENSE AND PERMITTED AND PROHIBITED USE

- 3.1. Permitted Use and Maintenance of Licensed Area.** The DGS and HOST grant to LICENSEE, CONTRACTOR, and their agents, employees, subcontractors, and authorized successors and assigns (collectively the "Permittees," each a "Permittee") a non-exclusive and revocable limited license (the "License") to enter upon and use the Licensed Area, together with the right of ingress and egress to and from, under, over and across the Licensed Area, for the construction, maintenance and operation of the System for the production and transmission and inversion of solar PV generated Electricity under the provisions of this SLA and the SPPA and for no other use or purpose (the "Permitted Use"). In no event shall LICENSEE's or CONTRACTOR's Permitted Use of the Licensed Area upon which a System is located interfere in any way with HOST's ingress and egress to and from and ongoing use of the parking and driveway areas within the Licensed Area.

LICENSEE shall maintain the Licensed Area, or cause the Licensed Area to be maintained, in a commercially reasonable manner including without limitation by trimming and removing vegetation, at its sole expense, in order to maximize the functionality of the System. LICENSEE shall have no expectation of HOST's maintenance of the Licensed Area for vegetation management.

- 3.2. No DGS or HOST Warranties.** LICENSEE acknowledges that neither the DGS nor HOST has made any statements or representations or warranties regarding the Licensed Area's fitness, including existing conditions of any improvements or underground utility locations and subsurface ground conditions, for the Permitted Use, and LICENSEE agrees that it is not relying upon any statement or representation or warranty by the DGS or HOST or any third party regarding the Licensed Area, the fitness of the Licensed Area for the Permitted Use or any other matter. LICENSEE acknowledges and accepts the Licensed Area in "As-Is Where-Is" condition. LICENSEE has had an opportunity to inspect the Licensed Area and every aspect thereof and represents to the DGS and HOST that the Licensed Area is in a condition acceptable to LICENSEE for the Permitted Use.
- 3.3. LICENSEE Waiver.** The DGS and HOST hereby expressly disclaim and LICENSEE hereby waives all implied warranties regarding the Licensed Area including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose and accepts the Licensed Area, "As-Is, Where-Is".

LICENSEE hereby initials this Section to verify this waiver.

Initials

3.3.1 Lead Based Paint Disclaimer. Except as disclosed by HOST, LICENSEE, by acceptance of this SLA, is hereby notified and informed and shall assume that the Licensed Area contains lead-based paint. LICENSEE shall be prepared to perform localized abatement in the Licensed Area. LICENSEE accepts the Licensed Area in its “As-Is, Where-Is” condition and shall hold harmless, indemnify, and defend the DGS and HOST, their officers, agents and employees from all liability, damages, claims which may occur to any real or personal property or persons by the presence of any lead-based paint currently in or at the Licensed Area. If lead based paint containment and/or removal will be required solely as a result of LICENSEE’s installation of the System, LICENSEE shall not install the System until all lead based paint containment and/or removal work is performed and certified as completed by a licensed lead based paint contractor approved by the DGS. LICENSEE shall submit copies of the certification of completion of any and all lead based paint work to the DGS and HOST pursuant to the Notice provisions in Section 16.1 prior to the installation of the System at the Licensed Area.

If checked by DGS or HOST, LICENSEE hereby initials this Section to verify its agreement with this provision.

Initials

3.3.2 Asbestos Disclaimer. Except as disclosed by HOST, LICENSEE, by acceptance of this SLA, is hereby notified and informed and shall assume that the Licensed Area contains asbestos. LICENSEE shall be prepared to perform localized abatement in the Licensed Area. LICENSEE accepts the Licensed Area in its “As-Is Where-Is” condition and shall hold harmless, indemnify, and defend the DGS and HOST, their officers, agents and employees from all liability, damage, losses, and claims which may occur to any real or personal property or persons by the presence of any asbestos currently in or at the Licensed Area. If asbestos containment and/or removal will be required solely as a result of LICENSEE’s installation of the System, LICENSEE shall not install the System until all asbestos containment and/or removal work is performed and certified as completed by a licensed asbestos contractor approved by the DGS. LICENSEE shall submit copies of the certification of completion of any and all asbestos work to the DGS and HOST pursuant to the Notice provisions in Section 16.1 prior to the installation of the System.

If checked by DGS or HOST, LICENSEE hereby initials this Section to verify this indemnity and agreement.

Initials

- 3.3.3 LICENSEE Termination Right.** If material lead or asbestos is found that was not disclosed by HOST to LICENSEE before the Effective Date, the Parties agree that LICENSEE shall be responsible for such remediation and the Parties agree to a corresponding adjustment to the price of Electricity sold by CONTRACTOR to HOST under the SPPA. If the Parties agree to either option under the preceding sentence, then the milestone dates set forth for design and construction in Exhibit F, shall be adjusted for the time required by LICENSEE to complete the remediation.
- 3.4. Limitation on Use.** LICENSEE and Permittees shall use the Licensed Area for the Permitted Use only. LICENSEE shall not permit or suffer any other use of the Licensed Area or any part thereof by parties or persons other than Permittees, or provide the System for the use by parties or persons other than Permittees without first obtaining the DGS's and HOST's prior written consent. No change or Alteration to the Licensed Area, System, or Permitted Use may be made by LICENSEE without the prior written approval of the DGS, HOST, and the SPWB.
- 3.5. Prohibited Uses.** LICENSEE shall not use or allow the Licensed Area to be used for any improper, immoral, or unlawful purposes, nor shall LICENSEE cause, maintain or permit any nuisance in, on or about the Licensed Area. LICENSEE will not use or allow the Licensed Area to be used for any purpose inconsistent with the Permitted Use or other terms of this SLA or the SPPA. LICENSEE will comply with all policies, rules and regulations (collectively the "Regulations") adopted by HOST for the Licensed Area. Such Regulations shall include, but not be limited to, the prohibition against the possession or use of firearms, liquor or illegal drugs. Any violation of said Regulations may be grounds for immediate termination of this SLA and the SPPA, and removal of LICENSEE; provided, however, LICENSEE shall have the right to remove the System pursuant to Section 11.1 of this SLA. Upon such removal of the System, LICENSEE shall have no further right to use the Licensed Area and neither the DGS nor HOST shall have any obligation to pay LICENSEE actual damages.
- 3.6. Permittees Access.** Permittees access to the Licensed Area shall be subject to access procedures as set forth in Exhibit E (Access Procedures for Licensed Area). Only Permittees shall be permitted access to the Licensed Area; provided that Lender and its employees and agents (all as agents of LICENSEE) shall have access to the Licensed Area once during each calendar year to inspect the System, subject to the same access requirements as LICENSEE.
- 3.7. License Area Signage, Lighting and Camera Surveillance.** LICENSEE shall not erect or install any signage or exterior lighting within the License Area without the prior written approval of the DGS and HOST which shall be at the sole discretion of the DGS and HOST. HOST reserves the right to **install items such as, but not limited to, EVSE, parking signs,** video surveillance equipment onto structural components of the System subject to LICENSEE's approval of the locations and method of attachment. All such **items and** equipment would be installed by the HOST at its expense and will remain the property of the HOST throughout this Agreement, unless removed earlier by the HOST.

- 3.8. Security.** LICENSEE shall at all times keep the Licensed Area and all areas of construction and operation adequately secured for safety and security purposes. LICENSEE shall coordinate with HOST and comply with all Site security requirements when accessing the Licensed Area as provided in this SLA. LICENSEE hereby acknowledges that neither the DGS nor HOST shall have any obligation whatsoever to provide guard services, temporary lighting, or other security measures for the benefit of LICENSEE. LICENSEE assumes all responsibility for the protection of Permittees, the System and other personal property of LICENSEE and of LICENSEE's subcontractors, agents and invitees from acts of third parties.
- 3.9. No Interference/Quiet Enjoyment.** LICENSEE shall ensure that use of the Licensed Area for the Permitted Use will not obstruct or interfere with the DGS's or HOST's use of the Licensed Area, the Site, the Facility or the rights of any other occupants of the Licensed Area, the Site or the Facility. LICENSEE will not injure or annoy any occupants of the Licensed Area, the Site or the Facility. Such interference shall constitute a default of this SLA. In the event interference occurs, LICENSEE agrees to take all reasonable steps necessary to eliminate such interference as promptly as possible upon written notice by the DGS or HOST. The DGS and HOST reserve to themselves all rights in the Licensed Area, including but not limited to, the right to construct, reconstruct, modify or make alterations to the Licensed Area, so long as the exercise of such retained rights do not unreasonably interfere with the Permitted Use.
- 3.10. Applicable Laws and Regulations.** All activities conducted by LICENSEE pursuant to this SLA shall be in compliance with all Applicable Laws and shall be conducted at LICENSEE's own cost and expense. Interpretation and enforcement of the terms of this SLA and the SPPA shall be governed by California law.
- 3.11. Hazardous Material.** LICENSEE agrees to comply with all Applicable Laws pertaining to the use, storage and disposal of Hazardous Material at the Licensed Area. LICENSEE shall indemnify, defend and hold harmless the DGS and HOST, including their officers, agents, representatives and employees from any and all liabilities and costs (including any and all sums paid for settlement of claims, litigation, expenses, attorneys' fees, consultant and expert fees) of whatever kind or nature, known, or unknown, resulting from any violation of Applicable Laws caused by LICENSEE or LICENSEE's representatives. In addition, LICENSEE shall reimburse the DGS and HOST for any and all costs related to investigation, clean up and/or fines incurred by the DGS or HOST for non-compliance with Applicable Laws that are caused by LICENSEE or LICENSEE's representatives. The DGS and HOST reserve the right to inspect the Licensed Area for purposes of verifying compliance with Applicable Laws.
- 3.12. Violation of Law.** LICENSEE shall immediately suspend any use of the System upon notice by the CPUC, CEC or any governmental authority having jurisdiction over any of LICENSEE's activities under this SLA which constitutes notice of an alleged violation of any Applicable Laws until the violation, if any, is corrected and the applicable governmental authority determines that the violation is corrected. LICENSEE shall immediately notify the DGS and HOST regarding any alleged violation. Failure of LICENSEE to immediately suspend use of the System and/or to notify the DGS and HOST in accordance with this provision after

receiving a notice of a violation of any Applicable Laws or violations posing a risk to public health or safety may be grounds for termination by HOST of this SLA with no obligation to pay actual damages to LICENSEE under this SLA; provided, however; LICENSEE shall have the right to remove the System as provided in this SLA.

- 3.13. No Infringement.** LICENSEE represents and warrants that LICENSEE's installation and operation of the System shall not infringe upon any third party's intellectual property or other proprietary rights. In addition, LICENSEE shall pay all royalties and license fees which may be required for the methodology, techniques, and for other intellectual property in connection with the System. LICENSEE shall indemnify the DGS and HOST against and defend all suits or claims for infringement of any patent, copyright, trade secret, trade name, trademark or any other proprietary or contractual rights and shall defend and hold the DGS and HOST harmless from loss, expense, claim or cost on account thereof.
- 3.14. Air Quality – Dust Control Plan.** LICENSEE must develop and implement a Dust Control Plan for dust control during pre-construction, construction, and post-construction activities including maintenance activities. The plan must identify sources of dust and measures to control the dust from those sources. The plan must also identify methods to control dust migration from the work and staging areas, including all unpaved roadways servicing the construction site and license area. Adherence to the Dust Control Plan is a requirement for the entire operating term of the SLA. The plan must comply with local air pollution control district requirements, including approval by or notification to the local authority, if required. On-site activities are not to commence until the Dust Control Plan has been submitted and accepted by the HOST and the LICENSEE is prepared to implement the measures in the Dust Control Plan. The LICENSEE must designate a person or persons to monitor and record dust control measures during on-site activities that cause dust and maintain daily records that shall be submitted to the HOST upon request.
- 3.15. Presence of Cocci.** LICENSEE is hereby notified that if the Site is located in Fresno, Kern, Kings, Madera, Merced, San Luis Obispo or Tulare County it is considered to be in an endemic area of California for Coccidioidomycosis. Available resources for information can be found at the following website for the California Department of Public Health (<http://www.cdph.ca.gov/programs/ohb/pages/cocci.aspx>). [INCLUDE/EXCLUDE THIS SECTION DEPENDING ON THE LOCATION OF THE PROJECT]

4. Non-Encumbrance in Facility, Site and Licensed Area, Subordination

- 4.1. Non-Encumbrance and Subordination to Senior Security Documents.** LICENSEE shall not encumber the Facility, the Site or the License Area. LICENSEE acknowledges and understands that this SLA and all rights of LICENSEE under this SLA are subject and subordinate to all existing leases, easements, rights of way, declarations, restrictions or other matters of record and all existing agreements of the DGS, HOST and/or the SPWB with respect to the Facility, the Site or the Licensed Area. All rights of control, use, occupancy and enjoyment of the Licensed Area by LICENSEE, as provided in this SLA, are subordinate and subject to the rights, covenants and obligations of the DGS, HOST

and/or the SPWB as set forth in any Senior Security Documents. Upon request by LICENSEE, a copy of the Senior Security Documents will be provided to LICENSEE by the DGS within a reasonable time period.

4.2. LICENSEE Personal Property Security Interest. LICENSEE agrees and acknowledges that the State owns the fee simple title to the Licensed Area and that this SLA and the License granted herein are not real property interests but are personal property interests that LICENSEE may transfer and assign with the expressed written approval of the DGS, HOST, and the SPWB as provided herein. LICENSEE shall make all Lenders, or parties to any financing transaction, or equity holders aware that pursuant to Section 5.3, only with the prior written consent of the DGS, HOST and the SPWB, may the personal property interests created by this SLA and the SPPA be given or pledged as a security, and that any such pledge or security is subordinate to the Senior Security Documents as provided in Section 4.1. Any loan or other System financing agreements to be entered into by LICENSEE and any assignments of such agreements shall require that the Lender or equity financing beneficiary execute a Lender Estoppel Certificate within ten (10) business days of request by the DGS, HOST or the SPWB substantially in the form of Exhibit J certifying, among other things, that the loan or other System financing agreements are subordinate to the Senior Security Documents. In addition, any Uniform Commercial Code (UCC) filing or other security filing by a Lender shall attach the executed Lender Estoppel Certificate; provided, however, that no UCC filing or other security filing shall be made until the survey metes and bounds legal description required in Exhibit B is provided, and this SLA is amended to substitute such metes and bounds legal description, and the UCC filing or other security filing shall reference this SLA as amended.

4.3. No Lien in Licensed Area. Nothing in this SLA or the SPPA shall constitute a mortgage, charge, assignment, transfer, pledge, lien or encumbrance upon the Licensed Area, the Site or the Facility. If this SLA or the SPPA were ever construed or deemed to create any such lien or encumbrance, then:

(i) This SLA and the SPPA shall be junior and subordinate to the Senior Security Documents;

(ii) Any term or condition of this SLA relating to any right, title or interest in the Licensed Area or System or any insurance, eminent domain or other proceeds or benefits derived therefrom shall be in all respects junior and subordinate to, and subject to the terms of, the Senior Security Documents.

5. SYSTEM ASSIGNMENT AND FINANCING

5.1. System Assignment. Except as otherwise provided in this Section 5, the rights, duties and obligations of LICENSEE under this SLA shall not be assignable by LICENSEE in whole or in part without the written consent of the DGS and HOST upon such reasonable terms and conditions that the DGS and HOST may require. The DGS's and HOST's consent to one assignment shall not be deemed consent to any subsequent assignment. No such assignment shall relieve LICENSEE of its obligations under this SLA unless the DGS and HOST have agreed otherwise in writing, and the predecessor LICENSEE shall remain jointly and severally liable hereunder unless the DGS and HOST have agreed otherwise in writing regarding

the assignment. For purposes of this Section 5, the sale, assignment, transfer or disposition, directly or indirectly, of any type which results in a change of control of LICENSEE shall be deemed an assignment of this SLA. Change of control shall be as defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer in a twelve (12) month period of more than fifty percent (50%) of the voting stock or equity interests of LICENSEE. The following transactions or events shall not constitute an assignment that is subject to the DGS and HOST prior written approval:

5.1.1 To an Affiliate of LICENSEE provided that the assignee shall produce a Certificate of Status from the Secretary of State and business formation documents demonstrating and confirming assignee's Affiliate status.

5.1.2 The sale of shares of a publicly traded company in an open market transaction.

5.2. DGS or HOST Approval. LICENSEE acknowledges that the DGS and HOST are relying upon the unique expertise and capability of LICENSEE. Any assignment of this SLA shall be subject to the DGS's or HOST's written approval, which approval shall not be unreasonably withheld. LICENSEE shall provide the DGS and HOST with **ninety (90)** calendar day's written notice of each proposed assignment that requires the DGS's or HOST's approval. LICENSEE must include in such notice supporting documentation sufficient to demonstrate to the reasonable satisfaction of the DGS and HOST that such proposed assignee has both the financial capacity and the technical and managerial ability to perform the duties and obligations required under this SLA at a level equal to or exceeding LICENSEE's ability (an entity having such capacity and ability is a "Qualified Purchaser"). If the DGS or HOST, as applicable, determines in its reasonable judgment that those standards are satisfied, the DGS or HOST shall approve such proposed assignment. In the event the DGS or HOST determines in its reasonable judgment that standards are not satisfied, the DGS or HOST shall promptly give LICENSEE written notice of the DGS's or HOST's determination and LICENSEE shall be prohibited from making such assignment. The DGS or HOST shall notify LICENSEE within **ninety (90)** calendar days after the DGS's or HOST's receipt of LICENSEE's notice of a proposed assignment as to whether or not the DGS or HOST approves the proposed assignment.

5.3. System Financing

5.3.1 Within **ninety (90)** calendar days of the Effective Date, LICENSEE shall submit to HOST, the DGS and the SPWB evidence of pending or planned financing sought by LICENSEE to be secured by the System. In addition, prior to any refinancing or restructuring of the financing arrangements LICENSEE shall comply with the requirements of this SLA.

5.3.2 Any financing to be secured by any personal property interest in the SLA or the SPPA shall be subject to approval by HOST, the DGS and the SPWB, which approval shall not be unreasonably withheld. HOST, the DGS and the SPWB shall use reasonable efforts to

complete its review and approval of the proposed form of financing within **ninety (90) calendar** days of receipt of the details of the planned financing. As a part of the submittal, LICENSEE shall submit an executed Lender Estoppel Certificate. If HOST, the DGS or the SPWB do not approve such financing for any reason, this SLA and the SPPA may be cancelled by the DGS, HOST or LICENSEE if LICENSEE is unable to resolve the concerns for the disapproval; provided, however, the canceling Party must notice the other Party or Parties in writing within 30 calendar days of the notice of disapproval of the financing transaction in order for cancellation to be effective.

- 5.4. Collateral Assignment.** The DGS, HOST and the SPWB acknowledge that LICENSEE may be financing the acquisition and installation of the System with financing accommodations from one or more Lenders and that LICENSEE's obligations under the financing documents may be secured by, among other collateral, a pledge or collateral assignment of LICENSEE's rights under this SLA and a first security interest in the System subject to subordination to Senior Security Documents as set forth in Section 4. LICENSEE may assign its interest in the System, including LICENSEE's rights under this SLA, as security for loans or financing of the System including a System Lease with a System Lessor, subject to the requirements of Section 4.1 of this SLA. The DGS, HOST and the SPWB, as applicable, will work in good faith with LICENSEE and Lender to agree upon the documentation that may be required in connection with the financing. If a Lender requests additional or different terms and conditions, the DGS, HOST and the SPWB, agree to consider such requests in good faith, but the DGS, HOST or the SPWB is not obligated to agree to any newly proposed terms and conditions contrary to the provisions in Section 4 of this SLA if the DGS, HOST or the SPWB, each in its sole judgment, determines that such changes are detrimental to the DGS, HOST or the SPWB.
- 5.5. DGS and HOST Consent and Estoppel Certificate.** The DGS and HOST shall, upon not less than **ninety (90)** calendar days prior written request by LICENSEE or LICENSEE's Lender, execute, acknowledge and deliver to LICENSEE or to LICENSEE's Lender a DGS and HOST Estoppel Certificate substantially in the form of Exhibit K.
- 5.6. LICENSEE's Default Under Financing Agreements.** LICENSEE agrees to request any Lender to notify the DGS in writing of any default of LICENSEE under any agreement with Lender regarding the System. If the Lender notifies the DGS that an event of default under the System Lease or other financing agreement has occurred and that the Lender has elected to exercise its rights and remedies thereunder or under any of the related security documents, then, upon the exercise of such rights and remedies, the Lender or Qualified Purchaser may become the Substitute LICENSEE and this SLA will remain in full force and effect, subject to LICENSEE or Qualified Purchaser expressly acknowledging in writing that (i) it is assuming all rights, duties, and obligations of LICENSEE under this SLA and (ii) it agrees to cure all of LICENSEE's defaults under this SLA existing at the time such Substitute LICENSEE assumes the rights, duties and obligations of LICENSEE under this SLA and provided further that the Lender or Qualified Purchaser has included in such notice supporting documentation sufficient to demonstrate to the

reasonable satisfaction of the DGS that it has both the financial capacity and the technical ability to perform the duties and obligations required under this SLA at a level equal to or exceeding LICENSEE's ability. The DGS shall notify the Lender or Qualified Purchaser, as applicable, and LICENSEE of the DGS's determination as to whether the proposed Substitute LICENSEE satisfies the requirements of this section within **ninety (90)** calendar days of the DGS's receipt of all the required supporting documentation.

If the DGS determines in its reasonable judgment that those standards are satisfied, the DGS shall approve such proposed Substitute LICENSEE for the remaining Term and on the same terms and conditions contained in this SLA.

In the event that DGS determines in its reasonable judgment that the proposed Substitute LICENSEE fails to meet the financial capacity and the technical ability to perform the duties and obligations required under this SLA or if the proposed Substitute LICENSEE has failed to satisfy requirements (i) and (ii) in this section, the DGS shall promptly give the Lender written notice of the DGS's determination and Lender and LICENSEE shall be prohibited from making such assignment.

6. OWNERSHIP OF SYSTEM

- 6.1. Title to System.** Subject to HOST's right to acquire the System upon LICENSEE's default, LICENSEE, System Lessor, or their permitted assigns with respect to the System, shall at all times retain title to and be the legal and beneficial owner of the System, including the right to any tax credits available under federal or State law. The DGS, HOST and LICENSEE, acknowledge and agree that the System shall remain the personal property of LICENSEE, System Lessor, or their permitted assigns and shall not attach to or be deemed a part of, or fixture to, the Licensed Area or Site; and that the System shall at all times retain the legal status of personal property. The System shall be clearly marked and identified by LICENSEE as being the personal property of LICENSEE, System Lessor or their permitted assigns.
- 6.2. Filings.** LICENSEE shall be entitled to file one or more precautionary UCC filing(s) in such jurisdictions as it deems appropriate with respect to the System in order to protect its rights in the System. Any filing to perfect or provide notice of the security interest in the System shall confirm that the System is personal property and is not a fixture to the Licensed Area or Site, and shall comply with the provisions in Section 4 of this SLA, including but not limited to executing and delivering a Lender Estoppel Certificate substantially in the form of Exhibit J.
- 6.3. Security Interests in System.** The DGS, and HOST acknowledge and agree that LICENSEE may grant or cause to be granted to Lender a security interest in the System and LICENSEE's rights under this SLA as expressly provided in this SLA. Any security interest in the System shall not create any security interest in the Site or Licensed Areas and shall be subject to the terms and conditions of this SLA.
- 6.4. No Fixture.** In no event shall the System be deemed a fixture. Neither the DGS nor HOST nor anyone claiming by, through or under the DGS or HOST have any

rights in or to the System at any time under the Senior Security Documents except as otherwise provided in this SLA.

6.5. No Recording. LICENSEE shall not record this SLA or any memorandum of SLA or short-form thereof.

6.6. Existing Liens. The DGS and HOST are not aware of any existing lease, mortgage, security interest or other interest in or lien upon the Facility, the Site or the Licensed Area that could attach to the System as an interest averse to Lender's security interest therein or System Lessor's ownership thereof.

7. DESIGN REQUIREMENTS; CONDITIONS PRECEDENT

7.1. General. LICENSEE shall at its sole cost and expense, design, build, install, own, maintain and operate the System in compliance with this SLA and Applicable Laws. LICENSEE shall construct and install and complete the System and all related matters **such as repairs, replacements, restorations, and remediation** in accordance with this SLA and the DGS's approved System design and Construction Documents as set forth in Sections 7 and 8 of this SLA. LICENSEE may make Minor Field Changes provided the DGS and HOST are notified in advance of such changes.

7.2. CEQA Compliance. As a condition precedent to the Parties' obligations under this SLA, an analysis of the potential impacts associated with the proposed System is required under CEQA. LICENSEE shall not have any right to commence construction of the System until the DGS has complied with CEQA and the DGS has issued a Notice to Proceed to LICENSEE. The DGS agrees to complete the initial analysis within sixty (60) calendar days after the Effective Date. If that analysis indicates that a categorical exemption or mitigated negative declaration will meet the requirements of CEQA, and LICENSEE agrees to bear the costs of any identified mitigation or monitoring measures, then the DGS will promptly proceed to complete the categorical exemption or mitigated negative declaration in accordance with CEQA and Applicable Laws and file the requisite notice of determination. **Refer to Exhibit H of this SLA for additional information pertaining to CEQA costs.**

Once a copy of the filed notice of determination is provided to LICENSEE then LICENSEE shall promptly proceed to perform its obligations under this SLA to complete the design and to construct the System and shall comply with and pay for, at its cost, all mitigation measures adopted for the System. If LICENSEE determines those costs are too great and notifies the DGS in writing within (60) calendar days after receipt of the field notice of its desire to terminate this SLA, then this SLA shall terminate and neither Party shall have any further obligations or liability to the other. In no event shall any payment of Transaction Fee made by LICENSEE be refundable by the DGS. If the analysis results in a finding that it is not feasible to reduce or avoid significant potential environmental effects of the proposed System as identified during the course of the analysis and the DGS determines not to issue a statement of overriding consideration, then LICENSEE's proposed System shall be deemed rejected, and this SLA shall terminate, and neither Party shall have any obligations or liability to the other.

7.3. System Requirements

7.3.1 Compliance. LICENSEE agrees that the System **and all related work, repairs, replacements, restorations, and remediation** shall be designed to comply with all applicable California building and electrical codes and standards, CSI Tier One Standards, and Utility Rule 21 in accordance with the State's permit process at LICENSEE's cost. System design and Construction Documents shall expressly state and identify the applicable building and electrical codes and standards. System design and Construction Documents submitted by LICENSEE must include, but shall not be limited to, the following:

- System schematics
- Single line electrical diagram
- Electrical Interconnection Point schematics
- Electrical Interconnection Point single line electrical diagram
- Interconnection Agreement
- Construction plans (electrical, architectural, structural, civil, mechanical, lighting, etc.)
- Building information modeling (as necessary or required)
- On-site construction management
- Structural calculations (as necessary or required)
- List of equipment and materials schedule
- Receipt and storage of materials, equipment and freight
- **Site work phasing plan for parking and facility designed to mitigate impact to Host's access**
- Construction schedule
- **Storm water pollution prevention plan**
- Geotechnical report / foundation recommendations as applicable
- Site clean-up
- As-Built Drawings

7.3.2 Electric Power. Electricity from the System must be provided at 60 Hertz and at the appropriate voltage for electrical interconnection to the Facility voltage service level, which will be established by the DGS. The System components must comply with all standards relevant to the operation and installation of solar photovoltaic equipment by UL or other nationally recognized testing facility. Modules, inverters and components must be certified to UL 1703 and as required by the CSI incentive program and/or the CEC. Inverters must comply with all applicable requirements including but not limited to the following:

- IEEE 929-2000, "Recommended Practice for Utility Interface of Photovoltaic Systems";

- UL Subject 1741, “Standard for Static Inverters and Charge Controllers for use in Photovoltaic Power Systems”; and
- Any and all requirements as listed by the CSI incentive program, Utility or the CEC for the installation and interconnection of Systems.

Other codes that will apply include, but are not limited to:

- ANSI C12.1-2008; (electricity metering)
- ASME PTC 50 (solar PV performance)
- ANSI Z21.83 (solar PV performance and safety)
- NFPA 70 (electrical components)
- IEEE 1547 (interconnections)

7.4. Permits. LICENSEE is responsible at its sole cost to obtain all permits necessary for the construction, maintenance and operation of the System. LICENSEE shall provide the DGS with PDF electronic copies of all permits, approvals and conditions issued by applicable federal, State and local governmental entities, including the Utility as provided in Section 7.8 of this SLA.

7.5. System Design and Plan Approval

7.5.1 Schematic Design. LICENSEE shall submit System outline specifications in sufficient detail to convey an initial indication of the design of the System with regard to the Licensed Area and Site, the materials to be used in construction, and the types of mechanical, electrical and structural systems to be utilized for approval by the DGS within **sixty (60) calendar days** of the Effective Date, and the DGS shall review within **sixty (60) calendar days** and respond to LICENSEE, which once approved shall become a part of the Project Manual.

7.5.2 Construction Documents. LICENSEE shall submit 95% Construction Documents within **ninety (90) calendar days** from the later of (i) the DGS’s approval of the schematic design of the System or (ii) completion of the CEQA process. The Construction Documents shall address System constraints and specifications that are deemed to be necessary and shall incorporate the requirements of the CEQA review. The DGS will review the Construction Documents for compliance with Applicable Laws and this SLA and notify LICENSEE in writing within **sixty (60) calendar days** of submittal as to whether or not the DGS approves the submittals. If the DGS does not approve the submittals, the DGS’s written notice shall specify the deficiencies. The DGS’s approval of the Construction Documents shall not be unreasonably withheld or delayed.

7.5.3 Final DGS Review. Changes to System schematic design and Construction Documents required by the DGS shall be submitted to LICENSEE and LICENSEE shall incorporate such changes into the

System schematic design and Construction Documents and return such documents to the DGS within thirty (30) calendar days of LICENSEE's receipt of the DGS's required changes. Provided LICENSEE has made all required changes the DGS shall complete its review and approval of Construction Documents within thirty (30) calendar days from receipt of the revised documents.

7.5.4 Professional Engineers. LICENSEE understands that all System design, structural and civil Construction Documents, engineering calculations, construction or system certifications, and project or system warrants must be submitted under the authority of a duly licensed professional engineer(s) certified to practice in the State, and who is a professional engineer in good standing. LICENSEE shall retain at a minimum electrical engineers who meet the requirements stated above. System design, construction documents, and engineering calculations submitted to the DGS for review without the appropriate professional engineering stamp will not be reviewed and will be returned to LICENSEE as incomplete and insufficient System documentation.

7.6. Construction Payment and Performance Bonds. Before starting any construction or installation, LICENSEE shall furnish payment and performance bonds in an amount necessary to restore the Site and Licensed Area to its pre-installation condition in the event LICENSEE fails to complete the installation of the System in accordance with this SLA. The payment and performance bonds shall be required only through the Commercial Operation Date. The bond requirements are further specified in Exhibit L.

7.7. Transaction Fees. LICENSEE shall pay to the DGS Transaction Fees as provided in Exhibit N.

7.8. Form of Submittals. All documents, drawings and other submittals required under either Section 7 or Section 8 of this SLA shall be submitted to the DGS electronically with an electronic signature. DGS may require LICENSEE to provide hard copies of any and all related project documents.

7.9. Associated Agreements

7.9.1 Interconnection Agreement(s). LICENSEE shall be solely responsible for all costs of negotiating and executing [VERIFY TYPE OF INTERCONNECTION AGREEMENT AND UPDATE THE SLA ACCORDINGLY PRIOR TO ATTACHING THE SLA TO THE RFP] NEM interconnection agreement(s), with the Utility and for all costs of interconnecting the System with the Utility. LICENSEE shall reimburse the DGS for any and all out of pocket costs the DGS incurs in connection with those activities. Refer to Exhibit H of this SLA for additional information pertaining to Interconnection Fees.

7.9.2 Operations and Maintenance. LICENSEE shall operate and maintain the System, or shall cause the System to be operated and

maintained, in a commercially reasonable manner throughout the Term in accordance with all the provisions in the SPPA.

7.9.3 Other Agreements. Within thirty (30) calendar days after the Effective Date, LICENSEE shall provide the DGS copies of all forms of other agreements including but not limited to interconnection agreements, rebate agreements, or other required agreements which LICENSEE anticipates that it will require the DGS to execute in order to effectuate the purpose of this SLA. Such copies shall be delivered as provided in Section 7.8 of this SLA. The DGS shall notify LICENSEE no later than **sixty (60)** calendar days after it receives the forms of agreements as to whether the agreements are acceptable to the DGS or the DGS will require amendment. If the DGS requires an amendment the DGS will provide written notice as to the form of required amendment within such **sixty (60)** calendar day period. The final agreements submitted to the DGS for execution shall not deviate materially from, or impose any obligations on the DGS beyond those approved forms of agreements, and the DGS will not unreasonably withhold its signature on such final agreements in compliance with this section.

8. SYSTEM CONSTRUCTION AND INSTALLATION

8.1. DGS Approval. No construction or installation by LICENSEE or its contractor shall be permitted to begin until:

(i) The DGS has approved the final Construction Documents and specifications **and reviewed LICENSEE's permit approvals,**

(ii) LICENSEE has satisfied all the conditions precedent necessary to commence construction including, but not limited to, all "DEVELOPMENT" tasks listed in Exhibit F, and

(iii) The DGS has issued a Notice to Proceed which notice **may** occur within five (5) Business Days after the conditions in (i) and (ii) have been satisfied.

8.2. Construction Start Date. LICENSEE shall start construction of the System within ten (10) calendar days after receipt of the DGS's Notice to Proceed. LICENSEE shall provide written notice to the DGS of the date that LICENSEE commences construction at the Site (the "Construction Start Date") and shall diligently pursue construction until the System's completion. If LICENSEE has not commenced substantial construction activities within sixty (60) calendar days after LICENSEE's receipt of the Notice to Proceed, either Party may terminate this SLA by written notice to the other Party. In the event of such notice by either Party, this SLA shall terminate, the DGS shall retain any Transaction Fee paid or due as of the date of such termination notice, LICENSEE shall comply with Section 11.1 and neither Party shall have any further obligation to the other Party.

8.3. Completion of System. The Parties agree that the actual COD must occur no later than one hundred and fifty (150) calendar days ("the Guaranteed

Completion Date") after the DGS's issuance of the Notice to Proceed unless otherwise agreed to by the Parties in writing.

- 8.4. Extensions of Dates.** In the event of a Force Majeure, the Construction Start Date and the Guaranteed Completion Date shall be extended pursuant to the provisions in Section 14.4 of this SLA provided that LICENSEE exercises its best efforts to mitigate any delay caused by such Force Majeure. The Construction Start Date and the Guaranteed Completion Date may also be extended by the mutual written agreement of the Parties.
- 8.5. Liquidated Damages for Delay.** If the actual COD has not occurred by the Guaranteed Completion Date, LICENSEE shall pay the DGS as liquidated damages, in addition to ongoing weekly fees, the amount of three hundred dollars (\$300) for each calendar day (or part day) after the Guaranteed Completion Date until such time that the actual COD occurs. If the post COD lists per Section 8.7 have not been completed within thirty (30) calendar days, LICENSEE shall pay the DGS as liquidated damages the amount of three hundred dollars (\$300) for each calendar day (or part day) after actual COD until such time that the project is completed. If actual COD has not occurred within ninety (90) calendar days of the Guaranteed Completion Date, the DGS reserves the right to terminate this SLA by written notice to LICENSEE. The DGS shall retain any Transaction Fee paid or due as of the date of such termination notice, and LICENSEE shall comply with Section 11.1 and neither Party shall have any further obligation to the other Party.
- 8.6. Notice of Commercial Operation Date (COD).** LICENSEE shall notify the DGS in writing no less than ten (10) Business Days and no more than fifteen (15) Business Days before the estimated date on which LICENSEE expects the COD to occur. LICENSEE shall give the DGS written notice of the actual COD the system started continuous generation achieving GEP within twenty-four hours after its occurrence. LICENSEE's PE or Engineer of Record warrants that the System As-Built Drawings will be fully consistent with all documentation previously approved by the DGS as of the actual COD. The actual COD establishes when LICENSEE may begin to sell Electricity to HOST under the SPPA.
- 8.7. Punch List.** The DGS shall have fifteen (15) calendar days after receiving notice that the COD has occurred to inspect the Licensed Area and the System for compliance with all Design and Construction Documents. The DGS shall present LICENSEE with a punch list of any deficiencies found by the DGS together with a list of items to be completed post-COD that relate to the Licensed Area and the System, including but not limited to, project documentation and tasks related to ongoing system and site work, repairs, replacements, restorations, remediation, cleanliness, safety, security, accessibility, Utility service, noise, training, SLA deliverables, and project close out. LICENSEE shall have thirty (30) calendar days after LICENSEE's receipt of the DGS's notice to correct any deficiencies and to complete the tasks on said lists. If LICENSEE fails to correct any deficiency or complete the tasks on the lists within such thirty (30) calendar day period, the price for all Electricity delivered to HOST post COD shall be 85% of the price per kWh that would otherwise be applicable under the SPPA. Additionally, if the post COD lists have not been completed within such thirty (30) calendar days period, LICENSEE shall pay the DGS as liquidated damages the amount of three hundred dollars (\$300) for each calendar day (or part day) after the actual COD until such

time that all tasks are completed to the DGS's reasonable satisfaction and DGS issues a letter of completion to LICENSEE and Host. The letter of completion will identify the date liquidated damages ceased and the LICENSEE may begin billing for 100% of the price per kWh under the SPPA.

- 8.8. Project Manual.** Within fifteen (15) calendar days of COD, LICENSEE shall provide a complete project manual to HOST in a format set forth in Section 7.8 of this SLA. LICENSEE shall subsequently notify the DGS and HOST of any changes to the Project Manual within ten (10) calendar days of such changes. The DGS may add any changed, incomplete, inaccurate, and missing items in the project manual to the lists in Section 8.7 and all corrections must be made before project completion. DGS may require 3 hard copies from LICENSEE.
- 8.9. Alterations.** Upon approval by the DGS of the System Design and Construction Documents, LICENSEE shall have no right to change the approved Design and Construction Documents or to make Alterations to the System without receiving prior written approval of the DGS, except for Minor Field Changes pursuant to Section 7.1. Prior to undertaking any Alterations, LICENSEE shall submit to the DGS detailed and complete plans and specifications for the proposed Alterations. In its sole discretion, the DGS may waive the requirement for detailed plans upon LICENSEE's demonstration that the proposed Alteration consists solely of modification or replacement of like-kind equipment. The DGS shall not unreasonably delay or withhold written approval of LICENSEE's proposed Alteration. However, as a condition to consenting to the Alterations, the DGS may impose reasonable requirements, including the requirement that LICENSEE provide the DGS with payment and performance bonds or other financial assurance that the alterations will be completed and the cost of the Alterations will be paid when due, and reimbursement of any costs incurred by the DGS in responding to LICENSEE's request. Any such Alterations shall be performed in accordance with all Applicable Laws, including any and all necessary permits and approvals by the DGS. LICENSEE agrees to provide the DGS with sufficient advance notice of any proposed Alterations to allow the coordination and approval by the DGS of the construction schedule for such Alterations.
- 8.10. Inspection of System.** The DGS's inspections of the System during construction shall be allowed in accordance with Section 15.1. In no event shall the DGS inspections of the System be interpreted as making the DGS responsible for, and LICENSEE acknowledges that the DGS is not responsible for, the design or construction of the System.
- 8.11. As-Built Drawings.** LICENSEE shall deliver to the DGS As-Built Drawings following completion of the System installation and prior to the actual Commercial Operation Date in a format set forth in Section 7.8 of this SLA. The As-Built Drawings will reflect the final installed System. LICENSEE understands that As-Built Drawings are required to be submitted for the purpose of full and complete compliance with the applicable provisions of this SLA. In the event LICENSEE fails to provide acceptable As-Built Drawings with forty-five (45) calendar days after the COD, then the DGS or HOST may contract for provision of such As-Built Drawings and shall deduct the cost thereof from any sums otherwise due to LICENSEE.

- 8.12. System Design and Installation Process and Milestones.** The System design and installation process and milestone schedule is set forth in Exhibit F. The purpose of Exhibit F is to provide a milestone schedule of the System Development and the Installation and Construction documentation and technical review processes and the responsible Parties.
- 8.13. No DGS Responsibility.** In no event shall the DGS's review or approval of the Design and Construction Documents or any other submittals by LICENSEE in accordance with this SLA be interpreted as making the DGS responsible for, and; LICENSEE acknowledges that the DGS is not responsible for, any aspect of the design, construction or operation of the System.
- 8.14. System Additions.** During the term of this SLA, the DGS may, at its sole option and in its sole discretion, notify LICENSEE that it desires additional solar power generating capacity to be installed upon negotiated pricing terms and conditions similar to those of the existing SPPA and this SLA. The DGS, HOST and LICENSEE shall meet and confer to determine the amount of additional solar power generating capacity which LICENSEE believes can be technically and economically installed. In the event that the DGS, HOST and LICENSEE agree that additional solar power generating capacity can be installed, the SPPA and this SLA will be amended to reflect the installation and operation of the additional solar power generating capacity. The DGS and HOST reserve the right in their sole discretion to pursue other suppliers of renewable power generating capacity at the Site and LICENSEE has no exclusive option or right to provide such additional renewable power generating capacity.
- 8.15. Prevailing Wage.** For construction and installation of the System, LICENSEE, and its contractors and subcontractors shall pay the rate of wages for regular, overtime and holiday work plus employer payments for all benefits generally prevailing in the locality in which the work is to be performed, as determined by the State Department of Industrial Relations. This requirement shall include all crafts, classifications or types of workmen used at the Licensed Area at the point of delivery of LICENSEE, or LICENSEE's subcontractor(s), for the assembly and installation of the System including the materials at the Licensed Area under this SLA. LICENSEE shall comply with all Applicable Laws governing the payment of prevailing wage as identified in the California Labor Code and Applicable Laws.

9. INSURANCE

- 9.1. No DGS Obligation to Insure.** The DGS and HOST are not responsible for and will not maintain insurance covering the System and LICENSEE will make no claim of any nature against the DGS or HOST by reason of any damage to the property of LICENSEE in the event of damage or destruction by fire or other cause.
- 9.2. LICENSEE's Insurance Obligations.** LICENSEE shall procure and maintain for the duration of this SLA insurance against all claims for injuries to persons or damages to property which may arise from the installation, construction, maintenance and operation of the System or the Permitted Use. This insurance shall meet the following requirements:

- 9.2.1** Any insurance company used by LICENSEE shall be acceptable to the DGS. In any event, insurance is to be placed with insurers with a current A.M. Best's ratings of no less than AX. If self-insured, LICENSEE must demonstrate to the satisfaction of the DGS that such insurance is acceptable.
- 9.2.2** LICENSEE shall furnish the DGS and HOST with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the DGS and HOST as a condition of the issuance of the Notice to Proceed. The DGS reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.
- 9.2.3** All coverage shall be in force during the Term. If the insurance expires during the Term, LICENSEE shall immediately provide a new current certificate showing that it has in place all insurance policies required in this Section 9.2 or may be declared in default of this SLA. The DGS and HOST reserve the right to withhold all payment for Electricity until the default is cured to the satisfaction of the DGS and HOST. Renewal insurance certificates must be tendered to the DGS and HOST at least ten (10) Business Days prior to the expiration of the previous insurance certificate. This new insurance shall be in accordance with the terms of this SLA.
- 9.2.4** Insurance policies shall contain a provision stating that coverage will not be cancelled without thirty (30) calendar day's prior written notice to the DGS and HOST.
- 9.2.5** In the event LICENSEE fails to keep in effect at all times the specified insurance coverage, the DGS and HOST may, in addition to any other remedies it may have, terminate this SLA upon the occurrence of such event, subject to the provisions of this SLA.
- 9.2.6** The insurance coverage required herein shall not in any way limit the liability of LICENSEE, its officers, agents, partners or employees.

9.3. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001)
- Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto)
- Workers' Compensation Insurance if required by the State and Employer's Liability Insurance
- Property insurance, Fire and Extended Coverage Form

9.4. Minimum Limits of Insurance. LICENSEE shall maintain limits no less than:

- General Liability (including operations, products, and completed operations): \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
- Property Insurance: Fire and Extended Coverage in an amount sufficient to reimburse LICENSEE for the cost of replacing and reinstalling all of its equipment, fixtures, and personal property located on or in the Licensed Area.

9.5. Deductibles and Self-Insure Retentions. Any deductibles or self-insured retentions must be declared to the DGS in a written notice by LICENSEE. If the DGS determines that such deductibles or self-insured retentions are not appropriate, the DGS shall so notify LICENSEE in writing within thirty (30) calendar days of LICENSEE's submittal to the DGS. Subject to the DGS's approval, LICENSEE shall either (i) reduce or eliminate such deductibles or self-insured retentions as respects the DGS, its officers, officials, and employees or (ii) shall provide a financial guarantee satisfactory to the DGS guaranteeing payment of losses and related investigations, claim administration and defense expenses.

9.6. Subcontractors. LICENSEE or CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to LICENSEE or CONTRACTOR for review and approval by the DGS and HOST. All coverages for subcontractors shall be subject to all of the requirements stated herein and each subcontractor shall further agree to indemnify, defend and hold the DGS and HOST harmless including reasonable attorney's fees and costs.

9.7. Earthquake. LICENSEE is hereby notified that the DGS and HOST do not have coverage for earthquake damage. The DGS and HOST assume no responsibility or liability whatsoever for any damage or destruction to the System or to any property or persons under the control or direction of LICENSEE including any CONTRACTOR or any Lender and any subcontractors or agents of LICENSEE, CONTRACTOR or Lender that may result from an earthquake.

9.8. Other Insurance Provisions

9.8.1 Acceptance of certificates of insurance by the DGS shall not limit LICENSEE's liability under this SLA.

9.8.2 The DGS, the SPWB and HOST and their officers, officials, employees, servants, agents and volunteers are to be covered by LICENSEE's insurance on all General Liability and Other policies covered by this SLA for all activities within the Licensed Area.

9.8.3 For any claims related to this SLA, LICENSEE's insurance coverage shall be primary insurance as respects the State, its

officers, officials and employees. Any insurance or self-insurance maintained by the DGS or HOST, its officers, or officials shall be excess of LICENSEE's insurance and shall not contribute to it.

- 9.8.4** Coverage shall not be extended to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- 9.8.5** In the event LICENSEE does not comply with these insurance requirements, in addition to reserving the right to terminate this SLA, the DGS may, at its option, provide insurance coverage to protect the DGS. LICENSEE shall pay the cost of the insurance and, if prompt payment is not received by the insurance carrier from LICENSEE, the DGS may pay for the insurance from the SPPA sums otherwise due LICENSEE.
- 9.8.6** If the DGS, the SPWB or HOST is damaged by the failure of LICENSEE to provide or maintain the required insurance, LICENSEE shall pay the DGS, the SPWB or HOST for all such damages.
- 9.8.7** LICENSEE's obligations to obtain and maintain all required insurance are non-delegable duties under this SLA.

10. DGS and HOST OBLIGATIONS

- 10.1. General.** HOST will maintain in good working order and available at all times, its connection and service contract(s) with the Utility so that HOST can, upon any suspension or interruption of Electricity, obtain electricity from the Utility. All obligations of HOST under Section 10 shall be subject to the right of HOST to issue a shut-down order to the System in accordance with the provisions in the SPPA.
- 10.2. Notice of Damage.** The DGS or HOST shall promptly notify LICENSEE of any matter it is aware of pertaining to any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.
- 10.3. Liens.** HOST shall not directly or indirectly cause, create, incur, assume or suffer to exist any liens on or with respect to the System or any interest therein. If HOST breaches its obligations under this section, it shall immediately notify LICENSEE in writing, shall promptly cause such lien to be discharged and released of record without cost to LICENSEE. Nothing in this Section 10.4 shall change, alter or modify the provisions in Section 4.
- 10.4. Estoppel Certificate.** The DGS and HOST shall, upon not less than **sixty (60)** calendar days prior written request by LICENSEE or Lender, execute, acknowledge and deliver to LICENSEE or to Lender, an Estoppel Certificate substantially in the form of Exhibit K, which may be relied upon by any Lender or prospective Lender.

10.5. No Relocation Assistance. Except as specifically provided to the contrary elsewhere in this SLA, the Parties agree that no relocation payment or relocation advisory assistance under Applicable Laws will be sought or provided in any form as a consequence of this SLA. LICENSEE also acknowledges that LICENSEE, its employees, contractors, subordinates or assignees are not entitled to any relocation payment or relocation advisory assistance due to their use and occupancy of the Licensed Area. In the event an assignment of this SLA is permitted pursuant to the terms herein, LICENSEE shall incorporate the provisions in this Section 10.6 into each assignment. Failure to do so may make LICENSEE liable for any damages and costs resulting from claims for relocation payments from its assignees.

11. REMOVAL OF SYSTEM AND RESTORATION OF LICENSED AREA

11.1. System Removal and Licensed Area Restoration. LICENSEE shall, at its sole cost, within sixty (60) calendar days after the expiration or any earlier termination of this SLA, remove the System from the Licensed Area, restore the Licensed Area to its pre-installation condition (except for ordinary wear and tear) and peaceably and quietly leave, surrender and yield the Licensed Area to HOST. Upon written request by LICENSEE within this sixty (60) calendar day period, the DGS may, within its sole discretion, extend the time allowable for LICENSEE to vacate the Licensed Area and remove the System. Upon completion of LICENSEE's removal of the System and completion of restoration of the Licensed Area, the DGS and HOST shall inspect the Licensed Area to determine that the Licensed Area is restored and returned in accordance with this section. If the DGS or HOST determines that LICENSEE has not removed the System or restored the Licensed Area in an adequate or timely manner in accordance with this section, the DGS or HOST, as applicable, shall have the right to draw on any and all security as specified in Section 11.2 below and may treat the System as abandoned personal property.

11.2. Security for System Removal. No less than three (3) years prior to the expiration of the Term, LICENSEE shall provide the DGS with the estimated cost to remove the System and restore the Licensed Area in accordance with Section 11.1. LICENSEE and the DGS and HOST shall then meet and confer within thirty (30) calendar days after such estimated cost is provided to resolve any concerns regarding such removal and the estimated cost, and revise the estimated cost; if necessary, after taking those concerns into account shall then constitute the final estimated cost to restore the Licensed Area. Within thirty (30) days of agreeing on the final estimated cost of restoration, LICENSEE shall then notify the DGS and HOST in writing, it will either (i) provide payment and performance bonds covering such final estimated cost or (ii) establish a cash escrow account subject to approval of the DGS of the escrow instructions for accessing the account with an acceptable financial institution into which payments under the SPPA shall be deposited by HOST in an amount equal to five percent (5%) of the estimated cost of such restoration until the balance in such escrow account reaches the estimated cost of restoration. The escrow account shall serve as the security for the restoration of the Licensed Area, and such funds shall be released to LICENSEE when the Licensed Area has been restored as provided in Section 11.1. In the event LICENSEE fails to fulfill its obligations under Section 11.1, the DGS shall have the right to either make claim on the payment and performance bonds or apply the

funds in the escrow account as necessary for the purposes of removing the System and restoring the Licensed Area. The remaining balance in the escrow account, if any, shall be released to LICENSEE upon removal of the System and restoration of the Licensed Area. Interest on the escrow account shall be retained in the escrow account for the benefit of whichever Party is entitled to the funds in the escrow account. In the event that HOST purchases the System upon termination and LICENSEE is not in default under this SLA, the balance of the escrow account shall be paid to LICENSEE upon HOST's purchase.

11.3. End of Term; HOST Purchase Option. HOST shall have an option to purchase the System and any Alterations, materials, spares, tools, supplies and equipment or any portions of the System at the end of the Term of this SLA at a price agreed upon with LICENSEE, or if the Parties are unable to agree within ninety (90) days before expiration of the Term of this SLA, at fair market value as determined by a third party and accredited nationally recognized appraiser of solar photovoltaic systems reasonably selected by HOST. HOST shall give notice of its intent to enter negotiations for exercise of this option at least one hundred and eighty (180) calendar days before expiration of the Term of this SLA.

11.4. HOST Option to Retain System on LICENSEE default. In the event that (i) this SLA is terminated by the default of LICENSEE, or (ii) LICENSEE is in default under its security agreements(s) with the Lender or System Lessor and Lender or System Lessor exercises remedies thereunder, and in either case, the Lender elects to not take actions that would allow HOST, within one hundred and eighty (180) calendar days after HOST has ceased receiving electricity from the System as a consequence of the foregoing, to receive electricity generated by the System on the terms set forth in this SLA or the SPPA, then HOST may treat the System as abandoned and may either require LICENSEE to undertake removal and restoration in accordance with Section 11.1 or, if LICENSEE fails to so remove the System from the Licensed Area, retain the System for its own use free and clear of any claims by LICENSEE, Lender or System Lessor.

11.4.1 LICENSEE agrees to require that any Lender or System Lessor agree directly with HOST that the System shall be deemed abandoned under the circumstances described in Section 11.1.

11.4.2 LICENSEE shall provide in any financing agreement secured by the System that on such abandonment pursuant to this Section 11.4, the Lender or System Lessor, as applicable, shall deliver to the DGS and HOST documents of clear title, free of all claims and encumbrances, as a condition of sale.

11.4.3 In the event the Lender or System Lessor for any reason fails to deliver clear title and exclusive right of possession of the System within six (6) months of the date of any abandonment, the DGS and HOST shall be authorized to take possession and control of the System and to retain a replacement LICENSEE to resume operations of the System free and clear of any claims by LICENSEE, Lender or System Lessor.

11.5. Clear Title. At the termination of this SLA, or in the event of a breach of the terms of this SLA or the SPPA by LICENSEE and termination of this SLA by the DGS or HOST, LICENSEE shall execute and deliver to the DGS and HOST within thirty (30) calendar days written confirmation of the termination of any and all UCC filings affecting the Licensed Area. If LICENSEE fails or refuses to deliver such confirmation, a written notice by the DGS or HOST documenting this failure shall, after ten (10) Business Days from the date of delivery of said notice, be conclusive evidence of such termination against LICENSEE and all persons claiming any interest in the Licensed Area under this SLA. Upon written request by the DGS or HOST, LICENSEE shall deliver a quitclaim deed in recordable form disclaiming any right, title or interest in the Licensed Area under this SLA within ten (10) Business Days from the date of delivery of said request.

12. RIGHT OF FIRST OFFER AND FIRST REFUSAL

12.1. Right of First Offer and First Refusal. If, at any time during the Term LICENSEE desires to sell the System to a third party, LICENSEE shall first offer to sell the System to HOST ("First Offer Notice"). HOST shall have sixty (60) calendar days after receipt of the First Offer Notice to submit an offer to LICENSEE to purchase the System. If HOST fails to make an offer within the sixty (60) calendar day period, LICENSEE shall have the right to sell the System to a third party. If, at any time during the Term, LICENSEE receives a bona fide offer from any person or entity other than a parent or subsidiary of LICENSEE to purchase all or any part of the System, which offer LICENSEE would accept, LICENSEE shall, before accepting such offer, (i) send to the DGS and HOST a true copy of the proposed offer; (ii) notify the DGS and HOST the intention of LICENSEE to accept the offer if the System is not purchased by HOST ("First Refusal Notice"), and (iii) offer the System for sale to HOST under the same terms and conditions in the proposed offer. HOST shall have sixty (60) calendar days after receipt of the proposed offer and First Refusal Notice to notify LICENSEE it will purchase the System on the terms and conditions in the proposed offer, subject to obtaining the necessary HOST authorizations. For purposes of this section the sale of the System includes the sale of 50% or more of the stock or ownership interest of any entity that owns, directly or indirectly, the System.

12.2. HOST's Failure to Exercise its Right of First Refusal. HOST's failure to notify the owner of the System within the said sixty (60) calendar day period shall thereby waive HOST's right of first refusal in that instance, but not as to any subsequent offer, and the owner of the System then may sell the System to the offering party, provided that said sale is (i) on the same terms and conditions in LICENSEE's notice to HOST, (ii) for not less than the price set forth in the offer to HOST, (iii) conditioned on the offering party's agreement to be bound by all terms of this SLA, including HOST's right of first offer and first refusal, and (iv) otherwise in conformance with the conditions of assignment as provided in this SLA.

12.3. HOST Acceptance. If HOST notifies LICENSEE that, conditioned upon obtaining the necessary authorizations, it will accept the proposed offer, then HOST shall have one hundred twenty (120) calendar days from the date of said notification to satisfy said authorizations. If HOST fails to satisfy the condition in the preceding sentence within the one hundred twenty (120) calendar day period, then LICENSEE may sell the System to the offering party, conditioned upon

meeting the conditions specified in Section 12.2. If HOST obtains the necessary authorizations within the one hundred twenty (120) calendar day period, then the closing of the purchase shall take place as provided in the offer but no later than one hundred twenty (120) calendar days after the date of such authorizations.

12.4. Assignment of LICENSEE Contracts to HOST. If HOST exercises its right pursuant to Section 12.1, HOST may elect to take legal assignment of any or all contracts, purchase orders and other contractual rights related to the System. In such event, LICENSEE shall as a condition to receiving payments under this SLA, execute and deliver any or all documents and take all steps, including legal assignment to HOST of any all contracts, purchase orders, and other contractual rights related to the System as HOST may require for the purpose of fully vesting in HOST the rights and benefits of LICENSEE under such contracts in order that HOST may operate the System. LICENSEE shall notify HOST of any or all such contracts and LICENSEE hereby warrants that all such contracts are or shall be assumable by HOST at HOST's option. In addition, LICENSEE shall require that any and all warranties and guarantees related to the System are assumable at HOST's option.

12.5. System Lessor. The initial sale or transfer of the System to a System Lessor at any time up to ninety (90) calendar days after the Commercial Operation Date shall not constitute a sale for the purposes of HOST's right of first offer or right of first refusal. If the System Lessor desires to sell all or a part of the System any time after the expiration of the period specified in the preceding sentence, then HOST shall have a right of first offer and right of first refusal as provided in Section 12.

13. DEFAULTS AND REMEDIES

13.1. Events of Default. A default includes the following:

13.1.1 The failure by a Party to make any payment required under this SLA by the Due Date and if not cured by payment within one hundred and eighty (180) calendar days after receiving notice from the other Party that payment is past due. Provisions regarding defaults of payment required under the SPPA shall be governed by the terms of the SPPA.

13.1.2 Any representation or warranty made by a Party to this SLA proves to have been false or misleading in any material respect when made or if such is a condition that is required to remain true in all material respects during the Term of this SLA, if not cured within fifteen (15) Business Days after written notice from the other Party.

13.1.3 The failure by LICENSEE to perform any obligation set forth in this SLA (other than the events that are otherwise specifically covered as a separate event of default), and such failure is not cured within thirty (30) calendar days or other such period as specified in this SLA after receipt of written notice of default from HOST; or in the event of a default which cannot be cured within such thirty (30) calendar day period, if LICENSEE has not commenced and

diligently prosecuted such cure within thirty (30) calendar days of written notice and thereafter and diligently prosecuted to cured such default within sixty (60) calendar days after receipt of written notice of default from HOST.

13.1.4 Material damage of the System by HOST necessitating uninsured repair costs for which LICENSEE is not reimbursed by HOST within one hundred and eighty (180) calendar days after presenting HOST with documentation establishing such costs.

13.1.5 HOST denying LICENSEE reasonable access to maintain and operate the System which results in decreased electricity production or other uncompensated damage to LICENSEE, and HOST fails to compensate LICENSEE within one hundred and eighty (180) calendar days of being invoiced for the loss.

13.1.6 A termination of the SPPA as a consequence of a default by HOST (which shall constitute a default by HOST hereunder) or CONTRACTOR (which shall constitute a default by LICENSEE hereunder).

13.1.7 A Party makes an assignment or any general arrangement for the benefit of creditors; files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed within twenty (20) Business Days after such filing; otherwise becomes bankrupt or insolvent (however evidenced); or is unable to pay its debts as they fall due.

13.1.8 An event of default by HOST or the DGS pursuant to any Senior Security Document that results in LICENSEE or CONTRACTOR losing such access or other rights under this SLA as are reasonably necessary for LICENSEE or CONTRACTOR to operate and maintain the System and continue to perform their obligations, and exercise their rights, under the SPPA or this SLA.

13.2. Notice of Default. The non-defaulting Party shall provide the defaulting Party written notice of any alleged default hereunder, and such notice shall describe the alleged default. If LICENSEE is the defaulting party, LICENSEE shall be responsible for giving any Lender a copy of the notice of default; provided, however, LICENSEE's failure to give such notice to any Lender shall not invalidate non-defaulting Party's notice of default.

13.3. Remedies for Default. A Party may terminate this SLA if the other Party is in default of this SLA and such default is not cured within the periods specified in Section 13.1. Except as expressly stated otherwise in this SLA, the rights and remedies granted to the Parties pursuant to this SLA shall be the sole and exclusive remedies for a failure of a Party to perform its obligations hereunder.

13.4. The DGS's and HOST Remedies. If LICENSEE's default continues uncured following notice of default as required by this SLA, the DGS and HOST, along with all other rights and remedies they may have, shall have the specific following remedies:

13.4.1 Offset. The DGS and HOST shall have the right to offset any amounts due to the DGS and HOST under this SLA or the SPPA, as applicable, against any amounts that the DGS or HOST may otherwise owe to LICENSEE or CONTRACTOR as applicable.

13.4.2 DGS or HOST Termination of SLA. The DGS or HOST shall have the right to terminate this SLA pursuant to Section 14.1. Upon DGS's written notice of termination, all of LICENSEE's rights in the Licensed Area shall terminate. Termination shall not relieve LICENSEE from the obligation to pay any sum then due to the DGS or HOST or from any claim for damages previously accrued or then accruing against LICENSEE or for the costs to remove and remediate the Licensed Area as provided in Section 11.1. Upon any termination of this SLA under this Subsection 13.4.2, LICENSEE shall execute such documents as the DGS and HOST may request to (i) memorialize the termination of this SLA; (ii) release of the DGS and HOST from all further obligations under this SLA; and (iii) extinguish LICENSEE rights and interest in the Licensed Area.

13.4.3 Recovery of Damages. The DGS and HOST shall be entitled to sums equal to the amount necessary to compensate the DGS and HOST for all actual damages caused by LICENSEE's failure to perform LICENSEE's obligations under this SLA including any detriment which in the ordinary course of events would be likely to result from LICENSEE's failures.

13.4.4 System Removal. Promptly after notice of termination, LICENSEE shall fulfill its obligations in accordance with Section 11.1 hereof.

13.4.5 Actions Regarding LICENSEE. In the event of default by assignee of LICENSEE or any successor to LICENSEE in the performance of the terms hereof, the DGS or HOST may proceed directly against LICENSEE without the necessity of exhausting remedies against such assignee.

13.4.6 HOST Option to Retain System on LICENSEE Default. If LICENSEE defaults on either this SLA or the SPPA and fails to cure the default as provided by the terms of the respective agreement, HOST has the option to obtain clear title and exclusive possession of the System pursuant to Section 11.4, above.

13.5. Lender's Rights. The DGS shall not take any action to terminate this SLA because of any default or breach by LICENSEE if any Lender, within thirty (30) calendar days after service of written notice that the DGS (while not yet electing

its remedies) believes it may terminate this SLA for such default, shall give the DGS written notice that Lender shall:

- 13.5.1** Cure such default if the same can be cured by the payment or expenditure of money required to be paid under this SLA.
- 13.5.2** In the case of a default that cannot be cured unless and until the Lender has obtained possession, diligently pursue actions to obtain possession of the System (including possession by receiver) and to cure such default; provided, however, that Lender shall not be required to continue such foreclosure proceedings if LICENSEE has in the meanwhile cured such default.
- 13.5.3** If such default is not curable under the foregoing Subsections 13.5.1 and 13.5.2, shall institute and complete judicial or non-judicial foreclosure proceedings, or otherwise acquire LICENSEE's interest hereunder with due diligence, and keep and perform all of the covenants and conditions of this SLA, including those requiring the payment or expenditure of money by LICENSEE, until such time as Lender shall have acquired LICENSEE's interest in the System and this SLA.
- 13.5.4** Have the right, but not the obligation, at any time prior to termination of this SLA to pay any amounts due hereunder, to effect any insurance, to pay any taxes and assessments, to make any repairs, improvements or to do any other act required of LICENSEE hereunder to prevent termination of this SLA. All payments so made and all things so done and performed by any Lender shall be as effective to prevent a termination of this SLA as the same would have been if made, done and performed by LICENSEE instead of Lender.
- 13.5.5** If any Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving LICENSEE or by an automatic stay thereunder from commencing or prosecuting foreclosure or any unlawful detainer action, the time specified in Section 13.5 for terminating this SLA shall be extended for the period of such prohibition; provided that Lender shall have fully cured any default of LICENSEE which it is obligated to cure under this SLA. In the event that Lender fails or refuses to comply with the conditions of this subsection, the DGS shall then and thereupon be released from the covenant of forbearance contained in this subsection.
- 13.5.6** Upon Lender's acquisition or possession of the System by foreclosure or by transfer or assignment pursuant to or in lieu of foreclosure, the DGS and HOST agree to substitute the Lender or Lender's nominee as the Substitute LICENSEE, provided that in the DGS's sole reasonable judgment, Lender or Lender's nominee, as the case may be, has satisfied all of the conditions and

requirements applicable to Lender or Lender's nominee meeting the requirements to be the Substitute LICENSEE under Section 5.6 of this SLA. This SLA shall continue in full force and effect for the remainder of the Term hereof and shall be on the same terms and conditions contained in this SLA.

If in the DGS's sole reasonable judgment, Lender or Lender's nominee does not satisfy one or more of the requirements in Section 5.6, the DGS shall give Lender or Lender's nominee written notice of such determination by the DGS which notice shall describe the deficiencies. Lender or Lender's nominee shall have sixty (60) calendar days after the receipt of such notice from the DGS to cure the deficiencies noted by the DGS. In the event Lender or Lender's nominee does not comply with the provisions of this subsection within such sixty (60) calendar day period, the DGS may terminate this SLA without further obligation to LICENSEE, Lender or Lender's nominee.

13.6. LICENSEE's Remedies. If any default by the DGS or HOST shall continue uncured following notice of default as required by this SLA, LICENSEE's sole remedies are the following:

13.6.1 LICENSEE's Termination of SLA. Except as specifically provided otherwise in this SLA, if the DGS or HOST defaults under this SLA, LICENSEE shall have the right to terminate this SLA immediately in writing. In that event, termination under this subsection shall not relieve the DGS or HOST from the obligation to pay any sum then due to LICENSEE or from any claim for damages previously accrued or then accruing against the DGS or HOST. Upon any termination of this SLA under this Section 13.6.1, the DGS and HOST shall execute such documents as LICENSEE may request to memorialize the termination and to release LICENSEE from the terms and conditions of this SLA.

13.6.2 Termination Damages. If LICENSEE elects to terminate this SLA due to HOST's or the DGS's default, LICENSEE shall fulfill its obligation under Section 11.1 of this SLA and thereafter HOST shall pay LICENSEE actual damages established according to proof. Except as expressly provided in Sections 13.1.1, 13.1.2 or 13.1.8 of this SLA, DGS shall not be liable for any other direct, actual damages; Host shall be liable for payment of any direct actual damages established according to proof by LICENSEE.

13.7. No Consequential Damages. The liability of the Parties under this SLA 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. Notwithstanding any provision in this SLA to the contrary, none of the Parties shall be liable for consequential, incidental, special, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract or otherwise. System removal costs, site restoration costs, and tax recapture by the IRS, according to proof, are recoverable to the extent not excluded by this section.

14. EARLY TERMINATION

14.1. DGS's and HOST's Early Termination Rights

14.1.1 Before Construction. If prior to LICENSEE's commencement of construction of the System, the DGS or HOST determines that there are easements, covenants, conditions, restrictions or any other liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the System, **or LICENSEE fails to meet its obligations under the terms of Section 7 of this SLA**, the DGS or HOST may terminate this SLA upon written notice to LICENSEE and no Party shall be deemed in default by such action and no Party shall have any further obligation to the other Parties. Any amount previously paid by LICENSEE to the DGS or HOST shall not be refundable.

14.1.2 General. The DGS or HOST may terminate this SLA for any reason, upon sixty (60) calendar days written notice to LICENSEE with a copy to any Lender whose name and contact information has been provided by LICENSEE to the DGS and HOST. In the event that the DGS or HOST terminates this SLA pursuant to this section none of the Parties shall be in default solely as a result of the DGS's or HOST's election to terminate hereunder, and LICENSEE shall, upon the DGS's or HOST's request, fulfill its obligations under Section 11.1. Provided that LICENSEE was in compliance with this SLA at the time of the DGS's or HOST's notice as provided above and LICENSEE continues to be in compliance with this SLA through the completion of its obligations under Section 11.1 hereof, HOST shall within one-hundred eighty (180) calendar days of DGS's acceptance of LICENSEE's performance of its obligations under Section 11.1 pay LICENSEE its actual damages established according to proof; provided, however, that no actual damages established according to proof shall be due if the Parties mutually agree to HOST's purchase of the System at such price as may be agreed between them based on the fair market value of the System and as consented to by the Lender. Except as expressly provided in Sections 13.1.1, 13.1.2 or 13.1.8 of this SLA, DGS shall not be liable for any other direct, actual damages.

14.1.3 Upon termination of this SLA for default of the DGS or HOST, LICENSEE shall remove the System at its cost and restore the Licensed Area to its original condition, less normal wear and tear, pursuant to Section 11.1 of this SLA. After LICENSEE has removed the System and restored the Licensed Area, HOST shall pay LICENSEE actual damages established according to proof within one hundred eighty (180) calendar days of the DGS's acceptance of the removal of the System and restoration of the Licensed Area.

14.2. LICENSEE Early Termination Rights. LICENSEE may terminate this SLA at any time prior to the Commercial Operation Date on thirty (30) calendar days written notice to the DGS and HOST if LICENSEE determines that the System cannot be built as planned or that its construction and operation would not be economically viable for LICENSEE including LICENSEE's determination that the installation of the System is not economically viable as a result of the CEQA analysis. In the event that LICENSEE terminates this SLA pursuant to this section, no Party shall be in default solely as a result of LICENSEE's election to terminate hereunder, and LICENSEE shall fulfill its obligations under Section 11.1 of this SLA and HOST shall not pay actual damages, and the DGS shall not refund any Transaction Fee already received.

14.3. Early Termination Due to Force Majeure. If a Force Majeure occurs, the affected Party shall promptly provide written notice to the other Party describing the nature of the event; the length of time it is expected to continue; and efforts (planned or under way) to overcome the effects of the event. The Parties shall cooperate in good faith to overcome the effects of the Force Majeure. The obligations of each Party shall be suspended for the continuance of any inability to perform caused by a Force Majeure, but for no longer period. If a Force Majeure prevents a Party from performing its obligations under this SLA and such event continues for more than 365 calendar days, each Party may terminate this SLA and no Party shall be in default.

14.4. Permanent Shutdown of the Facility. If during the Term, through no fault of LICENSEE and for reasons other than a Force Majeure, the System is permanently shut down due to HOST's renovation, destruction or closure of the Facility, the following provisions shall apply:

14.4.1 Notification. The DGS shall notify LICENSEE as soon as possible but in no event less than one hundred and twenty (120) calendar days prior to the planned permanent Facility shutdown that will result in the shutdown of the System. The DGS shall provide written notice to LICENSEE indicating whether or not HOST desires to relocate the System.

14.4.2 Relocation. HOST and LICENSEE agree to negotiate in good faith to find an alternative location where LICENSEE can relocate the System and from which LICENSEE can provide Electricity to HOST in conformance with this SLA and the SPPA. If LICENSEE and HOST can agree on such new location and if LICENSEE and HOST agree that such new location has sufficient solar insolation to meet its EEP and GEP in this SLA, then this SLA shall be amended by the Parties to substitute the alternative location as the Licensed Area, subject to the approval by the SPWB, and HOST shall pay reasonable costs associated with relocation of the System.

14.4.3 No Adequate Alternative Site. If HOST and LICENSEE cannot locate an alternative site that meets the requirements of Subsection 14.5.2 but can mutually agree upon an alternative location which is inferior to the Licensed Area for purposes of solar

installation, then HOST and CONTRACTOR shall attempt to negotiate in good faith an adjustment in the Price to compensate for the alternative location such that CONTRACTOR receives payments comparable to what it would have received from the System at the original Licensed Area. If HOST and CONTRACTOR mutually agree to such change in Price, then the Parties shall amend all relevant terms in this SLA, subject to approval by the SPWB, and LICENSEE shall proceed to relocate the System (or as much of System as practical) to the new location. If the Parties agree to such relocation, HOST shall pay for the reasonable costs for LICENSEE to relocate the System. HOST shall reimburse CONTRACTOR for the period of System shutdown prior to relocation in accordance with the provisions in the SPPA.

14.4.4 Termination due to Permanent Shutdown of the Site. If, within seventy-five (75) calendar days prior to date that HOST will commence the permanent Facility shutdown for reasons set forth in Section 14.5, HOST and LICENSEE have not agreed upon an alternative location for the System, LICENSEE shall remove the System pursuant to Section 11.1 of this SLA. After completion of such removal, the provisions in Section 14.2 of this SLA shall apply regarding any actual damages due by HOST to LICENSEE and neither Party shall otherwise have any further obligation to the other Party.

14.5. Funding Availability. All payment obligations of the DGS and HOST under this SLA, the SPPA, or any related agreement, are subject to appropriation by the State Legislature. It is mutually agreed that if the State Legislature does not appropriate sufficient funds, the obligations of the DGS and HOST under this SLA, the SPPA, or related agreement, shall be suspended during the continuation of such non-appropriation event or amended to reflect any reduction of appropriated funds. A non-payment by the DGS or HOST required under this SLA or the SPPA due to the State Legislature not appropriating funding shall not be an event of default.

15. GENERAL TERMS AND CONDITIONS

15.1. Inspections. The DGS and HOST shall be permitted access to inspect the System upon twenty-four (24) hours prior written notice to LICENSEE. The DGS and HOST personnel must be accompanied by personnel of LICENSEE during any non-emergency inspection of the System, unless LICENSEE agrees in writing to waive its right to accompany the DGS and HOST personnel on all non-emergency inspections. This requirement in no way prohibits the DGS or HOST from inspecting any and all portions of the Site and Licensed Area at any time.

15.2. Mechanic's Lien / Stop Notices – Removal of Liens. LICENSEE shall not cause or permit any liens to attach or to be placed upon or encumber the Site, Licensed Area or Facility, or permit the filing of a stop notice against the DGS or HOST, arising from or resulting out of any work performed by LICENSEE or CONTRACTOR. If any such lien attaches, or stop notice is filed, LICENSEE agrees to cause the lien and/or stop notice to be removed within ten (10) Business

Days of notification thereof by the posting of a stop notice release bond or lien release bond, payment of the lien and/or stop notice lien or otherwise. If LICENSEE fails to remove the lien within this time period, in addition to its other remedies under this SLA, the DGS or HOST may undertake to cause such lien and/or stop notice to be removed and charge to LICENSEE any costs and expenses incurred in connection with the removal of said Lien. LICENSEE agrees to hold harmless, defend and indemnify the DGS and HOST against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing any such lien and/or stop notice. The DGS and HOST may record a Notice of Non-Responsibility and shall provide a copy of such to LICENSEE when recorded.

- 15.3. Protection of Facility, Site and Licensed Area.** LICENSEE shall not do or permit to be done anything which will invalidate any fire, extended coverage or other insurance policy covering the Facility, the Site or the Licensed Area, HOST's or the State's interest in the Facility, the Site or the Licensed Area, or that will violate any warranty for the Facility, the Site or Licensed Area. LICENSEE shall comply with all Applicable Laws and Regulations, and recommendations of HOST, the DGS or the State, including without limitation any risk management department or office or any other department or office performing a similar function.
- 15.4. Losses/Damages.** Subject to Section 15.6, the State, the DGS and HOST will not be responsible for losses or damage to personal property, equipment or materials of LICENSEE at the Licensed Area. LICENSEE will hold harmless the State, the DGS and HOST from any such losses or damages. All losses by LICENSEE at the Licensed Area shall be reported immediately to the DGS and HOST upon discovery by LICENSEE.
- 15.5. Health and Safety.** LICENSEE shall take all necessary and reasonable safety precautions and shall comply with all Applicable Laws pertaining to the safety of persons and real and personal property at or on the Licensed Area and the operation of the System. LICENSEE shall immediately report to the DGS and HOST any death, loss time injury, or property damage to the DGS's property that occurs within the Facility, the Site, the Licensed Area or as part of LICENSEE's operation of the System.
- 15.6. HOST System Repair Costs.** If HOST damages the System as a result of HOST's operations, maintenance, repairs or renovations of the Licensed Area, and for reasons other than an event that constitutes a Force Majeure, HOST shall reimburse LICENSEE's reasonable costs to repair the damage to the System to the extent such damage is not covered by LICENSEE's insurance as required in Section 9 of this SLA. If, in its sole opinion, HOST deems the costs to repair the System are unreasonable, then HOST may elect to terminate this SLA and LICENSEE shall remove the System in accordance with Section 11.1 and HOST shall pay LICENSEE the actual damages in accordance with Section 14.2 of this SLA.
- 15.7. Damage Covered by Insurance.** If during the Term, the System is wholly or partially destroyed or damaged by an event covered by insurance or required to be covered by insurance under this SLA, the LICENSEE shall use the proceeds of such insurance to restore the System to its original capacity. If LICENSEE

reasonably determines that it is not economically feasible to restore the System after such loss event, LICENSEE shall give the DGS and HOST written notice of such determination as soon as practical. In that case, this SLA shall be terminated and the DGS and HOST shall have no obligation to pay actual damages except as provided immediately below. Upon receipt of such notice of election by LICENSEE to terminate this SLA and abandon the System, the DGS and HOST shall have the option to take title to the System at no cost. In such event, the insurance proceeds shall be paid in the following order of priority:

15.7.1 First, to pay for the reasonable costs to remove the damaged System and restore the Licensed Area to its original condition as of the Effective Date save for normal wear and tear, as provided in Section 11.1. If the insurance proceeds are insufficient, or there are no insurance proceeds as provided in this SLA to cover the costs to restore the Licensed Area, LICENSEE shall be responsible for removing the System and restoring the Licensed Area at LICENSEE's sole cost to its original condition as of the Effective Date save for normal wear and tear, as provided in Section 11.1.

15.7.2 Second, to LICENSEE, the amount equal to actual damages as of the date immediately preceding the casualty event minus the amount paid to remove the System pursuant to Section 11.1.

15.7.3 Third, any remaining insurance proceeds shall be distributed 50% to LICENSEE and 50% to HOST.

15.8. Condemnation. In the event that the whole or any portion of the System or Licensed Area is acquired or condemned by any authority or sold in lieu thereof, the DGS agrees to notify LICENSEE immediately of such condemnation or sale.

15.8.1 If LICENSEE or the DGS, in its own reasonable judgment, determines that it cannot continue to satisfy the terms and conditions in this SLA as a consequence of such condemnation or sale, either Party shall within thirty (30) calendar days of the DGS's notice give the other Party written notice of its intent to terminate the SPPA.

15.8.2 The entire award in any such condemnation proceeding or sale shall be and remain the property of the DGS or HOST, and LICENSEE hereby fully waives and relinquishes any right to seek an award or participate in the condemnation proceeding except and to the extent provided in Subsections 15.8.3 and 15.8.4, below.

15.8.3 If either Party gives a termination notice as provided in Subsection 15.8.1 and if the condemnation specifies a value or allocation attributable to the System, such amount shall be paid to LICENSEE and this SLA shall terminate with no further obligation on either Party other than LICENSEE's obligation to remove the System as provided in Section 11.1.

15.8.4 If the condemnation does not specify a value or allocation to the System, the Parties agree that the terms set forth in Section 15.8 of this SLA shall apply as if the condemnation or sale were the same as an insured loss event and the proceeds from the condemnation shall be allocated in accordance with Section 15.8 of this SLA except that any excess that would be paid to LICENSEE under Subsection 15.8.3 shall be paid 100% to the DGS. This SLA shall terminate with no further obligation on either Party other than LICENSEE's obligation to remove the System as provided in Section 11 hereof.

15.9. Limitation on Liability and LICENSEE Indemnification. The DGS, HOST and State, shall not be liable for any debts, liabilities, settlements, liens, or any other obligations of LICENSEE or its heirs, successors or assigns. LICENSEE shall indemnify, defend and hold harmless the DGS, HOST and State and their officers, agents and employees from and against any claims, damages, or expenses, including an amount equal to reasonable attorney's fees, and liabilities arising out of or in any way connected with this SLA for claims, damages, expenses, or liabilities for loss or damage to any property, or for any death or injury to any person or persons in proportion to and to the extent that such claims, damages, expenses, or liabilities arise from the negligence or willful acts or omissions of LICENSEE, or its officers, agents, employees, assigns and successors.

16. OTHER TERMS AND CONDITIONS

16.1. Notices. Except as otherwise expressly provided in this SLA, all notices and other communications to be given or made under this SLA shall be in writing and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. Notices may also be delivered by electronic mail to the email address indicated below or by facsimile to the tele facsimile numbers set forth below provided that the originator verifies that recipient has received such notice and originator delivers a copy of such notice to recipient using the means in the first sentence of this paragraph as soon as possible. All such notices or other communications shall be deemed received upon the earlier of:

- a. Personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice.
- b. Mailed as provided above, on the date of receipt or rejection.
- c. Given by electronic email or facsimile, when received by the other party if received between Monday through Friday between 9:00 a.m. and 5:00 p.m. so long as such day is not a State or federal holiday and otherwise, on the next day, provided that if the next day is a Saturday, Sunday, or a State or federal holiday, such notice shall be effective on the following business day.

To LICENSEE:

LICENSEE: _____
TITLE: _____
ADDRESS: _____

PHONE: _____
FAX: _____
EMAIL: _____

To DGS:

DEPARTMENT OF GENERAL SERVICES
ATTN: _____
TITLE: _____
ADDRESS: _____
FAX: _____
PHONE: _____
EMAIL: _____

To HOST:

HOST: _____
ATTN: _____
TITLE: _____
ADDRESS: _____
PHONE: _____
FAX: _____
EMAIL: _____

To SPWB:

STATE PUBLIC WORKS BOARD
ATTN: _____
TITLE: _____
ADDRESS: 915 "L" Street
Sacramento, CA 95814
PHONE: _____
FAX: _____
EMAIL: _____

- 16.2. Amendment.** No amendment or variation of the terms of this SLA shall be valid unless made in writing, signed by the Parties. No oral understanding or agreement not incorporated in this SLA is binding on any of the Parties.
- 16.3. Notification of Change in Parties.** LICENSEE shall notify the DGS in writing within five (5) Business Days after any change in name, ownership, or control of LICENSEE.
- 16.4. Taxes.** LICENSEE, its successor and assigns, shall pay all lawful taxes, including possessory interest or other tax, assessments or charges that may at any time be levied upon any interest in the System, the SPPA or this SLA.
- 16.5. Audit.** LICENSEE agrees that the DGS, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records

and supporting documentation pertaining to the performance of this SLA including without limitation matters relating to the SPPA. LICENSEE agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. LICENSEE agrees to allow the auditor(s) access to such records during normal business hours after reasonable notice and to allow interviews of any employees who might reasonably have information related to such records. Further, LICENSEE agrees to include a similar right of the DGS to audit records and interview staff in any subcontract related to performance of this SLA (Government Code 8546.7, Public Contract Code 10115 et seq., California Code of Regulations, Title 2, Section 1896).

- 16.6. Integration of Exhibits.** This SLA, together with the Exhibits, constitute the entire agreement and understanding between the DGS, HOST, and LICENSEE with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. These Exhibits and Schedules referred to herein are integral parts hereof and thereof and are made a part of this SLA by reference.
- 16.7. Cumulative Remedies.** The rights and remedies of the Parties provided in this SLA shall not be exclusive and are in addition to any other rights and remedies provided by law, if any.
- 16.8. Limited Effect of Waiver.** The failure of the Parties to enforce any of the provisions of this SLA, or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.
- 16.9. Survival of Obligations.** Notwithstanding expiration or earlier termination of this SLA, the Parties shall continue to be bound by the provisions of this SLA which by their nature survive such expiration or termination. Such provisions shall include, but not be limited to, Section 3.13 (“No Infringement”), Section 8.5 (“Liquidated Damages for Delay”), Section 3.11 (“Hazardous Material”), Section 15.2 (“Mechanic’s Lien”), Section 11 (“Removal of System”), Section 13 (“Defaults and Remedies”), Section 15.9 (“Limitation on Liability and Indemnification”), Section 16.4 (“Taxes”) and other provisions of this SLA that, by their sense and context, are intended to survive termination of this SLA shall survive the expiration or termination of this SLA.
- 16.10. Relationship of Parties.** The relationship between the DGS and HOST on the one hand, and LICENSEE, on the other hand, shall not be that of partners, agents or joint ventures for one another, and nothing contained in this SLA shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes.
- 16.11. Independent Status.** LICENSEE, and the agents and employees of LICENSEE, in the performance of this SLA, shall act in an independent capacity and not as officers or employees or agents of the State. LICENSEE is not entitled to unemployment or workers’ compensation benefits from the State.
- 16.12. Successors and Assigns.** This SLA and the rights and obligations under this SLA shall be binding upon and shall inure to the benefit of the Parties and their

respective permitted successors and assigns. Assignment of rights under this SLA shall comply with Section 5 of this SLA.

- 16.13. LICENSEE Certification.** This SLA shall not be effective unless and until LICENSEE has executed California's CCC-307 Certification attached as Exhibit M to this SLA. LICENSEE warrants that it will be in continual compliance with the provisions in Exhibit M throughout the Term of this SLA.
- 16.14. Non-Discrimination.** During the performance of this SLA, LICENSEE and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, nor deny family care leave. LICENSEE and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. LICENSEE and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this SLA by reference and made a part hereof as if set forth in full. LICENSEE and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. LICENSEE shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this SLA.
- 16.15. Employment of Undocumented Aliens.** LICENSEE verifies and warrants that, in entering into this SLA with the DGS and HOST, LICENSEE has not, in the preceding five (5) years, been convicted of violating a state or federal law regarding the employment of undocumented aliens.
- 16.16. Child Support Compliance Act.** "For any Agreement in excess of \$100,000, LICENSEE acknowledges in accordance with Public Contract Code Section 7110, that:
- 16.16.1** LICENSEE recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- 16.16.2** LICENSEE, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

16.17. Dispute Resolution. If a dispute arises between the Parties regarding this SLA, the Parties shall attempt in good faith to negotiate expeditiously a resolution to the dispute. The Parties agree:

16.17.1 To attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner; and

16.17.2 Conduct negotiations through a representative or representatives of each Party who is authorized to act for the Party and resolve the dispute without resorting to higher authority.

16.17.3 Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this SLA. If requested, a Party shall provide to the other Party statements evidencing the quantity of Electricity delivered at the Electrical Interconnection Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid.

16.17.4 The exhaustion of the dispute resolution procedure provided for in Section 16.17 is a condition precedent to the initiation of legal action in a court of law.

16.18. Severability; Unenforceable Provision. In the event that any provision of this SLA is unenforceable or held to be unenforceable, then the Parties agree that all other provisions of this SLA have force and effect and shall not be affected thereby.

16.19. Governing Law. This SLA shall be governed and construed in accordance with the laws of the State of California.

16.20. Press Releases. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, each Party to this SLA shall submit to the other Parties for approval any press releases regarding the use of solar or renewable energy in connection with this SLA and shall not submit for publication any such releases without the written approval of the other Parties, which approval shall not be unreasonably withheld or delayed. The Parties may by mutual written agreement set forth specific statements that may be used by LICENSEE in any press releases that address LICENSEE's use of solar or renewable energy provided pursuant to this SLA.

16.21. Confidentiality of Information

16.21.1 Identification. Any information provided by one Party to the other Party shall be deemed confidential or proprietary provided that such information is clearly labeled as "proprietary" or "confidential" and provided that such information so marked is in fact proprietary or confidential. If only parts of a document are deemed confidential or proprietary, then only those portions shall be identified and marked as

such. This provision shall have no effect if the cover page or entire document is marked as confidential or proprietary when, in fact, much of such document does not so qualify.

16.21.2 Limitations of Confidential Information. Notwithstanding the foregoing, confidential information shall not include information (a) that was publicly available at the time of the disclosure thereof by one Party to the other; (b) that becomes publicly available other than through actions of the receiving Party in violation of this Agreement; or (c) that was in the possession of the receiving Party (without confidential or proprietary restriction) at the time of disclosure or that becomes available to the receiving Party from a source not subject to any obligation to keep such information confidential.

16.21.3 Restrictions on Use and Disclosure. Unless and until it receives the prior written consent of the disclosing Party, the receiving Party agrees (i) to hold all confidential information of the disclosing Party in strict confidence, (ii) not to publish or otherwise disclose to any such confidential information and (iii) not to use, copy, reproduce, photograph, or otherwise make any image of such confidential information except as otherwise provided Section 16.21.4.

16.21.4 DGS and HOST Disclosures. LICENSEE acknowledges that the DGS and HOST are public agencies and their obligations regarding disclosure of records are governed by the California Public Records Act, Government Code Section 6250 et seq. Accordingly, any documents provided by LICENSEE related to the award or performance of this SLA or the SPPA will only be held as “confidential” by DGS or HOST if they are otherwise exempt from disclosure by the California Public Records Act.

If the DGS or HOST receives a request for information which includes information provided by LICENSEE, the department receiving the request will contact LICENSEE within five (5) days of receipt of the request. Should LICENSEE desire to keep the requested documents confidential and not disclosed, it is LICENSEE’s responsibility, at their sole cost and expense, to take all steps necessary to prevent disclosure. If LICENSEE fails to obtain a court order supporting nondisclosure, LICENSEE will not be entitled to make a claim or maintain any legal action against the DGS or HOST in connection with disclosure of any requested information.

16.21.5 Permitted Disclosures. Notwithstanding any restrictions herein, each Party may disclose confidential information received by it to its representatives, provided that such Party informs each such person who has access to the confidential information of its confidential nature and the terms of this SLA. The Party receiving confidential information shall use reasonable efforts to ensure that each Representative complies with the terms of this SLA and that any confidential information received by such Representative is kept confidential.

- 16.21.6 Survival.** The provisions in this Section 16.21 shall survive until the earlier of (i) two (2) years after the date that such confidential information was provided or (ii) two (2) years after the termination of this SLA.
- 16.22. Endorsement.** Nothing contained in this SLA shall be construed as conferring on any Party hereto, any right to use the other Party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other Party. Furthermore, nothing in this SLA shall be construed as endorsement of any commercial product or service by the State, its officers or employees.
- 16.23. Covenant Against Gratuities.** LICENSEE warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by LICENSEE, or any agent or representative of LICENSEE, to any officer or employee of the DGS, HOST or the State with a view toward securing this SLA or securing favorable treatment with respect to any determinations concerning the performance of this SLA. For breach or violation of this warranty, the DGS or HOST shall have the right to terminate this SLA, either in whole or in part, and any loss or damage sustained by the DGS, HOST or the State in procuring on the open market any items which LICENSEE agreed to supply shall be borne and paid for by LICENSEE.
- 16.24. No Conflict with the SLA.** LICENSEE warrants that all other contracts and agreements (including warranties and guarantees) related to the System or LICENSEE's business of designing, building, operating, maintaining and financing the System shall contain no terms or provisions that conflict with this SLA. Upon the DGS's written request, LICENSEE shall provide the DGS copies of all such agreements. LICENSEE shall notify the DGS in writing of all significant amendments to such agreements.
- 16.25. Counterparts.** This SLA may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.
- 16.26. Timeliness.** Time is of the essence in this SLA.
- 16.27. Authority.** The signatories hereto represent and warrant that they are duly authorized on behalf of their respective entities to enter into and consummate this SLA.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this SLA, including Exhibits, and intending to be legally bound hereby, the DGS, HOST and LICENSEE execute this SLA as of the date below.

**DEPARTMENT OF GENERAL SERVICES
OF THE STATE OF CALIFORNIA**

By: _____

NAME: _____

TITLE: _____

DATED: _____

HOST: DEPARTMENT OF [INSERT DEPARTMENT NAME]

By: _____

NAME: _____

TITLE: _____

DATED: _____

LICENSEE: [INSERT ENTITY NAME]

By: _____

NAME: _____

TITLE: _____

DATED: _____

**CONSENTED TO BY THE STATE PUBLIC WORKS BOARD
OF THE STATE OF CALIFORNIA**

By: _____

NAME: _____

TITLE: _____

DATED: _____

EXHIBITS TO SLA

- A. Definitions
- B. Depiction of Licensed Area
- C. Technology Description
- D. Solar Power Purchase Agreement (SPPA)
- E. Site Access Procedures
- F. Design and Installation Process and Milestone Schedule
- G. As-Built Drawings and Other Technical Documents
- H. Solar RFP Attachment 1 – General Installation Requirements
- I. Solar RFP Attachment 2 – Minimum Structural Requirements
- J. Form of Lender Estoppel Certificate for Financing
- K. Form of Estoppel Certificates for DGS and HOST
- L. Performance Bond Form
- M. CCC-307 Certification
- N. Transaction Fees

EXHIBIT A DEFINITIONS

1. "AC" means alternating current.
2. "Access Procedures" means the access procedures to the Site by LICENSEE set forth in Exhibit E of this SLA and as reasonably amended from time to time.
3. "Affiliate" means, with respect to LICENSEE, any other entity directly or indirectly controlling, controlled by or under common control with LICENSEE.
4. "Alterations" means changes to, replacement of, or alteration to the System, erection of additions, or structures in or upon the System as further defined in Section 8.9.
5. "ANSI" means American National Standards Institute.
6. "Applicable Laws" means any and all applicable federal, state, and local laws, codes, ordinances, rules and Regulations, and all issued permits and licenses.
7. "As-Built Drawings" means LICENSEE's annotated set, both hard and electronic copy, of Construction Documents that have been contemporaneously revised by LICENSEE during the course of the System's installation and construction to identify changes to the System subsequent to the approval of the Construction Documents so as to record the actual physical constructed condition.
8. "As-Is" means the term used to notify LICENSEE that no express or implied warranty regarding the Site and Licensed Area is provided by the DGS. LICENSEE therefore takes the Site and Licensed Area at LICENSEE's own risk, without recourse against the DGS, HOST or State for their condition or performance.
9. "ASME" means American Society of Mechanical Engineers.
10. "Billing Cycle" means the period in which CONTRACTOR shall bill HOST for the Electricity delivered by the System which shall be on a calendar month basis following the Notice of Commercial Operation as provided in the SPPA. In the event the first day of delivery of Electricity falls on a day other than the first day of the month CONTRACTOR shall bill the metered amount of Electricity for the remaining portion of the month.
11. "Business Day" means any day other than a Saturday, a Sunday or State holiday. The use of "day" otherwise means calendar day.
12. "California Solar Initiative" or "CSI" means the solar rebate program for State consumers who are customers of the investor-owned utilities - Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric.
13. "CEC" means the California Energy Commission.
14. "CEQA" means the California Environmental Quality Act which is a State environmental law.

15. "Collateral Assignment" means an assignment to the Lender of certain rights and interests in the System owned by LICENSEE during the Term.
16. "Commercial Operation Date" or "actual COD" means the verifiable date that LICENSEE notifies the DGS the System is commercially operational and consistently producing the GEP of electricity for the Host facility.
17. "Construction Documents" mean the design drawings, specifications, general conditions, supplementary general conditions, special conditions, addenda, and change orders developed by the PE or engineer of record to convey in detail the design, function and construction of the System as provided in Section 7.
18. "Construction Start Date" means the date that LICENSEE commences construction of the System, such date to be specified by written notice to the DGS as provided in Section 8.2.
19. "CONTRACTOR" means the entity identified on Page 1 of the SPPA or its assignee as authorized under the SPPA.
20. "Contract Year" means each twelve-month period commencing on the actual COD and each anniversary thereof; provided, however, that the last Contract Year may be less than twelve months in the event of any early termination of this SLA.
21. "CSI" means the California Solar Initiative.
22. "CPUC" means the California Public Utilities Commission.
23. "DC" means direct current.
24. "Demand Response" refers to energy resource programs designed to avoid brown outs and blackouts by compensating electricity users for reducing consumption when demand for electricity is high and system reliability is at risk.
25. "DGS" means the California Department of General Services.
26. "DGS and HOST Estoppel Certificate" means an estoppel certificate substantially in the form of Exhibit K.
27. "Due Date" means thirty (30) calendar days after receipt by HOST of LICENSEE's invoice for delivery of Electricity under the SPPA.
28. "EEP" means Expected Electricity Production.
29. "Effective Date" means the first day on which this SLA and the SPPA have been fully executed by the parties identified therein and consented to by the SPWB.
30. "Electricity" means electrical energy, measured in kilowatts and kilowatt-hours AC that is produced by the System and delivered by LICENSEE to HOST at the Electrical Interconnection Point and that conforms to the applicable utility and/or authoritative regulatory body standards and to the conditions specified in this SLA.

31. "Electrical Interconnection Point" means the point(s) specified in the System design where the System connects to the existing electrical distribution line(s) serving the Site.
32. "Energy Management System" means a computer application system used by facility operators to monitor, control, and optimize the performance of the electricity and/or transmission system.
33. "Environmental Attributes" means any and all credits, offsets and other benefits related to the avoidance of the emission of any gas, chemical or other substance into the air, soil or water resulting from the use of solar generation including but not limited, to Renewable Energy Credits ("RECs") and any similar benefits for which a market may exist now, or at a future time, and all reporting rights with respect to the Environmental Attributes.
34. "Expected Electricity Production" or "EEP" means the expected System Electricity output in kWh AC that CONTRACTOR will deliver to HOST as set forth in the table in Section 5.1 of the SPPA.
35. "Exhibits" means Exhibits A through N attached to this SLA and incorporated by reference in this SLA as set forth in Section 16.6 of this SLA.
36. "Facility" means the land, buildings, structures or other improvement located on the Site.
37. "First Offer Notice" has the meaning ascribed to such term in Section 12. 1 of this SLA.
38. "First Refusal Notice" has the meaning ascribed to such term in Section 12.1 of this SLA.
39. "Force Majeure" means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this SLA, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event and mitigate the effect of such event on such Party's ability to perform its obligations under this SLA and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the direct or indirect result of the negligence of or the failure to perform under this SLA by, or caused by, the Party seeking to have its performance obligations excused thereby; provided further, that such event is within or similar to one or more of the following categories: condemnation; expropriation; invasion; plague; drought; landslide; tornado; hurricane; unusually severe weather; tsunami; volcano; flood; lightning; earthquake; fire; explosion; epidemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; strikes and other labor disputes; riot or similar civil disturbance or commotion; other acts of God; acts of the public enemy; blockade; insurrection, sabotage or vandalism; embargoes; and actions of a governmental authority (other than in respect of LICENSEE's compliance with: Applicable Laws in effect as of the Effective Date or actually passed as law but not yet in full force and effect as of the Effective Date; and permits, licenses and other approvals required under Applicable Laws in effect as of the Effective Date, or laws enacted but not yet in full force and effect as of the Effective Date, in connection with LICENSEE's performance under this SLA). Force Majeure does not include (i) the failure to pay moneys due under this SLA; (ii) the lack of

wind, sun or other fuel source of an inherently intermittent nature; or (iii) reductions in generation from the System resulting from ordinary wear and tear, deferred maintenance or operator error.

40. "GEP" means Guaranteed Electricity Production.
41. "GEP Damages" means an amount CONTRACTOR pays HOST for damages in the event CONTRACTOR fails to meet its GEP obligations as described in Section 6.2 of the SPPA.
42. "GEP Failure" means when LICENSEE fails to satisfy the GEP obligation.
43. "Guaranteed Completion Date" shall be one hundred **fifty (150)** calendar days after the DGS's issuance of Notice to Proceed to LICENSEE as provided in Section 8.2 **and Section 8.3** and subject to extensions, if any, as mutually agreed by the Parties in writing.
44. "Guaranteed Electricity Production" or "GEP" means 80% of the EEP in kWh that CONTRACTOR guarantees to deliver from the System to HOST as set forth in the table in Section 6.1 of the SPPA.
45. "Hazardous Material" means, without limitation, any substance defined as "hazardous substance", "hazardous waste", "extremely hazardous waste," or stated to be known to cause cancer or reproductive toxicity, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1317 et seq.; Sections 25115, 25117, 25122.7, 25140, 25249.5, 25249.8, 25281, 25316 or 25501 of the California Health and Safety Code; and any substance regulated pursuant to any environmental law(s). The term "Hazardous Material" includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCBs") and petroleum.
46. "HOST" means the State agency identified in the preamble to this SLA and the SPPA as "HOST" and a party to this SLA and the SPPA.
47. "IEEE" means Institute of Electrical and Electronics Engineers.
48. "Interconnection Agreement (s)" means any interconnection agreement described in Section 7.9.1 of this SLA.
49. "Interest Rate" means the lesser of the prime rate as quoted from time to time in "Money Rates" in the Wall Street Journal, plus two percent (2%) or the maximum interest rate permitted by law.
50. "kW" means kilowatt (which is 1,000 Watts) of electrical capacity measured in AC.
51. "kWh" means kW-hour and is a unit of energy equal to one thousand watt-hours.
52. "Lender" means any financial institution, equity financing holder, or other reasonably qualified provider of capital (and successors in interest and assignees permitted under this SLA), or System Lessor that provides or is requested to provide development, bridge,

construction, term debt or tax equity financing or refinancing for the System on behalf of LICENSEE.

53. "Lender Estoppel Certificate" means an estoppel certificate substantially in the form of Exhibit J.
54. "Licensed Area" means the portion of the Site licensed by the DGS to LICENSEE to install, operate and maintain the System as provided in this SLA and as further described in Exhibit B.
55. "LICENSEE" means the entity identified on Page 1 of this SLA, who holds the license to use the Licensed Area for the Permitted Use pursuant to this SLA.
56. "Meter" means a device capable of collecting electricity consumption data that includes kWh AC and fifteen (15) minute or less kW AC and KVAR demands as recorded and may be transmitted or collected via telephone lines or wireless telephone and that otherwise has the capabilities set forth in Section 5 of the SPPA.
57. "Minor Field Changes" means changes or deviations from the DGS approved System plans, System drawings or Construction Documents that do not materially deviate from or affect the design, construction, installation, operation or aesthetics of the System as originally approved by the DGS.
58. "NFPA" means National Fire Protection Association.
59. "Net Energy Metering" or "NEM" means a Utility tariff or rule under which customers with qualifying renewable energy projects may "bank" the value of renewable energy produced in periods when such production exceeds the customer's usage during that period and allows the customer to benefit from such "banked" value during periods when the renewable energy production is less than the customer's usage.
60. "Notice of COD" means the notice that LICENSEE gives the DGS stating that the System has been completed and specifying the estimated or anticipated Commercial Operation Date.
61. "Notice to Proceed" means written notification from the DGS to LICENSEE that LICENSEE may begin construction of the System subject to the terms and conditions of this SLA.
62. "Parties" means the DGS, HOST and LICENSEE each of whom may also be referred to as "Party."
63. "Permitted Use" has the meaning ascribed to such term in Section 3.1 of this SLA.
64. "Permittee" or "Permittees" shall have the meanings ascribed to such terms in Section 3.1 of this SLA.
65. "Price" means the Price, expressed to the nearest hundredths of a cent (\$.0000), to be paid by HOST to CONTRACTOR in each Contract Year for the Electricity generated by the System and delivered to HOST as provided in Section 2.2 of the SPPA.

66. "Project Manual" means System documentation which includes, but is not limited to, System schematics, equipment data sheets, Construction Documents, As-Built Drawings, and System operation and emergency instructions provided by LICENSEE to the DGS and HOST pursuant to Section 8.8 of this SLA.
67. "PTC" means PVUSA test Conditions.
68. "PV" means photovoltaic.
69. "Qualified Purchaser" has the meaning ascribed to such term in Section 5.2 of this SLA.
70. "Qualified Reporting Entity" means an organization providing renewable generation data for the purpose of creating WREGIS Certificates that has met the Qualified Reporting Entity guidelines established in appendix D of the WREGIS operating rules.
71. "Related Facilities" collectively means the land, buildings, structures or other facilities on which or in which the System is constructed, installed or situated.
72. "Regulations" have the meaning ascribed to such term in Section 3.5 of this SLA.
73. "Renewable Energy Credit(s)" means renewable energy credit(s) or certificates, emission reduction credits, emission allowances, green tags, tradable renewable credits, and Green-e products related to renewable energy production supplied from the System.
74. "Rule 21" means the Utility rule describing the interconnection, operating and metering requirements for generating facilities to be connected to the Utility distribution system.
75. "Senior Security Documents" means any and all financing documents, leases, indentures or other financing agreements entered into in the past, the present or the future by the SPWB, State, or any subdivision of the State concerning any part of the Licensed Area, the Site or the Facility.
76. "Site" has the meaning ascribed to such term in the Recitals to this SLA, an area of which is identified as the Licensed Area in this SLA, which is further described in Exhibit B to this SLA, which will accommodate the System.
77. "Site Representative" means the person designated by HOST as the representative of HOST to whom LICENSEE should address all notices and inquires required under this SLA.
78. "SPPA" means the Solar Power Purchase Agreement entered into by HOST and CONTRACTOR concerning the generation, delivery and purchase of Electricity from the System, the form of which is attached hereto as Exhibit D.
79. "State" has the meaning ascribed to such term in the Recitals to this SLA.
80. "State Public Works Board" or "SPWB" means the State Public Works Board created by the State Legislature to oversee the fiscal matters associated with construction of projects for State agencies, and to select and acquire real property for state facilities and programs.

81. "Substitute CONTRACTOR" means the Lender or any other party nominated by Lender and approved by the DGS and HOST in accordance with Section 10.4 of the SPPA, which party shall be substituted for the CONTRACTOR under the SPPA.
82. "Substitute LICENSEE" means the Lender or any other qualified purchaser of, or successor to, the interests of Lender in a judicial or non-judicial foreclosure sale or otherwise that meets the conditions of assignment set forth in Section 5.6 and shall be substituted for LICENSEE under this SLA.
83. "System" means the integrated assembly of photovoltaic panels, parking canopy structures, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, alterations, materials, spares, tools, supplies, equipment (as specified in the Project Manual) installed in or located at the Licensed Area for the purpose of generating Electricity for purchase by HOST under the SPPA. Also referred to as "PV System."
84. "System Lease" means a financing lease, including a sale-leaseback, between a Lender and LICENSEE whereby LICENSEE leases the System from the Lender strictly as a financing arrangement. As set forth in Section 4, the System Lease shall not encumber or constitute a lien in the Facility, the Site or the Licensed Area.
85. "System Lessor" means the person or entity that owns the System and leases the System to LICENSEE as the lessor under the System Lease.
86. "Temporary" means a period of time not to exceed seventy-two (72) hours within any twelve (12) month period.
87. "Term" means the period that shall commence on the Effective Date and continue for a period of twenty (20) years from the Commercial Operation Date of the System unless terminated earlier pursuant to the provisions in this SLA.
88. "Termination Date" means the date on which this SLA terminates.
89. "Tier One" means the minimum equipment standards pursuant to California Public Resources Code Sections 25780-25784 and/or CSI which are the minimum acceptable equipment standards as of the date of the Notice to Proceed of this SLA for installation of the System.
90. "Transaction Fee" means the non-refundable fee to be paid by LICENSEE to the DGS in three installments as provided in Section 7.7 and further described in Exhibit N.
91. "UL" means Underwriters Laboratories, Inc.
92. "Utility" shall be any provider of electric transmission, distribution and/or commodity services to the Site in the absence of the System. A Utility may be an investor owned utility, an energy service provider, a publicly owned utility, or other similar provider of electricity.

93. "Warrant" in relation to design and construction documents is the PE's certification, guarantee, or stamp on construction documents and letters confirming the design and construction conforms per Section 7, Section 8, and Exhibit F or the SLA.
94. "Watt" means a unit of power equal to one (1) joule per second; the power dissipated by a current of one (1) ampere flowing across a resistance of one (1) ohm.
95. "Western Renewable Energy Generation Information System" or "WREGIS" means the renewable energy accounting system developed in response to policies set by the State Legislature and the Western Governors' Association and implemented by the Western Energy Coordination Council to track and verify renewable facilities compliance with the Renewable Portfolio Standards.

EXHIBIT B
DEPICTION OF LICENSED AREA

The Licensed Area is depicted in the marked up photo below. Boundaries of the Licensed Area are subject to change pending final or revised guidance from HOST. The System will be located on approximately _____ (acres or square feet) of the Licensed Area as indicated on the layout drawing below. LICENSEE shall survey/measure the Licensed Area and submit a final metes and bounds survey as part of the submitted plans for review and approval. After the survey and plans are approved by the DGS HOST and the SPWB, this SLA will be amended to substitute the metes and bounds description for the Licensed Area.

[The following is a SAMPLE DEPICTION for a System.]

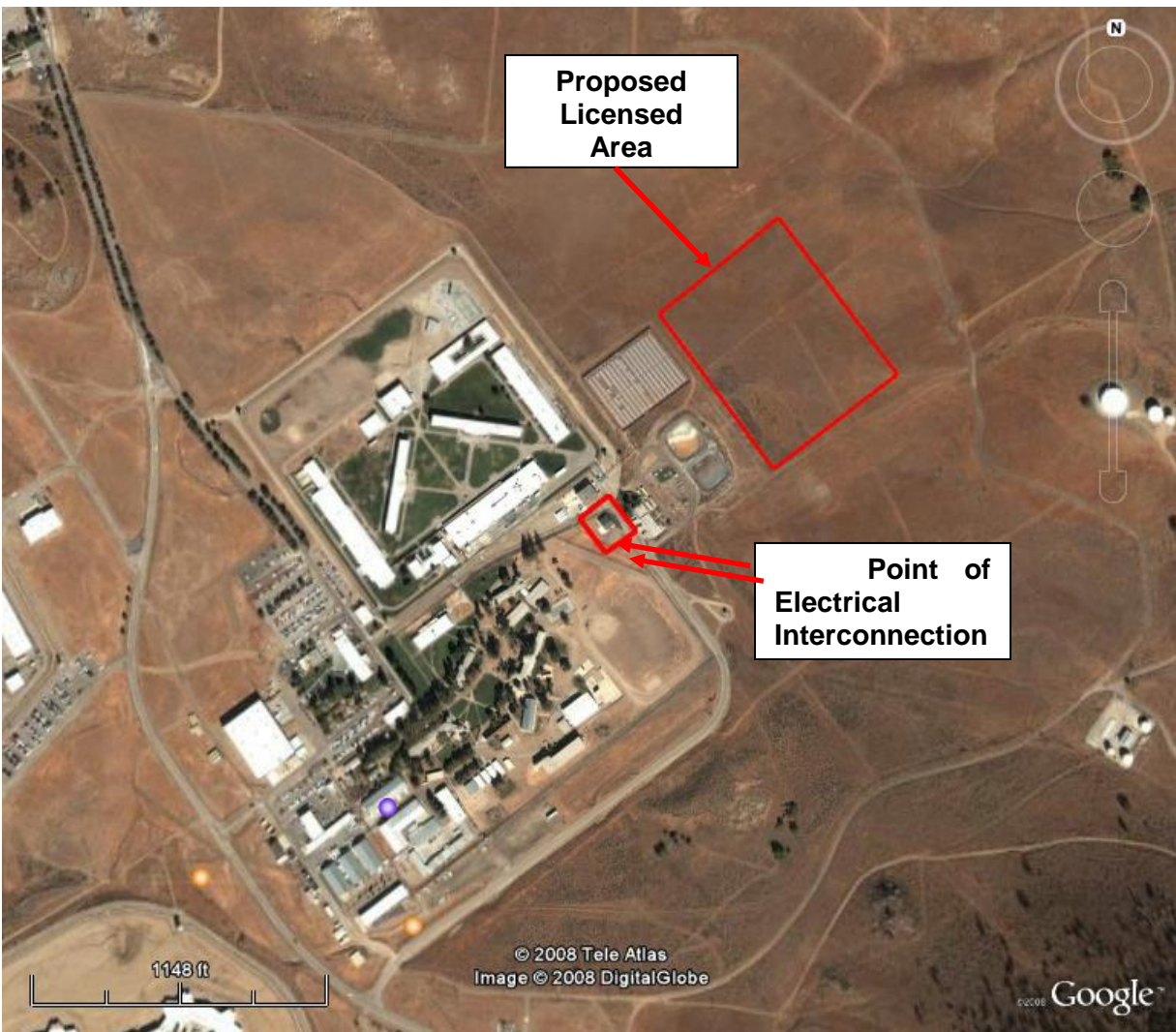


EXHIBIT C
TECHNOLOGY DESCRIPTION

(From awarded proposal)

EXHIBIT D
SOLAR POWER PURCHASE AGREEMENT (SPPA)

EXHIBIT E

LICENSE ACCESS PROCEDURES

Access Procedures for the Site and the Licensed Area

[USE NOTE: TAILOR TO SPECIFIC NEEDS OF HOST ENTITY]

TO BE DISTRIBUTED TO ALL PERMITTEES AS LISTED BELOW

1. Access Procedures for Permittees - As stated in Sections 3.1 and 3.6 of this SLA, Permittees' access to the Licensed Area shall be subject to all procedures adopted from time to time by HOST including, but not limited to, the procedures addressed in this SLA Exhibit E. Construction access requirements will be established contingent upon the submittal of the project design, construction and installation documents, including construction schedule. Only Permittees shall be permitted access to the Licensed Area. Permittees shall be escorted by the Site Representative or his/her designee, who shall log the arrival and departure of said Permittees. The Site Representative will provide construction access requirements in written form to be attached to this Exhibit and distributed to the Permittees listed below in this Exhibit E. Said Permittees shall be required to show appropriate identification prior to the requested access. LICENSEE acknowledges that strict adherence to the construction access requirements as established by HOST will be observed by Permittees during the entire length and scope of the construction period.
 - 1.1. Non-Emergency Access - LICENSEE must contact the Site Representative referenced below, to schedule all non-emergency access to the Licensed Area which shall be conducted Monday through Friday between 8:00 am and 4:30 pm. Such access shall 1) require at least twenty-four (24) hours prior written notice to the Site Representative (as identified in Section 2 below) for scheduling purposes and 2) require that Permittees be accompanied by the Site Representative or his/her designee who shall log the arrival and departure of said Permittees. Access to the Site and Licensed Area during the hours of 4:30 pm to 8:00 am on weekdays or during weekends and holidays shall be granted for emergency purposes only, as described below, unless otherwise agreed to in writing by LICENSEE and HOST. For correctional facilities, refer to Section 6.5 Gate Clearance below for additional guidelines.
 - 1.2. Emergency Access – Permittees shall be permitted to access the Licensed Area twenty-four (24) hours a day, seven (7) days a week for emergency purposes, as reasonably determined by LICENSEE. Within twenty-four (24) hours of such access, LICENSEE shall provide the Site Representative (as identified in Section 3. below) with a written explanation of the nature of the emergency. For correctional facilities, refer to Section 6.5 Gate Clearance below for additional guidelines.
 - 1.2.1. Weekday Emergencies - For emergencies between the hours of 8:00 am and 4:30 pm Monday through Friday, LICENSEE shall follow the protocol described above for non-emergency access except that the twenty-four (24) hours prior written notice shall not be required.
 - 1.2.2. Weekday Evening Emergencies - For emergencies between the hours of 4:30 pm and 8:00 am Monday through Friday, LICENSEE shall contact the Site Representative. Said Site Representative shall meet LICENSEE's authorized Permittees at the Site, escort the Permittees to the Licensed Area, and log the

arrival and departure of said Permittees. Alternately, access cards and/or keys may be issued to LICENSEE's Permittees when available.

1.2.3. Weekend and Holiday Emergencies - For emergencies between Friday 4:30 pm to Monday 8:00 am or on any holiday observed by HOST, LICENSEE shall contact the Site Representative. The Site Representative will meet LICENSEE's Permittees at the Site, escort said Permittees to the Licensed Area, and log the arrival and departure of said Permittees.

1.3. Construction Access – Permittees must abide by the procedures for access to the Licensed Area as specified in this Exhibit E during construction of the System. For correctional facilities, refer to Section 6.5 Gate Clearance below for additional guidelines.

2. Names, Company Names, Company Addresses for Access Notice and Phone Numbers of LICENSEE and Permittees:

Permittee:	Permittee:
Name:	Name:
Address:	Address:
Office Phone:	Office Phone:
Cell Phone:	Cell Phone:
E-mail:	E-mail

LICENSEE will submit a list of all names of Permittees with the above contact information to the Site Representative.

3. Names/Titles, Site Address for Access Notice and Phone Numbers of Site Representative(s):

Site Contact:	Alternate Site Contact:
Name:	Name:
Address:	Address:
Office Phone:	Office Phone:
Mobile:	Mobile:
E-mail:	E-mail:

4. Access cards and/or keys have been issued to the following LICENSEE representatives:

Name:	Card / Key No.:
_____	_____
_____	_____

- 5. For Correctional Facilities** – Permittees represent and warrant that wards and inmates will not have access to modems, pagers, outside telephone systems or the tools and materials to construct such devices. Because of the security issues involved in working in a prison environment, Permittees further agree to comply with all rules and regulations adopted by said correctional institution. No article or material that HOST considers as being contraband shall be brought on the Site or Licensed Area. Said rules prohibit, but are not limited to, beer, alcoholic beverages, narcotics, the possession or use of firearms, explosives or edged weapons, or restricted controlled substances. Any willful violation of said rules and regulations or of the terms of this SLA will be grounds for immediate termination of this SLA and removal of the Permittees from the Site and/or Licensed Area. LICENSEE and CONTRACTOR shall comply with the following:

 - 5.1. Employment of Ex-Offenders** – LICENSEE OR CONTRACTOR cannot and will not either directly, or on a subcontract basis, employ in connection with this SLA OR the SPPA:

 - 5.1.1.** Ex-Offenders on active parole or probation;
 - 5.1.2.** Ex-Offenders at any time if they are required to register as a sex offender pursuant to Penal Code Section 290 or if such ex-offender has an offense history involving a “violent felony” as defined in subparagraph (c) of Penal Code Section 667.5; or
 - 5.1.3.** Any ex-felon in a position which provides direct supervision of parolees.
 - 5.1.4.** Ex-Offenders who can provide written evidence of having satisfactorily completed parole or probation may be considered for employment by the contractor subject to the following limitations:

 - 5.1.4.1.** LICENSEE and CONTRACTOR shall obtain the prior written approval to employ any such ex-offender from the Authorized Administrator; and
 - 5.1.4.2.** Any ex-offender whose assigned duties are to involve administrative or policy decision-making; accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State.
 - 5.2.** HOST reserves the right to conduct fingerprinting and/or security clearance through the Department of Justice, Bureau of Criminal Identification and Information (BCII), prior to award and at any time during the term of this SLA or the SPPA, in order to permit Permittees access to the Licensed Area. HOST further reserves the right to terminate this SLA should a threat to security be determined.
 - 5.3.** LICENSEE and CONTRACTOR must notify HOST, in writing, of any changes of those personnel allowed access to the Licensed Area for the Permitted Use. In addition, LICENSEE and CONTRACTOR must recover and return any State-issued identification card provided to LICENSEE, CONTRACTOR and other Permittees upon their departure or termination.

6. Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates

6.1. Individuals who are not employees of the California Department of Corrections and Rehabilitation (CDCR), but who are working in and around inmates who are incarcerated within the State's institutions/facilities or camps, are to be apprised of the laws, rules and regulations governing conduct in associating with prison inmates. The following is a summation of pertinent information when non-departmental employees come in contact with prison inmates.

6.2. By signing this SLA and the SPPA, LICENSEE and CONTRACTOR agree that if the provisions of this SLA or the SPPA require LICENSEE or CONTRACTOR to enter an institution/facility or camp, LICENSEE or CONTRACTOR and any Permittee shall be made aware of and shall abide by the following laws, rules and regulations governing conduct in associating with prison inmates:

6.2.1. Persons who are not employed by CDCR, but are engaged in work at any institution/facility or camp must observe and abide by all laws, rules and regulations governing the conduct of their behavior in associating with prison inmates. Failure to comply with these guidelines may lead to expulsion from CDCR institutions/facilities or camps.

SOURCE: California Penal Code (PC) Sections 5054 and 5058; California Code of Regulations (CCR), Title 15, Sections 3285 and 3415

6.2.2. CDCR does not recognize hostages for bargaining purposes. CDCR has a "NO HOSTAGE" policy and all prison inmates, visitors, and employees shall be made aware of this.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3304

6.2.3. All persons entering onto institution/facility or camp grounds consent to search of their person, property or vehicle at any time. Refusal by individuals to submit to a search of their person, property, or vehicle may be cause for denial of access to the premises.

SOURCE: PC Sections 2601, 5054 and 5058; CCR, Title 15, Sections 3173 and 3177

6.2.4. Persons normally permitted to enter an institution/facility or camp may be barred, for cause, by the CDCR Director, Warden, and/or Regional Parole Administrator.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3176(a)

6.2.5. It is illegal for an individual who has been previously convicted of a felony offense to enter into CDCR institutions/facilities or camps without the prior approval of the Warden. It is also illegal for an individual to enter onto these premises for unauthorized purposes or to refuse to leave said premises when requested to do so. Failure to comply with this provision could lead to prosecution.

SOURCE: PC Sections 602, 4570.5 and 4571; CCR, Title 15, Sections 3173 and 3289

- 6.2.6.** Encouraging and/or assisting prison inmates to escape is a crime. It is illegal to bring firearms, deadly weapons, explosives, tear gas, drugs or drug paraphernalia on CDCR institutions/facilities or camp premises. It is illegal to give prison inmates firearms, explosives, alcoholic beverages, narcotics, or any drug or drug paraphernalia, including cocaine or marijuana.

SOURCE: PC Sections 2772, 2790, 4533, 4535, 4550, 4573, 4573.5, 4573.6 and 4574

- 6.2.7.** It is illegal to give or take letters from inmates without the authorization of the Warden. It is also illegal to give or receive any type of gift and/or gratuities from prison inmates.

SOURCE: PC Sections 2540, 2541 and 4570; CCR, Title 15, Sections 3010, 3399, 3401, 3424 and 3425

- 6.2.8.** In an emergency situation the visiting program and other program activities may be suspended.

SOURCE: PC Section 2601; CCR, Title 15, Section 3383

- 6.2.9.** For security reasons, visitors must not wear clothing that in any way resembles State issued prison inmate clothing (blue denim shirts, blue denim pants).

SOURCE: CCR, Title 15, Section 3171(b)(3)

- 6.2.10.** Interviews with SPECIFIC INMATES are not permitted. Conspiring with an inmate to circumvent policy and/or regulations constitutes a rule violation that may result in appropriate legal action.

SOURCE: CCR, Title 15, Sections 3261.5, 3315(3)(W), and 3177.

6.3. Clothing Restrictions

While on institution grounds, LICENSEE, CONTRACTOR, and all their agents, employees, and/or representatives shall be professionally and appropriately dressed in clothing distinct from that worn by inmates at the institution. Specifically, blue denim pants and blue chambray shirts, orange/red/yellow/white/chartreuse jumpsuits and/or yellow rainwear shall not be worn onto institution grounds, as this is inmate attire. LICENSEE and CONTRACTOR should contact the institution regarding clothing restrictions prior to requiring access to the institution to assure LICENSEE, CONTRACTOR and other Permittees are in strict compliance.

6.4. Security Regulations

- 6.4.1.** Unless otherwise directed by the entrance gate officer and/or Site Representative, Permittees shall enter the institution through the main entrance gate and park private and nonessential vehicles in the designated visitor's parking lot. Permittees shall remove the keys from the ignition when outside the vehicle and all unattended vehicles shall be locked and secured while on institution grounds.
- 6.4.2.** Any State-owned and CONTRACTOR-owned equipment used by the CONTRACTOR for the provision of contract services shall be rendered temporarily inoperative by the CONTRACTOR when not in use, by locking or other means unless specified otherwise.
- 6.4.3.** In order to maintain institution safety and security, periodic fire prevention inspections and site searches may become necessary and Permittees must furnish keys to institutional authorities to access all locked areas on the worksite. HOST, the DGS and State shall in no way be responsible for Permittees' loss due to fire.
- 6.4.4.** Due to security procedures, Permittees may be delayed at the institution vehicle/pedestrian gates and sally ports. Any loss of time checking in and out of the institution gates and sally ports shall be borne by the Permittees.
- 6.4.5.** Permittees shall observe all security rules and regulations and comply with all instructions given by institutional authorities.
- 6.4.6.** Electronic and communicative devices such as pagers, cell phones and cameras/micro-cameras are not permitted on institution grounds.
- 6.4.7.** Permittees shall not cause undue interference with the operations of the institution.
- 6.4.8.** No picketing is allowed on the Site, the Licensed Area or any other State owned property.

6.5. Gate Clearance

- 6.5.1.** Permittees must be cleared prior to providing services. The LICENSEE and CONTRACTOR will be required to complete a Request for Gate Clearance for all persons entering the Site a minimum of ten (10) Business Days prior to commencement of service. The Request for Gate Clearance must include the person's name, social security number, valid state driver's license number or state identification card number and date of birth. Information shall be submitted to the Contract Liaison or his/her designee. CDCR uses the Request for Gate Clearance to run a California Law Enforcement Telecommunications System (CLETS) check. The check will include Department of Motor Vehicles check, Wants and Warrants check, and Criminal History check.
- 6.5.2.** Gate clearance may be denied for the following reasons: Individual's presence in the institution presents a serious threat to security, individual has been charged with a serious crime committed on institution property, inadequate

information is available to establish positive identity of prospective individual, and/or individual has deliberately falsified his/her identity.

- 6.5.3.** All persons entering the facilities must have a valid state driver's license or photo identification card on their person.

EXHIBIT F

DESIGN AND INSTALLATION PROCESS AND MILESTONE SCHEDULE

As listed in this Exhibit, the project design, specifications, scheduling, construction, installation requirements, phasing constraints, and approvals are necessary to complete the project. Some items listed may be deferred until the outcome of CEQA is completed and reviewed by DGS, the Facility, or HOST. LICENSEE is to request written approval from DGS for any deferred design or construction activities. LICENSEE understands that the project design, construction and installation documents will address CEQA and site considerations and be included in the LICENSEE's design and installation process for approval from the DGS's or by HOST's designated review team for compliance.

LICENSEE understands that all System design documents and engineering calculations will be submitted under the authority of a licensed professional engineer (or engineers) that is certified to practice in the State and is a professional engineer in good standing. LICENSEE also understands that System design documents and engineering calculations that are submitted for review without the appropriate professional engineering stamp will not be reviewed and will be returned to LICENSEE as incomplete and insufficient System documentation.

System design documents will include, but not be limited to, the following:

1. System layout
2. System schematics
3. Single line electrical diagram
4. Point of Interconnection schematics
5. Point of Interconnection single line electrical diagram
6. Construction plans (electrical, architectural, structural, civil, mechanical, lighting, etc.), Submittals, Working Drawings, certifications, compliance and warrant documents
7. Building information modeling for parking canopy installations
8. Structural calculations
9. List of Equipment and Materials Schedule
10. Phasing plan for facility parking and access areas or as needed by HOST
11. Construction schedule
12. Geotechnical Report / Soils Analysis/Foundation Recommendations as requested by DGS
13. Special inspection and testing, commissioning, LICENSEE's construction manager reports as requested by DGS

LICENSEE acknowledges that the System will be designed to comply with all applicable California Building Codes and Standards. System design documents will expressly state and identify the applicable building codes and standards.

The following DEVELOPMENT table represents a general overview of the review and approval of the System project design and construction documentation. A preliminary construction schedule is required to be submitted by the LICENSEE as part of the Schematic design documents. **This table assumes that the CEQA review has been completed, that due diligence has been completed, as required, and that both this SLA and the SPPA have been duly signed and executed.**

DEVELOPMENT			
Task	Milestone	Responsible Party	Reference
Fully Executed SLA and SPPA	Due on or before _____	DGS, HOST, SPWB and LICENSEE	
LICENSEE makes 1 st Transaction Fees payment to DGS	Due on or before 30 calendar days after execution date of SLA	LICENSEE	Exhibit N, Section 1.2 - 1/3 of Transaction Fees
Copies of all other agreements requiring DGS signature	30 calendar days from execution date of SLA	LICENSEE	Section 7.5 – SLA includes interconnection agreements, rebate agreements, etc.
Complete review of agreements and supply required changes (if necessary)	30 calendar days from receipt of agreements	DGS	Section 7.5 – SLA
Project Kick-off Meeting	Before or at delivery of Schematic Design	LICENSEE & DGS	As mutually agreed to by the Parties
Schematic Designs submitted to DGS	30 calendar days from execution date of SLA	LICENSEE	Section 7.5.1 – SLA includes schematics, equipment data sheets and proposed schedule
Review of Schematics	10 Business Days from receipt of Schematics	DGS	Section 7.5.1 – SLA
Resubmittal of Schematics (if required) and approval	30 calendar days from receipt of DGS changes and/or comments	LICENSEE	Section 7.5.3 – SLA
95% Construction Documents	30 calendar days from later of receipt of DGS approval of Schematic Design or completion of CEQA process	LICENSEE	Section 7.5.2 – SLA includes detailed plans, specifications, engineering calculations and updated schedule
DGS Review of Construction Documents	30 Business Days from receipt of Construction Documents	DGS	Section 7.5.2 – SLA
Technical Review of Construction Documents	Concurrent with DGS review	DGS and LICENSEE	State Fire Marshal, Division of State Architect, Seismic, Mechanical Review Board
Re-submittal of Construction Documents and (if required) Proposed abatement Contractor	30 Calendar Days from receipt of DGS changes and/or comments	LICENSEE	Sections 7.5.3, 8.1 – SLA
Final Back Check and approval of Construction Documents and (if required) abatement contractor	30 Calendar Days from receipt of revised documents	DGS	Section 7.5.3 – SLA
Payment and Performance Bonds and Insurance Certificates	Due prior to beginning any construction	LICENSEE	Sections 7.6 and Exhibit L – SLA

Submittal of NEM Interconnection Agreement [VERIFY AGREEMENT TYPE BEFORE FINALIZING THE SLA AND ATTACHING IT TO THE RFP]	Due prior to beginning any construction	LICENSEE	Section 7.9.1 - SLA
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Initiation of the INSTALLATION AND CONSTRUCTION tasks and/or activities as outlined in that table is contingent upon the issuance of a Notice to Proceed to Project Design letter from the DGS. Coordination between the submitted preliminary construction schedule, the DGS's review and approval process, and the final construction schedule shall be based on best efforts by both the DGS and LICENSEE and established in a cooperative manner.

INSTALLATION AND CONSTRUCTION			
Task	Milestone	Responsible Party	Reference
Notice to Proceed	5 Business Days from final approval of all Construction Documents and conditions in Exhibit F satisfied	DGS	Section 8.1 and Exhibit F– SLA
LICENSEE makes 2 nd Transaction Fees payment to DGS	Due on or before 15 calendar days after NTP	LICENSEE	Exhibit N, Section 1.2 – SLA 1/3 of Transaction Fee costs
Actual Construction Start Date	Within 10 calendar days, but no later than 60 calendar days after NTP	LICENSEE	Section 8.2 – SLA
Inspection	Ongoing during Construction and Installation	DGS	Section 15.1 – SLA
Approval of NEM Interconnection	Prior to Commercial Operation Date	LICENSEE	Section 7.9.1 - SLA
Notice of Commercial Operation Date (COD)	Written notification no less than 10 Business Days and no more than 15 Business Days before COD	LICENSEE	Section 8.6 – SLA
Final Inspection and Testing as required by DGS	After written notification and prior to COD	DGS	Requires utility sign off and execution of interconnection agreement
As-Built Drawings	Prior to COD and in accordance with this SLA	LICENSEE	Section 8.11 – SLA
Completion of the System	No later than 150 calendar days after NTP	LICENSEE	Section 8.3 - SLA
Notice of the Actual COD	Written notice within 24 hours of occurrence	LICENSEE	Section 8.6 – SLA

Project Manual	Within 15 Business Days of COD	LICENSEE	Section 8.8 – SLA
Punch List	Within 15 Business Days after Notice of COD	DGS	Section 8.7 – SLA
Completion of Punch List	Within 30 calendar days of receipt of notice	LICENSEE	Section 8.7 – SLA
LICENSEE makes 3 rd Transaction Fees payment to DGS	Due on or before 15 calendar days after Notice of COD	LICENSEE	Exhibit N, Section 1.2 – SLA 1/3 of Transaction Fee costs

The following items are listed in rough order of completion and are supplementary instructions related to Exhibit F and related Sections of the SLA along with a detailed breakdown of required steps concerning Installation and Construction, post NTP;

Exhibit F Development- prior to NTP;

- All projects impacting parking areas are to be phased per the RFP and DGS Project Manager (PM) to mitigate HOST parking and facility access requirements and requirements for employee notifications. At a minimum and if silent in the RFP, one half of the parking area is to remain available to the facility and facility access will not be impeded throughout the project unless agreed upon by all parties.
- LICENSEE may be required to coordinate with other work occurring at the HOSTS facility as directed by the DGS PM or INSPECTOR,
- SLA Section 7 and Exhibit F items regarding Design Requirements are completed by LICENSEE’s PE and/or Engineer of Record and provided to the DGS Project Manager (PM) and the HOST,
- SLA Section 9 and Exhibit F items regarding Bonds and Insurance are completed by LICENSEE and provided to the DGS PM,
- LICENSEE provides Exhibit M CCC-307 Certification,
- All other documents per SLA Section 7 and referenced in the Exhibits to the SLA, as well as payments due per Exhibit N, are completed by LICENSEE and provided to the DGS PM, except when said documents and payments are not required prior to completion of the development and construction phases,
- LICENSEE will submit their final project schedule with their requested construction start and finish dates and phasing plan (if required) which must be accepted by DGS and HOST per Exhibit F-1,
- LICENSEE has 10 days to start construction work after NTP is issued by the DGS PM per SLA Section 8.2. The DGS PM and HOST approved schedule is to reflect the actual construction start and finish dates,
- PM may agree in writing to extend the construction start date as requested by LICENSEE per SLA Section 8.4,
- The approved construction start date is the day that marks the commencement of the weekly fees per Exhibit N unless the DGS PM approves a different construction start date per SLA Section 8.4,
- Section 8.1 items are completed by LICENSEE and provided to the DGS PM.

Exhibit F Installation and Construction, post NTP;

1. DGS PM will issue the Notice to Proceed (NTP) per SLA Section 8.1 and Exhibit F. Due to limited availability of DGS INSPECTORS which are required to inspect throughout the project, LICENSEE will be required to start work within 10 days (as detailed in LICENSEE's approved schedule) or risk significant costs and project delays. DGS relies upon the LICENSEE's schedule in order to calendar and provide the INSPECTORS from NTP to completion. In the event LICENSEE does not start and finish per the approved scheduled date, INSPECTORS may not be available nor be able to alter their service commitments and long delays are possible at the sole cost of LICENSEE.
2. LICENSEE is to make second payment after NTP per Exhibit N within 15 days of DGS issuing the invoice to LICENSEE.
3. DGS Inspection and project support is continuous from start of work until project is complete and all contract deliverables have been satisfied as determined by DGS PM per SLA Sec 15.
4. LICENSEE is fully responsible for all damage caused and shall make all repairs, replacements, and restorations expeditiously and will not impede access and the operational and functional needs of the facility per SLA Sec 7, 8, 9, and 15.
5. LICENSEE, prior to any repairs, replacements, and restoration, shall provide to the DGS PM and INSPECTOR detailed submittals, product information, and engineering as needed for DGS approval prior to repairs per SLA Sec 7 and 8.
6. LICENSEE may use any means and methods necessary for immediate emergency and critical repairs that require immediate temporary repairs which are necessary to stabilize the damage and restore functionality. The DGS PM and INSPECTOR may require the LICENSEE to correct any temporary, incorrect, or substandard materials and workmanship per LICENSEE's deferred submittals and submittals as approved by the DGS PM or INSPECTOR per SLA Sec. 7.
7. LICENSEE at its sole cost will repair, replace, and restore all damages and work using equal or better materials and workmanship per SLA Sec 7, 8 and 9.
8. LICENSEE caused project delays may result in inspection delays due to the staff assignments of DGS inspection services, coordination with HOST site operational requirements, and other projects occurring at the HOST facility. Weekly inspection and support fees are continuous from the construction start date until the actual COD. Any additional fees or projects costs resulting from the LICENSEE's delays are born entirely by the LICENSEE. - per Exhibit N.
9. LICENSEE will not pay for weekly fees or Liquidated Damages in the event of delays solely caused by a third party utility whereas the LICENSEE's schedule is clearly delayed by the utility's delay and LICENSEE's work was either stopped by the utility's delay or the project was completed and waiting for the utilities work to be completed.
10. LICENSEE will not pay for weekly fees or Liquidated Damages in the event of delays solely caused by an unanticipated CEQA, Native American Tribal, or environmental issue whereas the LICENSEE's schedule is clearly delayed by such unanticipated delays and LICENSEE's work was either stopped by the delay or the

project was completed and waiting for the issue to be resolved in order for DGS PM to issue a letter of completion to the LICENSEE.

11. LICENSEE will facilitate the HOST and Utility Co. approval of Interconnection Agreements per SLA Sec. 7.9.
12. DGS and HOST approval of interconnection design documents per 7.9.1 – 7.9.3 and prior to LICENSEE requesting the Utility's notice of Permission to Operate.
13. DGS PM and INSPECTOR monitor all work and the INSPECTOR will perform a Partial Final Inspection and Testing as required by DGS per Exhibit F;
 - o DGS INSPECTOR issues partial final for electrical, structural, mechanical (as needed) before LICENSEE can issue a Notice of COD,
 - o DGS PM and INSPECTOR may begin the punch list anytime during construction which may contain electrical, structural, or mechanical items needing correction before the Notice of COD and actual COD. DGS will present the punch list to LICENSEE prior to LICENSEE issuing a Notice of COD. This punch list may be updated by the DGS PM and INSPECTOR as needed throughout construction.
 - o State Fire Marshal (SFM) inspections and corrections may be required to be completed before system activation,
 - o DGS PM may require LICENSEE's PE, Engineer of Record, or licensed engineering testing and inspection firm, per SLA Section 7.5.4, warrants or certifies that the system is built in conformance with the plans and specifications prior to Notice of COD, per SLA Section 8.6 while meeting all codes per SLA Section 7-8 and Exhibit F,
 - o DGS PM and INSPECTOR may require special testing or commissioning to be completed before system activation considering the emphasis on electrical, fire, life, safety testing, special inspection, and functionality.
14. Prior to LICENSEE issuing a Notice of COD, DGS PM issues a letter, or notice of substantial completion, or partial completion or DGS INSPECTOR may issue an electrical plan compliance letter for LICENSEE to present to the Utility stating DGS approves the LICENSEE to proceed with the Utility's connection to the system.
15. LICENSEE is to present DGS and HOST with the signed interconnection agreements and any associated interconnection documents.
16. LICENSEE obtains the Utility's Permission to Operate which allows LICENSEE to proceed with final interconnection work, installation of the Rapid Shutdown Switch, meters, electrical tie in work to switch gear, testing, commissioning, and inspections which are required before system activation and commercial operation.
17. LICENSEE issues the Notice of COD which is the date LICENSEE anticipates the COD may occur per SLA 8.6 and Exhibit A-60 - in consideration that items 1 through 10 must be completed before LICENSEE issues their Notice of COD.
18. DGS PM and INSPECTOR generates a comprehensive punch list for the LICENSEE per SLA Section 8, unless the PM and INSPECTOR have already issued the punch list to the LICENSEE and the punch list is actively updated and electrical items are corrected at the time when the LICENSEE's actual COD is determined.

19. LICENSEE's PE delivers the As-built Drawings per SLA Section 8.11 and Exhibit F to DGS and HOST prior to actual COD. The DGS PM may defer receiving as built drawings until the project's punch list is completed and may allow LICENSEE to provide these drawings after the actual COD. These Drawings in full or in part may be relied upon to accurately inspect and document all the work, repairs, and replacements performed by the LICENSEE.
20. DGS PM and INSPECTOR observes and inspects all work being performed in preparation for both the actual COD and punch list completion.
21. DGS PM and INSPECTOR may require punch list corrections, State Fire Marshal inspection and approval, special testing, or commissioning to be completed before system activation considering the emphasis on electrical, fire, life, and safety testing and inspection.
22. LICENSEE performs final testing and commissioning of the system as required by the manufacturer, the DGS PM and INSPECTOR, SFM, local fire officials, and others as necessary.
23. LICENSEE requests the DGS PM and INSPECTOR approval to activate the Rapid Shutdown Switch which allows the system access to the utility's infrastructure in order to come online for commercial operations.
24. LICENSEE issues actual COD per SLA Sections 8.6 and 8.7 and Exhibit A-16 stating the system is commercially operable and is delivering continuous power to the facility per SLA Sections 8.6 and 8.7 and Exhibit A-16 in consideration that items 11 through 17 have been completed to the DGS PM's and INSPECTOR's satisfaction.
25. LICENSEE to complete all remaining punch list items within 30 days after actual COD per SLA Section 8.6 and Exhibit A 16.
26. LICENSEE will work with DGS PM, DGS Inspections, SFM inspections, Local Fire officials, HOST facility, and others as required to complete punch list and construction documentation.
27. LICENSEE may request the DGS PM and INSPECTOR for a Final Inspection once all punch list items are completed.
28. DGS PM and INSPECTOR will inspect to verify the punch list and construction documents are complete and INSPECTOR will issue the Notice of Final inspection.
29. LICENSEE will issue the DGS PM and the INSPECTOR a Notice of Completion once all documents, contract deliverables, and site work are 100% completed and provided to the DGS PM and INSPECTOR.
30. LICENSEE will provide the information DGS requires to establish the actual COD. The DGS PM can determine the Actual COD by using the new system's calibrated meter and accurate data output, or DGS INSPECTOR's verification of the installation and activation of the rapid shutdown switch and subsequent system operation, and/or with information on the first bill showing first week of continuous electrical generation.
31. The DGS PM may also rely upon the facility specific web portal provided by LICENSEE if the data is accurate and has sufficient detail to determine the actual COD.
32. The DGS PM sends LICENSEE a letter accepting the actual COD date.

33. The weekly inspection-support fees of \$6,500 per week will cease at actual COD per SLA Section 8.6 and Exhibit N.
34. Liquidated Damages (LD) begin 30 days after actual COD if any project documents, contract deliverables, or punch list items remain outstanding or unresolved and will continue until LICENSEE has resolved all issues to the DGS PM and INSPECTORs satisfaction per the SLA 8.5.
35. LD's levied after actual COD will be waived for any days LICENSEE progress is clearly delayed by DGS PM or INSPECTOR to review documents or inspect the punch list work in a timely manner as required by the SLA.
36. In the event actual COD has not been achieved by the guaranteed completion date per SLA Section 8.3 and 8.4 and Exhibit N, and the DGS PM has not agreed to a time extension, the Liquidated Damages Section 8.5 may become effective on the next calendar day after guaranteed completion date in addition to the weekly inspection – support fees.
37. Upon actual COD the LICENSEE may charge 85% for the electricity provided to the HOST facility per SLA 8.7 until the DGS PM issues a letter stating the project is complete.
38. LICENSEE shall provide the DGS PM copies of all PPA billings to HOST for review and approval until the DGS PM writes the LICENSEE and HOST a letter stating the project is complete and the LICENSEE is able to start issuing the HOST PPA bills at 100% of the PPA price for electricity.
39. LICENSEE is to make 3rd payment to DGS after the actual COD and within 15 days of DGS invoicing the LICENSEE per SLA 8.6 and Exhibit N. The third payment may also include weekly fees, Liquidated Damages, and/or DGS requested change order adjustments as of actual COD.
40. DGS generates final billing to reconcile all remaining fees, extra work requested by DGS, and Liquidated Damages based upon the date the DGS PM has established as the project's completion date.
41. LICENSEE makes any final payments due within 15 days of DGS's final invoice.
42. DGS PM issues a letter stating the project is complete and the date Liquidated Damages cease once the punch list, final inspection, all contract deliverables, all documentation, and all payments which are due DGS, have been provided by LICENSEE to the DGS PM.
43. DGS PM releases LICENSEE to charge 100% for the electricity delivered to the HOST facility based upon project completion date when all contract deliverables have been satisfied.

EXHIBIT G

AS-BUILT DRAWINGS and OTHER TECHNICAL DOCUMENTS and SPECIFICATIONS

This Exhibit will contain the System design and construction documents which will reflect the final installed System in the As-Built Drawings. LICENSEE shall submit preliminary project design documents, including meets and bounds survey, in order to begin any required CEQA review. **LICENSEE understands that As-Built Drawings are required to be submitted for the purposes of full and complete compliance with the applicable provisions of this SLA. All such drawings, submittals, statements of compliance, and system warrants will be by the LICENSEE's PE, design engineer, construction management engineer, or engineer of record per Section 7 and signed or stamped accordingly.**

EXHIBIT H

SOLAR RFP ATTACHMENT 1 – GENERAL INSTALLATION REQUIREMENTS

These “General Installation Requirements” are provided to all bidders to be considered in preparing bid responses. While each HOST site candidate for solar PV may present their own requirements for constructing, installing and operating the proposed solar PV system, including unique siting requirements, these General Installation Requirements shall pertain to all HOST site candidates as grouped below by State agency.

Language for General Repairs, Irrigation, Temporary Lighting, and Site Cleanliness

The Contractor is solely responsible for locating and identifying all potential hazards and underground utilities, wires, conduit, drains, and other buried items. Contractor must use locator services with adequate means and methods to identify any potential underground items to a depth equal to the deepest excavation, drilling, or boring required by the work.

The Contractor, at the Contractor’s own cost, shall rebuild, repair, restore and make good – any and all damages including underground damage caused by the work.

Such repairs may require immediate action on the part of the contractor for emergency, safety, or operational concerns without consulting with DGS. The Contractor shall make every effort to immediately secure the site and implement such emergency, safety, or operational repairs.

The Contractor is responsible for dispatching emergency services such as, but not limited to, the Fire Department, police, Utility emergency response teams, Haz Mat team, investigators, or any other type of responses or personnel needed.

The Contractor is to immediately notify the Host and DGS if any such situations, circumstances, repairs, and/or emergency dispatch become necessary.

The Contractor shall cooperate with Host representative and DGS if any such situations, circumstances, repairs, and/or emergency dispatch become necessary.

Such immediate repairs may be considered temporary but in all cases the DGS project manager or inspector may subsequently require additional repairs and restoration work and supporting documentation before any repairs are accepted.

The Contractor will not delay any repairs representing fire, life, safety, or may impact the facility’s operation.

The Contractor will not leave unattended or unsecured any repairs or areas representing a safety hazard.

The Contractor shall be responsible for any ancillary services related to repairs such as, but not limited to, a maned fire watch program or security services.

The contractor shall submit a final repair, restoration, and replacement plan with a complete materials list and engineered drawings for DGS approval prior to performing any final repairs per Section 7 and Section 8. All items are to be of equal or better quality and workmanship regardless of their condition at the time of damage.

All repairs are to be completed solely at contractor's expense and subject to inspection and the DGS project manager's satisfaction before project is accepted as complete.

Failure to make timely or acceptable repairs may result in DGS engaging a service to perform such repairs which is to be paid in full by the contractor. If the contractor fails to pay in full for such DGS retained service, DGS at their discretion will either back charge the contractor or keep the project from final close out and continue to invoice the contractor for weekly charges until the service is paid in full by contractor.

Irrigation –

The State's General Conditions of the Contract for Construction;

This pertains to any existing hardscape, drainage, landscaping and includes all items such as, but not limited to, concrete, curbs, and asphalt damage, paint, finishes, signs, finish grading, ground cover, plants, all irrigation system parts and operating capabilities - pressure, wiring, backfill, compaction, all of which are to be equal or better materials and craftsmanship.

The contractor shall submit a repair and replacement plan with a complete materials list for DGS approval prior to performing any repairs. All repairs are to be completed solely at contractor's expense and to the DGS project manager's satisfaction before project is accepted as complete.

Temporary Lighting –

For vehicle canopy systems or other lighted secure areas, existing lighting will be removed or disabled. For this reason, the Contractor/LICENSEE must provide sufficient temporary lighting during the period the Host facility is without lighting. Once the PV system is energized, Light-Emitting Diode (LED) lighting will be available under the vehicle canopy systems and will replace the temporary lighting.

Failure to keep the site adequately lit may result in DGS engaging a lighting and fueling service to perform such services which is to be paid in full by the contractor. If the contractor fails to pay in full for such DGS retained service, DGS at their discretion will either back charge the contractor or keep the project from final close out and continue to invoice the contractor for weekly charges until the service is paid in full by contractor.

Site cleanliness and appearance –

Contractors will be required to carry out daily and weekly cleaning and tidying up of the job site. All job site areas including, but not limited to, sidewalks, driveways, parking areas, landscape areas, pathways, ingress and egress points, planters, islands, fence lines, and path of travel lanes shall be kept free of mud, excessive dust, soiling, trash, and debris at all times or as required by DGS. DGS project manager or inspectors may grant specific exceptions if requested by contractor.

Failure to keep the site clean may result in DGS engaging a cleaning service to perform such services which is to be paid in full by the contractor. If the contractor fails to pay in full for such DGS retained service, DGS at their discretion will either back charge the contractor or keep the project from final close out and continue to invoice the contractor for weekly charges until the service is paid in full by contractor.

Interconnection Fees

The PV developer **will** include all customer side interconnection improvements required to interconnect the PV system to the customer's side of the meter.

The PV developer **will** include all Utility-side interconnection application fees and standard interconnection fees per Rule 21.

The PV developer **will NOT** include any potential Utility side grid upgrades which may be required based upon the post award utility studies performed after the interconnection applications are submitted.

Upon official project award and after the SLA & SPPA are signed, the winning bidder will submit their interconnection application to the Utility to determine if any Utility-side grid upgrades are required to allow interconnection of the PV system.

If Utility-side upgrades are required to be paid by the developer, the winning bidder will provide the findings and the Utility cost estimates to DGS and the Host in order for the State to determine if the Host will continue with the project after factoring in any required Utility-side grid upgrade costs.

The Host may elect to reimburse the PV developer's costs for the Utility-side grid upgrades through a PPA price adjustment which will be established using the Utility's actual hard cost for all Utility-side upgrades.

If the State determines that the Utility-side upgrade costs are significant or result in an unfavorable PPA price, the State may elect to cancel the PV project. Should this occur the Contractor, DGS, and Host agree to cancel the project and SLA & SPPA agreements at that time without harm or monetary compensation to any party.

Unknown CEQA Offset Costs

Regarding the RFP bid response and CEQA;

The PV developer **will** include all costs associated with the CEQA process and standard mitigation measures.

The PV developer **will NOT** include any potential onerous or unknown CEQA mitigation measures which are required based upon the post award CEQA studies and findings.

Upon official project award and after the SLA & SPPA are signed, the winning bidder will begin the CEQA process to determine if any onerous or unknown CEQA mitigation measures are required to allow building the PV system.

During the CEQA process it may become apparent or necessary for the PV developer to perform onerous mitigation measures such as, but not limit to, purchasing a parcel of land in order to offset the disturbance of preserved/protected land.

If such onerous or unknown measures are required to be paid by the developer, the findings and estimated costs to implement will be presented to DGS and the Host in order for the State to determine if the Host will continue with the project after factoring in any required mitigation costs.

The Host may elect to reimburse the PV developer's costs for such measures through a potential PPA price adjustment which will be established using the PV developer's verified and Host approved cost estimates for the measures.

If the State determines the CEQA costs are significant or result in an unfavorable PPA price, the State may elect to cancel the PV project. Should this occur the Contractor, DGS, and Host agree to cancel the project and SLA & SPPA agreements at that time without harm or monetary compensation to any party.

For Department of Corrections and Rehabilitation (CDCR) HOST site candidates:

1. All Systems will be installed outside of the secure perimeter fencing. Ground-mount Systems will include a security fence around the perimeter of the system. The fence will be eight (8) feet high from ground level to the top of the chain link fencing, and will require three (3) strands of barbed wire or a single strand or looped razor wire on top.
2. This fence shall be built first so that the fenced enclosure can be utilized during construction as the staging and lay down area for equipment and materials.
3. Guarding requirements during construction and installation will be left to the discretion of the Warden and the Captain of the Guard.
4. As a key step in the acceptance and sign off of the System, the LICENSEE may be required to perform tests of the System for the serving utility. In addition, the LICENSEE must demonstrate that the System will not interfere with the operation of the emergency diesel backup generators. This demonstration will be in the form of actual tests as directed by the Correctional Plant Manager and/or Supervisor. These generators are tested at least monthly and must come on line as expected during a loss of utility power service.
5. Security clearances will be required for all those who perform site visits and participate in the construction and installation of the proposed System.
6. LICENSEE must provide thirty (30) calendar days' notice prior to disrupting utility electrical service for the purpose of electrically interconnecting the solar PV system. Once a date for service shut off is set, LICENSEE must perform the electrical interconnection on this date.

For Department of State Hospitals (DSH) HOST site candidates:

1. All Systems will be installed outside of any secured fenced in areas.
2. Fence requirements will be specified during the development of preliminary plans. LICENSEE must include, at a minimum, a six (6) foot chain link fence around the perimeter of the solar PV system.
3. Security clearances may be required for LICENSEES and CONTRACTORS who perform the installation and construction of the System. This requirement will be clarified in each RFP.
4. Security requirements will also be identified during the project kick off meeting.
5. As a key step in the acceptance and sign off of the System, the LICENSEE must demonstrate that the System will not interfere with the operation of the emergency diesel backup generators. This demonstration will be in the form of actual tests as directed by

the Chief of Plant and/or Chief Engineer. These generators are tested at least monthly and must come on line as expected during a loss of utility power service.

6. LICENSEE must provide thirty (30) calendar days' notice prior to disrupting utility electrical service for the purpose of electrically interconnecting the System. Once a date for service shut off is set, LICENSEE must perform the electrical interconnection on this date.

In all cases, safety program documentation must be developed and submitted as part of the construction schedule for review and approval. The safety program documentation should include how construction and installation personnel will conduct themselves and manage the job site in a safe and appropriate manner.

EXHIBIT I

SOLAR RFP ATTACHMENT 2 - MINIMUM STRUCTURAL REQUIREMENTS

Any and all structures and structural elements necessary for the installation and operation of the System shall be designed in accordance with all applicable California Building Codes and Standards that pertain to the erection of such structures. LICENSEES shall provide structural calculations, stamped and signed by a licensed professional structural engineer in good standing with the State of California, as part of the plan check and review requirement.

All structural components, including array structures, shall be designed in a manner commensurate with attaining a minimum thirty (30) year design life (regardless of System warranty) and consistent with any HOST site specific design guidelines and standards. This will enable the HOST to upgrade System components in the future, if desired. Particular attention shall be given to the prevention of corrosion at the connections between dissimilar metals such as aluminum and steel or corrosive soils. LICENSEE must warrant and maintain the full structural integrity of the System for at least twenty (20) years.

EXHIBIT J
FORM OF LENDER ESTOPPEL CERTIFICATE FOR FINANCING

Licensed Area: _____

Site License Agreement (SLA) Number: _____ (the "License")

Dated: _____, 201_, between the State of California, acting by and through the Department of General Services (the "DGS") and _____ ("HOST"), _____ ("LICENSEE") and with the consent of the State Public Works Board ("SPWB").

1. The undersigned, Lender [or Assignee], certifies to the DGS, HOST, and State Public Works Board ("SPWB") that it is: (i) a holder or proposed holder of a note or other obligation secured, or to be secured, by a leasehold mortgage or other security interest in the above SLA, the System and the Solar Power Purchase Agreement (SPPA), or (ii) is the assignee under a sale-leaseback financing structure of the SLA and the System (collectively the "Lender Financing Documents").

2. LICENSEE [or Assignee] agrees and acknowledges that the State owns the fee simple title to the Licensed Area and that the SLA, the License, the System and the SPPA are not real property interests but are personal property interests that LICENSEE may transfer and assign with the expressed written approval of the DGS, HOST, and SPWB as provided in the SLA. Lender [or Assignee] acknowledges and agrees that nothing in the SLA or the SPPA constitutes a mortgage, charge, assignment, transfer, pledge, lien or encumbrance upon the Licensed Area, the Site or the Facility. The SLA, SPPA and Lender Financing Documents are junior and subordinate to the Senior Security Documents as provided in Section 4 of the SLA.

3. The address for notices to be sent to the Lender is:

In the event of any inaccuracy in the information set forth in this certificate, Lender or Assignee shall be estopped to deny the accuracy thereof as to the DGS, HOST and the SPWB, and their successors and assigns. Any capitalized terms used herein and not otherwise defined shall have the meaning set forth in the SLA.

Dated: _____, 201_

Lender or [Assignee]:

BY: _____

Its: _____

EXHIBIT K
FORM OF DGS AND HOST ESTOPPEL CERTIFICATE

Licensed Area: _____

Site License Agreement (SLA) Number: _____ (the "License")

Dated: _____, 201_, between the Department of General Services (the "DGS"), the California Department of _____ ("HOST"), and _____, "LICENSEE".

The undersigned, the DGS and HOST, licensors under the SLA, certify to the certificate holder, _____, holder or proposed holder of a note or other obligation secured, or to be secured, by a leasehold mortgage upon Licensed Area, the System and/or the SPPA and to the assignee, collateral assignee or proposed assignee of said SLA, that;

1. The SLA is presently in full force and effect and unmodified except as indicated at the end of this certificate.
2. The Term of the SLA commenced on _____, 201_, and will expire on the date that is 20 Years from the Commencement Operation Date as defined in said SLA.
3. LICENSEE's obligations under said SLA, including those incorporated by reference in the Solar Power Purchase Agreement (SPPA), if applicable, have been met through the date of signature hereon.
4. The address for notices to be sent to the undersigned is as set forth in said SLA or as set forth below.
5. To the best of the DGS's and HOST's knowledge, LICENSEE is not in default under the SLA, nor do any conditions exist or has any event occurred that, given the giving of notice or the passage of time, would ripen into a default under the SLA.
6. To the best of the DGS's and HOST's knowledge, it is not in default under the SLA, nor do any conditions exist or has any event occurred that, given the giving of notice or the passage of time, would ripen into a default under the SLA, except as set forth below.
7. The DGS and HOST have the right and authority to enter into, execute, deliver and perform its obligations under the SLA and this certificate.
8. [Insert any other certifications or information reasonably requested and agreed to by LICENSEE, the DGS and HOST.]

In the event of any inaccuracy in the information set forth in this certificate, the DGS and HOST shall be estopped to deny the accuracy thereof as to the certificate holder named above, its successors and assigns. Any capitalized terms used herein and not otherwise defined shall have the meaning set forth the SLA.

Dated: _____, 201_

DGS:

State of California, By and through the Department of General Services

By: _____

Name: _____

Title: _____

HOST:

Department of [_____]

By: _____

Name: _____

Title: _____

**EXHIBIT L
PERFORMANCE BOND FORM**

**PERFORMANCE BOND TO ACCOMPANY
CONSTRUCTION CONTRACT**

WHEREAS, The State of California, acting by and through the Department of General Services has awarded to _____, whose address _____, an _____, existing under and by virtue of the laws of the State of California as CONTRACTOR, a Contract for the work described as follows:

Contract Number: _____ Project Title: PHOTOVOLTAIC SYSTEM
INSTALLATION PROJECT

Project Location: _____

AND WHEREAS, Said LICENSEE is required to furnish a bond in connection with said contract, guaranteeing the faithful performance thereof;

NOW, THEREFORE, We the undersigned LICENSEE and surety are held and firmly bound unto the State of California in the sum of _____ to be paid to the STATE or its certain attorney, its successors and assigns; for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATIONS IS SUCH,

That if the above bounded LICENSEE, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the State of California, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and virtue.

IN WITNESS WHEREOF, We have hereunto set our hands and seals on this _____ day of _____, 201_

(NAME OF THE LICENSEE)

By _____
Signature of LICENSEE

Name and Address of Surety

By _____
Signature of Attorney-in-Fact

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF CALIFORNIA COUNTY OF _____

On this _____ day of _____ in the year of 201____, before me, a notary public in and for the county and State aforesaid, personally appeared, _____ known to me to be the person whose name is subscribed to the within instrument and known to me to be the attorney-in-fact of _____, and acknowledged to me that he subscribed the name of the said company thereto as surety, and his own name as attorney-in-fact.

(SEAL)

NOTARY PUBLIC

Instructions: Parties shall agree upon an amount that is either sufficient to cover the circumstance where the LICENSEE fails to complete the project and it is necessary to restore the site to its original condition or 100 % of the LICENSEE's project cost and shall enter that amount in the Contract above.

EXHIBIT M
CCC-307 CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective CONTRACTOR to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** CONTRACTOR has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** CONTRACTOR will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a). Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

 - b). Establish a Drug-Free Awareness Program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) Any available counseling, rehabilitation and employee assistance programs;
 - 4) Penalties that may be imposed upon employees for drug abuse violations.

 - c). Every employee who works on the proposed System will:
 - 1) Receive a copy of the company's drug-free workplace policy statement; and,
 - 2) Agree to abide by the terms of the company's statement as a condition of employment on this SPPA.

Failure to comply with these requirements may result in suspension of payments under this SPPA or termination of this SPPA or both and CONTRACTOR may be ineligible for award of any future STATE agreements if the department determines that any of the following has occurred: the CONTRACTOR has made false certification, or violated the certification by failing to carry out the requirements as noted above. (See GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: CONTRACTOR certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against CONTRACTOR within the immediately preceding two-year period because of CONTRACTOR's failure to comply with an order of a Federal court, which orders CONTRACTOR to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)
4. UNION ORGANIZING: CONTRACTOR hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.
5. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: CONTRACTOR hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

CONTRACTOR agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual business day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

6. EXPATRIATE CORPORATIONS: CONTRACTOR hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
7. SWEATFREE CODE OF CONDUCT:
 - a). All contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the STATE pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweat free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
 - b). The Contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

8. DOMESTIC PARTNERS: Commencing on July 1, 2004 CONTRACTOR certifies that it is in compliance with Public Contract Code section 10295.3 with regard to benefits for domestic partners. For any contracts executed or amended, bid packages advertised or made available, or sealed bids received on or after July 1 2004 and prior to January 1, 2007, a contractor may require an employee to pay the costs of providing additional benefits that are offered to comply with PCC 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: CONTRACTOR needs to be aware of the following provisions regarding current or former state employees. If CONTRACTOR has any questions on the status of any person rendering services or involved with this SPPA, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- I. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- II. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- I. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- II. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If CONTRACTOR violates any provisions of above paragraphs, such action by CONTRACTOR shall render this SPPA void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: CONTRACTOR needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and CONTRACTOR affirms to comply with such provisions before commencing the performance of the work of this SPPA. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: CONTRACTOR assures the STATE that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (See 42 U.S.C. 12101 et seq.)
4. CONTRACTOR NAME CHANGE: An amendment is required to change the CONTRACTOR's name as listed on this SPPA. Upon receipt of legal documentation of the name change the STATE will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
 - a). When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b). "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c). Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the CONTRACTOR shall not be:
 1. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district or
 2. Subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions or
 3. Finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

**EXHIBIT N
TRANSACTION FEES**

1. Predevelopment.

1.1. Amount. LICENSEE shall pay to the DGS a fee for the DGS's management and review and approval of the project planning and permitting, the DGS's due diligence, the DGS's review and management of the environmental and CEQA process an amount indicated in the following table depending on the type of system(s) installed:

DGS Fixed Transaction Fee per PV System	
CEQA Environmental Review and Approval	
Project Management/Coordination	
Design Review and Approval	
Due Diligence	
Tax Analysis	
Grand Total	\$160,000

1.2. Timing of Payments. The fees indicated in the preceding table shall be paid at the following dates:

- 1.2.1.** One-third (1/3) of the total amount due shall be paid within thirty (30) days after execution of this SLA.
- 1.2.2.** One-third (1/3) of the total amount due shall be paid within fifteen (15) days after the DGS's issuance of the Notice to Proceed.
- 1.2.3.** One-third (1/3) of the total amount due shall be paid within fifteen (15) days after LICENSEE's Notice of the COD.

1.3. No Adjustment. The fees payable under this paragraph shall not be adjusted or modified regardless of the actual costs incurred by the DGS.

1.4. No Refund. No fees paid by LICENSEE shall be refunded unless and to the extent specifically provided otherwise in this SLA.

2. Construction Costs.

2.1. Amount. LICENSEE shall pay to the DGS, or CDCR for Guarding Costs if at Prison facility, the amount determined in the following table:

Weekly Fee per PV System	
Fee Category	Weekly Fee
Inspection and Project support Costs Per Week of Construction	\$6,500
Guarding Costs Per Week of Construction (CDCR Only)	\$3,500
Grand Total	\$10,000

2.2. Timing of Payments. The aggregate amounts due from LICENSEE to the DGS in accordance with the table in Section 2.1 of this Exhibit N shall be due for each week of construction starting with LICENSEE's commencement of significant activity at the Site beginning on the date of the issuance of the Notice to Proceed as per Section 8.1 of this SLA and ending on the date of the actual COD as per Section 8.6 of this SLA. LICENSEE shall pay the DGS for the number of weeks as indicated on the preliminary construction schedule submitted by LICENSEE as part of the Schematic design documents as per Exhibit F of this SLA. Payment shall be due no later than fifteen (15) days after state's issuance of the Notice to Proceed. **Final payment of weekly fees will be determined at actual COD and will be due fifteen (15) days after invoiced by the DGS.**

2.3. Hours. Construction Inspection **and support** costs are based on continuous inspection and Security and Guarding costs are based upon the costs for one guard 5 days per week at 10 hours per day. **Construction outside of these times and/or failure to complete the project as scheduled may increase these costs.**

2.4. No Refund. No fees paid by LICENSEE shall be refunded unless and to the extent specifically provided otherwise in this SLA.

3. Payment Submittal

Submit Check Payments to:
Department of General Services
Attention: Glenn Connor, Program Manager
Executive Office of Sustainability
707 3rd Street, 4th Floor
West Sacramento, CA 95605
916-375-4903