

Confidential

**PROCUREMENT
AND CONSTRUCTION CONTRACT**

dated as of [●] [●], 2016

by and between

**SUNLIGHT GENERAL MORRIS SOLAR, LLC
as Owner**

and

[●] as Contractor

[As acknowledged by the Morris County Improvement Authority]

**MORRIS COUNTY IMPROVEMENT AUTHORITY MORRIS COUNTY RENEWABLE ENERGY
PROGRAM (COUNTY OF MORRIS PROGRAM) SERIES 2011**

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| ARTICLE 1. DEFINITIONS; INTERPRETATION | 2 |
| ARTICLE 2. SCOPE OF WORK | 3 |
| ARTICLE 3. RESPONSIBILITY OF CONTRACTOR | 4 |
| ARTICLE 4. OWNER'S RESPONSIBILITIES | 13 |
| ARTICLE 5. SCHEDULE AND COMPLETION | 14 |
| ARTICLE 6. CONTRACT PRICE AND PAYMENT | 17 |
| ARTICLE 7. GUARANTEED SUBSTANTIAL COMPLETION DATES; DELAY DAMAGES; PERFORMANCE GUARANTEES | 21 |
| ARTICLE 8. CHANGES | 22 |
| ARTICLE 9. FORCE MAJEURE | 25 |
| ARTICLE 10. HAZARDOUS MATERIALS | 26 |
| ARTICLE 11. INDEMNIFICATION | 26 |
| ARTICLE 12. LIMITATION OF LIABILITY | 30 |
| ARTICLE 13. WARRANTIES | 31 |
| ARTICLE 14. RISK OF LOSS; INSURANCE | 33 |
| ARTICLE 15. DEFAULT AND TERMINATION OF AGREEMENT | 34 |
| ARTICLE 16. TITLE; LIENS | 39 |
| ARTICLE 17. [RESERVED] | 40 |
| ARTICLE 18. REPRESENTATIONS AND WARRANTIES | 40 |
| ARTICLE 19. DISPUTES | 42 |
| ARTICLE 20. MISCELLANEOUS PROVISIONS | 42 |

LIST OF ATTACHMENTS

| | |
|--------------------|--|
| Attachment I | Definitions |
| Attachment II-A | List of Local Units and SGFs |
| Attachment II-B | Owner Furnished Permits |
| Attachment III-A | Scope of Work |
| Attachment III-B | Project Manual MCIA Series 2011 Solar Project #2 dated February 22, 2016 |
| Attachment IV | Performance Measurements and SGF Production Tests |
| Attachment V-A | Breakdown of Contract Price by SGF and Local Unit Prices |
| Attachment V-B | Milestone Payment Schedules |
| Attachment VI | MCIA Series 2011 Solar Project #2 Design Drawings |
| Attachment VII | Site Access Schedule |
| Attachment VIII | Notice to Proceed Dates, Anticipated Mechanical Completion Dates, Guaranteed Substantial Completion Dates and Anticipated Final Completion Dates |
| Attachment IX | System Installation Checklist and SGF Performance Tests |
| Attachment X | List of Approved Subcontractors and Vendors |
| Attachment XI | Manufacturer Warranties for Principal Equipment Components |
| Attachment XII | Not in Use |
| Attachment XIII | County Anti-Corruption, Buy American, and Indemnification Requirements |
| Attachment XIV | County Labor and Licensing Requirements |
| Attachment XV | Not in use |
| Attachment XVI | Form of Notice to Proceed |
| Attachment XVII | Form of Invoice |
| Attachment XVIII-A | Form of Change Order |
| Attachment XVIII-B | Not in Use |
| Attachment XIX | Form of Conditional Waiver and Release of Lien for Progress Payment (Contractor) |
| Attachment XX | Form of Conditional Waiver and Release of Lien for Progress Payment (Subcontractor/Vendor) |
| Attachment XXI | Form of Unconditional Waiver and Release of Lien for Progress Payment (Contractor) |
| Attachment XXII | Form of Unconditional Waiver and Release of Lien for Progress Payment (Subcontractor/Vendor) |
| Attachment XXIII | Form of Conditional Waiver and Release of Lien for Final Payment (Contractor) |
| Attachment XXIV | Form of Conditional Waiver and Release of Lien for Final Payment (Subcontractor/Vendor) |
| Attachment XXV | Form of Unconditional Waiver and Release of Lien for Final Payment (Contractor) |
| Attachment XXVI | Form of Unconditional Waiver and Release of Lien for Final Payment (Subcontractor/Vendor) |
| Attachment XXVII | Form of Application for Mechanical Completion |
| Attachment XXVIII | Form of Mechanical Completion Certificate |
| Attachment XXIX | Form of Application for Substantial Completion |
| Attachment XXX | Form of Substantial Completion Certificate |
| Attachment XXXI | Form of Final Completion Certificate |

Attachment XXXII
Attachment XXXIII
Attachment XXXIV
Attachment XXXV

Insurance Requirements
Applicable Solar Program
Procedures for Section 1603 Cash Grant
Form of Construction Surety (Performance Bond)

PROCUREMENT AND CONSTRUCTION CONTRACT

This Procurement and Construction Contract (this "**Agreement**") is made as of [•] [•], 2016 (the "**Effective Date**"), by and between SunLight General Morris Solar, LLC, a New Jersey limited liability company ("**Owner**"), and [•], a [•] company ("**Contractor**"), and acknowledged by the Morris County Improvement Authority ("**Authority**").

RECITALS:

WHEREAS, the Morris County Improvement Authority (the "**Authority**"), acting on behalf of the County of Morris, New Jersey (the "**County**"), issued its Request for Proposals dated July 7, 2011 (the "**County RFP**") for the development of photovoltaic systems with respect to certain local government facilities in the County (the "**Program**"); and

WHEREAS, Owner, as the successful bidder and awardee for the Program, issued a request for proposal on February [•], 2016 for the construction of certain new and unconstructed sites (the "**Sites**") in the Program; and

WHEREAS Contractor was a successful bidder in response to the Owner's request for proposals;
and

WHEREAS, pursuant to the Program, each of the local governmental units identified on Attachment II-A (each a "**Local Unit**") has entered into or will enter into a License and Access Agreement with the Authority (each a "**License Agreement**") pursuant to which, *inter alia*, the Local Unit has licensed or will license to the Authority and its designees one or more properties described in Attachment II-A for the construction, operation and maintenance of a solar powered electric generating facility (each, as generally identified in Attachment II-A and more fully described in the Scope of Work, a "**SGF**"); and

WHEREAS, pursuant to the Program, Owner has entered into a Power Purchase Agreement with the Authority (the "**Power Purchase Agreement**" or "**PPA**"), pursuant to which, *inter alia*, (i) the Authority designates Owner and its contractors and subcontractors as permitted licensees under the respective License Agreements, (ii) Owner covenants to complete the design, permitting, acquisition, construction, installation, interconnection, start-up, testing, operation and maintenance of all the SGFs, and (iii) the Authority covenants to purchase the electric power from the SGFs during the term of the PPA, which obligation is assumed by each Local Unit with respect to the SGFs located on its property pursuant to its License Agreement; and

WHEREAS, pursuant to the Program, Owner has entered into a Lease Purchase Agreement with the Authority (the "**Lease Agreement**"), pursuant to which, *inter alia*, (i) Owner further covenants to design and construct all of the SGFs, (ii) the Authority covenants to finance a portion of the costs of the development, design and construction of the SGFs through the issuance of bonds guaranteed by the County; (iii) the Authority will take leasehold title to the SGFs upon their completion; and (iv) the Authority will lease the SGFs to Owner for the designated term and any renewals thereof (and convey to Owner certain ownership benefits and attributes thereof for tax purposes); and

WHEREAS, the License Agreement, PPA and Lease Agreement (collectively, the "**Program Documents**") contain rights and obligations of Owner with respect to the design, procurement, permitting, construction and testing of the SGFs; and

WHEREAS, pursuant to this Agreement, Contractor will assume and perform substantially all of Owner's obligations under the Program Documents with respect to the permitting (except for Owner-Furnished Permits), procurement (except for the Owner-Furnished Materials), construction, installation and testing of the SGFs (the Owner shall be responsible for the design of the SGFs), and Contractor is willing to do so under and in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the Authority, as lessor of the facilities at which each SGF is located, has a vested interest in the timely development and completion of the SGFs and, as such, has exercised its rights to appoint an Authority representative to oversee construction of the SGFs; and

WHEREAS, the Authority has made available the sum of [\$•], on deposit in the Project Fund, which fund shall be the sole source of funds from which Contractor shall be paid for its Work hereunder;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties agree that the above WHEREAS clauses are incorporated herein by reference; that they agree to be bound by the Contract Documents; and they further agree as follows:

ARTICLE 1. DEFINITIONS; INTERPRETATION

1.1. Definitions. Unless the context clearly requires otherwise, terms when capitalized in this Agreement have the meanings specified in Attachment I, Definitions.

1.2. Interpretation.

1.2.1. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. All nouns, pronouns and variations thereof shall be deemed to refer to the singular or plural as the context may require.

1.2.2. Unless otherwise expressly provided, the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation."

1.2.3. A reference to an Applicable Law includes any amendment to, modification of, or replacement for, such Applicable Law, and all regulations, rulings and other Applicable Laws promulgated under such Applicable Law.

1.2.4. Reference to a Person (including Owner and Contractor) includes its heirs, successors and permitted assigns.

1.2.5. References to a "day" shall mean a calendar day.

1.2.6. References to this Agreement, or any other instrument or agreement (a) shall include all exhibits, schedules, appendices and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any give time.

1.2.7. The words "hereof," "herein" and "hereunder" and words of similar import refer to an Agreement as a whole and not to any particular provision, unless otherwise indicated.

- 1.2.8. References to Sections and Attachments mean Sections of and Attachments to this Agreement, unless otherwise indicated.
- 1.2.9. The division of this Agreement into articles, sections and Attachments and the inclusion of headings in this Agreement are for convenience of reference only and will not affect the construction or interpretation of this Agreement.
- 1.2.10. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

1.3. Conflicts Among Contract Documents. In the event of any conflict or inconsistency between the Articles of this Agreement and any Attachment hereto, the terms and provisions of the Articles of this Agreement, as amended from time to time, shall prevail and be given priority, except that to the extent the requirements of any of the Program Documents impose different or greater requirements, the requirements of the Program Documents shall prevail. Subject to the foregoing, the several documents and instruments forming part of this Agreement are to be taken as mutually explanatory of one another and in the case of ambiguities or discrepancies within or between such parts the same shall be explained and interpreted, if possible, in a manner which gives effect to each part and which avoids or minimizes conflicts among such parts. If Contractor becomes aware of any conflict or inconsistency, it shall promptly provide Notice thereof to Owner.

ARTICLE 2. SCOPE OF WORK

2.1. Notice to Proceed. Neither Party shall have any obligations under this Agreement unless and until Owner in its sole discretion issues to Contractor a Notice to proceed substantially in the form of Attachment XVI (the "**Notice to Proceed**" or "**NTP**"). If Owner has not issued a Notice to Proceed for an SGF within ninety (90) days after the Effective Date, either Party shall have the right to terminate this Agreement with respect to each such SGF with respect to which a Notice to Proceed has not been issued by delivering a Notice of termination (a "**Conditional Notice of Termination**") to the other Party. If Contractor issues a Conditional Notice of Termination in accordance with this Section 2.1 and if Owner does not issue a Notice to Proceed with respect to an affected SGF within ten (10) days of its receipt of the Conditional Notice of Termination, this Agreement shall end and be of no further effect with respect to each such affected SGF, excepting only those provisions which by their terms survive termination. If Owner does issue a Notice to Proceed with respect to such affected SGF within ten (10) days of receipt of a Conditional Notice of Termination, this Agreement shall take full force and effect with respect to such affected SGF and the Conditional Notice of Termination shall be ineffective. Owner shall have no liability to Contractor for any failure to issue a Notice to Proceed. If either Party terminates this Agreement pursuant to this Section 2.1, then Owner may, but shall not be obligated to, thereafter negotiate with Contractor or any other contractor for performance of the Work under a new contract.

2.2. Contract Review. The Contractor represents and agrees that it has carefully examined and understands the Contract Documents, has investigated the nature, locality and site(s) of the Work and the conditions and difficulties under which it is to be performed and that it enters into this Agreement on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of the Owner or Authority or any of their respective officers, agents, servants, or employees. The Contractor shall assume and perform substantially all of Owner's obligations under the Program Documents with respect to the permitting (except for Owner-Furnished Permits), procurement

(except for the Owner-Furnished Materials), construction, installation and testing of the SGFs (the Owner shall be responsible for the design of the SGFs), and shall perform all work, labor, services, materials, plant, equipment, tools, scaffolds, appliances, and other things necessary to complete the Work in strict accordance with the terms and conditions set forth in the Contract Documents, for the Contract Price set forth in ARTICLE 6 hereof.

2.3. General. Upon receipt of the Notice to Proceed, and except to the extent an element of the Work may not proceed pending the receipt or transfer of necessary Governmental Approvals with respect to a SGF, Contractor shall procure, erect, install, test, start-up, and perform related activities for the successful completion of the Work with respect to such SGF in compliance with the Contract Documents. The Parties understand that, except for any obligations which are explicitly and specifically placed upon Owner by this Agreement, Contractor is responsible for all aspects of the procurement, permitting (except for Owner-Furnished Permits), construction, installation and testing of each SGF and assuring that it meets the requirements of the material specifications, equipment specifications, and performance specifications set out in the Design Drawings and Attachment IIIA and Attachment III-B and demonstrates through performance testing achievement of the Predicted AC Energy Output for each SGF as set out in Attachment IV, and on the Guaranteed Substantial Completion Date for such SGF will turn over to Owner a fully-functional facility, complete in all details, except for Punch List Items. With respect to design and engineering, it is the intent and understanding of the Parties that, notwithstanding any other contrary provision of this Agreement:

- (a) Contractor is not responsible for the accuracy or quality of Owner-Furnished Engineering, although Contractor shall advise Owner reasonably promptly if Contractor discovers any errors, omissions, or constructability issues in the Owner-Furnished Engineering; and
- (b) Contractor has no obligation to provide any design and engineering work for the Project other than shop drawings and other submittals that, in accordance with Good Solar Industry Practice, are customarily required of a contractor similarly engaged to provide procurement, installation and construction services; and
- (c) With respect to the engineering work and documents provided by Contractor (whether limited to those specified in clause (b) above or any additional engineering work or documents that Contractor chooses to perform or provide in order to complete the SGFs after consultation with and approval by Owner), Contractor shall be responsible for the engineering work that it performs or causes to be performed by its Subcontractors; and the provisions of this Agreement respecting design and engineering work, including the standards applicable thereto, the performance thereof by Contractor, and the review and acceptance thereof by Owner and the Authority and/or Local Unit or their representatives, shall apply to such Contractor-prepared or supplied engineering work.

2.4. Compliance with Applicable Law and Utility Requirements. Throughout the performance of all aspects of the Work, Contractor shall comply with, and shall ensure that each Subcontractor complies with, all Applicable Laws and all applicable requirements of the Local Electric Utility. Certain specific requirements include those contained in Attachment XIII.

ARTICLE 3. RESPONSIBILITY OF CONTRACTOR

3.1. Project Manager. Within five (5) days following the Effective Date, Contractor shall designate, in a Notice to Owner and Authority, a Project Manager reasonably acceptable to Owner, who shall act as the single point of contact in all matters relating to this Agreement on behalf of Contractor.

Contractor shall also designate, by Notice to Owner and Authority, a qualified construction superintendent for each SGF within five (5) days after obtaining the Building Permit for such SGF. Such construction superintendent shall be present at the Site during all times that Work on such SGF is being performed at the Site. Contractor shall not replace the Project Manager without prior written consent of Owner and Authority, other than due to termination in employment, and any new Project Manager shall be subject to approval of Owner and Authority. Contractor shall replace the Project Manager upon receipt of reasonable written request of Owner and Authority.

3.2. Design: Design Coordination & Review; Documents.

3.2.1. Premises Investigations.

(a) Site Visits. Contractor shall perform Site visits and gather information necessary to create an appropriate execution plan with respect to the Work for each SGF. Contractor shall also confer with Persons providing existing roof warranties that might be affected by the Work to ensure that Contractor will be able to comply with the requirements of Section 13.7. Contractor agrees that all such information, opinions and analyses shall be given to the Authority and the Applicable Local Unit.

3.2.2. Standards, Utility & Local Unit Requirements. Contractor shall keep the Local Electric Utility and each Applicable Local Unit fully informed and shall consult with them, including conducting a Site review with them, before installation of equipment. The SGFs shall be installed with due care by qualified employees, representatives, agents or contractors of Contractor and shall conform to Good Solar Industry Practice and Applicable Law.

3.2.3. Metering and Monitoring. The designs include utility grade metering and monitoring provisions, including remote "real time" monitoring of system performance and data collection over the internet. Contractor shall install utility grade metering and monitoring equipment furnished by Owner from DECK Monitoring LLC and Schneider Electric (Powerlogic), as set forth in Attachment III.

3.2.4. Design and Engineering Review. All drawings, specifications and other design documents prepared by Contractor for each SGF, if any, shall be submitted to Owner, the Authority Construction Monitor and the Applicable Local Unit and/or its Construction Manager for prior review and comment. Any such construction drawings shall be approved by appropriately licensed engineers before submission to permitting authorities. Any such review and comment by Owner, Authority Construction Monitor, the Applicable Local Unit and/or its Construction Manager shall not relieve or absolve Contractor from its responsibility under this Agreement or from its liability for any error, fault or inconsistency in the Work. Contractor is solely responsible for any drawings, specifications and other design documents that it prepares for the SGFs.

3.2.5. Documentation Required For Substantial Completion. With respect to each SGF, as soon as available to Contractor, but no later than the Substantial Completion Date for such SGF, Contractor shall deliver to Owner three (3) complete hard copies (in hard cover binders) and four (4) electronic copies (each on a CD ROM) of the Operation and Maintenance Manuals. The Operation and Maintenance Manuals shall be made available for review by Owner and the representatives of the Authority and/or the Applicable Local Unit sufficiently in advance of Substantial Completion. Within a reasonable timeframe of

receipt, Owner shall deliver to each of Authority and the applicable Local Unit one (1) hard copy and one (1) electronic copy of the Operation and Maintenance Manuals.

3.2.6. Redline Drawings. With respect to each SGF, and in accordance with Attachment III, Contractor shall deliver to Owner and Authority Construction Monitor, for their review, an accurate redline drawing, based upon the Owner's approved construction drawings, depicting any and all differences between the as-built SGF and the approved construction drawings. Owner and Authority Construction Monitor reserve the right to require Contractor to correct any deviations between the as-built SGF and the approved construction drawings whose deviations were not pre-approved by Owner or Authority Construction Monitor.

3.3. Training of Owner and Authority by Contractor. Contractor shall provide training, including training manuals, to Owner and Authority for operation and maintenance of each SGF.

3.4. Governmental Approvals. Contractor shall obtain, maintain, and pay for (i) all Governmental Approvals required for it to be duly qualified and in good standing to do business in the State of New Jersey and for it to be duly licensed to perform the Work, or to cause the Work to be performed by its Subcontractors, in the State of New Jersey and (ii) any other Governmental Approvals (other than any that may be included in the Owner-Furnished Permits specified in Attachment II-B) that are required in connection with the construction of the SGFs or performance of the Work and that would, in accordance with customary construction industry practice for solar energy generating projects in the State of New Jersey, ordinarily be the responsibility of a contractor, rather than an owner or developer, to procure. Contractor shall promptly (but in no event greater than five (5) Business Days after Contractor's receipt of same) provide Owner and Authority Construction Monitor with copies of all such Governmental Approvals as may be required under clause (ii) above upon Contractor's obtaining such Governmental Approvals.

3.5. Construction. Except for the supply of Owner-Furnished Materials, Contractor shall provide, install, complete and pay for all labor, equipment, tools, supplies, construction equipment and machinery, transportation and other facilities and services (including any temporary materials, equipment, supplies and facilities and construction utilities) necessary for the proper execution and completion of the Work. All construction and installation performed by Contractor under this Agreement shall be in accordance with the given manufacturer's written instructions and the specific instructions of the manufacturer's representative, unless otherwise agreed by Owner and Authority Construction Monitor in advance in writing. Contractor shall have available its quality control and assurance manual for review by Owner, Authority Construction Monitor and the Construction Manager. Contractor shall be responsible for the layout of the Work and shall perform all necessary surveying, all in accordance with the Contract Documents.

3.6. Responsibility with Respect to Owner-Furnished Materials. Contractor shall be responsible for (a) taking delivery of all Owner-Furnished Materials at the Warehouse, (b) conducting a reasonable visual inspection of the same to detect any apparent damage or deterioration, (c) delivering Owner-Furnished Materials to the Site, or to a secure off-Site storage facility provided by Contractor and thence to the Site, (d) assuming care, custody and control and risk of loss of the same from the time of delivery pursuant to clause (a) above until Substantial Completion of the relevant SGF, (e) protecting the same under Contractor's builder's risk or installation or in transit property insurance from the time of delivery pursuant to clause (a) above until Substantial Completion, and (f) installing and otherwise incorporating the same into the Work in accordance with the technical requirements of this Agreement.

3.7. Subcontractors and Vendors.

- 3.7.1. Owner acknowledges that Contractor may use and engage engineers and Subcontractors to perform some or all of its obligations hereunder and agrees that Contractor may do so, and Attachment X sets forth a list of Subcontractors and Vendors pre-approved by Owner and Authority for services or the supply of equipment or materials. Contractor shall not enter into any subcontract or purchase order with any proposed Subcontractor or Major Vendor not already pre-approved pursuant to Attachment X. The list of Subcontractors and Vendors may be amended at the request of Contractor, upon written approval of Owner and Authority. Contractor and Owner agree that approval of Subcontractors and Vendors by Owner or by the Authority or any Local Unit shall not relieve Contractor of any of its obligations, duties or responsibilities hereunder. Upon the request of Owner or Authority Construction Monitor, Contractor shall provide to Owner reasonable background information regarding the experience, financial strength, personnel and other background of any proposed Subcontractor and relevant information concerning any proposed Major Vendor.
- 3.7.2. Notwithstanding the foregoing, Owner may require Contractor to remove any Subcontractor that Owner reasonably believes is compromising safety at the Site or is failing to comply with Applicable Laws or Governmental Approvals; provided that Owner has previously given to Contractor Notice of such Subcontractor's malfeasance and either (i) such malfeasance has continued unremedied for seven (7) days or more after such Notice (or such shorter period as specified in such Notice if required by the Applicable Local Unit or any Governmental Authority), or (ii) such malfeasance represents a repeat occurrence by such Subcontractor and Owner notified Contractor of such prior occurrence. In any event, Contractor shall remove any such Subcontractor that the Authority Construction Monitor or Applicable Local Unit directs to be removed due to any such malfeasance, any such removal to be in compliance with the directive of the Authority Construction Monitor or Applicable Local Unit. Contractor shall be solely responsible for the performance of the Work and for paying each Subcontractor amounts due to such Subcontractor and nothing contained herein shall obligate Owner or Authority to pay any Subcontractor for any of the Work performed by such Subcontractor or taxes related to such Work performed by any such Subcontractor, or to reimburse Contractor for Contractor payments to Subcontractors for Taxes. No Subcontractor is intended to be, nor shall any such Subcontractor be deemed to be, a third party beneficiary of this Agreement. Contractor shall cause all Subcontractors to comply with the standards of performance set forth in this Agreement applicable to Contractor. Contractor agrees to cause all Subcontractors to maintain, and comply with, the insurance requirements of Contractor in this Agreement.
- 3.7.3. Without in any way detracting from Contractor's representations and warranties and other testing requirements and guarantees set forth herein with respect to all of the Work, Contractor shall obtain from all Subcontractors and Vendors any representations, warranties, guarantees, and obligations offered by such Subcontractors and Vendors and use commercially reasonable efforts to negotiate the longest practicable warranty periods at no additional cost with respect to design, materials, workmanship, equipment, tools, supplies, and other items furnished by such Subcontractors and by Major Vendors, which warranties shall be enforceable by Owner as well as Contractor. To the extent still in effect at the end of the Equipment and Work Warranty Period, Contractor hereby assigns to Owner, effective as of the end of the Equipment and Work Warranty Period for each SGF, all representations, warranties, guarantees and obligations of all Subcontractors and Vendors with respect to such SGF.

3.8. Control of the Work. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, procedures, and safety programs in connection with the performance of the Work, and shall furnish the services of all supervisors, foremen, skilled and unskilled labor and all other personnel necessary to perform the Work. During Contractor's performance of the Work, other Persons may be engaged in other operations on or about the Site under various other contracts, including contractors engaged by Owner to supply and install equipment not included in Contractor's Scope of Work, and there may be other vehicular and pedestrian traffic. Contractor and its Subcontractors shall not interrupt or unreasonably interfere with these activities. Contractor shall so plan and conduct its operations (including any utility relocations) as to work in harmony with others engaged at the Site and not to delay, endanger or interfere with the operations of others (whether or not specifically mentioned above), all to the best interests of Owner, the Authority, the Applicable Local Unit and the public and as may be directed by Owner or Authority Construction Monitor. Notwithstanding the foregoing, Contractor does not assume the risk of any delays in performance of the Work to the extent that any delay is a result of an act, omission, negligence or willful misconduct of any other Persons engaged in other operations on or about the Site, including contractors engaged by Owner under various other contracts to supply and install equipment not included in Contractor's Scope of Work. To the extent any such other Persons delay Contractor's or its Subcontractors' performance of the Work (including as a consequence of any damage to the Work caused by such other Persons), Contractor shall be entitled to a Change Order adjusting the Project Schedule (including the Guaranteed Substantial Completion Dates) (but not a change in cost) for the period of delay caused by such Persons in accordance with the provisions of ARTICLE 8.

3.9. Labor and Licensing. Contractor shall comply, and cause its Subcontractors to comply, with all provisions of the Program Documents applicable to labor and licensing, as set forth in Attachment XIV.

3.10. Minimal Inconvenience. Contractor shall ensure that it and its Subcontractors carry on their operations with minimum disruption and inconvenience to property or persons on or near the Sites. Contractor shall cooperate with the Applicable Local Units and other Persons affected by construction activities and use its reasonable efforts to ensure that noise and inconvenience are held to the minimum level practicable. Except for emergency situations which may require that Work be performed at other times, and, subject to Section 4.2, upon the reasonable request of Owner or the Applicable Local Unit which further limits the times during which Work may be performed, Contractor shall cause the Work to be performed only between the hours of 7:00 am and 8:00 pm, Monday through Saturday, in a manner that minimizes interference with the Applicable Local Units and the Applicable Local Units' tenants and licensees and their owners, in each case, to the extent commercially practical. Such cooperation shall include attendance at periodic meetings with representatives of the Applicable Local Units, the Authority Construction Monitor and others if requested by their representatives for the purpose of discussing and implementing reasonable procedures to minimize disruption. Without limit to the foregoing, Contractor shall ascertain and observe Local Unit working restrictions.

3.11. Site Use. Owner hereby grants to Contractor a license to exercise Owner's right to enter upon and use the Sites and the Premises, subject to the limitations and regulations of the Local Units, for the purposes of carrying out its obligations under this Agreement. Contractor shall coordinate with each Local Unit and the Authority Construction Monitor to determine use of areas for ingress into, on, and egress from the Sites, storage of materials, tools, and equipment, and other purposes. Subject to Section 4.2, Contractor shall confine its operations at the Sites to areas permitted by the Applicable Local Units, and shall not unreasonably interfere with Applicable Local Units on their Sites. No other activities beyond the scope of the Work activities for the SGF shall be undertaken on the Site for that SGF by Contractor or any Subcontractor, unless expressly agreed to in writing by Owner. Contractor at all times shall keep the Sites free from accumulation of waste materials or rubbish caused by its or its Subcontractors' operations.

The Sites shall at all times be maintained in a clean, neat, and orderly condition and Contractor shall leave them in "broom clean" condition at the end of each workday. Contractor shall perform the Work in a manner that does not cause any increase in soil erosion on the Sites. Contractor shall provide trash collection facilities and disposal services. Public roads and internal access roads on or around the Sites shall be kept free from Contractor's and its Subcontractors' rubbish and shall be promptly and routinely cleaned of such rubbish. Upon completion of the Work (and as a condition for Final Completion, or earlier to the extent required for the safe, efficient and continuous operation of the SGF and not required for the performance of Punch List Work) Contractor shall, or shall require its Subcontractors to, satisfactorily dispose of all temporary buildings, rubbish, unused and unneeded materials and all other items not constituting a part of the SGFs belonging to them or used in the performance of the Work, and shall leave the Work areas and the Sites in a neat, clean and safe condition, as good as they were prior to the beginning of construction.

3.12. Signs. Contractor shall not place or maintain, or permit to be placed or maintained, any sign, bill or poster on or about any Site without the prior consent of Owner and the Applicable Local Unit; provided, that Contractor shall not require approval to place any signs, bills or posters related to Contractor's safety and quality program or required by Applicable Laws.

3.13. Security and Access. Contractor shall cooperate with the Local Units regarding the security of the SGFs and shall be responsible for the security and protection of the Premises and the SGFs to the extent that, and for so long as, Contractor has disabled any security provisions for the Premises or SGFs. Contractor shall be responsible for the security and protection of the Work until the transfer of care, custody and control thereof to Owner in accordance with this Agreement. Owner and its designees, the Authority, the Authority Construction Monitor, the Applicable Local Unit and the Construction Manager shall have the right to enter upon the Premises in order to inspect the Work and Premises and verify that the Work is being performed in accordance with this Agreement, and the Applicable Local Unit shall have the further right to observe performance of the Work; provided that any such observation activities shall not interfere with the performance of the Work. Owner and its representatives shall be subject at all times during their presence on the Premises to reasonable rules and regulations of Contractor with respect to safety and security.

3.14. Conduct at the Site. Contractor acknowledges that the Work may be conducted on an operating facility, which may inhibit the operations of Contractor and its Subcontractors. Parking adjacent to the Work may not be available for Contractor's or its Subcontractors' personnel, and Contractor may have to provide transportation for all workers between the Work and remote parking. Contractor shall prohibit and prevent its and its Subcontractors' personnel from loitering or wandering on the Site. Contractor shall also prohibit and prevent, on or near the Site, the use or consumption of alcoholic beverages, drugs or other mind-altering substances, the carrying of firearms or other weapons, fighting, and conduct that is disorderly or disruptive. Contractor shall comply with the rules of the Applicable Local Unit respecting each Site, including the requirement to provide to the Applicable Local Unit the name of each employee and agent of Contractor and of each Subcontractor working at the Site. Contractor shall promptly terminate, or have terminated, the employment on the Project of any person employed by Contractor or a Subcontractor whose employment Owner designates to be terminated due to violation of any Applicable Law or rules applicable to the Site.

3.15. Safety and Protection.

3.15.1. Contractor shall be responsible for all safety precautions and measures on the Sites, including the number and qualifications of persons on the Sites. Contractor shall conduct periodic site safety meetings at the site among its laborers and those of any Subcontractor on site to ensure that all laborers are adhering to the safety requirements in safety plan in

Section 3.15.2 below. Contractor shall use commercially reasonable efforts to avoid the risks of bodily harm to persons or damage to any property. Contractor shall continuously inspect all Work and the SGFs to discover any conditions which might involve such safety risks and shall be solely responsible for discovery, determination and correction of any such conditions. Industry standard lock-out, tag-out safety procedures shall be followed at all times. Once the PV modules have been mounted, the installation crew must have a minimum of one (1) licensed electrician on site during all working hours when electrical work is being performed. During all times when electrical work or any work on the roof is being performed, Contractor shall maintain an installation crew with a minimum of two (2) people working together.

3.15.2. Within seven (7) days after the Effective Date, Contractor shall submit a health & safety plan to Owner and the Authority, and shall observe all Morris County safety practices required for performing construction work of the type contemplated by this Agreement, including all applicable OSHA standards.

3.16. Owner's Right to Review and Inspect, Correction of Defects.

3.16.1. Contractor shall provide Owner, and persons designated by Owner, the Authority, the Authority Construction Monitor, the Applicable Local Unit and the Construction Manager designated for the SGF, with (i) reasonable opportunity to view at Contractor's office all drawings, plans, and specifications prepared by Contractor for, or that may impact, the Work or the operations of the SGFs as they are developed, (ii) reasonable access to the Work and (iii) the opportunity to observe all commissioning and on-Site tests of equipment, subject to the observance of safety measures reasonably deemed by Contractor to be necessary or appropriate. Contractor shall arrange for such inspection and observance of such tests at the Site or at the mills or shops of Contractor or, if appropriate and commercially reasonable, of any Subcontractor or Vendor where any part of the Work is being fabricated or manufactured. In order to allow such inspections and observations, Contractor shall give Owner at least two (2) Business Days' (or such longer period, as required by the Program Documents in order to enable representatives of the Authority and/or the Applicable Local Unit(s) to attend) advance Notice of any system or equipment check-out or testing.

3.16.2. In the event Contractor fails to provide Owner with reasonable Notice of, or access to, the inspections described in Section 3.16.1 (herein "**Inspections**"), and if in the reasonable opinion of Owner or Authority Construction Monitor it is necessary to dismantle or uncover Work for such Inspection, then Contractor shall bear the reasonable expense of such dismantling and uncovering and for the reassembly and re-covering of such Work. If Owner or Authority Construction Monitor requests the dismantling or uncovering of Work specified for such Inspection that Owner failed to inspect, despite proper Notice of the availability of that Work for inspection, and such Work proves to be in conformance with the Contract Documents, then Owner shall pay for the expense of dismantling and uncovering and reassembling and re-covering the Work and an appropriate adjustment to the time to complete the Work shall be made.

3.16.3. No inspection or review by Owner or any representative of Owner, or the Authority or Authority Construction Monitor or any Local Unit, including any review or approval of any detailed design or specification by Contractor that becomes part of the Scope of Work, shall constitute an approval, endorsement or confirmation of any drawing, plan, manual, detailed design, specification, test, bidder, equipment, Work, material, program, method of

procedure or other Work or an acknowledgment by any such person that a drawing, plan, detailed design, specification, test, bidder, equipment, Work, material, program, method of procedure or other work done satisfies the requirements of this Agreement; nor shall any such inspection or review relieve Contractor of any of its obligations to perform the Work or furnish each SGF so that, when complete, it satisfies all the requirements of this Agreement or relieve Contractor from any liability or responsibility for injuries to persons or damage to property. No waiver or failure by Owner, the Authority, the Authority Construction Monitor or any Local Unit to exercise its right to inspect or review any drawing, plan, manual, specification, test, bidder, equipment, Work, material, program, method of procedure or other Work shall in any way relieve Contractor of full liability for the quality, character, and performance of the Work and every part of it, nor shall it prejudice or affect the rights of Owner set forth in this Agreement.

3.16.4. Any Work at a SGF found to be not in compliance with the requirements of this Agreement (including the warranties set forth in ARTICLE 13) prior to Final Completion of such SGF (including Punch List Items) shall be promptly corrected or replaced with conforming Work at the Contractor's sole expense. After Final Completion of a SGF, the warranty provisions of ARTICLE 13 shall govern the Parties' rights and responsibilities with respect to Notice of and remedies for non-conformities in the Work for such SGF.

3.17. Local and General Conditions. Contractor shall be deemed to have satisfied itself as to the general and local conditions and circumstances affecting the Work at each Site, particularly, but without limitation, the following: technical information and requirements; conditions affecting transportation, disposal, handling, and storage of materials at the Site; availability and conditions of roads; availability of housing; climatic conditions and seasons; and equipment and facilities needed for performance of the Work. Contractor's failure to acquaint itself with any general or local condition or circumstances affecting the Work existing as of the date of this Agreement will neither relieve it from the responsibility for successfully performing this Agreement, nor entitle Contractor to an adjustment to the Contract Price or the Guaranteed Substantial Completion Dates.

3.18. Funding Cooperation.

3.18.1. Contractor shall provide such cooperation as Owner may reasonably request in connection with obtaining grant or other funding (including lease financing) for the Project. Contractor agrees to (i) cooperate with Owner in responding to or complying with the reasonable requirements or reasonable requests of Financing Parties with respect to the obligations of Contractor hereunder, including due diligence activities required prior to obtaining such funding and providing existing data, reports and other documents related to the Project and/or Contractor's performance of the Work that are in Contractor's possession if reasonably requested by Financing Parties; (ii) provide to Owner any information regarding the Project reasonably requested by Owner and available to Contractor that is required for any reports to Financing Parties and required to be prepared by Owner; (iii) provide reasonable assistance to Owner in complying with the reporting requirements set forth in any agreements of Financing Parties; and (iv) deliver to Financing Parties any required estoppel certificates, consents or other documents as reasonably required by such parties. Contractor's obligations hereunder shall include preparation of the monthly Initial Project Workforce Form AA201, which must be filed with the Authority and the Division of Public Contracts Equal Opportunity Compliance.

3.18.2. Without limiting the generality of Section 3.18.1, Contractor shall cooperate with and assist Owner in applying for and qualifying for a cash grant under Section 1603 of the Recovery

Act (the "**Section 1603 Cash Grant**") with respect to the Project, including, to the extent reasonably within Contractor's control, satisfying the Safe Harbor provisions (including applicable Treasury Guidance) of the Section 1603 grant program requiring that at least five percent (5%) of the eligible cost basis of the Project be paid by December 31, 2011. As part of the Owner-Furnished Materials, Owner will provide solar modules to Contractor that were purchased by Owner to satisfy the Safe Harbor provisions. Contractor shall ensure that the correct modules, and in appropriate quantities, are installed within each SGF to satisfy the Section 1603 grant program requirements. The Parties agree that, for purposes of obtaining the aforementioned cash grant, they will comply with the procedures and obligations assigned to each of them in Attachment XXXIV.

3.19. Contractor's Security. Contractor shall provide a "Construction Performance Bond" which shall be substantially in the form set forth in Attachment XXXV, be issued by a surety that is authorized to do business in the State of New Jersey, that satisfies the requirements set forth in N.J.S.A. 2A:44-143(1)(b), has an A.M. Best's rating of at least "A" or the equivalent thereof, and that is listed in the United States Treasury Department Circular 570. Furthermore, such Construction Performance Bond shall (a) name Owner and the Authority as dual obligees (b) have a penal sum equal to the Contract Price, and (c) not contain any conditions to the obligations of the surety company issuing such Construction Performance Bond, other than as expressly provided in the form set forth in Attachment XXXV. In addition, to fully secure its payment and performance obligations under this Agreement, Contractor shall also provide to Owner, either (i) a Construction Payment Bond reasonably acceptable to Owner and Authority in an amount equal to the Contract Price, or (ii) a guaranty, in form and substance reasonably acceptable to Owner and Authority, issued by a guarantor reasonably acceptable to Owner and Authority, covering all of Contractor's obligations hereunder.

3.20. Applicable Solar Program. Contractor shall ensure that each SGF's construction, and will cooperate with and assist Owner in ensuring that each SGF's projected operation, shall be in full accord with the requirements of the Applicable Solar Program as set forth in Attachment XIII and Attachment XIV. Contractor shall prepare and submit the application to participate in the Applicable Solar Program and shall assist Owner in satisfying Applicable Solar Program requirements, including field verification visits (which Contractor shall attend), and assistance with Owner's submission of all forms required by the Applicable Solar Program in order to ensure that the solar renewable energy credits generated by the SGF are eligible for use in complying with the New Jersey Renewable Portfolio Standard mandated by the New Jersey Board of Public Utilities. Contractor shall, as part of the Contract Price and with no additional payments beyond the payments required by ARTICLE 6, make immediate repairs (notwithstanding that the Applicable Solar Program may allow a longer period for their completion) identified by any Applicable Solar Program field verification visits to the extent such repairs are required as a result of Contractor's negligence or default. As part of its responsibilities, Contractor shall arrange the schedule for the substitution of the net meter for the existing revenue meter by the Local Electric Utility in such a way as to allow for prompt accrual of SRECs upon Substantial Completion of each SGF. Notwithstanding anything to the contrary in this Agreement (but subject to the last sentence of this Section 3.20), Contractor shall also perform the obligations of a turnkey contractor set forth in the Applicable Solar Program and the Program Manuals issued by the NJCEP. Such obligations shall include those obligations described in Attachment XXXIII. If there is any conflict between the provisions of this Section 3.20 or any other provision of this Agreement, and Attachment XXXIII or the requirements of the Applicable Solar Program, the provisions of Attachment XXXIII and the Applicable Solar Program shall control. Owner acknowledges that the Contract Price and the initial Project Schedule (and the Guaranteed Substantial Completion Dates) are predicated on the Applicable Solar Project that is in effect on the Effective Date; and Owner agrees that if, after the Effective Date, there is a material change in the Applicable Solar Program that requires a material change in the Work or the cost or schedule for performance thereof, Contractor shall be entitled to a Change Order in accordance with the provisions of ARTICLE 8.

3.21. Meetings and Daily Logs. When requested by Owner or Authority Construction Monitor, Contractor shall participate in bi-weekly Progress Meetings among itself, its Subcontractors (as appropriate) the Owner and the Authority Construction Monitor to review job progress, solve issues that may arise from time to time and keep the Owner and Authority Construction Monitor informed of the progress of the Work and resolution of issues. In addition, Contractor shall keep Daily Logs, signed by its Project Manager, of the number and names of its workers and those of its subcontractors on the site, materials delivered, equipment in operation, work performed, site conditions encountered, injuries to persons or property, and any other pertinent information regarding the Work. At the end of each day, Contractor shall give Owner a copy of the Daily Log, which Owner shall provide to the Authority Construction Monitor upon request.

ARTICLE 4. OWNER'S RESPONSIBILITIES

4.1. Owner Representative. Owner shall, within five (5) days after the Effective Date, designate in writing the Owner Representative to represent Owner and to receive communications from Contractor and who shall have full authority to act for Owner under this Agreement.

4.2. Access to the Sites. For each Site, and in accordance with the Site Access Schedule, Owner shall obtain from the Applicable Local Unit a license to access and use such Site under and pursuant to terms of the applicable License Agreement. Consistent with such license, Owner or Authority Construction Monitor shall arrange with such Local Unit to provide reasonable, non-exclusive rights of ingress and egress, for Contractor and all Subcontractors, in accordance with the Project Schedule, to and from (a) the Site, (b) any Local Unit easements to the Site, and (c) the installation laydown areas. Upon Contractor's reasonable request, Owner and Authority Construction Monitor shall cooperate with and support Contractor in making any additional access arrangements with the Applicable Local Unit. Owner shall arrange with the Local Unit to provide Contractor access in accordance with the Site Access Schedule to the Site to permit Contractor to construct and install each portion of the System within the Project Schedule. Such access shall be exclusive as to the area of the Site and duration to the minimum extent required to perform the Work in accordance with the Project Schedule. In developing the Project Schedule and the Site Access Schedule, the Parties will make commercially reasonable accommodations to the Applicable Local Unit in the management of its Sites; and Contractor recognized, during its preparation of its response to Owner's request for proposals, that certain of the Sites, by the nature of the activities conducted there, will not be available for performance of the Work during the normal operating hours for such Sites (or during certain portions of such operating hours). Subject to the foregoing, if Contractor or its Subcontractors are denied access in accordance with the applicable Site Access Schedule in violation of the terms of the applicable License Agreement (including Section 3.1 thereof) and Contractor has provided timely Notice to Owner of such denial (i.e., within twenty-four (24) hours after occurrence of the access denial), then Contractor shall be entitled to a Change Order pursuant to ARTICLE 8 adjusting the Project Schedule (including the Guaranteed Substantial Completion Date) (but not increasing the Contract Price) for the period during which it was denied access in accordance with the applicable Site Access Schedule.

4.3. Owner-Furnished Permits and Cooperation for Governmental Approvals. Owner shall provide to Contractor the Owner-Furnished Permits in accordance with Attachment II-B. Owner shall take any and all action required to transfer such Owner-Furnished Permits into the name of Contractor. Owner shall also cooperate with Contractor in obtaining, pursuant to Section 3.4, all requisite Government Approvals (other than Owner-Furnished Permits) necessary for engineering, procurement, installation, construction, testing, and commissioning of the SGFs. Owner agrees that, upon reasonable request of Contractor, it shall coordinate with the Local Unit, the Authority, the Authority Construction Monitor and

Contractor in obtaining such Government Approvals. This duty to cooperate is not a covenant to expend material funds or to do work which Contractor has agreed to do elsewhere in this Agreement.

4.4. Sales Tax Exemptions. To the extent any state sales tax exemption is available, Owner shall execute any documents and take any additional actions reasonably requested by Contractor to obtain such exemption.

4.5. Information Regarding Sites. With respect to each Site, Owner and Contractor shall use commercially reasonable efforts to obtain from the Authority Construction Monitor or Applicable Local Unit for Contractor's information and use the following:

- (a) A legal description of the Site; and
- (b) To the extent available, any as-built and record drawings and any existing electrical infrastructure drawings of any existing structures at the Site.

4.6. Compliance with Program Requirements for Financing. As between Owner and Contractor, Owner shall be responsible for timely compliance with the requirements of the Program Documents relating to the preparation and submittal of Draw Papers as needed to procure financing for the Project; provided that Contractor shall be responsible for providing on a timely basis the information and documentation respecting its performance obligations under this Agreement as needed for the preparation of such Draw Papers.

4.7. Owner-Furnished Engineering. Owner-Furnished Engineering shall consist of the Design Drawings attached hereto as Attachment VI and the Project Report attached hereto as Attachment III-B. Contractor hereby acknowledges receipt of such Owner-Furnished Engineering.

4.8. Owner-Furnished Materials. All Owner-Furnished Materials are stored at the Warehouse. As of the Effective Date, Contractor has undisturbed access to the Warehouse to take delivery of the Owner-Furnished Materials.

ARTICLE 5. SCHEDULE AND COMPLETION

5.1. Commencement. Contractor shall commence the Work for each SGF upon its receipt of a Notice to Proceed for that SGF, whereupon Contractor shall diligently pursue performance of such Work in accordance with this Agreement. Any Work performed by Contractor prior to the issuance of the Notice to Proceed shall, upon issuance of the Notice to Proceed, be deemed to have been performed under this Agreement and shall be subject to the terms and conditions of this Agreement; provided, however, that unless otherwise specifically agreed to by Owner in writing, Owner shall have no obligation to compensate Contractor for such Work if this Agreement is terminated in whole or part before issuance of the Notice to Proceed.

5.2. Schedule. Time limits stated in this Agreement are of the essence. Promptly upon establishing the Site Access Schedule for each SGF with the Applicable Local Unit, Contractor shall submit to Owner and Authority Construction Monitor an initial Project Schedule for such SGF included in the Project, which schedule shall show the critical path ("**Critical Path**") of the Work and include anticipated dates for achievement of significant construction milestones, including the dates when construction shall begin on the SGF and Mechanical Completion is expected to be achieved and the Guaranteed Substantial Completion Date for the SGF. The Project Schedule shall be consistent with the milestone dates set forth in Attachment VIII except to the extent that the Applicable Local Unit, in establishing the Site Access

Schedule with Contractor, imposes access restrictions beyond those contemplated in Attachment VII. If such unanticipated access restrictions could reasonably be expected to prevent compliance with the completion schedule contemplated in Attachment VIII unless Contractor expended additional amounts for overtime labor, additional equipment costs or other "work-arounds", then the milestone dates set forth in Attachment VIII (including the Guaranteed Substantial Completion Date) with respect to such SGF shall be revised by Change Order in accordance with the provisions of ARTICLE 8 (without prejudice to Owner's right to direct acceleration of the Work in accordance with Section 5.3 in order to reduce or eliminate any extension of such dates). After submission of the initial Project Schedule, Contractor shall prepare and submit to Owner on a timely basis such progress schedules and progress reports and other reports relating to the Work as Owner shall reasonably request (or as may be required by the Program Documents), which Owner shall provide to the Authority Construction Monitor upon request. Contractor shall attend such meetings as Owner or Authority Construction Monitor may reasonably require (or as may be required by the Program Documents) to verify actual progress and predict future progress.

5.3. Owner's Right to Accelerate or Suspend the Work. If, at any time or from time to time, Owner reasonably determines upon consultation with and consent of the Authority, including following the occurrence of an event of Force Majeure, a Local Unit/Authority Caused Delay or an Owner Caused Delay, to either accelerate or suspend the Work, Owner may request Contractor in writing for such acceleration or notify Contractor of such suspension of the Work. In the event that such acceleration or suspension would cause a change to a Milestone date in the applicable Milestone Payment Schedule and the Project Schedule and could reasonably be expected to have an adverse impact on Contractor's ability to perform under this Agreement, Owner shall implement such acceleration or suspension of the Work pursuant to a Change Order in accordance with the procedures set forth in ARTICLE 8. Any such Change Order shall include an extension of time to the relevant Milestone in the Milestone Payment Schedule, the Project Schedule, the Guaranteed Substantial Completion Dates, and an adjustment to the Contract Price unless the acceleration or suspension of the Work is required solely as a result of Contractor's negligence or default, in which case no extension of time to the Milestone Payment Schedules, the Project Schedule or the Guaranteed Substantial Completion Dates or modification to the Contract Price shall be made. A suspension due to an event of Force Majeure shall not entitle Contractor to an adjustment to the Contract Price unless Owner directs Contractor to accelerate the Work in order to mitigate the delay caused by the Force Majeure event.

5.4. Mechanical Completion. With respect to each SGF, when Contractor considers the Work with respect to the SGF to be Mechanically Complete in accordance with the Contract Documents, and when Contractor has received the construction permit certificate of acceptance from the construction permitting authority, then Contractor shall issue to Owner and Authority Construction Monitor an Application for Mechanical Completion for such SGF. Owner and Authority Construction Monitor shall review the Application for Mechanical Completion and the Work within ten (10) Business Days of receipt of the Application for Mechanical Completion for the sole purpose of determining that the Work, or relevant portion thereof, is Mechanically Complete and in conformance with the Scope of Work, final construction documents and any Change Orders. If Owner and Authority Construction Monitor fail to respond to Contractor with its approval or disapproval of the Application for Mechanical Completion within such ten (10) Business Day period, then Contractor shall be entitled to a Change Order pursuant to ARTICLE 8 extending the Guaranteed Substantial Completion Date on a day for day basis for each day after such period that Owner has not responded with its approval or disapproval. In connection with such review, Authority and/or Applicable Local Unit may, at its or their own cost and expense and not at Contractor's expense, engage the Authority Construction Monitor, to evaluate the SGF to see if it meets the requirements for Mechanical Completion. Within twenty (20) days after receipt of Notice from Owner that the Work is not Mechanically Complete, or within a reasonable time if such non-compliance cannot be remedied within twenty (20) days, Contractor will promptly complete any incomplete items and remedy defective items, after which Contractor shall submit a revised Application for Mechanical Completion. Owner and Authority Construction Monitor shall re-inspect all Work completed or remedied by Contractor

within five (5) Business Days of Owner's receipt of such revised Application for Mechanical Completion. If Owner and Authority Construction Monitor fail to respond to Contractor with its approval or disapproval of the revised Application for Mechanical Completion within such five (5) Business Day period, then Contractor shall be entitled to a Change Order pursuant to ARTICLE 8 extending the Guaranteed Substantial Completion Date on a day for day basis for each day after such period that Owner and Authority Construction Monitor have not responded with its approval or disapproval. Once Owner and Authority Construction Monitor determine that the Work is Mechanically Complete, Owner shall deliver a Mechanical Completion Certificate to Contractor, which shall be deemed to have been delivered by Owner on the date that the applicable Application for Mechanical Completion was issued by Contractor.

5.5. Utility Operation Approval. With respect to each SGF, upon submission of the Application for Mechanical Completion for such SGF, Contractor shall proceed with all actions necessary to achieve Substantial Completion of such SGF including: (a) obtaining all local regulatory agency sign-off of the SGF, (b) completing all applicable commissioning tests to the reasonable satisfaction of Owner (which shall be deemed to require the assent or concurrence of the Authority and/or the Applicable Local Unit and/or its or their Construction Manager), (c) obtaining approval for interconnection from the Local Electric Utility, and (d) obtaining approval for interconnection from Owner (collectively, "**Utility Operation Approval**"). Contractor shall provide such other services related to Utility Operation Approval (if any) as provided for in the Scope of Work.

5.6. Operation Certificate. After obtaining Utility Operation Approval with respect to a SGF, Contractor shall commence the operation of the SGF in parallel with the Local Electric Utility's grid, and upon the commencement of such operation, the Parties shall execute a certificate acknowledging receipt of Utility Operation Approval and the successful interconnection of the SGF (the "**Operation Certificate**").

5.7. Substantial Completion. With respect to each SGF, when Contractor considers the Work for such SGF to be Substantially Complete in accordance with the Contract Documents, Contractor shall issue to Owner and Authority Construction Monitor an Application for Substantial Completion, together with a Punch List prepared by Contractor for approval by Owner and Authority Construction Monitor, which Punch List shall identify the items of remaining Work to be completed prior to Final Completion. Owner and Authority Construction Monitor shall, within ten (10) Business Days of receipt of the Application for Substantial Completion and Punch List, review the Work for the sole purpose of determining that it is Substantially Complete and in conformance with the SGF Specifications/Scope of Work, final Construction Documents and any Change Orders and review the Punch List to confirm its accuracy. If Owner and Authority Construction Monitor fail to respond to Contractor with its approval or disapproval of the Application for Substantial Completion and Punch List within such ten (10) Business Day period, then Contractor shall be entitled to a Change Order pursuant to ARTICLE 8 extending the Guaranteed Substantial Completion Date on a day for day basis for each day after such period that Owner and Authority Construction Monitor have not responded with approval or disapproval. In connection with such review, Owner and Authority Construction Monitor may give Notice to Contractor of additional actions necessary before the Work is Substantially Complete and/or any necessary modifications to the Punch List. Within twenty (20) days after receipt of Notice from Owner and Authority Construction Monitor that the Work is not Substantially Complete or that the Punch List needs modifications, or within a reasonable time if such non-compliance cannot be remedied within twenty (20) days, Contractor will promptly complete any incomplete items, remedy defective items and/or make such modifications to the Punch List (as applicable), after which Contractor shall submit a revised Application for Substantial Completion, together with the Punch List (revised as necessary). Owner and Authority Construction Monitor shall re-inspect all Work completed or remedied by Contractor and perform its evaluation and review of the Punch List within ten (10) Business Days of receipt by Owner and Authority Construction Monitor of such revised Application for Substantial Completion and Punch List. If Owner and Authority Construction Monitor fail to respond to Contractor with its approval or disapproval of the revised

Application for Substantial Completion and Punch List within such ten (10) Business Day period, then Contractor shall be entitled to a Change Order pursuant to ARTICLE 8 extending the Guaranteed Substantial Completion Date on a day for day basis for each day after such period that Owner and Authority Construction Monitor have not responded with approval or disapproval. Once Owner and Authority Construction Monitor determine that the Work is Substantially Complete and the Punch List is in final form, Owner shall deliver a Substantial Completion Certificate to Contractor, which shall be deemed to have been delivered by Owner on the date that the applicable Application for Substantial Completion and Punch List were issued by Contractor.

5.8. Final Completion. With respect to each SGF, when Contractor considers the Work for the SGF, including all Punch List Items, landscaping remediation and reinstatement, and compliance with all land- use and planning/zoning requirements (including the planting of landscaping trees or shrubs as specified by those requirements), to be fully complete in accordance with this Agreement and all documents required to be delivered hereunder as a condition for Final Completion have been delivered to Owner, Contractor will notify Owner and Authority Construction Monitor that the Work for the SGF is fully complete. Owner and Authority Construction Monitor shall, within ten (10) Business Days of receipt of such Notice from Contractor, inspect the Work to verify the status of Final Completion after receipt of Contractor's Notice. If Owner and Authority Construction Monitor determine that any Work on the SGF is incomplete and/or defective, Owner and Authority Construction Monitor shall promptly notify Contractor in writing of such incomplete and/or defective Work, itemizing and describing such remaining items with reasonable particularity. Within twenty (20) days receipt of such Notice, Contractor shall remedy such incomplete and/or defective Work, or initiate such remedy if it cannot reasonably be completed within such twenty (20) days. When Owner and Authority Construction Monitor agree that the Work on the SGF is fully complete in accordance with this Agreement, Owner shall issue a Final Completion Certificate for the SGF to Contractor.

ARTICLE 6. CONTRACT PRICE AND PAYMENT

6.1. Contract Price. As full compensation for the Work for the Project, Owner shall pay Contractor the fixed, guaranteed maximum price amount of XXXXXX Dollars (\$XXXX) (the "**Contract Price**"). The portion of the Contract Price allocated to each Local Unit's SGFs (the "**Local Unit Price**") is set forth in Attachment V-A. The Contract Price shall be paid in accordance with this ARTICLE 6.

6.2. Entire Price; Exceptions; Adjustments. The Contract Price is the entire price to be paid to Contractor by Owner and is, without limitation, inclusive of all Taxes, fees, expenses, Site preparation costs, and any other charges of any nature. The Contract Price may be adjusted solely pursuant to Change Orders, if any, which have been approved by Owner and Authority as provided herein in accordance with the provisions of ARTICLE 8. Contractor agrees to and acknowledges the following: (a) the Authority Construction Monitor has no authority to agree to any Change Order that could cause an increase to the Contract Price or to direct Contractor to perform Work pursuant to a Change Order if such Change Order could cause an increase to the Contract Price; (b) unless otherwise agreed to in writing by the Owner and the Authority, the only source of funds from which Contractor shall be paid for its Work under this Agreement is the Project Fund; (c) Contractor shall not seek payment from Owner or its past and present Affiliates, directors, officers, members, agents, corporate parents, subsidiaries, employees, and representatives of any and all kinds from any source other than the Project Fund, unless such payment arises from the Owner's gross negligence or willful misconduct; (d) the Owner or its past and present Affiliates, directors, officers, members, agents, corporate parents, subsidiaries, employees, and representatives of any and all kinds shall not be liable to pay Contractor from any source other than the Project Fund, unless such liabilities arise from the Owner's gross negligence or willful misconduct, provided that actions undertaken by the Authority Construction Monitor, including any acts delegated to

the Authority Construction Monitor by Owner hereunder, if any, shall not give rise to any claim that the Owner has acted with gross negligence or engaged in willful misconduct; (e) Contractor shall not seek payment from the Authority or its past and present directors, officers, members, agents, employees, and representatives of any and all kinds from any source other than the Project Fund, unless such payment arises from the Authority's gross negligence or willful misconduct; (f) the Authority or its past and present directors, officers, members, agents, employees, and representatives of any and all kinds shall not be liable to pay Contractor from any source other than the Project Fund, unless such liabilities arise from the Authority's gross negligence or willful misconduct.

6.3. Taxes.

6.3.1. This Project is exempt from New Jersey sales tax. Owner will issue to Contractor an NJ ST-4 Exempt Use Certificate no later than 3 business days after Notice to Proceed.

6.3.2. Contractor shall pay other Taxes as may be imposed on its purchase of services, equipment or materials required under this Agreement. All Taxes are included in the Contract Price and shall not be reimbursed by Owner.

6.3.3. Owner shall neither be responsible for, nor reimburse Contractor or Subcontractors or Vendors for, any Taxes (or any associated penalties or interest) imposed on Contractor or its Subcontractors or Vendors, and Contractor shall cause all such Taxes, penalties and interest to be paid promptly and in no event later than necessary to avoid the imposition of any Lien on any SGF or any Site.

6.4. Payment Schedule. Attachment V-B sets forth the Milestone Payment Schedule which will be applicable for each SGF with respect to such Local Unit's SGFs based on the relevant Local Unit Price and SGF Price set forth in Attachment V-A. The Milestone Payment Schedules shall be used as the basis for preparation of Applications for Payment (each an "**Application for Payment**" or "**AFP**") for the Work as set forth below. For incomplete milestones, Contractor may include partial milestone completion percentages in its AFP. Progress payments shall be made in accordance with the Payment Milestones achieved under the Milestone Payment Schedules. Contractor acknowledges and accepts that, as provided in the Milestone Payment Schedules, ten percent (10%) of each Milestone Payment for each SGF will be withheld as retainage ("**Retainage**") until such time as Substantial Completion has been achieved for that SGF. Upon the achievement of Substantial Completion for an SGF, the total Retainage for that SGF will be reduced to five percent (5%). Upon Final Completion of all SGFs a final Milestone Payment equal to the remaining Retainage on all SGFs will be due.

6.5. Progress Payments.

6.5.1. Applications for Payment. Contractor may submit up to two (2) AFPs in each calendar month, which submissions shall be made on or around the first (1st) and fifteenth (15th) day of the month. For each calendar month after issuance of the Notice to Proceed for a SGF, Contractor shall submit to Owner AFPs respecting that SGF, which AFPs shall include (i) a detailed invoice (substantially in the form set forth in Attachment XVII) stating the payment Contractor is seeking based upon the Payment Milestones achieved since the immediately preceding AFP, and the amount, if any, that Contractor is entitled to invoice at the time of the AFP in accordance with Change Order(s), (ii) a conditional progress lien waiver (in the respective forms set forth in Attachment XIX and Attachment XX) from Contractor and each Subcontractor and Vendor to whom payment (other than final payment) will be made out of the proceeds invoiced in the AFP, (iii) a conditional final lien waiver (in the respective forms set forth in Attachment XXIII and Attachment

XXIV) from Contractor and each Subcontractor and Vendor to whom final payment will be made out of the proceeds invoiced in the AFP, (iv) an unconditional progress lien waiver (in the respective forms set forth in Attachment XXI and Attachment XXII) from Contractor and each Subcontractor and Vendor (other than a Subcontractor or Vendor to whom final payment has been made) with respect to Work covered in the immediately preceding AFP, and (v) an unconditional final lien waiver (in the respective forms set forth in Attachment XXV and Attachment XXVI) from Contractor and each Subcontractor and Vendor to whom final payment was made out of the proceeds invoiced in the immediately preceding AFP. For the avoidance of doubt, a single AFP shall be submitted for each billing cycle covering all SGFs for which Notices to Proceed have been issued and which have not yet achieved Final Completion. Subject to the provisions of this ARTICLE 6, Owner shall pay or cause to be paid all invoiced amounts which are not in dispute within thirty (30) days of the receipt of an AFP complying with the requirements of this Section 6.5, together with all lien waivers as specified above. Payment shall be made by wire transfer to Contractor's bank account identified in its AFP.

6.5.2. Not Used.

6.5.3. Supporting Documentation. Contractor shall submit such data and documentation as are reasonably necessary and reasonably acceptable to Owner and the Authority Construction Monitor to substantiate Contractor's right to payment in accordance with the Program Documents and this Agreement. With respect to Work performed pursuant to a Change Order, such data and documentation may include other information reasonably requested by Owner and/or the Authority Construction Monitor including information regarding quantities, costs, payrolls, and other records.

6.5.4. Certification: With respect to each AFP, unless Contractor expressly states in a written certificate submitted concurrently with such AFP any exceptions to the following, the submission of such AFP shall constitute a certification that:

- (i) each Subcontractor and Vendor who performed or provided Work which was to be paid for from the proceeds of payments Contractor has been paid for successfully achieving Milestone(s), if any, was paid its respective pro rata share of such Milestone Payment, subject to Contractor's rights, if any, to withhold payments from Subcontractors and Vendors per the terms of their respective agreement(s), including "retention", until completion of their respective portion of the Work;
- (ii) the SGF is being constructed in accordance with this Agreement, including the Project Schedule, as amended by Change Orders, if any;
- (iii) all representations and warranties of Contractor under this Agreement are true and correct as of the date of the certification;
- (iv) the Project can be completed for the Contract Price, as it may have been changed pursuant to Change Orders;
- (v) no Contractor Event of Default (or any default or event that with the passage of time would become a Contractor Event of Default) shall have occurred and be continuing; and

- (vi) there is no reason to believe that Substantial Completion of each SGF will not occur by its respective Guaranteed Substantial Completion Date.

Any exception taken by Contractor to the certification must be stated with reasonable particularity in each case in order to enable Owner and Authority to understand the nature and extent of each exception. If any exception relates to items or issues fully covered in a previously submitted proposed Change Order in accordance with ARTICLE 8 that has not yet been finally resolved, the exception may simply refer to the relevant proposed Change Order (identifying it by Change Order No. and submission date).

- 6.5.5. Payment Disputes. If Owner or Authority in good faith disputes all or part of an AFP, they shall within twenty (20) days after submission of such AFP, advise Contractor in writing of the basis of the dispute and pay the undisputed amount to Contractor in accordance with Section 6.5.1. If Contractor disagrees with Owner and Authority, it may initiate a Dispute proceeding pursuant to ARTICLE 19. Under no circumstances shall the Contractor stop work based upon a Payment Dispute concerning which the Owner or Authority has given Contractor a written notice of the good faith basis of the dispute.

6.6. Final Payment. As a condition to the Final Payment under the Milestone Payment Schedule with respect to each Local Unit's SGFs, Contractor shall submit a final AFP which shall include: (a) a statement for the Local Unit Price, which statement shall summarize and reconcile all previous payments and Change Orders respecting the Local Unit's SGFs; and (b) a conditional final lien waiver (in the respective forms set forth in Attachment XXIII and Attachment XXIV) from Contractor and each Subcontractor (to the extent an unconditional final lien waiver has not been furnished by such Subcontractor) with respect to the Local Unit's SGFs. Within fifteen (15) days after Owner and Authority have received such AFP, Owner shall pay to Contractor an amount equal to the unpaid balance of the Local Unit Price, subject to the offset rights specified herein. Within five (5) days after receipt of such final payment, Contractor shall deliver to Owner and Authority an unconditional final lien Waiver (in the respective forms set forth in Attachment XXV and Attachment XXVI) from Contractor and each Subcontractor (to the extent an unconditional final lien waiver has not been furnished by such Subcontractor) with respect to the Local Unit's SGFs.

6.7. Right to Offset. Owner shall have the right to offset amounts due and owing by Contractor against any amounts owed by Owner to Contractor under this Agreement, only upon consultation with and prior consent of the Authority.

6.8. Interest on Delinquent Payments. If either Party fails to pay any amount due to the other Party under the terms of this Agreement on the due date specified therefor, such delinquent amount shall accrue interest thereon at the Late Payment Rate until paid. If any payment obligation is the subject of a Dispute, and if pursuant to the relevant Dispute proceeding it is finally determined that all or a portion of the disputed amount was in fact properly due and payable, then the Party with the payment obligation shall pay to the other Party, within five (5) Business Days after such final determination, the amount found to be due and owing, together with accrued interest thereon calculated at the Late Payment Rate from the original due date.

6.9. Payment Not Acceptance. No payment made hereunder shall be deemed an acknowledgment that Owner or Authority has inspected the Work or checked the quality or quantity of the Work or that Owner or Authority know or have ascertained how or for what purpose Contractor has used sums previously paid, and shall not be deemed as approval or acceptance of any Work or constitute a waiver of any claim or right that Owner or Authority may then or thereafter have, including among others,

warranty and indemnity rights. Payments shall be subject to correction or adjustment in subsequent progress reviews and payments.

ARTICLE 7.
GUARANTEED SUBSTANTIAL COMPLETION DATES; DELAY DAMAGES;
PERFORMANCE GUARANTEES

7.1. Guaranteed Substantial Completion Dates. The Work to be performed for each SGF under this Agreement shall commence on the date of delivery of the Notice to Proceed for such SGF, and subject to the extensions provided for in this Agreement, Contractor shall perform the Work such that Substantial Completion of each SGF shall occur not later than the Guaranteed Substantial Completion Date for such SGF. In the event that Contractor does not achieve Substantial Completion of a SGF by its Guaranteed Substantial Completion Date as set forth in Attachment VIII, Contractor shall be liable for damages for failure to reach Substantial Completion of each SGF by the Guaranteed Substantial Completion Date for the SGF pursuant to Section 7.3.

7.2. [Not in Use]

7.3. Delay Damages. For each day of delay in achieving Substantial Completion of a SGF that elapses after its respective Guaranteed Substantial Completion Date, until Substantial Completion of such SGF does occur, Contractor shall be liable for, and shall pay to Owner, actual, measurable damages of Owner and Authority, including but not limited, to the Section 1603 Cash Grant amount in the event such delay results in the loss of the Section 1603 Cash Grant ("**Delay Damages**").

The starting date for Delay Damages is subject to extension with respect to each SGF on a day-for-day basis for each day by which the Guaranteed Substantial Completion Date for such SGF is extended in accordance with the provisions of this Agreement.

7.4. Late Completion Notice. Owner shall provide a Notice to Contractor of such late Substantial Completion (a "**Late Completion Notice**") and any Delay Damages due pursuant to Section 7.3. Within thirty (30) days following the receipt of any Late Completion Notice, Contractor shall pay the Delay Damages set forth therein or the Owner, at the Owner's option, upon consultation with and approval of the Authority, may deduct the Delay Damages from any amounts then due or to become due Contractor. If Contractor disputes Owner's claim for Delay Damages, Contractor shall pay Owner for any Delay Damages not in dispute and the dispute shall be resolved pursuant to ARTICLE 19.

7.5. [Not in Use]

7.6. SGF Performance and Corrective Actions.

- (a) Contractor warrants and guarantees that, subject to the provisions of paragraph (c) below, by the Guaranteed Substantial Completion Date for each SGF, SGF Production Tests will have demonstrated achievement of the Predicted AC Energy Output with respect to such SGF in accordance with the provisions of Attachment IV. If the SGF Production Test does not demonstrate by such date that such Predicted AC Energy Output has been achieved, then, subject to the provisions of paragraph (c) below, Contractor shall continue its efforts to cause the SGF to achieve the Predicted AC Energy Output, while paying Delay Damages pursuant to Section 7.3. Substantial Completion shall be deemed to occur with respect to such SGF, and Delay Damages shall cease to accrue with respect to such SGF, upon the satisfactory achievement of the Predicted AC Energy Output for that SGF as

demonstrated by the SGF Production Test, provided that all other requirements for Substantial Completion have been and remain satisfied.

- (b) Notwithstanding the foregoing, in no event will Contractor be entitled to continue its efforts to achieve correct performance beyond the date that is thirty (30) days after the Guaranteed Substantial Completion Date, unless Owner and Authority consent thereto in writing and Contractor continues paying Delay Damages. After such thirty (30) day period (or such longer period as may be agreed by Owner and Authority as stated above), Owner may exercise its remedies for termination due to a Contractor Event of Default as provided in this Agreement.
- (c) Contractor's warranty with respect to the Predicted AC Energy Output does not apply, and Contractor shall not be obligated to provide the remedies stated in the above paragraphs, to the extent Contractor establishes that the failure to achieve the Predicted AC Energy Output is due to inherent defects in Owner-Furnished Materials or in Owner-Furnished Engineering not caused or exacerbated by Contractor or its Subcontractors, or to conditions that would excuse Contractor from its warranty obligations under ARTICLE 13. In the event that it is determined that the shortfall in Predicted AC Energy Output is partly due to Contractor's failure to perform in accordance with the requirements of this Agreement, Contractor shall be responsible for a "Pro-Rata Share" of Delay Damages accruing solely due to the failure to achieve the Predicted AC Energy Output. The "Pro-Rata Share" shall be determined according to a comparative fault analysis as to the percentage of the shortfall that is attributed to Contractor's faulty performance versus other contributing factors causing the shortfall. For the avoidance of doubt, the foregoing provisions shall not limit Contractor's liability for Delay Damages for which Contractor would otherwise be liable due to other unexcused delay or failures in performance. If, in accordance with the preceding provisions, it is established that Contractor is only partly at fault for the shortfall, Contractor shall: (i) be entitled to a refund, within ten (10) Business Days after such determination has been made, of any Delay Damages that Contractor has paid to Owner that exceed the amounts for which it is liable under this ARTICLE 7, and, (ii) bear the "Pro-Rata Share" (determined as set forth above) of the reasonable costs incurred in order to determine the source of the shortfall in Predicted AC Energy Output and, in accordance with the provisions of ARTICLE 8, be entitled to reimbursement of any such reasonable costs that exceed such "Pro-Rata Share".

ARTICLE 8. CHANGES

8.1. Owner/Authority Requested Change Orders. Owner and Authority may request in writing any change to the Work on the Project, whether such changes are modifications, accelerations, alterations, additions, or deletions. All such changes shall be made in accordance with this ARTICLE 8 and shall be considered, for all purposes of this Agreement, as part of the Work. Contractor shall perform all changes to the Work included in Changes Orders in accordance with this ARTICLE 8. If the Parties do not agree on the effects of a Owner/Authority-requested change in the Work on the Contract Price or the Guaranteed Substantial Completion Dates or on any other provision hereof, Contractor shall, if directed by Owner and Authority pursuant to a written instruction, nevertheless proceed to perform such change in the Work, subject to Contractor's dispute rights under Section 8.3.

8.2. Contractor Requested Change Orders. Upon the occurrence of a Change Order Event, if Contractor's cost to perform the Work has changed or, only to the extent the Change Order Event produces a change in the Critical Path of the Project Schedule, Contractor is actually and demonstrably delayed in the

performance of the Work, then Contractor shall be entitled to a Change Order for such Change Order Event and, subject to the restrictions and conditions set forth in this ARTICLE 8, the Contract Price shall be increased or decreased accordingly, and/or only to the extent the Change Order Event produces a change in the Critical Path of the Project Schedule, the Guaranteed Substantial Completion Dates and/or the Project Schedule shortened or extended, as applicable, as reasonably agreed by the Parties and the Authority. If the Parties and the Authority cannot agree on any such adjustment or Contractor's entitlement to a Change Order, either Party or the Authority may institute appropriate proceedings pursuant to ARTICLE 19.

8.3. Change Order Process. If a change in the Work is proposed by Owner/Authority pursuant to Section 8.1 or Contractor believes it is entitled to a Change Order pursuant to Section 8.2 due to the occurrence of a Change Order Event, Contractor shall prepare a draft Change Order, substantially in the form of Attachment XVIII-A, specifying; (a) a description, in reasonable detail, of the Change Order Event and the proposed changes, if any, in the scope of the Work, (b) the proposed changes, if any, in the cost of performing the Work and the Contract Price in accordance with Section 8.4, and (c) only to the extent the change in the Work produces a change in the Critical Path of the Project Schedule, the effect, if any, of the changes on the Milestone Payment Schedules and the Project Schedule, including any proposed changes to the Guaranteed Substantial Completion Date (all such proposed changes collectively referred to as the "**Proposed Changes**"). Contractor shall provide a copy of the draft Change Order to Owner and Authority for review within fourteen (14) days after the date that Contractor first becomes aware, or reasonably should have become aware, that the Change Order Event has occurred. The time for submission of the draft Change Order may be extended with the written consent of Owner and Authority, such consent not to be unreasonably withheld. The time specified above for submission of draft Change Orders is without derogation of the Contractor's obligations under this Agreement to provide Notice of the occurrence of Change Order Events. Any Change Order providing for the payment of additional amounts to Contractor shall include a specified payment schedule to pay for such additional Work. Any Change Order providing for a reduction in the amount to be paid to Contractor hereunder shall state the reduction applied to the applicable Contract Price and Milestone Payment Schedules. Any Proposed Changes set forth in the draft Change Order prepared by Contractor shall be effective only upon the written consent of both Owner/Authority and Contractor, such consent not to be unreasonably delayed or withheld. Within seven (7) days following the receipt of a draft Change Order, Owner/Authority shall provide Contractor with a written statement specifying any suggested modifications to such draft Change Order or Owner's reasons for rejecting the draft Change Order. Once Owner/Authority and Contractor agree on the final form of a draft Change Order, Contractor shall prepare the Change Order and the Parties and Authority shall execute the Change Order and perform their respective obligations thereunder in accordance with the changes specified therein. If the Parties and Authority do not agree on the effects of an Owner/Authority-requested change on the Contract Price or the effect, if any, of the changes on the Milestone Payment Schedules and the Project Schedule or on any other provision hereof, or whether a directive by Owner/Authority constitutes extra work or a Change Order, Contractor shall if directed by Owner/Authority pursuant to a written instruction, but without waiver of Contractor's rights under ARTICLE 19, nevertheless proceed to perform such change or comply with such directive.

8.4. Change in Contract Price.

8.4.1. Subject to Section 8.4.2, an increase or decrease in the Contract Price, if any, requested pursuant to the Proposed Changes shall be determined by the mutual agreement of the Parties and Authority. Such proposed increase or decrease in the Contract Price shall be calculated: (a) as a lump sum, in an amount proposed by Contractor (properly itemized and supported by sufficient substantiating data to permit evaluation) and accepted by Owner and Authority; (b) by unit pricing at prices accepted by Owner and Authority; or (c) by cost plus a percentage of the costs accepted by Owner and Authority; provided that all costs are properly identified. After performing the work related to a Change Order, Contractor shall

provide Owner and Authority with all purchase orders, invoices and other documents as may enable Owner and Authority to verify, to their reasonable satisfaction, Contractor's costs or savings associated with the Change Order. All equipment, materials, labor and other items required as a result of a Change Order shall be purchased by Contractor at competitive market prices and rates. Pricing with respect to components shop fabricated by Contractor or for field service engineering shall be set at market rates agreed to by Owner and Authority in advance. Contractor shall maintain daily records of labor time and equipment and materials expended prosecuting the Work that is subject to reimbursement as Direct Costs and shall submit such records to Owner and Authority daily.

8.4.2. Notwithstanding the provisions of Section 8.4.1, for a Change in capacity of an SGF (increase or decrease in kW DC) that does not involve a material change ("**Material Change**") whereby some or all of the SGF is changed from one SGF Type (roof, ground, carport) to another SGF type, the increase or decrease in the applicable Local Unit Price (and the Contract Price) will be calculated on a linear (\$/W) unit price basis in accordance with the Local Unit Price allocated to the SGF and set forth in Attachment V- A. For a Change in capacity that does involve a Material Changes (for example, if some or all of the SGF changed from a rooftop mounted SGF to a carport SGF, the carport- portion of the Site would be subject to a non-linear change to the Local Unit Price), the Contract Price adjustment provisions of Section 8.4.1 shall apply.

8.4.3. Notwithstanding the provisions of Sections 8.4.1 and 8.4.2, in case of any termination of the Work for any SGF other than pursuant to a termination of this Agreement in its entirety, the adjustment to the Contract Price shall be a decrease equal to the Local Unit Price allocated to such SGF as set forth in Attachment V-A.

8.5. Adjustments to the Project Schedule and Guaranteed Substantial Completion Dates. Except in cases where the provisions of this Agreement specify an extension of the Guaranteed Substantial Completion Date by one day for each day of delay by Owner or Authority beyond the time specified for taking some action (such as issuance of the Notice to Proceed under Section 2.1), adjustments to the relevant Guaranteed Substantial Completion Date(s) shall be equal to the number of days by which the critical path of the Work, as identified in the most recent Owner/Authority-approved Project Schedule, is actually extended (despite Contractor's reasonable mitigation efforts) or reduced as a result of the occurrence of the Change Order Event. Contractor shall bear the burden of substantiating any extension, and Owner shall bear the burden of substantiating any reduction that exceeds the reduction proposed by Contractor in the Proposed Changes.

8.6. Failure to Timely Make a Claim. If Contractor fails to (i) provide Notice of a Change Order Event in accordance with the requirements of this Agreement, or (ii) submit a complete proposed Change Order in accordance with the requirements of Section 8.3 within the time periods specified in such Section, then to the extent permitted by Applicable Law, said failure shall be deemed a waiver and: (x) the Guaranteed Substantial Completion Date(s) and other dates for performance shall not be extended, and (y) Contractor shall not be entitled to any adjustment to the Contract Price or any other additional payment, and Owner shall be discharged from all liability in connection with any claim of Contractor arising from such event. For the avoidance of doubt, a failure by Contractor to submit, in a timely fashion in accordance with the requirements of Section 8.3, a draft Change Order for an Owner/Authority-requested change in the Work pursuant to Section 8.1 shall be deemed to mean conclusively that Contractor will perform the relevant change in Work without any adjustment to the Contract Price or to the relevant Guaranteed Substantial Completion Date.

8.7. Change Order Constitutes Complete Relief; Limitation on Cost Relief. Any Change Order signed by Owner, Authority and Contractor, the payment of any increase in the Contract Price reflected in such signed Change Order, and the adjustment, if any, in the Guaranteed Substantial Completion Date, shall constitute full compensation to Contractor for all claims for direct or indirect cost for labor, temporary construction failures, Site or home office overhead, inefficiencies, impacts or any other cost of any kind or nature that arose as a direct result of the applicable Change Order Event; and shall be complete relief to Contractor for schedule impacts that arose as a direct result of the applicable Change Order Event. Notwithstanding anything to the contrary in this Agreement, to the extent permitted by Applicable Law, Contractor's sole remedy for any Change Order Event other than (i) an Owner/Authority-requested change pursuant to Section 8.1 or (ii) Owner Caused Delay shall be an extension of the Project Schedule and Guaranteed Substantial Completion Dates and, subject to the foregoing exceptions, Contractor shall not be entitled to any adjustment to the Contract Price for any Change Order Event; and, further, for those provisions of this Agreement that specify the relief that will be provided to Contractor, the relief provided shall be as specified in such provisions.

ARTICLE 9. FORCE MAJEURE

9.1. Excuse from Performance Due to Force Majeure. Each Party (which term for purposes of this ARTICLE 9 shall include the Authority) shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except the obligation to pay money in a timely manner for services actually performed or other liabilities actually incurred, if and to the extent that its failure of, or delay in, performance is due to a Force Majeure event; provided, that:

(a) such Party gives the other Parties Notice describing the particulars of the Force Majeure event as soon as is reasonably practicable and in any event within five (5) Business Days after it becomes aware of the Force Majeure event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure event, but in no event less than the length of the actual duration of the Force Majeure event;

(c) the Party uses its best reasonable efforts to overcome or mitigate the effects of such occurrence; and

(d) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Parties prompt Notice to that effect and shall promptly resume performance hereunder.

9.2. Special Notice Requirement for Force Majeure and Local Unit/Authority Caused Delay. The Program Documents require Owner to provide written Notice to the Authority and the Applicable Local Unit of the occurrence of a Force Majeure event or Local Unit/Authority Caused Delay within twenty- four (24) hours after such occurrence. Accordingly, notwithstanding the Notice provisions of Section 9.1, Contractor shall promptly provide Notice to Owner of the occurrence of any Force Majeure event or Local Unit/Authority Caused Delay affecting Contractor's performance so as to enable Owner to forward such Notice to the Authority and the Applicable Local Unit within twenty-four (24) hours of such occurrence; provided, however, that any failure by Contractor to comply with such Notice requirement shall only reduce the relief to be provided to Contractor on a day-for-day basis for each day of delay by Contractor in providing such Notice, and shall not otherwise eliminate Contractor's entitlement to relief.

ARTICLE 10. HAZARDOUS MATERIALS

10.1. Hazardous Materials. As between Owner and Contractor, Owner shall be responsible for all Hazardous Materials not brought onto the Site by Contractor or its Subcontractors, which shall include any Hazardous Materials existing at, under, or on the Site as of the date the Notice to Proceed is issued, except to the extent any such Hazardous Materials are released through the negligence or willful misconduct of Contractor or any Subcontractor.

10.2. Discovery of Hazardous Materials. If Contractor discovers pre-existing Hazardous Materials at a Site during performance of the construction Work for a SGF, Contractor shall promptly cease any Work in the affected area and report the condition to Owner. Owner and Contractor shall be jointly responsible for notifying the appropriate Governmental Authority of any pre-existing Hazardous Materials discovered at, under, or on the Site. The discovery of latent pre-existing Hazardous Materials that were not reasonably discoverable as a result of Contractor's Site investigations prior to the Effective Date shall entitle Contractor to a Change Order pursuant to ARTICLE 8 either (i) adjusting the Project Schedule (including the Guaranteed Substantial Completion Date) for the relevant SGF(s) for the period of delay required for the Applicable Local Unit to remove or to remediate all such Hazardous Materials in accordance with Applicable Law and to the reasonable satisfaction of Contractor, or (ii) removing the affected SGF from Contractor's Scope of Work.

10.3. Contractor's Hazardous Materials. Contractor shall not, and shall not permit its Subcontractors to, bring to any Site of any SGF (except to the extent necessary during the course of the Work), and shall not leave on the Site, any Hazardous Materials brought onto the Site by Contractor or its Subcontractors except (in each case) with the knowledge and consent of Owner and the Applicable Local Unit. In the event any Hazardous Materials introduced by Contractor or any of its Subcontractors are released, Contractor shall have the responsibility, at Contractor's sole cost, to remove or to remediate all such Hazardous Materials in accordance with Applicable Law and to the reasonable satisfaction of Owner and Authority. Contractor shall also comply with all applicable provisions of the Program Documents set forth as Attachments to this Agreement regarding use of Hazardous Materials at the Sites.

10.4. Notice of Investigations. During the term of this Agreement, each Party shall promptly notify the other Party and the Authority of any summons, citation, Notice, letter or other communication, written or oral, received by that Party from any state environmental protection agency, the United States Environmental Protection Agency or any other entity concerning (i) any alleged violations of any Environmental Law or (ii) any investigation or request for information relating to Hazardous Materials with respect to the Work or the Site.

ARTICLE 11. INDEMNIFICATION

11.1. Comparative Fault. Except as expressly provided to the contrary herein, it is the intent of the Parties that where fault is determined to have been joint or contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any loss, damage, expense and liability attributable to such Party's fault.

11.2. By Contractor. Subject to Section 11.1, Contractor shall defend, indemnify, and hold harmless, Owner, the Authority, the Applicable Local Units, Financing Parties and the respective attorneys, employees, agents, partners, Affiliates, shareholders, members, directors, officers, managers and permitted assigns of each of the foregoing (each, an "**Owner Indemnified Person**"), from and against the following:

- (a) all Losses arising from third-party claims for property damage, personal injury or bodily injury or death to the extent caused by any negligent, willful, reckless or otherwise tortious act or omission (including strict liability) of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts such Person may be liable during the performance of the Work or from performing or failing to perform any of its obligations under this Agreement, or any curative action under any warranty following performance of the Work;
- (b) all Losses that arise out of or result from:
 - (i) all claims for payment of compensation for Work performed hereunder, whether or not reduced to a lien or mechanic's lien, filed by Contractor or any Subcontractors, or other persons performing any portion of the Work, including reasonable attorneys' fees and expenses incurred by any Owner Indemnified Person in discharging any Contractor Lien, except to the extent of a breach by Owner in relation to any obligation it has to make a payment under this Agreement; and
 - (ii) employers' liability or workers' compensation claims filed by any employees or agents of Contractor or any of the Subcontractors, regardless of negligence of Owner or any Owner Indemnified Person contributing to such Losses;
- (c) all Losses arising from third-party claims, including claims by Subcontractors and claims for property damage, personal injury or bodily injury or death that directly or indirectly arise out of or result from the failure of Contractor or any of the Subcontractors to comply with the terms and conditions of Applicable Laws or applicable Governmental Approvals during their performance of the Work;
- (d) all fines or penalties issued by any Governmental Authority that directly arise out of or result from the failure of a SGF (or any portion thereof) to be capable of operating in compliance with all Applicable Laws or the conditions or provisions of all Applicable Permits (to the extent the Applicable Permits relate to the Work), in each case, as in effect as of the Substantial Completion Date of such SGF, but only to the extent the failure is attributable to the Work of Contractor or any Subcontractor;
- (e) any and all fines, penalties or assessments issued by any Governmental Authority that Owner may incur as a result of executing any applications to any such Governmental Authority at Contractor's request;
- (f) all Losses arising from claims by any Governmental Authority that directly or indirectly arise out of or result from the failure of Contractor to pay, as and when due, all Taxes, fees or charges of any kind imposed by any Governmental Authority for which Contractor is obligated to make payment pursuant to the terms of this Agreement;
- (g) all Losses arising from claims by any Governmental Authority claiming Taxes based on gross receipts or on income of Contractor, any of the Subcontractors, or any of their respective agents or employees with respect to any payment for the Work made to or earned by Contractor, any of the Subcontractors, or any of their respective agents or employees under this Agreement; and

- (h) all Losses, including claims for property damage, personal injury or bodily injury or death (including emotional distress), whether or not involving damage to the SGF or the Site, that arise out of or result from the presence or use of Hazardous Materials (other than arising as a result of unlawful releases or spills described in Section 11.3(e)(ii)), whether lawful or unlawful, brought onto the Site by Contractor or any Subcontractor. Such use of or contamination by Hazardous Materials include:
 - (i) the storage, transportation, processing or disposal of such Hazardous Materials; and
 - (ii) any environmental condition caused by such Hazardous Materials.

11.3. By Owner. Subject to Section 11.1, Owner shall defend, indemnify and hold harmless Contractor and its employees, agents, partners, Affiliates, shareholders, members, directors, officers, managers and permitted assigns (each, a "**Contractor Indemnified Person**") from and against the following:

- (a) all Losses arising from third-party claims for property damage, personal injury or bodily injury or death to the extent caused by any negligent, willful, reckless or otherwise tortious act or omission (including strict liability) during the performance by Owner of its obligations or failing to perform any of its obligations under this Agreement or any Affiliate, or anyone directly or indirectly employed by any of them, or anyone for whose acts such Person may be liable;
- (b) all Losses arising from third-party claims, including claims for property damage, personal injury or bodily injury or death that directly or indirectly arise out of or result from the failure of Owner to comply with the terms and conditions of Applicable Laws or applicable Governmental Approvals;
- (c) all Losses arising from claims by any Governmental Authority that directly or indirectly arise out of or result from the failure of Owner to pay, as and when due, all Taxes, fees or charges of any kind imposed by any Governmental Authority for which Owner is obligated to make payment pursuant to the terms of this Agreement;
- (d) all Losses that directly arise out of or result from employers' liability or workers' compensation claims filed by any employees or agents of Owner, regardless of negligence of Contractor or any Contractor Indemnified Person contributing to such Losses;
- (e) all Losses, including claims for property damage, personal injury or bodily injury or death (including emotional distress) that directly or indirectly arise out of or result from:
 - (i) the presence or existence of Hazardous Materials at any Site brought onto or generated at the Site by Owner or any contractor of Owner (other than Contractor); or
 - (ii) the unlawful release or spill by Owner or its Affiliates of Hazardous Materials, such Hazardous Materials otherwise having been brought onto the Site by Contractor or any Subcontractor in accordance with the terms of this Agreement and all Applicable Laws; and

- (f) any and all fines, penalties or assessments issued by any Governmental Authority that Contractor may incur as a result of executing any applications to such Governmental Authority at Owner's request when such applications don't relate to Governmental Approvals which are Contractor's responsibility under this Agreement.

11.4. Actions by Employees.

- (a) In any and all claims against any Owner Indemnified Person by any employee of either Contractor or any Subcontractor or anyone directly or indirectly employed by either Contractor or any Subcontractor or anyone for whose acts either Contractor or any Subcontractor may be liable, the indemnification obligation set forth in Section 11.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or such Subcontractor under the applicable workers' compensation benefits acts, disability statute, or other employee benefit acts.
- (b) In any and all claims against any Contractor Indemnified Person by any employee of Owner or anyone directly or indirectly employed by either Owner or anyone for whose acts either Owner may be liable, the indemnification obligation set forth in Section 11.3 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Owner under the applicable workers' compensation benefits acts, disability statute, or other employee benefit acts.

11.5. Intellectual Property Indemnity.

11.5.1. Indemnification for Infringement. Contractor agrees to indemnify defend, and hold harmless Owner, its Affiliates, the Financing Parties and the respective officers, directors, employees, agents, and representatives of the foregoing, from and against any and all Losses that any such Person may hereafter suffer or pay out by reason of any infringement or the improper use of any Proprietary Interest by Contractor, Subcontractors or Vendors which may occur in connection with Contractor's or any Subcontractor's or Vendor's performance of the Work and the ownership or use of any portion of the Project. Contractor shall, at its sole expense, promptly defend against any Proprietary Interest indemnity claim or action, unless directed otherwise by Owner.

11.5.2. Action to Avoid Claims. Contractor shall have the right, in order to avoid such claims or actions, to substitute, at its sole expense, non-infringing equipment or processes, or to modify such infringing equipment or processes or the Project so they become non-infringing, or to obtain the necessary licenses to use the infringing equipment or processes provided that such substituted and modified equipment or processes meet all the requirements and are subject to all the provisions of this Agreement.

11.5.3. Response to Injunction. If Owner is enjoined from completion of the Project or any part thereof, or from the use, operation or enjoyment of the Project, the equipment supplied by Contractor, or any part thereof as a result of any claim, legal action or litigation of the type described in Section 11.5.1, Contractor shall promptly arrange to have such injunction removed at no cost to Owner or Authority or substitute, at no cost to Owner or Authority, non-infringing equipment or processes, or modify such infringing equipment or processes or Project so they become non-infringing, provided that Owner may, at its option and without thereby limiting any other right it may have hereunder or at law or in equity, require Contractor to supply, temporarily or permanently, equipment not subject to such

injunction and not infringing any Proprietary Interest or to remove all such equipment and refund the cost thereof to Owner or to take such steps as may be necessary to ensure compliance by Owner with such injunction, all to the satisfaction of Owner and Authority and all without cost or expense to Owner or Authority.

11.5.4. Exclusion from Liability. Contractor shall have no liability or obligation under this Section 11.5 with respect to an infringement of Proprietary Interests to the extent the specific selection of the infringing process, material or equipment was made by Owner.

11.6. Notice; Defense; Settlement. A Person entitled to indemnification under this ARTICLE 11 or any other indemnification provision set forth in this Agreement (the "**Indemnitee**") shall, within ten (10) Business Days after the receipt of Notice of the commencement of any legal action or of any claims against such Indemnitee in respect of which indemnification will be sought, notify the Party having the indemnification obligation hereunder (the "**Indemnitor**") with a written Notice thereof. Failure of the Indemnitee to give such written Notice will reduce the liability of the Indemnitor only by the amount of damages actually attributable to the failure of the Indemnitee to give such written Notice to the Indemnitor, but the failure so to notify shall not relieve the Indemnitor from any liability that it may have to such Indemnitee otherwise than under the indemnity agreements contained in this Agreement. In case any such claim or legal action shall be made or brought against an Indemnitee and such Indemnitee shall notify the Indemnitor thereof, the Indemnitor may, or if so requested by such Indemnitee shall, assume the defense thereof, without any reservation of rights. After written Notice from the Indemnitor to such Indemnitee of an election to assume the defense thereof and approval by the Indemnitee of counsel selected by the Indemnitor, the Indemnitor will not be liable to such Indemnitee under the indemnification provisions of this Agreement for any legal fees or expenses subsequently incurred by such Indemnitee in connection with the defense thereof so long as the Indemnitor continues to provide such defense. No Indemnitee shall settle any indemnified claim over which the Indemnitor has not been afforded the opportunity to assume the defense without the Indemnitor's written approval. The Indemnitor shall control the settlement of all claims over which it has assumed the defense; provided, however, that the Indemnitor shall not conclude any settlement that requires any action or forbearance from action by the Indemnitee or any of its Affiliates without the prior written approval of the Indemnitee. The Indemnitee shall provide reasonable assistance to the Indemnitor, at the Indemnitor's expense, in connection with such legal action or claim. If the Indemnitor assumes the defense of any such claim or legal action, any Indemnitee shall have the right to employ separate counsel in such claim or legal action and participate therein, and the reasonable fees and expenses of such counsel shall be at the expense of such Indemnitee, except that such fees and expenses shall be for the account of Indemnitor if (i) the employment of such counsel has been specifically authorized by the Indemnitor, or (ii) the named parties to such action (including any impleaded parties) include both such Indemnitee and the Indemnitor and representation of such Indemnitee and the Indemnitor by the same counsel would, in the reasonable opinion of the Indemnitee, be inappropriate under applicable standards of professional conduct due to actual or potential conflicting interests between them. Notwithstanding anything to the contrary in this Section 11.6, the Indemnitee shall have the right, at its expense, to retain counsel to monitor and consult the Indemnitor's counsel in connection with any such legal action or claim.

ARTICLE 12. LIMITATION OF LIABILITY

12.1. [Reserved]

12.2. Limitation on Overall Liability. In no event shall Contractor's aggregate liability to Owner in respect to this Agreement, whether such liability arises in contract, tort, or otherwise, exceed an amount equal to one hundred percent (100%) of the Contract Price; provided, however, that such limitation shall

not operate to: (a) limit Contractor's liability for fraud or willful misconduct of Contractor or its Affiliates; or (b) limit Contractor's indemnity obligations under this Agreement respecting claims of third parties.

12.3. Waiver of Consequential Damages. Except for (a) Contractor's liability for Delay Damages hereunder, or, if the Delay Damages clauses are later adjudicated (or arbitrated) to be unenforceable, then for any and all provable losses including Consequential Damages, and (b) a Party's liability hereunder for indemnification of third party claims, in no event shall either Party be liable to the other Party for any punitive, indirect, special, or consequential loss or damages, including loss of use, lost profits or revenues, cost of capital, increased operating costs, or loss of goodwill.

ARTICLE 13. WARRANTIES

13.1. Work Warranties. For the duration of the Work Warranty Period, Contractor makes the following warranties respecting the Work and each SGF (collectively, the "**Work Warranties**"):

- 13.1.1. all Work will be performed in accordance with generally accepted professional standards of good engineering and sound construction practices (including Good Solar Industry Practice) and all requirements of the Contract Documents;
- 13.1.2. all Work will be designed, engineered and constructed in accordance with the requirements of this Agreement and Good Solar Industry Practice;
- 13.1.3. all equipment will be installed in accordance with manufacturer's specifications or methods otherwise approved by the manufacturer, including all requirements necessary to preserve and maintain in effect any and all warranties;
- 13.1.4. the Work, including each item of equipment incorporated therein, will be new, will be of suitable grade of its respective kind for its intended use as specified herein and in accordance with generally accepted national standards, will be free from defects in design, engineering, materials, construction, and workmanship, will be safe for its intended purpose, and shall conform in all respects with all applicable requirements of Applicable Laws, Governmental Approvals, the Contract Documents and the Utility Operation Approval.

13.2. Work Warranty Period. Contractor shall remedy at its sole cost and expense any breach of the warranty set forth in Section 13.1 with respect to each SGF and the Work performed in connection therewith discovered within sixty (60) months after the Substantial Completion Date for such SGF (the "**Work Warranty Period**"), except to the extent Contractor performs warranty Work on such SGF after the Substantial Completion Date for such SGF, in which event the Work Warranty Period for each item of cure Work as is performed after such Substantial Completion Date shall be extended until the later of (i) the date that is six (6) months following the completion of such item of cure Work, and (ii) the expiration of original Work Warranty Period for such SGF. The foregoing shall not relieve Contractor of its obligation to correct defects and deficiencies (including breaches of the warranty set forth in Section 13.1) in such SGF that are discovered during the Work Warranty Period with respect thereto (or the extension thereof), even if such corrective action cannot be completed within said period. Following the expiration of the Work Warranty Period (and as to any cure Work, following the expiration of the extension of the Work Warranty Period) for a SGF, Owner expressly waives and releases Contractor from all claims, except those previously asserted, relating to defects or deficiencies in the Work with respect to such SGF, whether arising in contract, warranty, tort (including negligence), strict liability, equity or otherwise.

13.3. Remedies. If Owner or Authority discovers that any of the Work Warranties set forth in Section 13.1 are breached or a defect or deficiency is discovered by Owner or Authority, then upon Notice from Owner or Authority, Contractor shall repair, replace, and/or correct the applicable Work, including, where required, reengineering any deficient systems, on an expedited basis. Contractor shall have reasonable access to the SGF, subject to the terms and conditions of the applicable Program Documents, as necessary to perform its warranty obligations under this Agreement. All costs incidental to Contractor's performance of its warranty obligations shall be borne by Contractor, including the removal, replacement and reinstallation of all equipment and materials necessary to gain access to defective Work. Should Contractor fail to begin to perform such necessary repairs, replacement, or correction within forty-eight (48) hours of Notice of a warranty claim in case of any impairment of energy production of the SGF or the measuring, monitoring and reporting thereof and five (5) days of Notice of a warranty claim in any other case and thereafter diligently pursue such correction, Owner shall, upon consultation with and consent of the Authority, have the right to perform such repair, replacement or correction, and Contractor shall be liable for all reasonable costs, charges and expenses incurred by Owner in connection with such repair or replacement and shall forthwith pay to Owner an amount equal to such costs, charges and expenses upon receipt of Owner's invoices therefor.

13.4. Warranty Exclusions. The warranty obligations of Contractor do not extend to Work that is damaged by willful misconduct or the negligent acts or omissions of Owner, the Authority, the Applicable Local Unit, the Local Electric Utility or their contractors (other than Contractor) or Force Majeure Events or that is not maintained and operated materially in accordance with all instructions, practices and procedures of which Owner has been advised in writing by Contractor, and such warranty obligations do not extend to normal wear or any alteration, repair or replacement made without the prior approval of Contractor or contrary to instructions from Contractor, unless the repair or replacement is made by Owner or its contractors in accordance with Section 13.3 due to Contractor's failure to comply with its warranty obligations. The warranty obligations of Contractor also do not extend to any portion of the Work that is in an incomplete state at the time of any termination of this Agreement. Contractor's warranty obligations also do not apply to providing manufacturer's warranties for Owner-Furnished Materials, or to inherent defects in Owner-Furnished Materials or in Owner-Furnished Engineering, or any defects or deficiencies in the Work resulting therefrom.

13.5. No Implied Warranties. EXCEPT AS PROVIDED IN THIS AGREEMENT, CONTRACTOR MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND CONTRACTOR DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

13.6. Subcontractor Warranties.

13.6.1. Provision of Subcontractor and Vendor Warranties. Without limitation of its warranty obligations as set forth above in this ARTICLE 13, Contractor shall also obtain from all Subcontractors and Vendors the warranties and guarantees available on commercially reasonable terms with respect to equipment and services supplied by such Subcontractors and Vendors, which shall be made available to and enforceable by Owner and the Applicable Local Unit to the full extent of the terms thereof. Such terms shall comply, at a minimum, with the equipment warranty requirements set forth in the Lease Agreement. Contractor and Subcontractors shall at all times perform their construction, installation, commissioning, operation or maintenance activities in a manner consistent with all such warranties and shall not perform any actions that may violate such warranties, including any applicable roof warranties at the Site. As shown on Attachment XI, Principal Equipment Component warranties that extend beyond the Work Warranty Period shall be

provided directly by the Principal Equipment Component manufacturers. Contractor shall have no liability for or obligation to enforce such warranties after the Work Warranty Period and such warranties shall be assigned directly to Owner.

13.6.2. Enforcement of Subcontractor and Vendor Warranties. Contractor shall during the Work Warranty Period, as soon as reasonably possible after receipt of Notice from Owner specifying any breach of the warranty, defect or deficiency, use commercially reasonable efforts to cause the applicable Subcontractor or Vendor responsible for such defective Work or equipment, or upon failure or refusal by such Subcontractor or Vendor to do so itself, to inspect, repair, replace, or otherwise correct any such defective Work or equipment in accordance with the warranties obtained under Section 13.6.1. All such repairs and replacements shall comply with Applicable Laws, Good Solar Industry Practice and the specifications of this Agreement. Contractor shall use commercially reasonable efforts to cause the Subcontractor of such Work or equipment to bear all costs and expenses associated with correcting any such defective Work or equipment, including necessary disassembly, transportation, reassembly, and retesting, as well as reworking, repair, or replacement of such Work, and disassembly and reassembly of adjacent Work when necessary to give access to improper, defective, or non-conforming Work. If a warranty issue arises on any equipment after the Work Warranty Period, and the equipment has a warranty period that extends beyond the Work Warranty Period, Owner shall contact the manufacturer directly to resolve such warranty issues and Owner acknowledges that the manufacturer shall have sole responsibility for such issues.

13.7. Roof Warranties. Contractor shall ensure that, with respect to each SGF, any equipment used or installed as part of or in performance of the Work shall be installed in accordance with the Owner-Furnished Engineering (including roof loading plans) and shall not adversely affect the structural integrity of any roof or existing roofing warranties of the Applicable Local Unit and that the Work on or with respect to any roof shall be completed in strict accordance with roof manufacturer's requirements by a manufacturer-certified roofing contractor. Contractor shall provide either (i) a written certification from all Persons responsible for the roof warranties for the relevant roof that the SGF, as installed, has no adverse effect on such roof warranties or (ii) substitute roof warranties of equal value.

ARTICLE 14. RISK OF LOSS; INSURANCE

14.1. Risk of Loss. With respect to each SGF, notwithstanding the passage of title to Owner in accordance with Section 16.1, Contractor shall have the full responsibility for care, custody and control of such SGF (including all equipment and materials in connection therewith) and shall bear the risk of loss thereof in each case from and after the issuance of the Notice to Proceed with respect to such SGF until Substantial Completion of such SGF or earlier termination of this Agreement, at which time risk of loss shall pass to Owner. Contractor's responsibility for care, custody and control and risk of loss as stated above shall apply to Owner-Furnished Materials from the time they are delivered to Contractor until risk of loss for the SGF passes to Owner as stated in the preceding sentence. After Substantial Completion of each SGF, Contractor shall nevertheless be responsible for loss or damage to the extent such loss or damage is caused by the negligence or willful misconduct of Contractor or its Subcontractors or a breach of this Agreement by Contractor and is not covered by Owner's property insurance covering the SGF (including applicable deductibles).

14.2. Required Insurance.

- 14.2.1. Contractor Insurance. Contractor shall maintain until Final Completion (and any time thereafter when Contractor is present on any Site to perform warranty obligations or otherwise), the insurance coverage outlined in Attachment XXXII and, if applicable, all such other insurance as required by Applicable Law or the Program Documents, in at least the minimum amounts specified.
- 14.2.2. Owner Insurance. Owner shall maintain the insurance coverage outlined in Attachment XXXII and, if applicable, all such other insurance as required by Applicable Law, in at least the minimum amounts specified.
- 14.3. Additional Contractor Insurance. Contractor shall obtain and maintain such additional insurance as Contractor may see fit to cover all tools, supplies, and equipment owned and operated by Contractor at the Sites and to protect Contractor and its interests therein from such risks as Contractor shall determine.
- 14.4. Subcontractor Insurance. Contractor shall require Subcontractors to obtain and maintain insurance in accordance with this Agreement (including Attachment XXXII) and Contractor's usual practice.
- 14.5. Cost of Insurance. Any and all costs and expenses of insurance incurred by Contractor or any Subcontractor in accordance with this ARTICLE 14, including any premiums, deductibles and brokerage fees, shall be included in the Contract Price.

ARTICLE 15. DEFAULT AND TERMINATION OF AGREEMENT

- 15.1. Contractor Events of Default. The following shall constitute events of default on the part of Contractor ("**Contractor Event of Default**") under this Agreement:
- 15.1.1. Contractor shall have failed to achieve Substantial Completion of any SGF within thirty (30) days after the Guaranteed Substantial Completion Date for such SGF, unless Contractor is diligently exercising all commercially reasonable efforts to achieve Substantial Completion at the earliest possible time after the Guaranteed Substantial Completion Date and has a reasonable prospect of achieving Substantial Completion within the earlier of ninety (90) days after the Guaranteed Substantial Completion Date or December 1, 2016, and Contractor continues to pay Delay Damages for the period of delay; or
- 15.1.2. Contractor shall have failed to deliver to Owner and Authority the security required by Section 3.19 and such failure continues for a period of ten (10) days after Owner' or Authority's Notice to Contractor thereof, or such security ceases to be valid, binding and enforceable and Contractor fails to replace such security within ten (10) days after Notice to Contractor of such invalidity or unenforceability; or
- 15.1.3. (i) Contractor shall have committed multiple breaches of the same material provision of this Agreement, or (ii) Contractor shall have persistently failed to provide sufficient materials and equipment or labor to diligently and competently prosecute the Work, and Contractor shall have either failed to cure such breach or failure within seven (7) days after Notice thereof from Owner or Authority, or, if such breach or failure cannot reasonably be completed within such seven (7)-day period, failed to commence to cure such breach or

failure within the seven (7)-day period and diligently and continuously prosecutes such cure to completion; or

15.1.4. Contractor shall have breached any material obligation (i) hereunder with respect to safety or security or (ii) under Applicable Law, and Contractor shall have either failed to cure such breach within seven (7) days after Notice thereof from Owner or Authority, or, if such breach cannot reasonably be completed within such seven (7)-day period, failed to commence to cure such breach or failure within the seven (7)-day period and diligently and continuously prosecutes such cure to completion; or

15.1.5. To the extent not covered by Sections 15.1.1 through 15.1.4, Contractor fails to comply with any material provision of this Agreement as it relates to the Project and fails to cure or remedy such default within thirty (30) days after Notice and a written demand are made by Owner or Authority to Contractor to cure the same, or, if such breach or failure cannot reasonably be completed within such thirty (30)-day period, failed to commence to cure such breach or failure within the thirty (30)-day period and diligently and continuously prosecutes such cure to completion; or

15.1.6. (i) Contractor (a) institutes a voluntary case seeking liquidation or reorganization under the Bankruptcy Law, or consents to the institution of an involuntary case thereunder against it, (b) files a petition or consents or otherwise institutes any similar proceeding in respect of Contractor under any other applicable federal or state bankruptcy law, or shall consent thereto, (c) applies for, or suffers the appointment of, a receiver, liquidator, sequestrator, trustee or other officer with similar powers, (d) makes a general assignment for the benefit of creditors, or (e) admits in writing its inability to pay its debts generally as they become due; or (ii) an involuntary case is commenced seeking the liquidation or reorganization of Contractor under the Bankruptcy Law or any similar proceeding shall be commenced against Contractor under any other Applicable Law, and (a) the petition commencing the involuntary case is not timely controverted, (b) the petition commencing the involuntary case is not dismissed within sixty (60) days of its filing, (c) an interim trustee is appointed to take possession of all or a portion of the property, or to operate all or any part of the business of Contractor and such appointment is not vacated within sixty (60) days, or (d) an order for relief is issued or entered therein; or (iii) a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers of Contractor or of all or a part of its respective property, is entered; or (iv) any other similar relief is granted against Contractor under any Applicable Law; or

15.1.7. Any material representation or warranty of Contractor set forth in this Agreement shall have been willfully false or misleading in any respect as of the Effective Date and Owner or Authority are materially and adversely affected unless Contractor has cured such breach within thirty (30) days after Notice and a written demand are made by Owner or Authority to Contractor to cure the same.

15.2. Owner Events of Default. The following shall constitute events of default on the part of Owner ("**Owner Event of Default**") under this Agreement:

15.2.1. Owner fails to make or cause to be made any undisputed payment with respect to Contractor's performance of Work at any SGF when due and fails to cure such failure within thirty (30) days after Notice and a written demand are made by Contractor to Owner to cure the same; or

- 15.2.2. To the extent not covered by Section 15.2.1, Owner fails to comply with any material provision of this Agreement as it relates to any SGF and fails to cure or remedy such default within thirty (30) days after Notice and a written demand are made by Contractor to Owner to cure the same, unless the consequences on Contractor of the default are capable of being fully addressed by a Change Order and Owner and Contractor are mutually and diligently seeking resolution through the Change Order procedures in this Agreement; or
- 15.2.3. (i) Owner (a) institutes a voluntary case seeking liquidation or reorganization under the Bankruptcy Law, or consents to the institution of an involuntary case thereunder against it, (b) files a petition or consents or otherwise institutes any similar proceeding in respect of Owner under any other applicable federal or state bankruptcy law, or shall consent thereto, (c) applies for, or suffers the appointment of, a receiver, liquidator, sequestrator, trustee or other officer with similar powers, or (d) makes a general assignment for the benefit of creditors; or (ii) an involuntary case is commenced seeking the liquidation or reorganization of Owner under the Bankruptcy Law or any similar proceeding shall be commenced against Owner under any other Applicable Law, and (a) the petition commencing the involuntary case is not timely controverted, (b) the petition commencing the involuntary case is not dismissed within sixty (60) days of its filing, (c) an interim trustee is appointed to take possession of all or a portion of the property, or to operate all or any part of the business of Owner and such appointment is not vacated within sixty (60) days, or (d) an order for relief is issued or entered therein; or (iii) a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers of Owner or of all or a part of its respective property, is entered; or (iv) any other similar relief is granted against Owner under any Applicable Law; or
- 15.2.4. Any material representation or warranty of Owner set forth in this Agreement shall have been willfully false or misleading in any respect as of the Effective Date and Contractor is materially and adversely affected unless Owner has cured such breach within thirty (30) days after notice and a written demand are made by Contractor to Owner to cure the same.

Contractor shall provide written notice to the Authority upon the earlier of each occurrence of an Owner Event of Default or when such Owner Event of Default is reasonably anticipated to occur. Authority may in its sole discretion, but shall not be required to, cure such Owner Event of Default or anticipated Owner Event of Default. If the Authority exercises such option to cure such Owner Event of Default or anticipated Owner Event of Default, it shall have the same time periods as set forth in Sections 15.2, as applicable, to cure such Owner Event of Default or anticipated Owner Event of Default.

15.3. Contractor Remedies. Upon the occurrence and continuation of an Owner Event of Default, and failure of the Owner or Authority to cure, Contractor has the right to terminate this Agreement upon ten (10) Business Days' Notice. Upon such termination by Contractor, Owner shall pay or cause to be paid to Contractor (i) such amounts as Contractor would have been entitled to receive in the event of a termination by Owner pursuant to Section 15.5; provided, however, that if the Owner Event of Default giving rise to the termination right is under Sections 15.2.1, 15.2.2 or 15.2.4 and affects Contractor's performance with respect to some but not all SGFs, then the termination under this Section 15.3 shall be exercised only with respect to such affected SGFs and the amount to be paid to Contractor under clause (ii) above shall be the percentage stated in such clause applied to the unpaid applicable Local Unit Price(s) or portion thereof allocated to the terminated SGFs. The foregoing rights and remedies are not exclusive and are in addition to any other rights or remedies Contractor may have at law or in equity in case of an Owner Event of Default

15.4. Owner Remedies.

- 15.4.1. Upon the occurrence and continuation of a Contractor Event of Default, Owner has the right to terminate this Agreement upon ten (10) Business Days' Notice, upon consultation with and consent of the Authority. If any termination for cause by Owner pursuant to this Section 15.4 is ultimately determined to have been wrongful, then such termination shall be deemed a termination for convenience pursuant to Section 15.5, and Contractor's sole remedy shall be the receipt of the amounts set forth in Section 15.5. If the Contractor Event of Default relates to some but not all SGFs, Owner may terminate the entire Agreement or, at its election, upon consultation with and consent of the Authority, terminate this Agreement only with respect to the Local Unit's SGFs of one or more Local Units, while maintaining this Agreement in full force and effect with respect to all remaining SGFs in the Project, which election shall be made in the Notice of termination specified above. In case of such partial termination, Owner's remedies specified hereinbelow shall apply with respect to the terminated SGFs. Any such partial termination shall be without prejudice to Owner's rights and remedies in case of any future Contractor Event of Default.
- 15.4.2. If Owner terminates this Agreement pursuant to this Section 15.4, then, upon Owner's request, Contractor shall withdraw from the Sites, shall assign to Owner such of Contractor's subcontracts, purchase orders and Governmental Approvals as Owner may request, and shall deliver and make available to Owner and Authority Construction Monitor all information, drawings, specifications documents, patents, and licenses of Contractor (whether or not such information, drawings, specifications documents, patents, and licenses are complete) related to the Work reasonably necessary to permit Owner to complete or cause the completion of the terminated Work, and in connection therewith Contractor authorizes Owner and its agents to use such information in completing the terminated Work. Contractor shall remove all materials, equipment, tools, and instruments used by and any debris or waste materials generated by Contractor in the performance of such Work as Owner may direct. While Owner shall use reasonable efforts to mitigate the cost for completion of the terminated Work, Owner may employ any other person, firm, or corporation to finish such Work by whatever method Owner may deem expedient (with consent of the Authority), and may undertake such expenditures as in Owner's judgment (with consent of the Authority) will best accomplish the timely completion of such Work (including, where necessary, the entry into contracts without prior solicitation of proposals). Owner may offer employment to any employee of Contractor involved in the Work. In such event Contractor shall not be entitled to receive any further payments under this Agreement except for payments for Work performed prior to such termination and amounts that may be payable to Contractor pursuant to the last sentence of Section 15.4.3.
- 15.4.3. As soon as practicable after completion of the terminated Work, Owner and Authority shall determine the total cost to Owner to complete such Work. If the total cost to Owner to complete such Work exceeds the unpaid portion of the Contract Price at the time of the termination of this Agreement (or, in case of a partial termination, the Local Unit Price for the Local Unit's SGFs that have been terminated), then Contractor shall pay to Owner the amount of such excess within ten (10) days following receipt of Owner's demand for such payment. Under such circumstances, Owner shall not be required to pay additional amounts to Contractor in respect of terminated Work.

15.4.4. The foregoing rights and remedies are not exclusive and are in addition to any other rights or remedies Owner or Authority may have at law or in equity in case of a Contractor Event of Default, subject, however, to the provisions of ARTICLE 12.

15.5. Termination by Owner for Convenience. Owner may terminate this Agreement, in whole or in part, by ten (10) days' Notice to Contractor for convenience, upon consultation with and consent of the Authority. Upon receipt of any such Notice, Contractor shall, unless the Notice directs otherwise (and provided that the Notice to Proceed has been issued):

(a) immediately discontinue the Work on the date and to the extent specified in such Notice;

(b) place no further orders or subcontracts for equipment or services except as may be necessary for completion of such portion of the Work as is not discontinued;

(c) promptly make every reasonable effort to procure cancellations upon terms satisfactory to Owner of all orders, subcontracts, and rental agreements to the extent they relate to the performance of the Work that is discontinued on terms that mitigate the cost thereof; and

(d) thereafter execute only that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect equipment at the Site or in transit thereto and/or, if directed by Owner, restore the property of the Applicable Local Unit that was disturbed or modified by performance of the Work on the terminated SGF to the condition that is at least as good as existed before commencement of the Work thereon. Contractor waives any claims for damages, including loss of anticipated profits for uncompleted Work due to a termination by Owner for convenience pursuant to this Section 15.5, and shall accept as its sole remedy a sum equal to (i) with respect to the Local Unit's SGFs that are terminated, all unpaid Work performed hereunder for such terminated Local Unit's SGFs up to the termination date in accordance with the provisions of Attachment V-B (based on Milestones completed but not yet paid for and the percentage of completion of Milestones that have not been completed), and (ii) the reasonable Direct Costs incurred by Contractor in closing out the terminated Work, including restoration work (if applicable, and in which case Contractor shall be entitled to a markup of ten percent (10%) of its Direct Costs for such restoration work) and reasonable demobilization costs and the costs of commitments which cannot be canceled. (It is understood that if Work on some but not all of the Local Unit's SGFs is to be terminated, such adjustment in the Work shall be handled as a Change Order pursuant to the provisions of ARTICLE 8.) As a condition to any obligation of Contractor to perform restoration work under this Section 15.5, Owner shall provide evidence acceptable to Contractor demonstrating Owner's ability to pay Contractor for the reasonable Direct Costs plus markup expected to be incurred by Contractor to undertake and complete such restoration work. Contractor's claim shall be submitted within forty-five (45) days after Contractor completes its obligations as set forth in clauses (a) through (d) above. As a condition to any payment by Owner under this Section 15.5, Contractor shall deliver or make available to Owner all Work performed by Contractor (including Contractor Deliverables) and all materials and equipment provided or obtained by Contractor hereunder up to the termination date with respect to the Local Unit's SGFs being terminated and shall deliver to Owner and Authority conditional final waivers and releases of lien executed by Contractor and Subcontractors in the forms of Attachments XXIII and XXIV, respectively. Within five (5) days after receipt of payment, Contractor shall deliver unconditional final waivers and releases of lien executed by Contractor and Subcontractors in the forms of Attachments XXV and XXVI, respectively. In case of any ongoing payment dispute between Contractor and any Subcontractor, Contractor may deliver to Owner and Authority a lien bond or other security reasonably acceptable to Owner and Authority in lieu of a required waiver and release of lien from such Subcontractor.

15.6. Termination in Case of Extended Force Majeure. If performance by either Party with respect to any SGF is excused by reason of an event of Force Majeure for a consecutive period of more than three hundred and sixty (360) days, then either Party may terminate this Agreement with respect to such SGF upon ten (10) Business Days' Notice. Upon such termination by either Party, Contractor shall comply with the obligations set forth in clauses (a) through (d) of Section 15.5, to the extent it has not previously done so and is not prevented from doing so due to the Force Majeure event; and Owner shall pay or cause to be paid to Contractor such amounts as Contractor would have been entitled to receive in the event of a termination by Owner pursuant to Section 15.5 (and subject to the conditions stated therein respecting delivery of Work already performed and lien waivers).

ARTICLE 16. TITLE; LIENS

16.1. Passage of Title. Title to all material, supplies, equipment and other goods and other Work covered by this Agreement (except for Contractor Deliverables, title to which passes in accordance with Section 16.2) will pass to Owner upon the earliest of: (i) delivery to the applicable Site, or (ii) receipt of payment (less retentions) by Contractor for such item; and Owner may not return title to any such material, supplies, equipment and other goods and other Work covered by this Agreement once title passes to Owner, except for defects or deficiencies therein. Contractor shall deliver to Owner such assignments, bills of sale or other documents as reasonably requested by Owner to evidence such transfer of title.

16.2. Title to Deliverables. All deliverables to be provided by Contractor pursuant to Section 3.2 or otherwise under this Agreement (collectively, the "**Contractor Deliverables**"), shall be considered "works made for hire," as such term is defined under any copyright law, by Contractor for Owner. To the extent any Contractor Deliverables are not considered a "work made for hire" under copyright law, and for purposes of non-copyright laws, Contractor agrees to transfer and automatically assign, and hereby does transfer and assign, to Owner the entire right title and interest for the entire world in and to such Contractor Deliverables effective as of the date of creation. Nothing in this Agreement shall be construed as limiting Contractor's rights to use its basic know-how, experience and skills retained in the unaided memory of its employees (excluding Owner's Confidential Information), whether or not acquired during performance of the Work or to perform any construction or other services for any other Person. Nothing herein nor any other provision of this Agreement shall be construed to give Owner any rights or oblige Contractor to convey the rights to Contractor's generic designs, design concepts, standard drawings, methods and tools, design libraries or models, technical information, or computer software used in the development of the Contractor Deliverables; provided however, that if Contractor delivers to Owner, as part of the Contractor Deliverables, any generic designs, design concepts standard drawings, methods and tools, design libraries or models, technical information, or computer software used in the development of the Contractor Deliverables, or to the extent any Contractor Deliverables is not prepared exclusively for Owner, Contractor agrees to grant, and hereby does grant, to Owner an irrevocable, fully paid-up, royalty-free, perpetual, non-exclusive, world-wide license to use such generic designs, design concepts, standard drawings, methods and tools, design libraries or models, technical information, or computer software, and such Contractor Deliverables, for the purpose of owning, operating, and maintaining (including modifying) the SGFs.

16.3. Assignment of Software Licenses. To the extent that the Project includes any Software, Contractor shall assign or transfer to Owner all licenses for such Software as have been provided by the manufacturer thereof.

16.4. Clear Title. Except to the extent Liens arise due to a failure by Owner to make payment to Contractor in accordance with this Agreement, title to all the Work, material, supplies, and equipment incorporated or to be incorporated into each SGF shall be free and clear of all Liens, and Contractor

warrants and shall defend such title, at Contractor's expense, against the claims of third parties. Contractor shall, immediately after becoming aware thereof, notify Owner and Authority of the assertion of any Lien upon any Site, the SGF, or any part thereof.

16.5. No Liens on Local Unit's Property Under any Circumstance. Each SGF will be constructed on real property owned or leased by the Applicable Local Unit and which will be licensed to Owner pursuant to the applicable License Agreement and the PPA. None of the Local Units is a party to this Agreement. None of the Local Units has directed this Agreement to be made. None of the Local Units has any responsibility of any kind in connection with this Agreement. Accordingly, Contractor shall in no event assert a Lien on the property of any Local Unit arising out of or in connection with the Work.

16.6. Restrictions on Liens on Owner's Estate. Unless Owner fails to make payment in accordance with this Agreement, Contractor shall not directly or indirectly cause, create, incur, assert or suffer to exist any Lien on the SGF, or any part of it, or the Owner's licensed estate, and shall not suffer to exist, and shall indemnify, defend, and hold Owner, the Authority, the Financing Parties, and the Applicable Local Unit harmless from, any Lien asserted as a result of the failure of Contractor, its Subcontractors, or others for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work brought against Owner, the Authority, the Financing Parties, the Applicable Local Unit, or the SGF. Promptly upon receiving Notice that such a Lien has been filed for a reason other than failure of Owner to make payment in accordance with this Agreement, Contractor shall notify Owner and Authority in writing of the imposition of the Lien and shall commence to take the steps necessary to discharge said Lien, including, if necessary, the furnishing of a lien bond. Contractor may seek to contest the amount or validity of any such Lien, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, establishes for the benefit of Owner, the Financing Parties, and the Applicable Local Unit a deposit, letter of credit or other security acceptable to Owner, Financing Parties, and the Applicable Local Unit to indemnify the them against any loss which could reasonably be expected to arise if such Lien is not removed or discharged. If Contractor fails to do so, Owner will have the right to discharge the Lien and hold Contractor liable for costs and expenses incurred, including attorneys' fees.

**ARTICLE 17.
[RESERVED]**

**ARTICLE 18.
REPRESENTATIONS AND WARRANTIES**

18.1. Contractor. Contractor hereby represents and warrants to Owner, as of (a) the Effective Date and (b) the date of issuance of each Notice to Proceed, that:

18.1.1. Existence and Good Standing. It is a [*type of corporation*] duly organized, validly existing and in good standing under the laws of the State of [●] and is authorized to do business and in good standing in the State of New Jersey and has the requisite power to own and operate its properties, to carry on its business and to execute, deliver and perform its obligations under this Agreement.

18.1.2. Corporate Authorizations. The execution, delivery and performance by Contractor of this Agreement (i) have been duly authorized by all requisite action on its part, (ii) will not violate any Applicable Law, (iii) will not cause a breach of, or result in the imposition of any lien upon any of its assets under, any of its organizational documents or any agreement, instrument or other requirement by which it or any of its properties may be

bound or affected and (iv) does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Contractor or any other party to any other agreement with Contractor.

- 18.1.3. Enforceability. The execution and delivery by Contractor of this Agreement will cause it to constitute a legal, valid and binding obligation of Contractor, enforceable against Contractor in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and as enforceability thereof may be subject to general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).
- 18.1.4. No Actions. There are no actions, suits, proceedings or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any federal, state or municipal agency which, individually or in the aggregate, is reasonably likely to have a material adverse effect on its ability to perform its obligations under this Agreement.
- 18.1.5. Government Approvals. No approvals from, and no registration, declaration or filing with, any Governmental Authority is required on the part of Contractor in connection with the execution, delivery and performance of this Agreement, except those which have already been obtained or which Contractor anticipates will be timely obtained in the ordinary course of the performance of this Agreement.
- 18.1.6. Qualifications. Contractor has examined this Agreement thoroughly and has become familiar with and understands its terms and has the experience and qualifications to perform the Work in a manner consistent with all of the requirements of this Agreement.
- 18.2. Owner. Owner hereby represents and warrants to Contractor, as of (a) the Effective Date and (b) the date of issuance of each Notice to Proceed, that:
- 18.2.1. Existence and Good Standing. It is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of New Jersey and has the requisite power to own and operate its properties, to carry on its business and to execute, deliver and perform its obligations under this Agreement.
- 18.2.2. Authorizations. The execution, delivery and performance by Owner of this Agreement (i) have been duly authorized by all requisite action on its part, (ii) will not violate any Applicable Law, (iii) will not cause a breach of, or result in the imposition of any lien upon any of its assets under, any of its organizational documents or any agreement, instrument or other requirement by which it or any of its properties may be bound or affected and (iv) does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Owner or any other party to any other agreement with Owner.
- 18.2.3. Enforceability. The execution and delivery by Owner of this Agreement will cause it to constitute a legal, valid and binding obligation of Owner, enforceable against Owner in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and as enforceability thereof may be subject to general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

- 18.2.4. No Actions. There are no actions, suits, proceedings or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any federal, state or municipal agency or claims against it which, individually or in the aggregate, is reasonably likely to have a material adverse effect on its ability to perform its obligations under this Agreement.
- 18.2.5. Government Approvals. No approvals from, and no registration, declaration or filing with, any Governmental Authority is required on the part of Owner in connection with the execution, delivery and performance of this Agreement, except those which have already been obtained or which Owner anticipates will be timely obtained in the ordinary course of the performance of this Agreement.
- 18.2.6. Financial Capability. Owner has examined this Agreement thoroughly and has become familiar with and understands its terms and has the financial capability to make payment of the Contract Price to Contractor as and when required by this Agreement, solely by funds made available by the Authority and on deposit in the Project Fund.

ARTICLE 19. DISPUTES

19.1 Disputes. Any and all disputes arising hereunder, if not resolved informally, shall be subject to such rights and remedies as may exist at law and in equity.

ARTICLE 20. MISCELLANEOUS PROVISIONS

20.1. Successors and Assigns. This Agreement will inure to the benefit of, and be binding upon, the Parties hereto and their representatives, successors, permitted assigns and other legal representatives. Contractor acknowledges that Owner has entered into this Agreement with Contractor based on Contractor's experience and expertise, and that Contractor may not assign this Agreement without the prior written approval of Owner and Authority, which may be withheld in the sole and absolute discretion of Owner and Authority; provided, however, this Section 20.1 shall not be construed to prohibit or limit Contractor's right to subcontract the Work in accordance with this Agreement.

20.2. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of Owner and Contractor, and, as applicable, the Authority, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement, except for Indemnitees with respect to Contractor's and Owner's indemnification obligations hereunder.

20.3. Press Releases. The Parties acknowledge that they each desire to publicize information about this Agreement and the SGF. The Parties may issue press releases and advertising about entering into this Agreement, the size and location of the SGF, and the identity of the other Party, with the prior written consent of the other Party and the Authority and subject to the Parties' continuing obligation to not disclose the other Party's Confidential Information as defined in this Agreement.

20.4. Severable Covenants. If any provisions of this Agreement or the application thereof to any circumstances are held to be invalid or unenforceable, then the remaining provisions of this Agreement or the application thereof to other circumstances will not be affected thereby and will be valid and enforceable to the fullest extent permitted by Applicable Law.

20.5. Survival. The following provisions shall survive termination of this Agreement and shall survive Final Payment following Final Completion: ARTICLES 10, 11, 12, 13, Section 14.2 (and with respect to any Subcontractor performing warranty work, Section 14.4) and ARTICLES 16, 19 and 20, as well as all other provisions of this Agreement (including Attachments) to the extent necessary to interpret and give legal effect to the foregoing surviving provisions.

20.6. Independent Contractor. Contractor is an independent contractor. Nothing contained in this Agreement, nor any act of a Party in pursuing its rights or fulfilling its obligations under this Agreement, will be construed as creating a partnership or joint venture relationship between the Parties, nor shall it be construed as creating any relationship whatsoever between Owner and Contractor's employees.

20.7. No Waiver. Any failure of a Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the pendency of this Agreement shall not affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision.

20.8. Environmental Attributes. The Parties stipulate and agree that, as between Contractor and Owner, Owner owns all environmental attributes arising from or related in any way to the Project, including any renewable energy credits, green tags or tradable renewable certificates.

20.9. Notices. Any Notice, statement, demand, consent, claim, offer, or other instrument required or permitted to be given pursuant to this Agreement shall be in writing and shall be sent (a) by hand messenger delivery, (b) by overnight courier service, (c) by certified mail (receipt requested), (d) by facsimile transmission, or (e) by e-mail (attached as a portable document format (.pdf) only) followed (in the case of (d) or (e)) with confirmation delivery of hard copy, to the other Party at the address set forth below:

To Contractor:

With a copy to:

To Owner:

SunLight General Morris Solar, LLC
205 East 42nd Street, 20th Floor
New York, New York 10017
Attention: Stacey L. Hughes
Facsimile: 646-496-9172
E-mail: principals@sunlightgeneral.com

To Authority:

Morris County Improvement Authority
10 Court Street
Morristown, New Jersey 07963
Attention: John Bonanni
E-mail: jbonanni@co.morris.nj.us

With a copy to:

McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068
Attention: Matthew D. Jessup, Esq.
E-mail: mjessup@msbnj.com

Each Party (which term for purposes of this Section 20.9 shall include the Authority) shall have the right to change the place to which Notices shall be sent or delivered or to specify one additional address to which copies of Notices may be sent, in either case by similar Notice sent or delivered in like manner to the other Party. Notices, addressed in compliance with the foregoing, shall be deemed received: (i) if delivered by hand, on the day on which such Notice is delivered personally, (ii) if sent by mail, on the third Business Day after deposit in the U.S. Mail (provided, that such Notice is sent by certified mail with a return receipt request and postage prepaid), (iii) if sent by courier service, on the following Business Day if deposited with a recognized overnight carrier, (iv) if sent by facsimile transmission, on the day of receipt, provided that transmission occurs by 5:00 pm local time on a Business Day in the recipient's location and successful transmission is confirmed by an acknowledgement generated by the recipient's facsimile machine; or (v) upon dispatch if sent by e-mail with proof of delivery by return e-mail of the recipient acknowledging receipt or by an e-mail read receipt generated by the recipient's computer. If the conditions in (iv) or (v), as applicable are met, receipt of a confirmation copy is not a condition for the effectiveness of a Notice given in the manner described in (d) or (e) above.

20.10. Cooperation of Parties. Each Party (which term for purposes of this Section 20.10 shall include the Authority) shall cooperate in good faith with the other Party in its efforts to fulfill its obligations under this Agreement. To that end, (a) except as expressly provided otherwise in this Agreement, neither Party shall unreasonably deny or withhold or otherwise delay its approval or consent upon the reasonable request for such approval or consent by the other Party and (b) each Party shall, upon Notice from the other Party, take all actions and sign, execute and deliver all agreements, documents and other instruments, and shall use its reasonable efforts to cause each of its Affiliates, and their respective representatives and agents acting on their behalf to take all actions and sign, execute and deliver all agreements, documents and other instruments reasonably required of it or them to carry out and give full effect to this Agreement and the rights and obligations of the Parties hereunder.

20.11. Entire Agreement, Amendments. This Agreement, including all attachments and exhibits hereto, represents the entire agreement between Owner and Contractor and, as applicable, the Authority, and supersedes all prior negotiations, representations or agreements, whether oral or written. This Agreement may be amended only by written instrument signed by both Parties and the Authority. None of the provisions of this Agreement shall be modified, altered, changed or voided by any subsequent purchase order issued by Owner that relates to the subject matter of this Agreement.

20.12. Governing Law, Consent to Jurisdiction; Waiver of Right to Jury Trial.

20.12.1. This Agreement shall be governed by, and construed under, the Laws of the State of New Jersey without regard to its provisions relating to conflict of laws.

20.12.2. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the jurisdiction of the Superior Court of Morris County, New Jersey and the appellate courts thereof for purposes of exercising rights and remedies hereunder, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding.

20.12.3. IN ALL CASES, EACH OF THE PARTIES HERETO EXPRESSLY AND IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY AND ALL ACTIONS, CLAIMS AND DISPUTES IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the duly authorized officers of the Parties hereto have executed this Agreement as of the Effective Date.

Contractor:

[•]

By: _____
Name: _____
Title: _____

Owner:

SUNLIGHT GENERAL MORRIS SOLAR, LLC

By: _____
Name: _____
Title: _____

As acknowledged by the Morris County Improvement Authority with respect to all terms herein, and as acknowledged and agreed by the Morris County Improvement Authority, with respect to all provisions herein that impose direct obligation on, or attribute representations to, the Authority or the Authority Construction Monitor.

Authority:

MORRIS COUNTY IMPROVEMENT AUTHORITY

By: _____
Name: _____
Title: _____

ATTACHMENT I

DEFINITIONS

"**AAA**" has the meaning set forth in Section 19.2.2

"**Affiliate**" means, with respect to a Person, those entities (including joint ventures), controlling, controlled by, or under common control with such Person. Common control and ownership is defined as direct or indirect ownership of a voting interest of greater than or equal to fifty percent (50%) or the right or power, directly or indirectly, to elect fifty percent (50%) or more of the board of directors.

"**Agreement**" has the meaning set forth in the preamble hereof and includes all exhibits, attachments, appendices, and schedules attached hereto or included herein by reference.

"**Applicable Law**" means any federal, state, or local constitution, law, statute, rule, regulation, ordinance, order, code, Environmental Law, Governmental Approval, interpretation, judgment, decree, injunction, directive, or decision of any Governmental Authority having jurisdiction over the matter or Person in question.

"**Applicable Local Unit**" means the Local Unit on whose Premises the relevant SGF or SGFs are or will be installed pursuant to this Agreement and the Program Documents.

"**Applicable Solar Program**" means the New Jersey Clean Energy Program enacted by the Legislature of New Jersey and the New Jersey Board of Public Utilities and administered by the New Jersey Office of Clean Energy, or other applicable similar program, each as amended from time to time.

"**Application for Mechanical Completion**" means the application for Mechanical Completion that is to be submitted by Contractor to Owner as contemplated by Section 9.1, the form of which is attached hereto as Attachment XXVII.

"**Application for Payment**" or "AFP" has the meaning set forth in Section 6.4.

"**Application for Substantial Completion**" means the application for Substantial Completion that is to be submitted by Contractor to Owner as contemplated by Section 9.4, the form of which is attached hereto as Attachment XXXIII.

"**As-Built Drawings**" has the meaning set forth in Section 3.2.6.

"**Authority**" has the meaning set forth in the Recitals of this Agreement.

"**Authority Construction Monitor**" means Matrix New World Engineering, or other person or firm nominated by the Authority, which shall act as Contractor's primary point of contact with respect to construction of the Project.

"**Bankruptcy Law**" means Title 11, United States Code, any successor statute, and any other state or federal insolvency, reorganization, moratorium or similar law for the relief of debtors.

"**Base Rate**" means the rate of interest established from time to time by U.S. Bank National Association as its reference rate in making loans but does not reflect the rate of interest charged to any

particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date U.S. Bank National Association changes its Base Rate, without Notice to any party. If no other rate shall be so established by U.S. Bank National Association, the Base Rate shall be U.S. Bank National Association's prime rate as determined from time to time

"Business Day" means any day excluding Saturday and Sunday and any day which is (i) a legal holiday in the State of New Jersey or, solely with respect to the Notice provisions in Section 20.9, in the State in which the intended Notice recipient is located, or (ii) a day on which banking institutions are permitted or required to be closed in the State of New York.

"Change Order" means a written order signed by Owner and by Contractor authorizing a change in the Project or an adjustment in the price or installation schedule of the Project.

"Change Order Event" means any of the following events:

1. changes in the Project requested or directed by Owner;
2. changes in the Project proposed by Contractor and approved by Owner;
3. the existence of Hazardous Materials at a Site for which Owner is responsible pursuant to Section 10.1;
4. direction by Owner to uncover or dismantle Work for which Contractor is entitled to adjustments to the Contract Price and/or Project Schedule in accordance with Section 3.16.2;
5. events of Force Majeure;
6. Local Unit/Authority Caused Delay;
7. Owner Caused Delay; and
8. any other event for which Contractor is expressly entitled to receive a Change Order under the provisions of this Agreement.

"Conditional Notice of Termination" has the meaning set forth in Section 2.1

"Confidential Information" has the meaning set forth in Section 17.1.

"Contract Documents" means this Agreement plus all Contractor Deliverables, the Final Construction Documents, and all drawings, specifications, manuals, and other documents provided by Owner to Contractor for the performance of the Work.

"Construction Manager" means, individually or collectively, as the case may be, the Person or Persons hired, employed or otherwise engaged by any Local Unit to be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation of the SGFs.

"Contract Price" has the meaning set forth in Section 6.1.

"**Contractor**" has the meaning set forth in the preamble of this Agreement.

"**Contractor Deliverables**" has the meaning set forth in Section 16.2.

"**Contractor Event of Default**" has the meaning set forth in Section 15.1.

"**Contractor Indemnified Persons**" has the meaning set forth in Section 11.3.

"**County**" has the meaning set forth in the Recitals of this Agreement.

"**County RFP**" has the meaning set forth in the Recitals to this Agreement.

"**Delay Damages**" has the meaning set forth in Section 7.3.

"**Design Drawings**" means the MCI Series 2011 Solar Project #2 design drawings, prepared by CHA Consulting, and attached hereto as Attachment VI.

"**Direct Costs**" means Contractor's actual and verifiable cost (on an open book basis) of labor, support labor, material, equipment, services, tools, supplies, subcontracts, jobsite facilities, utilities, and jobsite staffing necessary to perform the Work. For Contractor owned equipment, the Direct Costs shall be the ninety percent (90%) of the then current "blue book" monthly equipment rental prices of such equipment or such other price as may be mutually agreed upon in advance. Direct Costs shall not include any home office overhead.

"**Dispute**" has the meaning set forth in Section 19.1

"**Draw Papers**" means the documents that Owner must submit to the Financing Parties in order to draw funds for financing of the Project in accordance with the Program Documents.

"**Effective Date**" has the meaning set forth in the preamble of this Agreement.

"**Environmental Law**" means any federal, state or local law, statute, regulation, ordinance, permit condition, or enforceable requirement whether currently existing or hereafter promulgated, or any judicial or administrative decree, decision, order, judgment, or injunction with respect to, the environment, natural resources, Hazardous Material, potable water, groundwater, solid waste, landfills and open dumps, storage tanks, underground storage tanks, wastewater, biosolids disposal, storm water run-off or emissions to the atmosphere (i.e., SO₂, etc.). Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, as amended, and all regulations promulgated thereunder: the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund or CERCLA) (codified in scattered sections of 26 U.S.C.; 33 U.S.C.; 42 U.S.C. and 42 U.S.C. § 9601 et seq.), the Clean Water Act of 1977 (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Resource Conservation and Recovery Act of 1976 (the Solid Waste Disposal Act or RCRA) (42 U.S.C. § 6901 et seq.), the Safe Drinking Water Act (21 U.S.C. § 349; 42 U.S.C. §§ 201 and 300f through 300j-9), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); and the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801-1812) and any state law counterparts.

"**Final Completion**" means, with respect to each SGF, that (a) all Work for such SGF, including all Punch List Items, landscaping remediation and reinstatement, and all land-use and planning/zoning

requirements (including the planting of landscaping trees or shrubs as specified by those requirements), has been completed in strict accordance with this Agreement; (b) all documents required to be delivered hereunder as a condition for Final Completion have been delivered to Owner, and (c) Owner has received from the NJCEP the SREC Registration Program Approval Letter pursuant to the Applicable Solar Program.

"Final Completion Certificate" means the Notice, substantially in the form of Attachment XXXI, executed by Owner pursuant to Section 5.8.

"Final Construction Documents" means the final designs, drawings, and specifications that are used for construction, and any Change Orders affecting those documents, that describe the technical requirements for the installation of all the materials and equipment pursuant to this Agreement.

"Final Inspection" means the building and safety inspection has been performed by the appropriate Governmental Authorities and the applicable building and safety permit has been approved and issued.

"Financing Parties" means the Authority, and any one or more banks, other financial organization(s) or sources of funds or the designees of any of the foregoing who shall have entered into arrangements with Owner for the financing, including equity and debt, of the Project, and includes any trustee or agent acting on behalf of such Financing Parties.

"Force Majeure" means any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its Affiliates, including, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the affected Party as a result of such Party's failure to comply with a collective bargaining agreement); (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the affected Party; (c) changes in Applicable Law after the date of this Agreement, (d) any failure by a Governmental Authority to issue, reissue or renew, substantially in accordance with the customary procedures and time schedule reasonably expected with respect to the particular Governmental Approval or reissuance or renewal thereof being sought, any Governmental Approvals upon application having been properly and timely made and diligently pursued or any revocation of a Governmental Approval by a Governmental Authority, and any failure by the Local Electric Utility to issue approvals upon application having been properly and timely made and diligently pursued; and (e) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including any Subcontractor or Vendor of Contractor, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the SGFs that is caused by or arises from a mechanical or equipment breakdown or other mishap or events, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of Contractor's supplies or other performance obligations hereunder; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event. For purposes of this definition, "adverse weather conditions" shall mean Weather Delay Days in excess of forty-eight (48) days in the aggregate (the first forty-eight (48) Weather Delay Days have been factored into the Project Schedule and hence shall not constitute Force Majeure).

"Good Solar Industry Practice" means the practices, methods, and acts engaged in or approved by a significant portion of the photovoltaic electric utility industry in the Mid-Atlantic region of the United States that, at a particular time, in the exercise of reasonable professional judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Law, Local Electric Utility requirements, applicable Industry Codes and standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition.

"Governmental Approvals" means licenses, permits, franchises, approvals, authorizations, consents, waivers, rights, exemptions, releases, variances or orders of or issued by, or filings with, or Notice to, any Governmental Authority under Applicable Law.

"Governmental Authority" means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, executive, legislative, administrative, public or statutory instrumentality, authority, body, agency, department, bureau or entity or any arbitrator with authority over the subject matter or Person.

"Guaranteed Substantial Completion Date" means, with respect to each SGF, the date set forth on Attachment VIII as the Guaranteed Substantial Completion Date for such SGF, as such date may be adjusted pursuant to Change Orders.

"Hazardous Material" means (i) pollutants, contaminants, hazardous wastes, toxic substances and Hazardous Materials, as those terms are defined under any Environmental Law, (ii) oil and petroleum products, including constituents thereof or additions thereto, (iii) asbestos and asbestos containing materials, (iv) lead paint (v) polychlorinated biphenyls ("PCBs") or PCB-containing materials, and (vi) each and every hazardous chemical, extremely hazardous chemical, toxic chemical, regulated toxic substance, hazardous substance, extremely hazardous substance, hazardous material, priority pollutant, hazardous air pollutant, pollutant, and contaminant, identified or listed in any Environmental Law or Applicable Law or regulation adopted thereunder.

"Indemnitee" has the meaning set forth in Section 11.6

"Indemnitor" has the meaning set forth in Section 11.6

"Industry Codes" means those codes, specifications and standards of design, engineering, construction, operation, workmanship, equipment, and components specified in the Scope of Work; provided, however, if the relevant code, specification or standard is not so specified or is ambiguous therein, then **"Industry Codes"** with respect thereto means those codes, specifications, standards of design, engineering, construction, workmanship, operation, care and diligence normally practiced by internationally recognized engineering and construction firms in performing services of a similar nature and in accordance with good engineering design practices, Applicable Laws, Governmental Approvals, and other standards established for such Work. For purposes of this Agreement: (i) the engineering and design of the Project must comply with Industry Codes as of the date the Notice to Proceed is given; (ii) Contractor Deliverables must comply with Industry Codes at the time that they are submitted to Owner; and (iii) all other Work performed must comply with Industry Codes at the time that it is performed.

"Inspections" has the meaning set forth in Section 3.16.2.

"Interconnection Certificate" has the meaning set forth in Section 5.6

"Late Completion Notice" has the meaning set forth in Section 7.4.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) two percent (2%) over the Base Rate or (ii) the maximum rate permitted by Applicable Law.

"Lease Agreement" has the meaning set forth in the Recitals of this Agreement.

"License Agreement" has the meaning set forth in the Recitals of this Agreement.

"Lien" means a lien (including a mechanic's lien, materialman's lien, judgment lien or tax lien), charge, security interest, mortgage, pledge or encumbrance.

"Local Electric Utility" means, with respect to each SGF, the regulated entity or entities distributing and providing electricity to the Applicable Local Unit at the Site at which such SGF is located.

"Local Unit" has the meaning set forth in the Recitals of this Agreement.

"Local Unit/Authority Caused Delay" means, except to the extent the following is attributable to fault on the part of Contractor or its Subcontractors, to the proper exercise by the Applicable Local Unit or the Authority of its rights or authority as expressed in this Agreement or to an event of Force Majeure that excuses its Site access obligations: (i) any failure by the Applicable Local Unit to abide by or comply with the Site Access Schedule or (ii) active interference of the Applicable Local Unit or the Authority (or others for whom they may be responsible) that in each case has a material adverse impact on Contractor's performance of the Work.

"Local Unit Price" has the meaning set forth in Section 6.1.

"Local Unit's SGFs" means all of the SGFs to be installed on the Premises licensed by a Local Unit pursuant to its License Agreement.

"Losses" means any and all liabilities (including liabilities arising out of the application of the doctrine of strict liability), obligations, losses, damages, penalties, fines, claims, actions, suits, judgments, costs, expenses and disbursements, (including reasonable legal fees and expenses and reasonable costs of investigation), of whatsoever kind and nature, including those resulting from property damage or loss, bodily injury, or death.

"Major Vendor" means any Vendor supplying either any Principal Equipment Components or other equipment or materials having a contract price that exceeds Two Hundred Thousand Dollars (\$200,000).

"Material Change" has the meaning set forth in Section 8.4.2

"Mechanical Completion" and **"Mechanically Complete"** mean, with respect to a SGF, when (i) Contractor has completed the design, engineering, procurement, and construction activities of this Agreement for such SGF, excluding Interconnection Approval, successful completion of performance testing and the successful completion of Punch List Items and the delivery or performance of any documents or any other items of Work or obligations that are not required to be delivered or performed until, as applicable, Substantial Completion or Final Completion, and (ii) has performed the installation checklist and acceptance tests as set out in Attachment IX.

"Mechanical Completion Certificate" means the Notice, substantially in the form of Attachment XXXI, executed by Owner pursuant to Section 5.4.

"Milestone" means each discrete portion of the Work on the Project for which payment is made pursuant to the Project's Milestone Payment Schedules.

"Milestone Payment" means one of the progress payments identified on the Milestone Payment Schedules.

"Milestone Payment Schedule" means one of the milestone payment schedules generated in accordance with Section 6.4 (based on the master Milestone Payment Schedule set forth in Attachment V-B) with respect to each of the Local Units, according to which Contractor earns progress payments accordance with the provisions of ARTICLE 6 against the Local Unit Price during the Work performed on the Local Unit's SGFs of that Local Unit.

"New Jersey Clean Energy Program" or **"NJCEP"**: see **"Applicable Solar Program"**.

"Notice" means any written Notice required or permitted to be given by one Party to the other Party under this Agreement.

"Notice to Proceed" has the meaning set forth in Section 2.1.

"Owner" has the meaning set forth in the preamble of this Agreement.

"Owner Caused Delay" means, except to the extent the following is attributable to fault on the part of Contractor or its Subcontractors, to the proper exercise by Owner of its rights under this Agreement, to an event of Force Majeure: any delay in performing, or failure to perform, any obligation of Owner under this Agreement that has a material adverse impact on Contractor's performance of the Work.

"Owner Event of Default" has the meaning set forth in Section 15.2.

"Owner-Furnished Engineering" means the Design Drawings and Project Manual.

"Owner-Furnished Materials" means the equipment and/or materials that Owner undertakes to provide to Contractor as set forth in Section 8 of Attachment III-A.

"Owner-Furnished Permits" means the Governmental Approvals that Owner undertakes to provide to Contractor as set forth in Attachment II-B.

"Owner Indemnified Persons" has the meaning set forth in Section 11.2.

"Owner Representative" means the person designated by Owner in accordance with Section 4.1 to act as Contractor's primary point of contact and who shall have the authority to approve Change Orders.

"Owner's Engineer" means Southern Exposure Solar, KMB Engineering, and/or other engineering firm engaged by Owner, and identified to Contractor in writing, to act on Owner's behalf for purposes of reviewing the Work or any portion thereof.

"Party" and **"Parties"** each has the respective meaning set forth in the preamble to this Agreement.

"Person" means any natural person, corporation, partnership, limited liability company, firm, association, trust, unincorporated organization, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Plans and Specifications" means the architectural and engineering drawings and specifications prepared by or on behalf of Contractor describing the SGFs.

"Power Purchase Agreement" or **"PPA"** has the meaning set forth in the Recitals of this Agreement.

"Predicted AC Energy Output" has the meaning set forth in Attachment IV.

"Premises" means that part of the Site on which the SGF will be installed and is described in the Design Drawings.

"Principal Equipment Components" means the solar PV modules and the inverters.

"Program" has the meaning set forth in the Recitals to this Agreement.

"Program Documents" has the meaning set forth in the Recitals to this Agreement.

"Project" means the aggregate of all the SGFs to be designed, supplied and installed by Contractor at the Sites as described in Attachment II-A.

"Project Fund" shall mean shall mean the fund so designated and established by Article V of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF MORRIS GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY," adopted by the Authority on July 20, 2011, as amended and supplemented, which fund holds all funds available for construction of the Projects set forth herein.

"Project Manager" means the Project Manager designated by Contractor pursuant to Section 3.1.

"Project Manual" means the Project Manual MCIA Series 2011 Solar Project #2 dated February 22, 2016, attached hereto as Attachment III-B.

"Project Schedule" means a schedule prepared by Contractor in compliance with Section 5.2 identifying significant construction milestone events for the design and construction of the Project, as such schedule may be adjusted pursuant to Change Orders.

"Proposed Changes" has the meaning set forth in Section 8.3.

"Proprietary Interest" means any patent, patent pending, trademark, trade secret, proprietary information, know-how, copyright, un-patented invention or any other intellectual property rights.

"Punch List" means the list of Work submitted by Contractor and approved by Owner that remains to be completed after Substantial Completion of each SGF, which shall be only those items of Work (a) that do not preclude the SGF or a system of the SGF from operating or functioning as the SGF or such system was designed and intended to operate, (b) the absence of which does not create any occupational safety hazard or hazard to the Work, and (c) the completion of which will not unreasonably interrupt or interfere with the operation of the SGF. **"Punch List Items"** means the items of Work included on the Punch List.

"Recovery Act" means the American Recovery and Reinvestment Act of 2009, Public Law

"Related Dispute" has the meaning set forth in Section 19.2.8.

"Scope of Work" means the scope of work described in Attachment III-A, Attachment III-B and Attachment VI as expanded, supplemented and amended in a Change Order by the Plans and Specifications prepared by Contractor and approved by Owner and the Applicable Local Unit with respect to such Local Unit's SGFs.

"Section 1603 Cash Grant" has the meaning set forth in Section 3.18.2.

"SGF" has the meaning set forth in the Recitals to this Agreement.

"SGF Production Test" means, with respect to each SGF, the test performed in accordance with the requirements of the Scope of Work and Attachment IV to determine compliance of the SGF with its Predicted AC Energy Output and the other performance criteria for such SGF.

"Site" means one of the real properties described in the Design Drawings on the Premises of which a SGF will be constructed.

"Site Access Schedule" means the schedule developed by Contractor, consistent with the provisions and potential limitations as set forth in Attachment VII, indicating the period(s) when each Site and its Premises will be made available to Contractor and its Subcontractors for performance of the Work at that Site.

"Software" means a computer program or compilation of data that is fixed in any tangible medium of expression, or any storage medium from which the program may be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device, and shall include any of Contractor's proprietary operating Software, provided for the ordinary operation of the Project, any optional Software to enhance the operation of the Project, as well as any upgrades or revisions of this material Contractor provides in fulfillment of a specific written commitment or otherwise.

"SREC" means a solar renewable energy certificate under the Applicable Solar Program.

"Subcontractor" means any party with whom Contractor enters into an arrangement for the performance of the Work or for the supply of labor or services to Contractor in connection with the Work, including parties at any tier with whom any Subcontractor has further subcontracted any part of the Work, and the legal or personal representatives, successors, and assigns of such party. Vendors shall not be considered Subcontractors unless, and only to the extent, they also provide labor or services on the Site in connection with the Work.

"Substantial Completion" and **"Substantially Complete"** mean, with respect each SGF, when (i) the entire Work for such SGF is complete (except for the Punch List Items agreed to by the Parties in accordance with Section 5.7 and delivery of the documents that may be delivered after Substantial Completion, as contemplated in Section 3.2.6) in strict accordance with this Agreement and the Interconnection Certificate has been executed by the Parties so that Owner is able to utilize such SGF to generate electricity for sale pursuant to the PPA and to accrue SRECs in accordance with the Applicable Solar Program (the meters necessary for such sale and accrual having been duly installed); and (ii)

Contractor has successfully completed the SGF Production Tests for such SGF and demonstrated achievement of the Predicted AC Energy Output for such SGF in accordance with Section 7.6 and Attachment IV.

"Substantial Completion Certificate" means the Notice, substantially in the form of Attachment XXX, executed by Owner and Authority pursuant to Section 5.7.

"Substantial Completion Date" means the date on which all of the requirements of Substantial Completion were met.

"Taxes" means all taxes, duties, fees, or other charges of any nature (including ad valorem, consumption, excise, franchise, gross receipts, import, license-property, sales, stamp, storage, transfer, turnover, sales, services, use, or value-added taxes, and any and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto), imposed by any Governmental Authority due to the execution of this Agreement or the performance of, or payment for, the Work hereunder. "Taxes" does not include property taxes on the real or personal property of Owner, including the Work after transfer of title thereto passes from Contractor as provided hereunder.

"Utility Operation Approval" shall have the meaning set forth in Section 5.5.

"Vendor" means any supplier of equipment or materials constituting part of the Work.

"Warehouse" means CDS, located at 1200 Flemington Whitehouse Road, Flemington, New Jersey 08822.

"Weather Delay Day" means a day during which Work is scheduled but cannot be performed safely for at least one-half of the scheduled work shift due to (i) sustained wind speeds exceeding the limit specified by applicable OSHA regulations, (ii) lightning storms, or (iii) rainfall or snowfall that substantially exceeds the normal amount for the time of year. The existence of Weather Delay Days shall be determined in half-day increments.

"Work" means all materials, equipment and labor provided or to be provided by Contractor or its Subcontractor(s) for the Project pursuant to this Agreement, including engineering and design where the same is provided or to be provided by Contractor, the supply and installation all photovoltaic solar equipment and other materials and equipment, construction and erection, installation, training, start-up (including calibration, inspection and start-up operation), testing and start-up and testing operation with respect to the Project. Work includes, with the exception of Owner-Furnished Engineering, Owner-Furnished Materials and Owner-Furnished Permits: (i) all labor, materials, equipment, services, and any other items to be used by Contractor or its Subcontractors in the prosecution of this Agreement, wherever the same are being engineered, designed, procured, manufactured, delivered, constructed, installed, trained, erected, tested, started-up or operated during start-up and testing and whether the same are on or are not at the Site; and (ii) all related items which would be required of a turnkey contractor of projects of comparable size and design of the Project that are necessary for the Project to operate in accordance with the requirements of the Utility, all Applicable Laws, and all Governmental Approvals. Contractor shall be responsible for providing any and all additional items and services which are not expressly included by the terms of this Agreement and which are reasonably required for construction and start-up of the Project.

"Work Warranties" has the meaning set forth in Section 13.1.

"Work Warranty Period" has the meaning set forth in Section 13.2.

ATTACHMENT II-A

LIST OF LOCAL UNITS AND SGFs

| | Local Unit | Site | SGF Type | Approximate Size (DC) |
|---|---------------------|--|-----------------|------------------------------|
| 1 | Township of Morris | Morris County OTA | Ground | 448.97 kW |
| 2 | Morris County | Morris County Library | Roof | 165.00 kW |
| | | | Canopy | 289.52 kW |
| 3 | Morris County | Morris County Public Safety Training Academy | Roof | 120.70 kW |
| | | | Canopy | 246.95 kW |
| 4 | Washington Twp. BoE | Benedict A. Cucinella School | Roof | 184.69 kW |
| 5 | Mt. Olive BoE | Tinc School | Ground | 229.27 kW |
| 6 | Washington Twp. BoE | Long Valley Middle School | Ground | 407.33 kW |
| 7 | Mt. Olive BoE | Sandshore Elementary School | Ground | 207.57 kW |
| 8 | Chatham BoE | Chatham High School | Roof | 174.90 kW |
| 9 | Chester Township | Chester Municipal Building | Ground | 167.42 kW |

ATTACHMENT II-B

OWNER-FURNISHED PERMITS

The following contains a list of Owner-Furnished Permits applied for and received. With respect to all Owner-Furnished Permits received, Contractor will be responsible for updating any existing permits not yet expired, if any, transferring such permits into the name of Contractor and/or re-applying for such permit if such permit has expired. With respect to all Owner-Furnished Permits applied for but not yet received by Owner, Contractor will be responsible for all actions and costs associated with obtaining such permits not completed or paid prior to the effective date of the Agreement. Contractor will also be responsible to obtain any additional permits not listed below and required by applicable law.

- A: Applied For.
 R: Received.
 : Not applicable

| Local Unit | Site | Issued for Bid | DOE Approval Letter | DOE Approved Drawings | Local Building Permits | Interconnection Approval | MCSCD Certificate | 5G3 (Construct Activity Stormwater GP) | SP3 Report (Stormwater Pollution Prevention Plan) | Storm Water Construction Authorize | Planning Board Site Plan Approval | LOI | Morris County Planning Board Subdivision Report | MOPB Solar Project Resolution | DOE Exemption Notice | Highlands Exemption | County Exemption Letter |
|-------------------------------------|---|----------------|---------------------|-----------------------|------------------------|--------------------------|-------------------|--|---|------------------------------------|-----------------------------------|-----|---|-------------------------------|----------------------|---------------------|-------------------------|
| Morris County | Office of Temporary Assistance | 4/30/14 | | | A | A | R | | | | | | | | | | |
| Morris County | Morris County Library | 2/24/16 | | | A | A | | | | | | | | | | | |
| | | 2/24/16 | | | A | A | | | | | | | | | | | |
| Morris County | Public Safety Training Academy | 2/24/16 | | | A | A | | | | | | | | | | | |
| | | 2/24/16 | | | A | A | | | | | | | | | | | |
| Washington Township School District | Benedict A. Cucinella Elementary School | 5/7/14 | R | R | R | A | | | | | | | | | | | |
| Mt. Olive Township School District | Tinc Road School | 3/12/13 | | | A | R | R | R | R | | R | R | | | R | | R |
| Washington Township School District | Long Valley Middle School | 4/29/13 | R | R | A | R | R | | R | R | R | R | R | | | | |

| | | | | | | | | | | | | | | | | | | | |
|------------------------------------|---|---------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | County Exemption Letter | | | | | | | | | | | | | | | | | | |
| | Highlands Exemption | R | | | | | | | | | | | | | | | | | |
| | DOE Exemption Notice | R | | | | | | | | | | | | | | | | | |
| | MOPB Solar Project Resolution | R | | | | | | | | | | | | | | | | | |
| | Morris County Planning Board Subdivision Report | | | | | | | | | | | | | | | | | | |
| | LOI | R | | | | | | | | | | | | | | | | | |
| | Planning Board Site Plan Approval | R | | | | | | | | | | | | | | | | | |
| | Storm Water Construction Authorize | | | | | | | | | | | | | | | | | | |
| | SP3 Report (Stormwater Pollution Prevention Plan) | | | | | | | | | | | | | | | | | | |
| | 5G3 (Construct Activity Stormwater GP) | R | | | | | | | | | | | | | | | | | |
| | MCSCD Certificate | R | | | | | | | | | | | | | | | | | |
| | Interconnection Approval | R | | | | | | | | | | | | | | | | | |
| | Local Building Permits | A | | | | | | | | | | | | | | | | | |
| | DOE Approved Drawings | | | | | | | | | | | | | | | | | | |
| | DOE Approval Letter | | | | | | | | | | | | | | | | | | |
| | Issued for Bid | 3/12/13 | | | | | | | | | | | | | | | | | |
| | Site | | | | | | | | | | | | | | | | | | |
| | Local Unit | | | | | | | | | | | | | | | | | | |
| Mt. Olive Township School District | Sandshore Elementary School | | | | | | | | | | | | | | | | | | |
| School District of the Chathams | Chatham High School | 2/24/16 | | | | | | | | | | | | | | | | | |
| Borough of Chester | Municipal Building | 5/7/14 | | | | | | | | | | | | | | | | | |

ATTACHMENT III-A

SCOPE OF WORK

This Scope of Work describes the Work that is to be provided or performed by Contractor. In case of any conflict between terms set forth in this Attachment III-A and the terms set forth in Attachment III-B or Attachment VI, the terms set forth in Attachment III-B and Attachment VI shall prevail.

Scope of Work – Contents

| | | |
|-----|---|----|
| 1) | <u>General Work Requirements</u> | 3 |
| 2) | <u>Roof Protection and Warranties [Roof Installations Only]</u> | 5 |
| 3) | <u>Site Investigation</u> | 5 |
| 4) | <u>Work Plans and Coordination</u> | 5 |
| 5) | <u>Licenses and Prevailing Wage</u> | 7 |
| 6) | <u>General Construction Scope Summary</u> | 7 |
| 7) | <u>[Reserved]</u> | 8 |
| 8) | <u>Owner-Furnished Materials</u> | 8 |
| 9) | <u>[Reserved]</u> | 9 |
| 10) | <u>General Materials Requirements</u> | 9 |
| 11) | <u>Racking Systems</u> | 9 |
| 12) | <u>Wiring and Cabling</u> | 9 |
| 13) | <u>Conduits and Raceways</u> | 10 |
| 14) | <u>Shading and Shade Avoidance</u> | 11 |
| 15) | <u>Equipment Pads</u> | 11 |
| 16) | <u>Fencing</u> | 12 |
| 17) | <u>Module Fasteners</u> | 13 |
| 18) | <u>Data Acquisition System (“DAS”) and kWh Meters</u> | 13 |
| 19) | <u>Combiner Boxes</u> | 15 |
| 20) | <u>Inverter Isolation Disconnect Switches</u> | 16 |
| 21) | <u>Signage</u> | 16 |
| 22) | <u>Landscaping, Site Accessibility, and Landscape Maintenance</u> | 17 |
| 23) | <u>Insulation Testing (“Megger” Testing)</u> | 18 |
| 24) | <u>System Commissioning</u> | 19 |
| 25) | <u>Mechanical Completion, SGF Inspection and Performance Test</u> | 20 |
| 26) | <u>SGF Production Test</u> | 20 |

| | | |
|-----|---|----|
| 27) | <u>Substantial Completion, Final Completion and System Closeout</u> | 21 |
| 28) | <u>Additional Technical Specifications</u> | 21 |
| 29) | <u>Excavation, Trenching & Backfilling for Utility Systems</u> | 21 |
| 30) | <u>Paving and Surfacing Improvements</u> | 21 |
| 31) | <u>Basic Electrical Materials and Methods</u> | 21 |
| 32) | <u>Building Wire and Cable</u> | 21 |
| 33) | <u>Raceway and Boxes</u> | 21 |

1) General Work Requirements

1. Contractor agrees to observe and comply with all applicable local, state and federal statutes, laws, ordinances, regulations, rules and codes applicable to the Work.

2. Contractor shall comply with all design, construction, operating, logistical and access specifications and requirements of the Applicable Local Unit, the Authority, the County, and all other Governmental Authorities.

3. Contractor shall comply with all applicable design and construction permits, including (where required) permits from multiple municipalities or other Governmental Authorities, including the New Jersey Department of Consumer Affairs (DCA), and all other Governmental Approvals.

4. As a minimum, the Work shall fully comply with the following codes, standards and specifications:

- a. All State and Local construction codes and requirements
- b. NFPA 70 (2011 edition or later, as applicable) (National Electrical Code)
- c. UL 1703 (PV Modules)
- d. UL 1741 (Inverters), except where specific Local Electric Utility interconnection requirements may conflict with UL1741 specification elements. In that event, and for those specific elements only, the Local Electric Utility requirements shall take precedence and shall be met.
- e. IEEE 1547 series, including applicable elements of un-ratified IEEE1547.8 that may be required by the Local Electric Utility for interconnection approval.
- f. International Building Code (IBC), including ASCE 7 (2005 edition or later, as applicable)
- g. OSHA 29 CFR Part 1926
- h. All equipment and materials shall be UL listed
- i. All major PV components shall be listed and approved by the CEC
- j. Local Electric Utility connection standards and procedures
- k. NJBPU Office of Clean Energy program inspection requirements

5. Contractor shall be responsible for permitting, procurement, and construction of the SGFs to the extent defined by this Agreement.

6. Contractor shall provide a secure storage, laydown and construction area, including storage for major components including; SGF modules, racking, and inverters, and to be the base for the Contractor management team.

7. Contractor shall provide temporary construction access paths as necessary to provide access to its Work locations.

8. Contractor shall provide temporary fencing as necessary to protect and prevent unauthorized access to all storage, laydown and construction areas. Contractor shall take proper care to protect all finished work by substantial covering until accepted by the Owner and Authority. To ensure public safety, Contractor shall provide barricading, cones, safety tape, etc., for all areas, which have work in progress.

9. Contractor's representative shall be onsite for all equipment or material deliveries. Owner's, Local Unit's or County's representatives will not accept, unload or store project materials delivered to the site, and will refuse such deliveries.

10. Contractor's management team shall be on site on a regular basis, which shall be no less than twice weekly, at any time that any Subcontractor is performing Work.

11. Contractor shall ensure that installing workers and subcontractors (if used) are familiar with the Owner's installation requirements and with manufacturer's installation guidelines.

12. Contractor shall be responsible for mobilizing and demobilizing all equipment.

13. Contractor shall adhere to all procedures, limitations, and cautions for the products in the manufacturer's current printed literature.

14. All work shall be done in a neat and workmanlike manner and shall comply with all local, state and federal codes.

15. Contractor shall provide all direct and indirect labor, Subcontractors, and personnel to fulfill the general conditions Scope of Work per the Agreement.

16. Contractor shall provide, or shall require its Subcontractor(s) to provide portable toilets and dumpsters, and to implement and ensure compliance with a daily cleanup regimen, and secure trash storage, and regular trash removal. Site should be left "broom clean" after work is complete at the end of each work day.

17. Contractor shall leave finished work and work area in a neat, clean condition with no evidence of spillover, construction dust, and/or trash onto adjacent areas.

18. Any roof or equipment ballasting that is removed must be replaced in kind.

19. All walls, ceilings, etc. internal to the building damaged/alterd by this work shall be replaced/repared to match the existing surrounding surfaces in their existing condition prior to the work performed after all installations are complete.

20. Contractor is fully responsible for all of the Work with respect to each SGF (subject to the variations noted in this Scope of Work for the particular type of SGF—roof-top, carport canopy or ground- mounted—involved) and, as applicable, to the Project as a whole.

21. Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.

22. Responsibility to protect and prevent damage to property during removal, relocation or replacement actions rests solely with the Contractor. The Contractor shall restore to its original condition without extra costs to the Owner or Local Unit, property that is damaged due to the acts or omissions of any employees, agents, or subcontractors of the Contractor. Such repairs shall meet the requirements of the Authority and its Local Units.

2) Roof Protection and Warranties [Roof Installations Only]

23. Contractor shall maintain the integrity of the roof surface during delivery, handling and installation, including laying out mats, insulation/plywood layers, etc.

24. Roof-compatible isolation slip-sheets shall be provided under every device or equipment support that would otherwise be in contact with the roof surface.

25. Contractor to provide a written certification from all parties responsible for the roof warranties that the PV systems, as installed, have no adverse effect on roof warranties or the Contractor must provide substitute roof warranties of equal value.

26. Contractor to deliver PV modules and system components to their final locations in protective wrappings, containers, and other protection that will exclude dirt and moisture and prevent damage from construction operations. Remove protection only after equipment is safe from such hazards.

27. Contractor shall observe the following precautions during delivery and handling:

- i. Modules may be delivered in containers that cannot be easily supported by the roof. Contractor shall insure proper placement of point loads on the roof for equipment staging and installation.
- ii. Contractor shall maintain the integrity of the roof surface during delivery, handling and installation, including laying out mats, insulation/plywood layers, etc. Any damage to the roof surface shall be identified and repaired by the Contractor in compliance with existing roof warranties at their sole expense.

3) Site Investigation

28. No later than two weeks after Notice to Proceed, and prior to developing its Work Plans, Contractor shall meet and consult with the SGF's Local Unit representatives and perform a detailed inspection and investigation of the Site and other areas impacted by, or having an impact upon, the execution of this project and the installation and operation of the SGF as reflected in the Owner-Furnished Engineering.

29. The goal of the Site Investigation shall be to develop an accurate execution plan, in compliance with this Agreement and the milestone dates contained within Attachment VIII.

4) Work Plans and Coordination

30. Following the Site Investigation, Contractor shall provide the following for review and approval by the Owner, Authority Construction Monitor and the Local Unit representatives;

- a. A Health & Safety plan and observe all County safety practices required for performing construction work of this type including all applicable OSHA standards.
- b. A staging plan for each site which shall be developed by the Contractor in consultation with the Local Unit and the Authority Construction Monitor. This plan shall identify materials storage, laydown and construction areas, and vehicle access routes, and shall take into account any restrictions or considerations that may be necessary to accommodate normal site operations.
- c. A Crane / Lift Plan for rooftop sites and other sites where the use of a crane is anticipated.
- d. A rooftop loading plan for rooftop sites, which plan shall be designed to prevent roof structure overload.
- e. A project schedule showing the timing of the major elements of the Work.

31. All installations of equipment & raceways shall be coordinated and approved by the Local Unit representatives prior to the start of any work. Contractor must contact the Owner and County representative a minimum of three (3) days prior to the start of any installations to perform a walk-through of all proposed routings and locations.

32. Contractor shall coordinate all construction activities with the Local Unit and through the County's representative.

33. Contractor shall coordinate, through the County's representatives, all interruptions of building services or shutdown of building systems and obtain, through the County's representatives, prior written approval of proposed schedule of interruptions or shut-downs.

34. If, in the County's opinion, any such interruption or shut-down will affect the life safety of building occupants, Contractor shall schedule interruption or shut-down at a time acceptable to the County, at times when classes are not in session, or after normal working hours.

35. Contractor shall insure all equipment, materials, fittings, and similar items required are available before interrupting or shutting-down existing systems.

36. Contractor shall notify all inspectors and representatives of utility companies, municipal officials, County representatives and similar parties by letter in advance of required changeovers, tie-ins, removals, and similar operations.

37. If the Contractor discovers Hazardous Materials during the inspection or construction of the System then it shall notify the County and cease further work until permitted by the County.

38. Contractor shall generally have access to the site and buildings during the day, in coordination with the County's representative and the Local Unit's operational needs.

39. The Local Units will provide access to the Company to the buildings and roofs, as applicable, upon reasonable notice by the Company.

40. Interruption of electrical power to other circuits shall be minimized and shall be scheduled in advance at a time that will minimize impacts on the occupants (if the interruptions are significant, permitted times may be restricted to night time only). Installation crews shall minimize disturbance (due to noise, dust, odors, moving of equipment) of building occupants and activities.

5) Licenses and Prevailing Wage

41. Contractor and workers used by the contractor must be licensed and bonded to perform these services in the State of New Jersey.

42. Contractor must comply with the provisions of the Department of Labor Prevailing Wage standards.

43. Any professional services (architects, engineers, etc.) utilized by the contractor must be licensed in the State of New Jersey.

6) General Construction Scope Summary

44. In addition to all other items detailed within this Attachment III, Contractor is responsible for all of the following:

- a. Supply of site preparation, grading, tree and vegetation removal, and landscaping as may be necessary on a SGF-by-SGF basis (except as specifically noted)
- b. Off-loading, storage and installation of all materials at site. Owner-Furnished Materials will be delivered to site by Owner in accordance with a schedule to be agreed between Owner and Contractor. Contractor shall off-load the Owner-Furnished materials at the site.
- c. Loading, shipping and transportation of all materials (except Owner-Furnished Materials prior to their delivery to site).
- d. For parking canopy SGF's, the removal of existing parking lot light-poles, and the safe capping of all light-pole post base connection points (structural, mechanical and electrical connections). Light-pole removal shall include the removal of light poles that would cause solar canopy shading if they were to otherwise remain (even if such light poles are not within the footprint of the new canopies), and their replacement with canopy-mounted lighting and/or lower or relocated parking lot lighting poles or fixtures that will not cause canopy shading.
- e. The removal of shading trees and other structures in accordance with the Owner-Furnished Engineering designs (except as specifically noted).
- f. Supply and installation of 8ft minimum height galvanized and vinyl-coated chain-link security fencing around the solar PV array perimeter(s) of ground-mounted systems, with an array fence setback of no less than 15 feet, and with a greater setback where necessary to allow for vehicular perimeter access or to prevent shading of the array by the fence.
- g. Supply and installation of all signs, labels and tags.
- h. Supply and installation of inverters in accordance with the Owner-Furnished designs.
- i. Supply and installation of interconnection control and interface capabilities and devices as may be required and specified by the Local Electric Utility on an SGF-by-SGF basis.
- j. Performance of Interconnections to the Local Electric Utility meters and systems (if any) in accordance with the Local Electric Utility's requirements, as well as to ensure secondary or net metering.
- k. Supply and performance of project management, scheduling, oversight, quality control and assurance procedures.

- l. Coordination of all activities with the appropriate Applicable Local Unit personnel so as not to adversely affect the regular use of, and access to, the Site or any improvements thereof owned or leased by the Applicable Local Unit ("**Local Unit Facilities**"). This may involve working on weekends or outside of normal business hours.
- m. Conduct of final commissioning, testing and hand-over, including coordination meetings with the Applicable Local Unit, Owner, and Contractor at job start (for planning purposes), job completion, and as required during project duration.
- n. Providing legible, accurate red-line drawings depicting the actual as-built condition and noting any deviations from the Owner-Furnished Engineering drawings.

7) **[Reserved]**

8) **Owner-Furnished Materials**

45. The materials listed in Table 1 below will be provided by Owner and made available to Contractor for their installation and commissioning. These are the Owner-Furnished Materials. Final quantity supplied by Owner will be determined by and based on the final engineering design and Governmental Approvals. In no event shall the quantity supplied include replacements required due to damage or loss caused by Contractor or Subcontractors.

Table 1 – Owner Furnished Materials List

| | Local Unit | Site | SGF Type | Equipment | Part Number or Type | Quantity |
|---|---------------------|--|-----------------|------------------|----------------------------|-----------------|
| 1 | Township of Morris | Morris County OTA | Ground | Solar Panels | Canadian Solar CS6X-290 | 693 |
| 2 | Morris County | Morris County Library | Roof | Solar Panels | Canadian Solar CS6X-290 | 275 |
| | | | Canopy | Solar Panels | Canadian Solar CS6X-290 | 528 |
| 3 | Morris County | Morris County Public Safety Training Academy | Roof | Solar Panels | Canadian Solar CS6X-290 | 110 |
| | | | Canopy | Solar Panels | Canadian Solar CS6X-290 | 495 |
| 4 | Washington Twp. BoE | Benedict A. Cucinella School | Roof | Solar Panels | Canadian Solar CS6X-290 | 143 |
| 5 | Mt. Olive BoE | Tinc School | Ground | Solar Panels | Canadian Solar CS6X-290 | 363 |
| 6 | Washington Twp. BoE | Long Valley Middle School | Ground | Solar Panels | Canadian Solar CS6X-290 | 605 |
| 7 | Mt. Olive BoE | Sandshore Elementary School | Ground | Solar Panels | Canadian Solar CS6X-290 | 363 |
| 8 | Chatham BoE | Chatham High School | Roof | Solar Panels | Canadian Solar CS6X-290 | 121 |

| | Local Unit | Site | SGF Type | Equipment | Part Number or Type | Quantity |
|---|------------------|----------------------------|----------|--------------|-------------------------|----------|
| 9 | Chester Township | Chester Municipal Building | Ground | Solar Panels | Canadian Solar CS6X-290 | 154 |

9) **[Reserved]**

10) **General Materials Requirements**

46. All materials and devices shall meet the following requirements as a minimum:

- a. They shall comply with all applicable and referenced standards and specifications
- b. They shall be fully compatible with the intended installation location and service application.
- c. Only corrosion-resistant fasteners shall be used.
- d. Equipment and device enclosures that are mounted in a horizontal configuration, or whose mounting location may reasonably be expected to expose them to high levels of windblown dust or to directed water, and all combiner boxes, shall be NEMA 4 rated as a minimum.
- e. Equipment and device enclosures whose mounting location, orientation or type does not correspond with the details described in Section 18(c) above may be NEMA 3R
- f. Equipment and device enclosures shall be manufactured from powder-coated steel, galvanized steel or stainless steel. Polycarbonate, GRP, and other plastic or non-metallic enclosures are not permissible.
- g. Equipment and device enclosures shall be installed such that all wire, cable or conduit entryways, and all mounting fasteners, are located on the bottom, side or rear of the enclosure or device. Under no circumstances may holes be made at the top of any enclosure or in any location where water may lie or collect. Wire, cable and conduit may enter the bottom, side or rear of enclosures or devices only.
- h. Equipment and device enclosures shall be installed such that wire, cable or conduit entryways cannot, under any circumstance, collect water (rainwater, condensation or meltwater) and drain such water into the equipment or device. Conduit that enters the equipment or device shall be configured such that any water present within that conduit will drain away from (not towards) the equipment entrance and will not enter the equipment or device. Particular attention shall be paid to combiner box entrances in this regard.

11) **Racking Systems**

47. Contractor shall supply and install the solar PV module support systems ("**Racking Systems**") in accordance with the Owner-Furnished Engineering designs.

12) **Wiring and Cabling**

48. Wiring and cabling shall be in specific accordance with the provisions of the 2011 edition (or later as applicable) of NFPA 70 (the National Electrical Code). All outdoor wiring materials shall be wet-rated, flame retardant, sunlight-resistant and rated for continuous use at temperatures up to 90°C. All wiring shall be labeled by the manufacturer with the specific rating classification.

49. Source Wiring runs (wiring between modules and combiner boxes), combiner box home-runs to DC disconnects, and all other wiring runs between devices and major items of equipment, and all wiring

runs between other system nodes (DC disconnects, inverters, AC disconnects, utility interconnection points, and monitoring system instruments and devices) shall be continuous. Intermediate splicing is forbidden.

50. The following specific wiring materials and rating classifications shall be used:

- a. Copper conductors shall be used throughout on the DC system. Aluminum conductors are not permissible for any DC conductor.
- b. While copper conductors are strongly preferred, aluminum conductors may be utilized for AC interconnection conductors provided that all of the following conditions apply:
 - (i) The use of aluminum conductors does not result in an unacceptably high voltage drop in the AC system (acceptable voltage drop being less than 2% total between the inverter AC terminations and the point of interconnection to the existing electrical service).
 - (ii) Every aluminum conductor termination is made by a medium-voltage certified master terminator (regardless of whether the termination is for medium voltage or low voltage).
 - (iii) That provision is made for every aluminum conductor termination to be readily accessible for infra-red inspection, regardless of location, at any time (including during post-construction System maintenance and inspection).
 - (iv) That every aluminum conductor termination is subjected to infra-red inspection at System Commissioning.
- c. Source Wiring (wiring from modules to combiner boxes) and String Wiring (wiring between modules) shall be rated with both USE-2 and RHW-2 classifications.

All other DC and AC wiring operating at 600V or less ("Low Voltage Wiring") shall be rated with THWN-2 classification

13) Conduits and Raceways

51. Where available, and subject to Owner's specific approval, the Racking System's wire management or raceway system shall be used for Source Wiring and String Wiring management.

52. In the event that the Racking System cannot or does not provide a wire management or raceway system, or where Owner does not approve the use of that system, and when an acceptable alternate enclosed wire management or raceway system is not commercially available or reasonably practicable, and on a case-by-case basis only to be approved by Owner, then Source Wiring and String Wiring management shall be securely fastened using UV rated clips, wraps, and supports as necessary to adequately support wire and prevent damage from impact, snagging, environmental exposure, or chafing.

53. With the exceptions of wiring contained in a Racking System raceway, all above-ground wiring shall be contained within an appropriate, non-flexible, corrosion-proof, metallic raceway system. Electrical Metallic Tubing (EMT), Intermediate Metal Conduit (IMC), Rigid Metallic Conduit (RMC) and Rigid Galvanized Steel (RGS) are acceptable raceway materials.

54. All conduit which is located at or below 3 feet of the local grade level, or which is potentially exposed to damage, shall be RGS.

55. All above-ground raceways shall be metallic. Underground conduits may be rigid PVC where allowed by code.

56. Direct-burial wiring is permissible where allowed by code and subject to Owner's, Authority's and the Applicable Local Unit's approval and on an SGF-by-SGF basis. For the avoidance of doubt however, all underground wiring stub-ups that do not directly and immediately enter an appropriately-rated equipment enclosure that provides full supplementary protection to that wiring stub-up shall be in rigid metallic conduit which shall extend to a height of at least 3 feet above local grade level.

57. All wiring and raceways shall be protected from potential damage and decay and, in areas where wiring runs may otherwise be accessible, adequate measures shall be taken to protect such wiring from damage due to vandalism, wildlife, accident or other unintentional damage.

58. For ground-mounted and carport systems (except ballasted (non-penetrating) ground-mounted systems), wiring runs between module racking rows or separate carport structures, and from module racking rows or carport structures to other remote equipment and devices, and from and between equipment pads, shall all be run underground. Under no circumstances shall above-ground conduits or raceways be used between module racking rows, or from module rows to inverter/transformer pads, or between inverter/transformer pads and the point of connection with the Local Electric Utility. For ground-mounted systems, there shall be no above-ground wiring or any other above-ground obstructions in any racking row space, nor in any vehicle or maintenance access path, nor within the fenceline perimeter setback.

14) Shading and Shade Avoidance

59. No SGF device shall be mounted such that it casts a shadow on any module during the hours of 9am through 3pm.

60. No module shall be installed in a location where it is placed in whole or partial shade during the operationally-productive hours of 9am through 3pm.

61. Operationally productive shade avoidance zones shall be based upon the relative height difference, h , between each shade source and each module. The boundary of the shade avoidance zone shall be delineated by boundary nodes that are calculated as follows:

- i. Node 1 - An avoidance zone distance of $2.5xh$ shall be maintained due north of the shade source;
- ii. Nodes 2 and 3 - An avoidance zone distance of $4xh$ shall be maintained to the north-east and north-west of the shade source;
- iii. Nodes 4 and 5 - An avoidance zone distance of $1xh$ shall be maintained to the east and west of the shade source.

The shade avoidance zone shall be the area enclosed by the boundary connecting the shade source and these five (5) shade boundary nodes.

15) Equipment Pads

62. Unless otherwise shown in the Owner-Furnished Engineering, inverters, transformers, disconnection devices, and other switchgear and/or metering or monitoring devices shall be mounted on concrete equipment pads whose depth and design shall be compatible with local soil bearing strength and frost-depth conditions. Equipment pads shall be sized such that personnel involved with the operation, maintenance or repair of equipment that is located on those pads shall be able to work while standing on the pads themselves. Gravel is not an acceptable surface for equipment pad locations.

63. Equipment pads shall be designed and sized such that safe access and egress is provided even when equipment doors are open for maintenance.

64. Equipment Pads shall be protected by concrete-filled steel bollards on all sides that are exposed to potential vehicular traffic (including fork trucks). Bollards shall be spaced at a distance of no greater than 4 feet apart, and shall be buried to a depth of no less than 4 feet below local grade.

65. At each inverter pad, and unless a permanent 120V power supply and convenience outlet(s) are otherwise installed by the Contractor and made available at the inverter pad from a dedicated and new circuit breaker that is installed in an existing load center within the facility, the Contractor shall supply and install a 240Vac/120Vac single phase Load Center with at least 8 circuit breakers, a 20A main breaker, and at least 5kVA capacity. Power to the load center(s) shall be available at all times, including when any inverter is isolated by its associated external AC disconnect switch. The only circumstance when it is permissible for power to the load center(s) to be lost is in the event that the interconnection disconnect switch, located at the utility interconnection point, is opened or has been de-energized due to external events, or if there is de-energization of the interconnection point for some other external reason. All load center breakers shall be clearly marked to indicate the equipment that is fed by each breaker.

66. All inverter pads shall be provided with at least one duplex GFI-protected 120Vac / 15A convenience outlet fed from the 240Vac/120Vac load center or from the new and dedicated circuit breaker located in an existing load center within the facility.

67. For ground-mounted systems, with the exception of any equipment that must necessarily be located at the point of connection to the Local Electric Utility, all equipment and equipment pads shall be located within the fenced SGF site boundary.

68. Any and all interconnection equipment, switchgear and/or metering or monitoring equipment that is necessarily located at or adjacent to the point of interconnection shall be installed either within an existing and normally-locked electrical room or shall be installed on a dedicated concrete pad that is enclosed by a minimum 8ft high no-climb perimeter security fence whose materials and installation shall be in compliance with Section 7 below.

16) Fencing

69. For ground-mounted systems, a perimeter security fencing system shall be provided around the entire SGF array site. All entrances shall have locking gates, and at least one entrance shall be sized and designed as suitable for vehicular access.

70. Equipment Pad and ground-mounted system perimeter security fencing shall have the following features as a minimum, and additional features may be required on an SGF-by-SGF basis:

- Minimum fence panel height above grade: 8ft
- Materials: Galvanized steel throughout
- Fence mesh fabric: 1.25" x 9 AWG. Black vinyl coated unless An alternate color or coating is specifically required by the Local Unit.
- Corner posts: 2.5" Schedule 40 pipe (2.875" OD). SS40 may be used with an appropriate diameter up-size.

- Terminal posts: 2.5" Schedule 40 pipe (2.875" OD). SS40 may be used with an appropriate diameter up-size.
- Line posts: 2" Schedule 40 pipe (2.375" OD). SS40 may be used with an appropriate diameter up-size.

Corner and terminal posts shall be set in concrete to a depth of at least 4ft. Line posts shall be buried to a suitable depth as determined by geotechnical studies.

17) Module Fasteners

71. For ground-mounted systems, every module shall be fastened to the racking system with at least one fastener requiring a non-commercially available tool for removal (and end-of-row modules shall be secured with at least two such fasteners, one on each side of the module). The Penta-Nut and Penta-Plus nut and bolt fastener system manufactured and supplied by Bryce Fasteners is the approved device.

72. Where stainless steel is used for both male and female threads on a fastener system, an appropriate thread lubricant shall be used to prevent galling and seizing.

18) Data Acquisition System ("DAS") and kWh Meters

73. The Data Acquisition System shall be the Sunlight General Capital variant of the Deck Monitoring system.

74. For Sites containing multiple discrete SGF's, multiple Data Acquisition Systems may be required in accordance with the Owner-Furnished Engineering designs. Further, for sites with arrays at multiple tilts and/or azimuths, a separate weather station shall be provided for each tilt or azimuth in accordance with the Owner-Furnished Engineering designs.

75. Each DAS shall include a datalogger ("All-in-One" box), kWh meter (billing meter), and environmental monitoring instrumentation as follows:

- i. A plane-of-array pyranometer.
- ii. A horizontal pyranometer
- iii. An ambient temperature sensor
- iv. A back-of-module temperature sensor

Pyranometers shall be manufactured by Hukseflux, and shall be the LP02 device.

76. Each DAS shall include Modbus communications with its associated inverters and kWh meters.

77. Each DAS shall include a minimum 72 hour backup battery, and a minimum 30 day first in-first out (FIFO) removable data storage device.

78. The datalogger shall be mounted in a location where it is protected from direct sunlight.

79. Contractor is responsible for the supply and installation of each DAS, and for the coordination, supply and installation of internet connection hardware and software through the Local Unit local area network and internet access firewall. Internet access shall be by means of hard-wired communications infrastructure.. For TCP/IP data communication runs whose length exceeds the 300ft distance limit

recommended for CAT 5/CAT 6 copper-based wiring, optical fiber communications wiring shall be installed which shall be run within innerduct and in conduit throughout.

80. RS-485 cabling shall be selected based upon the service. This shall include, as specifically applicable:

- 120 Ohm characteristic impedance.
- UL Listed
- Specifically listed for RS-485 communications
- Wet rated for all RS-485 runs that are outdoor and exposed, or for all runs that are located underground.
- There shall be a separate, insulated, ground reference conductor, which shall be terminated at both ends of each RS-485 run.
- There shall be a separate shield and drain conductor, which shall be terminated at one location only for the entire RS-485 system.
- High-temperature (75 degC minimum) rated for all runs that are located on rooftops.
- Insulation rating shall be appropriate for entry into energized equipment enclosures (typically 600V). If an appropriate insulation rating is not available, then it is acceptable to install an appropriately-rated and UL Listed insulating sleeve on cable sections entering energized equipment enclosures.

Note that Belden does not manufacture a cable that is consistent with these requirements. Teldor 9392LC2 is an example of an approved and appropriate RS-485 cable. Contractor may use multiple different RS-485 cables based upon the service needs however.

81. 120V power to each DAS datalogger shall be taken from a single, dedicated breaker within the Load Center that is located closest to the DAS datalogger, or from a dedicated and new circuit breaker that is installed within an existing and nearby load distribution panel located within a facility

82. Where applicable, 120V power to each kWh meter shall be taken from a dedicated 3A breaker or isolatable fuse within the Load Center that is located closest to that kWh meter.

83. kWh meters that are used for performance monitoring and/or for billing purposes shall be capable of field-accuracy verification and shall be socket-mounted. The Schneider Ion 8650 kWh meter is the approved device, with a 9s Socket base.

84. Current Transformers (CTs) shall be revenue grade, shall have an accuracy of at least 0.3%, and shall be sized such that the CT range is no greater than 150% of the maximum inverter current output. Split-core CTs are generally not suitable.

85. Contractor shall install and commission a floor-standing, or wall-mounted, kiosk-style monitoring system public display at each SGF Site, to be installed at a location to be determined at a later date.

Installation shall include all power and local area network communications wiring and infrastructure, and commissioning shall include all work necessary to accomplish permanent communication with the external internet. The kiosk shall incorporate the following features:

- a. A one-device solution is required. The processor and peripherals (monitor, power supply, etc) must be a part of a single enclosed device. It is not acceptable to have a kiosk system where the monitor is separate from a remote PC
- b. The kiosk will be connected to the internet via the site network. Therefore the operating system shall be network-compatible.
- c. Remote login software shall be provided, allowing for remote kiosk viewing, maintenance and upgrade.
- d. The kiosk shall have a touch screen, with lockable USB ports for additional device connection.

19) Combiner Boxes

86. AMtec Solar 'Prominence'-series combiner boxes are preferred. Combiner boxes from alternate manufacturers will be considered on a case-by-case basis and are subject to Owner's approval.

87. For ground-mounted systems, combiner boxes shall be mounted such that they are underneath (and sheltered by) the modules and with the mounting height being no lower than 4ft above local grade. Combiner boxes shall be mounted vertically, the door shall open horizontally, and the door shall be equipped with a manually adjustable locking doorstop to prevent the door from inadvertently opening or closing further when in the open position. Permanent doorstops shall also be installed as necessary to prevent equipment damage that may be caused if the door were to come into contact with adjacent equipment or supports.

88. For carport systems, combiner boxes shall be mounted such that they are underneath (and sheltered by) the modules and with the mounting height being 8ft above local grade. Combiner box locations shall be selected such that it is possible to access all combiner boxes from the ground and/or using an extension ladder. Ladder rests shall be incorporated into the carport structure as necessary to provide combiner box access. The location of each combiner box shall be such that a ladder will provide full access to the combiner box and not prevent the combiner box door from being safely opened or closed. Permanent doorstops shall also be installed as necessary to prevent equipment damage that may be caused if the door were to come into contact with adjacent equipment or supports. For carport systems, combiner boxes shall be equipped with a keyed lock or padlock to prevent unauthorized access.

89. For roof-mounted systems, combiner boxes shall generally be mounted horizontally, the door shall open vertically, and the door shall be equipped with a manually adjustable locking doorstop to prevent the door from inadvertently opening or closing further when in the open position. Permanent doorstops shall also be installed as necessary to prevent equipment damage that may be caused if the door were to come into contact with adjacent equipment, supports, or the roof surface.

90. Combiner boxes shall utilize a 'dead-front' design, such that no energized conductive component or termination is directly accessible when the enclosure door is opened. 'Touch-safe' fuse holders shall be used, and clear-non-conductive safety covers shall be employed that allow visual inspection without the removal of these covers.

91. String conductor wiring loops shall be provided that allow for the measurement of individual string currents, using a hand-held (clamp-on) inductive ammeter, and without the need to disassemble or remove the safety covers.

92. Recessed voltage test points (or recessed string conductor termination screws) shall be accessible for each string using a voltmeter probe, such that the open-circuit voltage of each string can be measured when a fuse holder is in the opened position.

20) Inverter Isolation Disconnect Switches

93. Every inverter shall be individually fully isolatable by external and locally-mounted AC and DC disconnect switches in accordance with the Owner Furnished Engineering designs. Disconnect switch operation shall require no additional training, tools or personal protective equipment (PPE) beyond those that are typically associated with 480V (or lower voltage) disconnect switches. Hot-stick style disconnect switches are not allowed for inverter isolation purposes.

94. Disconnect switches for up to 600V loads of 1200 Amps or below shall be standard commercially-available disconnect knife switches. For the disconnection of up to 600Vac loads in excess of 1200Amps, a bolted pressure contact switch rated for at least 2000 no-load operations is a permissible disconnection device.

95. A minimum quantity of DC disconnect switches shall be used to isolate an inverter from the DC energy sources. Only one AC disconnection device shall be used to isolate an inverter from the AC energy source.

96. Disconnect switches or other specifically-required isolation means shall be provided in accordance with the Owner-Furnished Engineering and at locations required by code, the Local Electric Utility, or Governmental Authorities.

21) Signage

97. Signs, tags and labels (collectively, "**Signage**") shall be either engraved, machine-printed or electro-photo plated, and be of metallic or plastic construction. Signage shall be weather-proof, corrosion-proof, UV-stabilized and fade-resistant.

98. Signage shall be attached and installed using non-corrosive materials throughout and be suitable for a minimum twenty-five year service life in the placement location.

99. Any degrading Signage, or failing attachment mechanisms, will be subject to warranty replacement at Contractor's expense. Note that, due to potential color fading, lighting constraints, and individual color perception differences, color-coding is not considered to be an appropriate identification method for outdoor signage or system or component identification and shall not be used.

100. Inverters, disconnects combiner boxes and modules shall be uniquely referenced on electrical and layout drawings, and shall be labeled in the field, based upon a system denoted by the code format "A-CB-S-M" where;

"A": the array number (1, 2 or 3 for a three-inverter system, for example);

"CB": the combiner box number in the array (1 to 5 if there are five combiner boxes feeding an inverter, for example);

"S": the string number within the combiner box (and corresponding to the labeled string conductor termination point within the combiner box);

"M": the module position within the string (1 to 14 for strings of 14 modules, for example).

Then;

- each inverter shall be referenced and labeled as ‘Inverter "A"’;
- each combiner box shall be referenced and labeled as ‘Combiner Box "A-CB"’;
- each module shall be referenced and labeled as "A-CB-S-M"’;
- each inverter DC disconnection device shall be labeled as ‘DCD-"A-CB"’; (for example, ‘DCD-2-3’ would denote the DC disconnection device to be used to isolate inverter 2 from combiner box 3;
- each inverter AC disconnection device shall be labeled as ‘ACD-"A"’ (for example, ACD-2 would denote the AC isolation device to be used to isolate the AC supply to inverter 2).

101. A portable array map shall be provided at each combiner box, and this shall clearly show the location of all modules (referenced by module reference number) that feed that combiner box and the location of other combiner boxes associated with the same inverter’s array.

102. All modules shall be labeled with their unique reference number.

- a. For ground-mounted and carport mounted systems only, and in the case of modules only, it is permissible to field-label them on the underside, upon installation, and using a black, non-erasable, permanent marker pen (‘Sharpie’ or similar). Each module shall be labeled in the same general location, and the module reference label shall be both legible and clearly visible when viewed from the rear of the racking row.
- b. For rooftop-mounted systems, module reference labels should be permanently attached to the north wind-deflector behind each module using a self-drilling and self-tapping ‘zip’ screw.

103. Each array racking row shall be given a unique reference number, and that number shall appear on all array maps. Every racking row shall be labeled with that row’s unique reference number. The racking row labels shall be placed at each end of the racking row and, if the racking row exceeds 100ft in length, at the midpoint or at 100ft intervals in addition. Racking row identification labels shall be placed such that they are visible and intended to be read from the rear of the racking row.

22) Landscaping, Site Accessibility, and Landscape Maintenance

104. For ground-mounted SGFs, where permissible, existing trees, vegetation and ground cover shall be removed prior to construction.

105. Following construction, a low-mow, low growth-height (maximum 30 inches height) groundcover seed mix shall be planted throughout the SGF site and/or in accordance with Governmental Approvals.

106. Berms, perennial shrubs and/or trees shall be planted in accordance with all planning, zoning, and /or other land-use requirements and as necessary to satisfy and appease the concerns of neighboring property owners, the Authority and the Local Unit.

107. For ground-mounted SGFs, vehicular access routes shall be provided around the entire inner perimeter fence line of the SGF site, and also all inverter and equipment pads, with sufficient width and turning radius allowance such that a maintenance vehicle (medium-capacity pickup truck or 'Lull' loader) can travel from any gated access point and to all points around the perimeter of the array and to all inverter and equipment pads and back to the gated access point, without the need to reverse direction.

108. For ground-mounted SGFs, clear access routes and landscape maintenance equipment height and width allowances shall be provided throughout the array site. A minimum 4ft wide lawn-mowing equipment access setback path shall be provided around the outside of the entire inner perimeter of the fence line, and no materials or equipment may be located in this setback zone.

109. For ground-mounted SGFs, lawn mowing equipment shall be able to fully access the underside region of all array racks without encumbrance or difficulty. In this regard, under no circumstance shall modules, wiring, conduit or other raceway, inverter pads, or other equipment be located or installed such that they block or otherwise intrude into either (a) north-south vehicular access routes within the array site, (b) east-west access routes within the array site, or (c) any inter-row space or corridor. Additionally, with the exception of racking or equipment mounting posts and conduit stub-ups, no equipment may be located such that it is within 36 inches of the local grade level at its lowest point.

110. For ground-mounted SGFs, all equipment, wiring and conduits shall be either (a) located on an inverter pad or (b) located directly within the array row footprint and firmly attached to the array racking-system structural members or legs, or (c) installed underground.

111. For carport SGFs, all equipment, wiring and conduits shall be either (a) located on an inverter pad surrounded by an 8ft high chain-link security fence, or (b) located directly underneath the carport attached to structural members or (c) installed underground. All equipment, wiring and conduit shall be mounted and installed in a manner and a location to provide the maximum protection to such equipment, wiring and conduit from damage due to impact, tampering and/or vandalism.

112. For roof-mounted SGFs, any equipment, wiring or conduit that is located outdoors and at ground level shall be mounted on a concrete pad that is surrounded by an 8ft high chain-link security fence.

23) Insulation Testing ("Megger" Testing)

113. Contractor shall maintain a complete record of system checkout tests for submission to Owner at or prior to Substantial Completion.

114. Tests shall include (i) a specific continuity and polarity checkout sheet for all PV module string conductors, referenced by string ID number and (ii) a satisfactory Megger insulation test of all current-carrying conductors, but excluding the modules themselves and the factory-provided module connection leads, with results recorded and referenced by conductor location and purpose.

115. Unless otherwise specified by applicable local or national codes and standards, Megger testing shall be performed at 1000V for all 600V-rated conductors, and shall be performed between each pair of conductors in a circuit and that share a common wireway, and from each conductor to ground. Each Megger test shall be performed for at least 15 seconds and until the insulation resistance value stabilizes, and the test shall be considered to be passed if the insulation resistance reaches at least 100 megOhms in less than one minute. In addition, the lowest insulation resistance shall not differ from the highest insulation resistance by more than 20%. If all Megger readings for a given circuit or feeder are greater than 1000 megOhms then the 20% balance requirement is waived. The testing protocol for conductors

rated in excess of 600V shall be agreed in advance between Owner and Contractor, but as a minimum shall be in accordance with recommended and accepted insulation testing practice. System Commissioning and Performance Testing may not commence until these test results have been reviewed and approved by Owner.

24) System Commissioning

116. Upon satisfactory system completion, and agreement with Owner, and receipt of all third-party approvals necessary for interconnection and startup (but generally prior to receipt of the "Permission to Operate" from the Utility Company), system commissioning shall commence. System commissioning shall follow a written commissioning procedure and plan, which shall have been developed by Contractor and pre-approved by Owner and the Applicable Local Unit and which shall include:

- a. A clear definition of the means, methods and locations for the safe de-energization and isolation of equipment before, during and after System Commissioning.
- b. Necessary Personal Protective Equipment (PPE).
- c. A step-by-step commissioning process checklist, which shall clearly define; the purpose of each step, the expected result of each step, and the pass/fail criteria for each step. The checklist shall require that the time and date of each step, and the result of each step (pass/fail and/or numeric measurement) be recorded at the time of the step. Each step shall also be annotated with the initials of the person performing the step.

117. As a minimum, Commissioning shall include the following tests and verifications:

- a. Verification that all DC module string conductors are correctly polarized within each combiner box prior to combiner box fuse installation.
- b. Verification of consistent, correct and satisfactory voltage and current flow for all DC module strings (inverter maximum power point tracking ("MPPT") turned off).
- c. Verification of the correct operation of all DC and AC electrical disconnection and isolation devices.
- d. Verification of the correct operation and programming of each inverter, including; startup sequencing, operational performance (including MPPT tracking), shutdown on loss of DC voltage, anti-islanding shutdown on loss of AC voltage, shutdown on internal AC and DC disconnect operation.
- e. Verification of correct and satisfactory DC voltage and current at each inverter (MPPT turned off).
- f. Verification of correct and satisfactory AC voltage and current at each inverter output.
- g. Verification of correct and satisfactory AC voltage and current at each transformer output.
- h. Verification of correct and satisfactory operation of each load center and convenience outlet.
- i. Infra-red inspection of the following electrical terminations, to identify abnormal resistance heating after at least 30 minutes of System operation under load:
 - i. DC string combiner box terminations;
 - ii. DC disconnect terminations;
 - iii. DC sub-combiner terminations;
 - iv. Inverter DC field terminations; v. Inverter AC field terminations;
 - v. Inverter AC disconnect terminations;
 - vi. Transformer low-voltage (<600V) field terminations;
 - vii. Transformer medium-voltage field terminations, where feasible and safe to do so;
 - viii. Other medium-voltage field terminations, where feasible and safe to do so.

- j. Verification of the energization and correct operation and communication of all Data Acquisition System devices, including; pyranometers, temperature sensors, dataloggers, inverter performance monitoring kWh meters, billing kWh meters, modems, routers and optical fiber equipment and links.
- k. Additional tests as may be mandated or required by the Local Electric Utility, the Authority or the Applicable Local Unit, any Governmental Authority, or other third-party having project-specific test or verification requirements associated with the System.

25) Mechanical Completion, SGF Inspection and Performance Test

118. Upon satisfactory completion of System Commissioning for each SGF, and no later than five business days thereafter, Contractor shall submit to Owner the Application for Mechanical Completion, together with an accurate redline diagram based upon the approved construction drawings and with all field changes clearly and thoroughly documented.

119. Upon receipt of the Application for Mechanical Completion, Owner and Contractor shall commence the SGF Inspection and, if deemed ready, the SGF Performance Test.

120. The purpose of the SGF Inspection shall be to verify that the SGF is in full compliance with the approved design documentation and with the terms of this Agreement.

121. The purpose of the SGF Performance Test shall be to systematically verify that each part of the SGF, and the SGF as a whole, is functioning correctly, and in accordance with the design documentation, and in accordance with the manufacturer's specifications, and in accordance with the terms of this Agreement.

122. SGF Inspection and SGF Performance Tests shall follow written procedures and plans which shall have been jointly developed and agreed between Owner and Contractor and which will have been approved by the Applicable Local Unit and the Authority.

123. The SGF Inspection and SGF Performance Tests shall be undertaken in accordance with Attachment IX of this Agreement.

124. Following the SGF Inspection and SGF Performance Test, Owner and a representative from the Authority will independently generate their SGF Punch Lists, documenting any and all deficiencies and repairs identified during the SGF Inspection. Contractor shall then expediently and diligently correct any major items listed on these SGF Punch Lists.

125. Upon re-inspection and verification that the major Punch List items have been corrected, Owner will issue an SGF Certificate of Mechanical Completion to Contractor.

26) SGF Production Test

126. Upon satisfactory completion of SGF Inspection and Performance Testing, for each SGF in accordance with Attachment IX, such SGF shall be deemed to be ready for SGF Production Testing.

127. The purpose of the SGF Production Test shall be to verify that the electrical power and energy output from each inverter array, and from the SGF as a whole, is in accordance with theoretical expectations as calculated from actual environmental conditions as determined by the associated Data Acquisition

System(s), and that this holds true over a representative range of environmental conditions and for no less than two consecutive days and without any manual intervention.

128. The SGF Production Test shall be performed in accordance with Attachment IV of this Agreement.

27) Substantial Completion, Final Completion and System Closeout

129. With respect to each SGF, upon satisfactory completion of the SGF Inspection and, SGF Performance Test and SGF Production Test with respect to such SGF, and upon the completion of all major Punch List Items for such SGF, such SGF Contractor shall issue a Substantial Completion Application.

130. The Substantial Completion Application shall include all closeout documentation, training materials, interconnection approvals, construction permit closeout documents, other third party approvals as may apply, commissioning documentation, testing documentation, and warranty documentation shall be made available and submitted to Owner both electronically and in hardcopy format (3 hardcopies) as a concise and integrated Turnover Package.

131. The Substantial Completion Application shall include the 1603 grant information and assistance as listed in Attachment XXXIV of this Agreement.

28) Additional Technical Specifications

See Attachment III-B

29) Excavation, Trenching & Backfilling for Utility Systems

See Attachment III-B

30) Paving and Surfacing Improvements

See Attachment III-B

31) Basic Electrical Materials and Methods

See Attachment III-B

32) Building Wire and Cable

See Attachment III-B

33) Raceway and Boxes

See Attachment III-B

ATTACHMENT III-B

Project Manual MCIA Series 2011 Solar Project #2 dated February 22, 2016

[Available on the FTP Site during the RFP process,
and will be attached hereto prior to execution of this Agreement]

ATTACHMENT IV

PERFORMANCE MEASUREMENTS AND SGF PRODUCTION TEST

Performance Warranty

Contractor makes the following performance warranty with respect to each SGF: When complete, and except to the extent any deficiency is shown by Contractor to be due to inherent defects in Owner-Furnished Materials and/or Owner-Furnished Engineering for that SGF that are not caused or exacerbated by Contractor or its Subcontractors, the SGF's Measured AC Energy Output will meet or exceed the SGF's Predicted AC Energy Output.

SGF Verification and Testing

Prior to each SGF's Testing detailed in this Attachment IV, all checks and procedures detailed in Attachment IX shall be completed.

Achievement of the forgoing performance warranty will be verified by SGF Testing as described below in this Attachment IV.

SGF Production Test

The Owner and Authority Construction Monitor will be notified in writing at least seventy-two (72) hours (or such longer period as may be required by the Program Documents with respect to notice to be given to the Authority or the Applicable Local Unit) in advance of the planned testing date and time so that Owner, Authority Construction Monitor, the Authority and the Applicable Local Unit may observe the testing.

1. SGF Production Test

- a. Upon satisfactory completion of the SGF Inspection and the SGF Performance Test as outlined in Attachment IX, the SGF shall be deemed to be ready for SGF Production Testing.
- b. The purpose of the SGF Production Test shall be to verify that the electrical power and energy output from each inverter array, and from the SGF as a whole, is in accordance with theoretical expectations as calculated from actual environmental conditions as determined by the associated Data Acquisition System(s), and that this holds true over a representative range of environmental conditions and for no less than two (2) consecutive days and without any manual intervention.
- c. The SGF Production Test methodology will generally consist of the following elements:
 - i. The SGF is fully activated; all modules and strings are confirmed to be in circuit and all inverters are confirmed as being online and operating independently and with Maximum Power Point Tracking (MPPT) turned on.
 - ii. After at least 30 minutes of continuous System operation, and with each inverter operating at an AC output power level of at least 30% of inverter AC nameplate capacity for that operating period, verify that:
 - (a) the Measured AC Power Output from each inverter is no less than the Predicted AC Power Output of that inverter as calculated using the methods and formulae described in this Attachment IV;

- (b) the Measured AC Power Output from the SGF as measured by the billing kWh meter(s) is no less than the Predicted AC Power Output of the SGF as calculated using the methods and formulae described in this Attachment IV.
- (c) After at least two consecutive days of SGF Operation, and where the SGF Power Output level, as measured by the billing kWh meter(s), has reached at least 60% of SGF AC nameplate capacity during that test period, verify that:
 - (i) the Measured AC Energy Output (kWh_{ac}) production of each inverter during the test period, and between the hours of 08:30 and 15:30 local time, is no less than the Predicted AC Energy values for each inverter during that same test period as calculated using the methods and formulae described in this Attachment IV.
 - (ii) the Measured AC Energy Output (kWh_{ac}) production of the SGF during the test period (as measured by the billing kWh meter(s)), and between the hours of 08:30 and 15:30 local time, is no less than the Predicted AC Energy Output of the SGF during that same test period as calculated using the methods and formulae described in this Attachment IV.

SGF Predicted Power Output Calculation

The SGF Nameplate Power Rating of the SGF is based on the module manufacturers’ published specifications for the solar module equipment supplied under this Agreement, as defined at Standard Test Conditions (STC) of 1000W/m² of incident solar irradiance, 25 degC module temperature, and Air Mass AM1.5.

The SGF Nameplate Power Rating is hereby defined as the sum of the individual STC power ratings of all of the PV modules in the SGF. The SGF Nameplate Power Rating shall be calculated as the nominal STC power rating of the PV modules as indicated on the manufacturers’ published data sheets multiplied by the total number of modules utilized in the SGF.

Predicted AC Power Output

The Predicted AC Power Output, in kW_{ac} (kVA), is defined as the SGF Nameplate Power adjusting for the effects of temperature, irradiance, wire loss, mismatch and inverter efficiency. These adjustments will be applied by multiplying the SGF Nameplate Power Rating by the following specified correction factors:

| Parameter | Coefficient Value or Explanation |
|----------------------------------|---|
| Temperature Coefficient of Power | The module-specific published power reduction/increase per degree Celsius above/below 25°C, at 1000W/m ² and AM1.5 |
| Irradiance Coefficient of Power | The module-specific published reduction /increase in nameplate power output per W/m ² above/below 1000W/m ² , at 25°C and AM1.5 |
| Inverter Efficiency | CEC listed inverter efficiency % |
| DC IR Loss and Mismatch | 4.0% |
| AC IR Loss | 1.0% |
| Measurement Tolerance | 1.0% |

Where:

Power Temperature Correction = $1 - (\text{Module Temperature} - 25) \times \text{Temperature Coefficient of Power}$;

And:

Power Irradiance Correction = $1 - (1000 - \text{Solar Irradiance}) \times \text{Irradiance Coefficient of Power}$;

Such that:

Predicted AC Power Output = $\text{SGF Nameplate DC Power Rating} \times (\text{Irradiance}/1000) \times \text{Power Temperature Correction} \times \text{Power Irradiance Correction} \times \text{Inverter Efficiency} \times 0.96 \times 0.98 \times 0.99$.

Predicted AC Energy Output Calculation

The Predicted AC Energy Output of the SGF during a specific time period, in kWh_{ac} (kVAh), is defined as the mathematically calculated area under a graph that plots the Predicted AC Power Output against time for that specific time period.

Requirement for Corrective Action

The Measured AC Energy Output (at the billing kWh meter(s)) shall be compared to the Predicted AC Energy Output. If the results of the SGF Verification and Testing performed by Contractor under this Attachment IV indicate that the Measured AC Energy Output of the SGF falls below the Predicted AC Energy Output, then, except to the extent that the under-performance may be attributable to inherent defects in the Owner-Furnished Engineering or Owner-Furnished Materials (excluding defects caused or exacerbated by Contractor or its Subcontractors), and subject to the provisions of Section 7.6 of this Agreement, Contractor shall be responsible for taking whatever actions Contractor determines necessary to correct the deficiency. These actions could include repair or replacement of equipment or wiring. After taking corrective actions, Contractor shall repeat the SGF Verification and Testing described in this Attachment IV and continue to take corrective action until the Predicted AC Energy Output is achieved.

ATTACHMENT V-A

BREAKDOWN OF CONTRACT PRICE PER SGF AND LOCAL UNIT

| | Local Unit | Site | SGF Type | Approximate Size (DC) | Price \$ | Payment Bond \$ | Local Unit Price \$ | Local Unit Price \$/W | \$/W for SGF Size Adjustment* |
|---|---------------------|--|-----------------|------------------------------|-----------------|------------------------|----------------------------|------------------------------|--------------------------------------|
| 1 | Township of Morris | Morris County OTA | Ground | 455.17 kW | | | | | |
| 2 | Morris County | Morris County Library | Roof | 165.00 kW | | | | | |
| | | | Canopy | 289.52 kW | | | | | |
| 3 | Morris County | Morris County Public Safety Training Academy | Roof | 120.70 kW | | | | | |
| | | | Canopy | 246.95 kW | | | | | |
| 4 | Washington Twp. BoE | Benedict A. Cucinella School | Roof | 184.69 kW | | | | | |
| 5 | Mt. Olive BoE | Tinc School | Ground | 229.27 kW | | | | | |
| 6 | Washington Twp. BoE | Long Valley Middle School | Ground | 407.33 kW | | | | | |
| 7 | Mt. Olive BoE | Sandshore Elementary School | Ground | 207.57 kW | | | | | |
| 8 | Chatham BoE | Chatham High School | Roof | 178.31 kW | | | | | |
| 9 | Chester Township | Chester Municipal Building | Ground | 167.42 kW | | | | | |

* Footnote: In the event that the SGF size should increase or decrease due solely to the addition or subtraction of solar panels from the SGF, the Local Unit Price will be adjusted by this amount per DC Watt in accordance with Section 8.4.2 of this Agreement. This adjustment amount includes the cost of the Payment Bond. However, in the event that there is an increase in the kW DC size of the SGF where that size increase is solely due to a change in the power capacity (in DC Watts) of one or more solar panels, but where the quantity of solar panels does not otherwise change and the balance of the SGF materials and design is not otherwise affected, then no SGF Price Adjustment will apply.

ATTACHMENT V-B

MILESTONE PAYMENT SCHEDULES

Note: For purposes of this Attachment V-B, the term "Mobilization" shall mean, with respect to each Site, when Contractor has established sufficient equipment and temporary facilities at the Site to initiate services for the completion of the Work at the Site in accordance with this Agreement, including the Project Schedule.

[NAME OF LOCAL UNIT AND SGF]

| Milestone | % of Local Unit Price (Roof and Ground Mount) | % of Local Unit Price (Carport Canopies) | Retainage |
|--|--|---|------------------|
| 1. Notice to Proceed issued | 10% | 10% | 10% |
| 2. Permits and approvals issued. Change of Contractor approved by Building Dept. | 5% | 5% | 10% |
| 3. Racking ordered | 5% | -- | 10% |
| 4. Mobilization completed for full commencement of Work at Site(s) for the SGF | 5% | 5% | 10% |
| 5. Racking System delivered to local warehouse or to Site(s) for the SGF | 10% | -- | 10% |
| 6. Racking System or Carport Canopy installed at the SGF | 10% | -- | 10% |
| 7. Solar Modules Installation Completed for the SGF | 10% | 15% | 10% |
| 8. DC wiring and equipment complete and terminated | 15% | 20% | 10% |
| 9. Inverter Installation Completed for the SGF | 10% | 15% | 10% |
| 10. AC wiring and equipment complete and terminated | 5% | 10% | 10% |
| 11. Substantial Completion of the SGF (including tree removal where applicable) | 10% | 15% | 5% |
| 12. Final Completion of all SGFs | 5% | 5% | 0% |
| Total SGF Price | 100% | 100% | |

ATTACHMENT VI

MCIA SERIES 2011 SOLAR PROJECT #2 DESIGN DRAWINGS

[Available on the FTP Site during the RFP process,
and will be attached hereto, as applicable, prior to execution of this Agreement]

ATTACHMENT VII

SITE ACCESS SCHEDULES AND RESTRICTIONS

Tunkey Contractor is responsible for ascertaining the specific access restrictions and requirements associated with each Site, and for coordinating and scheduling the Work accordingly.

However, and in general, Contractor should assume that each educational facility (school, college, etc.) will have the following restrictions (or similar restrictions) associated with the performance of Contractor's Work:

1. During term time, vehicle movements and vehicle access will be restricted twice daily (morning and afternoon) during the student drop-off pick-up times.
2. Parking lots cannot be completely closed off – sufficient parking spaces must be provided in other parking areas for ongoing school operations. Hence, coordinated closures will be necessary for materials storage and system construction activities.
3. Roadway access to the school and active parking lots should remain open at all times, including for school bus movements. Trenching, lifting and other construction activities should be coordinated accordingly.
4. For some SGF's, parking canopy system construction may be restricted to school vacation periods.
5. Craned lifts of materials onto rooftops will not be allowed when buildings are occupied. Any such lifts will need to be performed out-of-hours or on weekends or holidays.
6. Site Access and construction activities will be restricted for up to two weeks during the period April through June 2016, due to student examinations and testing.

Similarly, Contractor should assume that the following coordination requirements and access restrictions will apply to any parking lot canopy system and to other systems where roadways or parking areas are impacted by construction equipment access and system construction:

1. Roadway access to the facility should remain open at all times. Trenching, lifting and other construction activities should be coordinated accordingly.
2. Craned lifts of materials onto rooftops will not be allowed when buildings are occupied. Any such lifts will need to be performed out-of-hours or on weekends or holidays.
3. Parking lots cannot be completely closed off – sufficient parking spaces must be provided in other areas for facility operations. Hence, coordinated closures will be necessary for materials storage and system construction activities.
4. For some SGF's, parking canopy system construction may be restricted to school vacation periods.

ATTACHMENT VIII

GUARANTEED SUBSTANTIAL COMPLETION DATES AND ANTICIPATED FINAL COMPLETION DATES

| | Local Unit | Site | SGF Type | Owner Furnished Materials and Owner Furnished Permits | | | | Guaranteed Substantial Completion |
|---|---------------------|--|----------|---|--------|-------------------------------|--|-----------------------------------|
| | | | | Construction Permits | Panels | Deck Monitoring and kWh Meter | | |
| 1 | Township of Morris | Morris County OTA | Ground | | | | | |
| 2 | Morris County | Morris County Library | Roof | | | | | |
| | | | Canopy | | | | | |
| 3 | Morris County | Morris County Public Safety Training Academy | Roof | | | | | |
| | | | Canopy | | | | | |
| 4 | Washington Twp. BoE | Benedict A. Cucinella School | Roof | | | | | |
| 5 | Mt. Olive BoE | Tinc School | Ground | | | | | |
| 6 | Washington Twp. BoE | Long Valley Middle School | Ground | | | | | |
| 7 | Mt. Olive BoE | Sandshore Elementary School | Ground | | | | | |
| 8 | Chatham BoE | Chatham High School | Roof | | | | | |
| 9 | Chester Township | Chester Municipal Building | Ground | | | | | |

ATTACHMENT IX

SGF INSPECTION AND SGF PERFORMANCE TEST

Upon completion of the installation of each SGF, and prior to field verification by the Local Electric Utility, Contractor will go through the following installation checklists and performance test with respect to the SGF. Contractor shall provide advanced Notice to Owner that the installation and performance tests are to be performed. Owner has the option of having a representative present during any and all testing. Representatives of the Authority and the Applicable Local Unit may also attend.

The Owner will be notified in writing at least seventy-two (72) hours (or such longer period as may be required under the Program Documents with respect to notice to the Authority and the Applicable Local Unit) in advance of the planned inspection and testing date and time so that Owner, the Authority and the Applicable Local Unit may observe the testing.

Provide Owner with the initial startup test report when everything has been verified and checked to ensure proper operation.

1. SGF Inspection and SGF Performance Test

- a. Upon satisfactory completion of System Commissioning, the SGF shall be deemed to be ready for SGF Inspection and SGF Performance Testing.
- b. The purpose of the SGF Inspection shall be to verify that the SGF is in full compliance with the approved design documentation and with the terms of this Agreement.
- c. The purpose of the SGF Performance Test shall be to systematically verify that each part of the SGF, and the SGF as a whole, is functioning correctly, and in accordance with the design documentation, and in accordance with the manufacturer's specifications, and in accordance with terms of this Agreement.
- d. SGF Inspection and SGF Performance Tests shall follow written procedures and plans which shall have been jointly developed and agreed between Owner and Contractor and which will have been approved by the Applicable Local Unit.
- e. The SGF Inspection and SGF Performance Test will generally consist of the following elements:
 - i. Prior to power-up, with all disconnects open and with combiner box fuses removed:
 - a. Turnover package review, including installed system spot-checks, to verify the accuracy of the turnover package
 - b. Shading inspection
 - c. Grounding system inspection
 - d. Inspect electrical connectors and strain-relief devices
 - e. Inspect wiring and raceway neatness, support, and wiring terminations
 - f. Inspect condition, alignment and attachment of modules
 - g. Inspect the condition and alignment of racking
 - h. Inspection of Signage
 - i. Verify that positive and negative string connectors are correctly and permanently identified within each combiner box
 - j. Test the open-circuit voltage of all strings for significant variation. Significant variation shall be considered to be any string that exceeds 5%

- of the modal open- circuit voltage of similar strings when measured under substantially similar environmental irradiance and temperature conditions.
- f. With combiner fuses installed, combiner switches or fuses open, and all disconnects open, verify the continuity of all combiner fuses
 - g. With the combiner switches closed, and all disconnects open, test the open circuit voltage at each DC disconnect. Verify that it is within expected design limits and in accordance with manufacturer's specifications.
 - h. With the DC and AC disconnects closed, and the inverter(s) in operation:
 - i. Verify that each inverter is performing in accordance with design specifications, and that inverter isolation devices and inverter shutdown mechanisms operate correctly.
 - ii. Verify that all electrical power and energy meters are performing correctly, and that the Data Acquisition System(s) are receiving and correctly interpreting data received from all associated kWh meters and all associated inverters.
 - iii. Verify that all environmental monitoring instrumentation is functioning correctly.
 - iv. Verify that the Data Acquisition System(s) are operating correctly, and that correct communication has been established with, and data is being correctly reported from, the external server and the Owner's website portal via the data communications link.

Upon satisfactory completion of the SGF Inspection and the SGF Performance Test, the SGF shall be deemed to be ready for the SGF Production Test.

ATTACHMENT X

OWNER-APPROVED SUBCONTRACTORS AND VENDORS

[Note: List of Approved Subcontractors and Vendors may be modified by Contractor upon request to and approval of Owner and Authority.]

The inclusion of contractors and suppliers on this list does not relieve Contractor of any of its responsibilities under this Agreement, including; construction management, scheduling and quality assurance and control.

| <u>Approved Subcontractors and Vendors</u> | |
|--|---|
| <u>Solar Installers/Electric</u> | <u>Engineering Design</u> |
| ROWE ELECTRIC ZENSKY ELECTRICAL CONTRACTORS EAST COAST ALTERNATIVE ENERGY BOZ ELECTRIC BAM SOLAR ENERGY HELIOS SOLAR ENERGY LAMANNA ELECTRIC ALLIED ELECTRIC PRO-TEK SUBCONTRACTORS: *DIXIE CONSTRUCTION *RAPID ERECTORS *PRECISION DRILLING HUEN ELECTRICAL UNION ELECTRIC SOLAR ENERGY SYSTEMS LIGHTON INDUSTRIES KG RENEWABLES ENERGY IES COMMERCIAL INC. 21 CENTURY BARRIER ELECTRIC EJ ELECTRICAL PRO-TECH STAR-LO ELECTRIC SAL ELECTRIC SODON ELECTRIC MEHL ELECTRIC MULTI-PHASE MILLER BROTHERS SUNDURANCE J. FLETCHER CREAMER TETRA TECH SOLAR MARTIFER VANGUARD SOUTHERN EXPOSURE SOLAR CMI ELECTRIC PFISTER ENERGY PURE POWER SYSTEMS INENERGY INC GEHRLICHER CONERGY EVERGREEN SOLAR SERVICES | KMB DESIGN GROUP, LLC. HAMMER LAND ENGINEERING INNOVATIVE ENGINEERING, INC. <u>Canopies</u> (Powder-coated finish only) PROTEK SOLAR VENTURES CRIDER AMERICAS BAJA SOLAR SYSTEMS ERECTORS EVERGREEN RACKING SKYLINE STEEL *IES SUBCONTRACTOR *21 CENTURY SOLAIRE GENERATION <u>Inverter Manufacturer</u> PV POWERED (ADVANCED ENERGY) SOLECTRIA RENEWABLES, LLC SMA <u>Additional Vendors</u> DOWNS TREE SERVICE ACTION TREE SERVICE SOUTHERN EXPOSURE SOLAR (QA / QC) ALSOENERGY (parent to Deck Monitoring) <u>Racking & Steel</u> SCHLETTER** PANEL CLAW SUNLINK RBI STRUCTURAL STEEL FABRICATORS CANAM STEEL DPW SOLAR ADVANCED SOLAR** GAMECHANGE RACKING ** Ground-Mount systems only *** Roof-Mount system |

ADVANCED SOLAR PRODUCTS
WF LUBECK
EFFICIENT ELECTRIC, LLC
RAY ANGELINI INC.

ATTACHMENT XI

MANUFACTURER WARRANTIES FOR PRINCIPAL PROJECT COMPONENTS

[To be Provided by Contractor after Project Award]

ATTACHMENT XII

[NOT IN USE]

ATTACHMENT XIII

COUNTY ANTI-CORRUPTION, BUY AMERICAN. AND INDEMNIFICATION REQUIREMENTS

Contractor shall comply fully with the following:

- Contractor and its subcontractors shall comply with all "Buy American" statutes and regulations, including N.J.S.A. 40A:11-18. Given the lack of regulations interpreting N.J.S.A. 40A:11-18, the Authority reserves the right to accept non-domestic materials under this RFP in accordance with guidance provided by N.J.S.A. 52:33-2 and 52:33-3 in the event: (i) it determines the use of domestic materials is "impractical" or "inconsistent with the public interest;" (ii) it determines that the cost of using domestic materials is "unreasonable;" or (iii) domestic materials of the class or kind sought are not mined, produced, or manufactured, as the case may be, in the United States in commercial quantities and of a quality satisfactory to the Authority.

- Contractor and its subcontractors, shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the Authority, any Authority consultant working on this RFP or the State for the purpose of influencing consideration of any Proposal. Any attempt shall be reported to the proper law enforcement authorities.

- Contractor and its subcontractors shall defend, indemnify, and save harmless the Authority, the County, the Series 2011 Local Units and as applicable their chairpersons, members, elected officials, officers, directors, employees and agents, from, and against all claims, suits, judgments, expense, fines, penalties assessments and costs of every kind and description, by reason of injury to persons or damage to property, resulting or alleged to result from any negligent act or omission of the Successful Respondent or his employees or agents, including, but not limited to expenses or claims related to environmental contamination, investigation, injury, remediation, remediation cost assessment, request for contribution or Natural Resource Damage claim.

ATTACHMENT XIV

COUNTY LABOR AND LICENSING REQUIREMENTS

In this Attachment, and with respect to this Agreement, the terms "Respondent", "Successful Respondent" and "Company" shall be considered to be, and interpreted as, synonymous with the term "Contractor" as defined within this Agreement. The terms "contractor and subcontractor" shall therefore mean Contractor's subcontractors and lower-tier subcontractors. Further, the term "Renewable Energy Project" shall be considered to be, and interpreted as, synonymous with the term "SGF" as defined within this Agreement.

Section 7.5 Labor.

(a) The Successful Respondent shall provide, at its own expense, qualified, union or licensed labor in the applicable trades. Respondent, at the Authority's request, will remove or replace any employee at our discretion.

(b) To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal opportunity shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each agrees to comply with any regulations promulgated by the Treasurer of the State of New Jersey

("Treasurer"), pursuant to N.J.S.A. 10:5-31 *et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each shall, when hiring or scheduling workers in each construction trade, agree to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of Treasury ("Division") may, in its discretion, exempt a Successful Respondent, its contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, (i), (ii) and (iii), as long as the Division is satisfied that the Successful Respondent, its contractor or subcontractor is employing workers provided by a union which provided evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Projects each agrees that a good faith effort shall include compliance with the following procedures:

(i) If the Successful Respondent, its contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the Successful Respondent, its contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 *et seq.*, as supplemented and amended from time to time and the Americans with Disabilities Act. If the Successful Respondent, its contractor or subcontractor is unable to obtain said assurance from the construction trade union at least five business days prior to the commencement of construction work, the Successful Respondent, its contractor or subcontractor agrees to afford equal employment opportunities to minority and women workers directly, consistent with this chapter.

If the Successful Respondent's, its contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the Successful Respondent, its contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the procedures prescribed under (ii) below; and the Successful Respondent, its contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(ii) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (i) above, or if the Successful Respondent, its contractor or subcontractor does not have a referral agreement or arrangement with a union for a construction trade, the Successful Respondent, its contractor or subcontractor agrees to take the following actions:

(A) To notify the Public Agency Compliance Officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(B) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(C) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(D) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(E) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions:

(F) To adhere to the following procedures when minority and women workers apply or are referred to the contractor or subcontractor:

(I) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Projects each shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a Successful Respondent, its contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the Successful Respondent, its contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (iii) below.

(II) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in paragraph (I) above, whenever vacancies occur. At the request of the Division, the Successful Respondent, its contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(III) If, for any reason, said Successful Respondent, its contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the Successful Respondent, its contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(G) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(iii) The Successful Respondent, its contractor or subcontractor agrees that nothing contained in (ii) above shall preclude the Successful Respondent its contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall agreement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (ii) above without regard to such agreement or arrangement; provided further, however, that the Successful Respondent, its contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by the practice in the area for said construction trade. Also, the Successful Respondent, its contractor or subcontractor agrees that, in implementing the procedures of (ii) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

(iv) After notification of award, but prior to signing a construction contract, the Successful Respondent, or its contractor shall submit to the public agency compliance officer and the Division an Initial Project Workforce (Form AA201) provided to the public agency by the Division for distribution to and completion by the Successful Respondent and its contractor, in accordance with N.J.A.C. 17:27-7. The Successful Respondent and its contractor also agree to submit a copy of the Monthly Project

Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer. The contractor agrees to cooperate with the public agency in the payment of budget funds, as is necessary, for on the job and/or off-the-job programs for outreach and training of minority and women.

(v) To the extent applicable, the Successful Respondent, its contractor and its subcontractors shall furnish such reports or other documents to the Division as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code N.J.A.C 17:27.

(c) All entities performing any of the work in installing the systems for the Renewable Energy Projects must be classified by the State of New Jersey, Department of Treasury, Division of Property Management and Construction pursuant to N.J.S.A. 52:35-1 et seq., for the Services required by this RFP. If Respondent will be performing the work itself, it must submit a copy of its Notice of Classification and the Total Amount of Uncompleted Contracts (Form DPMC 701) with its Proposal (RFP Section 4.14). If Respondent is subcontracting any of the work in installing the systems for the Renewable Energy Projects, Respondent must submit a copy of its subcontractor's Notice of Classification and Total Amount of Uncompleted Contracts (Form DPMC 701) with its Proposal. Classification shall be in an amount equal to or greater than the Total Project Costs in Respondent's Proposal, including any add-on alternates, and the total amount of uncompleted contracts.

(d) Attached to this RFP as Appendix G is a summary of the Successful Respondent's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1, et seq. The Successful Respondent shall submit to the Authority the forms required by Exhibit G after notification of award but prior to execution of the contract. Respondents shall submit an executed copy of Exhibit G with its proposal.

Section 7.6 Licenses and Laws

(a) All entities performing any of the work in installing the systems for the Renewable Energy Projects on behalf of the Respondent must be classified by the State of New Jersey, Department of Treasury, Division of Property Management and Construction, for the Services requested in this RFP, and must submit a copy of the Notice of Classification and the Total Amount of Uncompleted Contracts (Form DPMC 701) with their Proposal. Classification shall be in an amount equal to or greater than the total amount of Respondent's Proposal, including any add-on alternates, and the total amount of uncompleted contracts.

(b) A Respondent is required to submit a valid Business Registration Certificate from the State of New Jersey Department of Treasury, Division of Revenue, prior to the award of a contract. Failure to timely submit proof of registration shall be deemed a material and non-waivable defect, and shall be cause for rejection of the bid without further consideration. All Respondents should be advised that Business Registration Certificate can be obtained on-line from the State Division of Revenue by following the following on-line procedures that can be completed within a week's time.

(i) Go to www.nj.gov/treasury/revenue/taxreg.htm and complete a Form NJ-REG on-line (NOTE: you will need to reference the filed copy of your company's formation certificate (i.e., a certificate of formation for your New Jersey

limited liability company, etc.) or the certificate of authority for a foreign entity (collectively, the "Formation Certificates") to complete the Form NJ-REG);

(ii) Select Option 2 "Register a Business for Tax and Employer Purposes." (NOTE: in order to register, you will need: (a) the 10-digit identification number that is handwritten on the filed copy of the Formation Certificate[s] and (b) a Federal EIN, which can be obtained through www.irs.gov prior to registering online.) Once the online registration process is completed, it will take about 2-3 business days to be entered into the State's record database.

(iii) After this 2-3 day waiting period, you can obtain a Business Registration Certificate online at https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp by using the company's 10 digit ID number or Federal EIN.

(iv) Print a copy of the Business Registration Certificate online.

(c) All Respondents, their contractors and subcontractors shall hold a valid Public Works Contractor Certificate. Respondents, their contractors and subcontractors must be registered pursuant to N.J.S.A. 34:11-56.48 et seq. at the time its Proposal is submitted and include copies with its Proposal.

(d) The Successful Respondent's obligations to obtain all permits and approvals required for the installation of the Renewable Energy Projects shall include all permits and approvals as may be required by the New Jersey Department of Education for all installations involving public schools.

Section 7.7 Background Check

All employees of the Successful Respondent and its contractors working on the Renewable Energy Projects will sign an Authorization to Release Records form and submit to finger printing and background checks by the Morris County Sheriff's Department and/or Prosecutor's Office prior to beginning work. The Successful Respondent and its contractors shall not utilize any employees for the work described in this RFP who are not first approved by the Sheriff's Department or Prosecutor's Office.

ATTACHMENT XV

[NOT IN USE]

ATTACHMENT XVI

FORM OF NOTICE TO PROCEED

Dated: [•], 2016

To: _____
[Notice address]

Attention: [•]

Facsimile: [•]

Email: [•]

RE: AUTHORITY TO PROCEED PURSUANT TO THE EXECUTED PROCUREMENT, AND CONSTRUCTION CONTRACT, DATED AS OF [•], 2016 (THE "AGREEMENT"), BY AND BETWEEN SUNLIGHT GENERAL MORRIS SOLAR, LLC AND [•] FOR THE DESIGN, ENGINEERING, PROCUREMENT, CONSTRUCTION, START-UP, TESTING OF, AND RELATED SERVICES WITH RESPECT TO, THE PHOTOVOLTAIC ELECTRICITY GENERATION FACILITIES TO BE LOCATED AT SITES IN MORRIS COUNTY, NEW JERSEY AS DESCRIBED IN DETAIL IN THE AGREEMENT.

SunLight General Morris Solar, LLC hereby issues to [•] the Notice to Proceed to immediately commence performance of the referenced Agreement for the following SGF(s):

[•]

We look forward to a successful relationship.

OWNER: SunLight General Morris Solar, LLC

By: _____
Name: _____
Title: _____

ATTACHMENT XVII

FORM OF INVOICE

[Date]
[Name of Owner] [Address]
[Contractor's Letterhead]

Re: The Agreement referred to below

Ladies and Gentlemen:

This application for an interim monthly payment is hereby delivered to you in respect of the month of [•] (the "**Current Month**") pursuant to the Procurement and Construction Contract, dated [•], 2016 (as amended, supplemented or otherwise modified, the "**Agreement**"), between SunLight General Morris Solar, LLC ("**Owner**"), and [•] ("**Contractor**"), and acknowledged by the Morris County Improvement Authority.

1. Details Regarding the Monthly Invoice.

- (a) **Contractor's Invoice Number and Date:** [_____ / _____]
- (b) **Payment Amounts:**

| 1. PROJECT MILESTONES COMPLETED DURING THE CURRENT MONTH | | |
|---|-------------|---|
| See <u>Attachment I</u> [Sample Spreadsheet] | | |
| 2. AMOUNTS PAYABLE IN RESPECT OF CHANGE ORDERS EXECUTED DURING THE CURRENT MONTH | | |
| Site | Explanation | Amount Invoiced (show credits or price reductions as negative amount) |
| | | |
| | | |
| | | |
| | | |
| 3. OTHER ITEMS (DEFICIENCIES, INTEREST, BACKCHARGES, ETC.) | | |
| Site | Explanation | Amount Invoiced (show credits as negative amount) |
| | | |
| | | |
| | | |
| | | |

| 4. ADJUSTMENTS (INCLUDING ADJUSTMENTS FOR CHANGES IN LAW, RETENTION AND ANY OTHER ADJUSTMENTS DUE UNDER THE CONTRACT) | | |
|--|---------------------|--|
| Site | Explanation | Amount Invoiced (show credits, reductions, retentions and holdbacks as negative amount) |
| | | |
| | | |
| | | |
| | | |
| | Total this Invoice: | |

2. Details Regarding the Contract Price.

| | |
|---|--|
| (a) Original Contract Price: | |
| (b) Net change by a Change Order executed by the Parties: | |
| (c) Current Contract Price: | |
| (d) Less payments by Owner to Subcontractors: | |
| (e) Less prior applications for interim payments: | |
| (f) Less current application for interim payment: | |
| (g) Balance of the Contract Price: | |

3. Invoice Breakdown by Site.

4. Details Regarding Executed Change Orders.

(a) Change Orders approved in months prior to the Current Month:

| Change Order No. | Change Order Description | Net Effect on the Contract Price |
|------------------|--------------------------|----------------------------------|
| | | |
| | | |
| | | |
| | | |

(b) Change Orders approved in the Current Month:

| Change Order No. | Change Order Description | Net Effect on the Contract Price |
|------------------|--------------------------|----------------------------------|
| | | |
| | | |
| | | |
| | | |

5. Supporting Documentation.

(a) Attached as Annex 1 hereto is evidence that all Work described in this invoice is in accordance with the terms of the Agreement.

(b) Attached as Annex 2 hereto is evidence that all Work constituting the Project Milestone(s) for which payment is being requested has been fully completed and Contractor is entitled to payment in the amount of this invoice.

(c) Attached as Annex 3 hereto are the (i) conditional progress lien waivers, (ii) unconditional progress lien waivers, (iii) conditional final lien waivers, and/or (iv) unconditional final lien waivers, each as and to the extent applicable and required by the provisions of Section 6.5.1 or Section 6.6 of the Agreement, duly executed by, as applicable, Contractor or its Subcontractors and Vendors.

6. Representations and Warranties. Contractor hereby represents and warrants that, as of the date hereof:

(a) Contractor has provided Owner with all reports required to have been provided prior to the date hereof (which shall include the relevant report on progress);

(b) the Agreement has not been terminated; and

(c) each Project Milestone that is required to be achieved by the date hereof has been achieved.

7. **Section 6.5.4. Certification.** Contractor hereby certifies that, subject to any exceptions identified in reasonable detail in Annex 4 attached hereto (specifying the certification to which exception is being taken and the particulars of the exceptions, including identification of any pending claims that have not previously been submitted to Owner as draft Change Orders):

- (i) each Subcontractor and Vendor who performed or provided Work which was to be paid for from the proceeds of payments Contractor has been paid for successfully achieving Milestone(s), if any, was paid its respective pro rata share of such Milestone Payment, subject to Contractor's rights, if any, to withhold payments from Subcontractors and Vendors per the terms of their respective agreement(s), including "retention", until completion of their respective portion of the Work;
- (ii) the SGF is being constructed in accordance with this Agreement, including the Project Schedule, as amended by Change Orders, if any;
- (iii) all representations and warranties of Contractor under this Agreement are true and correct as of the date of the certification;
- (iv) the Project can be completed for the Contract Price, as it may have been changed pursuant to Change Orders,
- (v) no Contractor Event of Default (or any default or event that with the passage of time would become a Contractor Event of Default) shall have occurred and be continuing, and
- (vi) there is no reason to believe that Substantial Completion of each SGF will not occur by its respective Guaranteed Substantial Completion Date.

[CONTRACTOR]

By: _____
Name: _____
Title: _____

ATTACHMENT XVIII-A
FORM OF CHANGE ORDER

Under and Pursuant to the Procurement and Construction Contract, dated [●], 2016 (the "Agreement"), between [●] ("Owner") and [●] ("Contractor"), and acknowledged by the Morris County Improvement Authority:

Change Order No.: _____

Date of Issuance: _____

Effective Date:

Local Unit: _____

SGF:

1. The Agreement, as heretofore modified by all Executed Change Orders (as shown on the Change Order Reconciliation Table set forth below), is further modified as set forth in this Change Order, effective upon the Effective Date stated above.

2. Description (including (i) all details required pursuant to Section 8.3 of the Agreement, as applicable, using attachments as necessary, which shall be identified below, and (ii) the Change Order Event(s) that is/are the basis for the Change Order):

3. Attachments:

- (a) _____
- (b) _____

4. Adjustment to Contract Price:

- | | |
|---|-----------------|
| (a) Original Contract Price: | \$X,XXX,XXX.XX |
| (b) [Increase] [Decrease] from previous Executed Change Orders: | \$XX,XXX.XX |
| (c) Contract Price prior to this Change Order: | \$ X,XXX,XXX.XX |
| (d) [Increase] [Decrease] of this Change Order: | (\$XX,XXX.XX) |
| (e) Contract Price incorporating this Change Order: | \$X,XXX,XXX.XX |

5. Adjustment to Guaranteed Substantial Completion Date (no adjustment unless specified here):

- (a) Date as adjusted by all prior Executed Change Orders: _____
- (a) Date as adjusted by this Change Order: _____

6. The amount of this Change Order will be paid as follows:

7. This Change Order constitutes full and final settlement of all cost, schedule and other impacts, whether known or unknown and whether past, present or future, arising from or relating to the matters covered in this Change Order, including the direct and indirect impact of such matters and any cumulative impact that such matters may have when considered separately or in conjunction with any previous or concurrent changes in scope, and Contractor hereby waives all rights and entitlement to claim any additional cost, schedule or other impacts relating thereto.

Accepted by Contractor:

By: _____

Title: _____

Accepted by Owner:

By: _____

Title: _____

Accepted by Morris County Improvement Authority

By: _____

Title: _____

Change Order Status

(List by Change Order No. all Change Orders previously submitted by Contractor for approval and status as of the date of this Change Order by marking "X" in the appropriate column)

| Change Order No. | Submission Date | Executed | Pending | Withdrawn |
|-------------------------|------------------------|-----------------|----------------|------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

ATTACHMENT XVIII-B

[NOT IN USE]

ATTACHMENT XIX

FORM OF
CONDITIONAL WAIVER AND RELEASE OF LIEN FOR PROGRESS PAYMENT
(CONTRACTOR)

Subject to receipt by the undersigned [•] ("Contractor") of a check or other form of payment from or on behalf of SunLight General Morris Solar, LLC ("Owner") in the sum of \$[•] payable to Contractor, and subject to payment by the bank upon which the check or other form of payment has been drawn, Contractor hereby waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of Owner, Owner's lessor, or any other person located at [•], with respect to any work done by Contractor before [•], 2016. This waiver and release extends to rights to payment for work performed or items furnished under written change order number(s) [•]. Notwithstanding the foregoing, this waiver and release is not effective with respect to (i) any payment obligations of Owner which become owing to Contractor after the foregoing date including, without limitation, amounts retained by Owner to secure Contractor's performance of the agreement between Owner and Contractor, or (ii) invoiced or other amounts that have been withheld or not paid and are the subject of a dispute as specified in Attachment A hereto.

Dated: [•]

Contractor

By: _____

Its: _____

Subscribed and sworn to me this ____ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XX

FORM OF
CONDITIONAL WAIVER AND RELEASE OF LIEN FOR PROGRESS PAYMENT
(SUBCONTRACTOR/VENDOR)

Subject to receipt by the undersigned [•] ("Subcontractor") of a check or other form of payment from [•] ("Contractor") in the sum of \$[•] payable to Subcontractor, and subject to payment by the bank upon which the check or other form of payment has been drawn, Subcontractor hereby waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of SunLight General Morris Solar, LLC ("Owner"), Owner's lessor, or any other person located at [•] with respect to any work done by Subcontractor before [•], 2016. This waiver and release extends to rights to payment for work performed or items furnished underwritten change order number(s) [•]. Notwithstanding the foregoing, this waiver and release is not effective with respect to (i) any payment obligations of Contractor which become owing to Subcontractor after the foregoing date including, without limitation, amounts retained by Contractor to secure Subcontractor's performance of the agreement between Contractor and Subcontractor, or (ii) invoiced or other amounts that have been withheld or not paid and are the subject of a dispute as specified in Attachment A hereto.

Dated: [•]

Subcontractor

By: _____

Its: _____

Subscribed and sworn to me this ___ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXI
FORM OF
UNCONDITIONAL WAIVER AND RELEASE OF LIEN FOR PROGRESS PAYMENT
(CONTRACTOR)

The undersigned [•] ("Contractor") has received a check or other form of payment from or on behalf of SunLight General Morris Solar, LLC ("Owner") in the sum of \$[•] payable to Contractor and acknowledges that it was paid by the bank upon which the check or other form of payment has been drawn. Contractor hereby unconditionally waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of Owner, Owner's lessor, or any other person located at [•] with respect to any work done by Contractor before [•] [•], 20[•]. This waiver and release extends rights to payment for work performed or items furnished underwritten change order number(s) [•]. Notwithstanding the foregoing, this waiver and release is not effective with respect to (i) any payment obligations of Owner which become owing to Contractor after the foregoing date including, without limitation, amounts retained by Owner to secure Contractor's performance of the agreement between Owner and Contractor, or (ii) invoiced or other amounts that have been withheld or not paid and are the subject of a dispute as specified in Attachment A hereto.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Dated: [•]

Contractor

By: _____

Its: _____

Subscribed and sworn to me this ___ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXII

FORM OF
UNCONDITIONAL WAIVER AND RELEASE OF LIEN FOR PROGRESS PAYMENT
(SUBCONTRACTOR/VENDOR)

The undersigned [•] ("Subcontractor") has received a check or other form of payment from [•] ("Contractor") in the sum of [\$•] payable to Subcontractor and acknowledges that it was paid by the bank upon which the check or other form of payment has been drawn. Subcontractor hereby unconditionally waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of SunLight General Morris Solar, LLC ("Owner"), Owner's lessor, or any other person located at [•] with respect to any work done by Subcontractor before [•] [•], 20[•]. This waiver and release extends rights to payment for work performed or items furnished under written change order number(s) [•]. Notwithstanding the foregoing, this waiver and release is not effective with respect to (i) any payment obligations of Contractor which become owing to Subcontractor after the foregoing date including, without limitation, amounts retained by Contractor to secure Subcontractor's performance of the agreement between Contractor and Subcontractor, or (ii) invoiced or other amounts that have been withheld or not paid and are the subject of a dispute as specified in Attachment A hereto.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Dated: [•]

Subcontractor

By: _____

Its: _____

Subscribed and sworn to me this ____ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXIII

FORM OF
CONDITIONAL WAIVER AND RELEASE OF LIEN FOR FINAL PAYMENT
(CONTRACTOR)

Subject to receipt by the undersigned [•] ("Contractor") of a check or other form of payment from SunLight General Morris Solar, LLC ("Owner") in the sum of [\$•] payable to Contractor, and subject to payment by the bank upon which the check or other form of payment has been drawn, Contractor hereby waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of Owner, Owner's lessor, or any other person located at [•] with respect to any and all work done by Contractor.

Dated: [•]

_____ Contractor

By: _____

Its: _____

Subscribed and sworn to me this ___ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXIV

FORM OF
CONDITIONAL WAIVER AND RELEASE OF LIEN FOR FINAL PAYMENT
(SUBCONTRACTOR/VENDOR)

Subject to receipt by the undersigned [•] ("Subcontractor") of a check or other form of payment from [•] ("Contractor") in the sum of \$[•] payable to Subcontractor, and subject to payment by the bank upon which the check or other form of payment has been drawn, Subcontractor hereby waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of SunLight General Morris, LLC ("Owner"), Owner's lessor, or any other person located at to any and all work done by Contractor.

Dated: [•]

Subcontractor

By: _____

Its: _____

Subscribed and sworn to me this ___ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXV

FORM OF
UNCONDITIONAL WAIVER AND RELEASE OF LIEN FOR FINAL PAYMENT
(CONTRACTOR)

The undersigned [•] ("Contractor") has received payments from SunLight General Morris Solar, LLC ("Owner") in the sum of \$[•]. Contractor hereby unconditionally waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of Owner, Owner's lessor, or any other person located at [•] with respect to any and all work done by Contractor.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Dated: [•]

_____ Contractor

By: _____

Its: _____

Subscribed and sworn to me this ___ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXVI
FORM OF
UNCONDITIONAL WAIVER AND RELEASE OF LIEN FOR FINAL PAYMENT
(SUBCONTRACTOR/VENDOR)

The undersigned [•] ("Subcontractor") has received payments from [•] ("Contractor") in the sum of [\$•]. Contractor hereby unconditionally waives any right it has to assert a lien, and releases any lien it has asserted, against any personal or real property of SunLight General Morris Solar, LLC ("Owner"), Owner's lessor, or any other person located at [•] with respect to any and all work done by Subcontractor.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Dated: [•]

Subcontractor

By: _____
Its: _____

Subscribed and sworn to me this ____ day of _____, 2016.

Notary Public

My commission expires _____, 20__.

ATTACHMENT XXVII
FORM OF
APPLICATION FOR MECHANICAL COMPLETION

TO: SunLight General Morris Solar, LLC

RE: Procurement and Construction Contract, dated as of [•] [•], 2016 (the "Agreement"), by and between SunLight General Morris Solar, LLC ("Owner") and [•] ("Contractor"), and acknowledged by the Morris County Improvement Authority:

SGF: [•] kW DC solar generating facility located on the Premises of [•] [name of Applicable Local Unit] at [•] [identification of Site]

Pursuant to and in accordance with Section 5.4 of the Agreement, Contractor submits this Application for Mechanical Completion ("this Application") of the above identified SGF. All capitalized terms used in this Application that are not defined in this Application shall have the meanings ascribed thereto in the Agreement.

In support of this Application, Contractor hereby certifies that:

- (i) Contractor has completed the design, engineering, procurement, and construction activities of this Agreement for the above SGF, excluding successful completion of performance testing and the successful completion of Punch List Items, and
- (ii) Contractor has performed the installation checklist and acceptance tests as set out in Attachment IX of the Agreement for the above SGF (and a copy of the completed checklists and test reports is attached hereto).

IN WITNESS WHEREOF, Contractor has caused this Application to be executed by its duly authorized representative as of the ___ day of _____, 20__.

Contractor

By: _____
Name: _____
Title: _____

ATTACHMENT XXVIII
FORM OF
MECHANICAL COMPLETION CERTIFICATE

TO: _____

RE: Procurement and Construction Contract, dated as of [•] [•], 2016 (the "Agreement"), by and between SunLight General Morris Solar, LLC ("Owner") and [•] ("Contractor"), and acknowledged by the Morris County Improvement Authority:

SGF: [•] kW DC solar generating facility located on the Premises of
[•] [name of Applicable Local Unit] at
[•] [identification of Site]

Pursuant to and in accordance with Section 5.4 of the Agreement, Owner hereby confirms its acceptance of the Application for Mechanical Completion respecting the above identified SGF submitted by Contractor and dated as of [•] [•], 20[•], and acknowledges that Mechanical Completion of such SGF is deemed to have been achieved as of such date and such date constitutes the Mechanical Completion Date for such SGF for purposes of the Agreement. All capitalized terms used in this Certificate that are not defined in this Certificate shall have the meanings ascribed thereto in the Agreement.

IN WITNESS WHEREOF, Owner has caused this Certificate to be executed by its duly authorized representative as of the ___ day of _____, 20___.

SunLight General Morris Solar, LLC
Owner

By: _____
Name: _____
Title: _____

ATTACHMENT XXIX
FORM OF
APPLICATION FOR SUBSTANTIAL COMPLETION

TO: SunLight General Morris Solar, LLC

RE: Procurement and Construction Contract, dated as of [•] [•], 2016 (the "Agreement"), by and between SunLight General Morris Solar, LLC ("Owner") and [•] ("Contractor"), and acknowledged by the Morris County Improvement Authority:

SGF: [•] kW DC solar generating facility located on the Premises of [•] [name of Applicable Local Unit] at [•] [identification of Site]

Pursuant to and in accordance with Section 5.7 of the Agreement, Contractor submits this Application for Substantial Completion ("this Application") of the above identified SGF. All capitalized terms used in this Application that are not defined in this Application shall have the meanings ascribed thereto in the Agreement.

In support of this Application, Contractor hereby certifies that:

- (i) the entire Work for the SGF is complete (except for the Punch List Items agreed to by the Parties in accordance with Section 5.7 and delivery of the documents that may be delivered after Substantial Completion, as contemplated in Section 3.2.6 of the Agreement) in strict accordance with the Agreement and the Interconnection Certificate has been executed by the Parties so that Owner is able to utilize the SGF to generate electricity for sale pursuant to the PPA and to accrue SRECs in accordance with the Applicable Solar Program (the meters necessary for such sale and accrual having been duly installed); and
- (ii) Contractor has successfully completed the performance testing for the SGF and demonstrated achievement of the Predicted AC Energy Output for the SGF in accordance with Section 7.6 and Attachment IV of the Agreement.

IN WITNESS WHEREOF, Contractor has caused this Application to be executed by its duly authorized representative as of the ___ day of _____, 20__.

Contractor

By: _____
Name: _____
Title: _____

ATTACHMENT XXX
FORM OF
SUBSTANTIAL COMPLETION CERTIFICATE

TO: _____

RE: Procurement and Construction Contract, dated as of [•] [•], 2016 (the "Agreement"), by and between SunLight General Morris Solar, LLC ("Owner") and [•] ("Contractor"), and acknowledged by the Morris County Improvement Authority:

SGF: [•] kW DC solar generating facility located on the Premises of [•] [name of Applicable Local Unit] at [•] [identification of Site]

Pursuant to and in accordance with Section 5.7 of the Agreement, Owner hereby confirms its acceptance of the Application for Substantial Completion respecting the above identified SGF submitted by Contractor and dated as of [•] [•], 20[•] and acknowledges that Substantial Completion of such SGF is deemed to have been achieved as of such date and such date constitutes the Substantial Completion Date for such SGF for purposes of the Agreement. All capitalized terms used in this Certificate that are not defined in this Certificate shall have the meanings ascribed thereto in the Agreement.

IN WITNESS WHEREOF, Owner has caused this Certificate to be executed by its duly authorized representative as of the ___ day of _____, 20__.

SunLight General Morris Solar, LLC
Owner

By: _____
Name: _____
Title: _____

ATTACHMENT XXXI
FORM OF
FINAL COMPLETION CERTIFICATE

TO: _____

RE: Procurement and Construction Contract, dated as of [•] [•], 2016 (the "Agreement"), by and between SunLight General Morris Solar, LLC ("Owner") and [•] ("Contractor"), and acknowledged by the Morris County Improvement Authority:

SGF: [•] kW DC solar generating facility located on the Premises of
[•] [name of Applicable Local Unit] at
[•] [identification of Site]

Pursuant to and in accordance with Section 5.8 of the Agreement, Owner hereby confirms its receipt of Notice from Contractor that Final Completion respecting the above identified SGF was achieved on and Owner hereby acknowledges that Final Completion of such SGF is deemed to have been achieved as of such date for purposes of the Agreement. All capitalized terms used in this Certificate that are not defined in this Certificate shall have the meanings ascribed thereto in the Agreement.

IN WITNESS WHEREOF, Owner has caused this Certificate to be executed by its duly authorized representative as of the ___ day of _____, 20___.

SunLight General Morris Solar, LLC
Owner

By: _____
Name: _____
Title: _____

ATTACHMENT XXXII

INSURANCE REQUIREMENTS

Part I – Owner Insurance

Owner shall procure and maintain general liability insurance. Limits of liability will be maintained at \$1,000,000 per occurrence/\$1,000,000 annual aggregate. Coverage will include Products Completed Operations, Personal/Advertising Injury, and medical expense of \$10,000. Insurance shall name Contractor as an additional insured. Owner shall provide Contractor a certificate of insurance evidencing the insurance required in this Attachment upon request.

Part II – Contractor’s Insurance.

(a) Required Coverages. Contractor shall procure and maintain in full force and effect, at its sole cost, with insurance companies qualified in the State of New Jersey and having a Best’s Rating of at least "A-", Financial Class Size VIII, the insurance described below, at levels no less than the minimums indicated.

- (i) Workers’ Compensation and Employer’s Liability: Workers’ compensation insurance with statutory limits, and Employers’ liability with limits of not less than \$1,000,000 per occurrence.
- (ii) Commercial General Liability: Commercial general liability insurance written on an ISO occurrence form, applicable solely to Contractor’s operations under this Agreement on an "occurrence basis" with a limit of \$1,000,000 per occurrence/\$1,000,000 annual aggregate. Coverage will include Products Completed Operations, blanket Contractual Liability (including liability arising out of the indemnification provisions of this Agreement), Property Damage, and Personal Injury. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by Contractor or by any Subcontractors or other persons. If such commercial general liability insurance contains a general aggregate limit, it shall apply separately to Contractor’s operations under this Agreement.
- (iii) Automobile Liability: Business automobile liability insurance covering owned, non-owned and hired automobiles with a limit of \$1,000,000 combined single limit per occurrence for bodily injury and property damage. The policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of Contractor, Owner and other additional insureds against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned, non-owned or hired vehicle used in or in connection with the Project.
- (iv) Umbrella Excess Liability: Umbrella excess liability insurance with a combined single limit of \$10,000,000 per occurrence and per project. This policy or policies shall be specifically endorsed to be excess of the required Commercial General Liability Coverage, the Employers’ Liability Coverage on the Workers’ Compensation policy, and the Comprehensive Automobile Liability policy.

- (v) Professional Liability: Professional liability insurance with a limit of \$5,000,000 each claim and in the aggregate on a "claims made" basis, applicable only to the extent Contractor performs any design or engineering work as contemplated by the Agreement.
- (vi) Installation or Builders' Risk Insurance: "All risk" installation or builder's risk insurance on all materials, equipment and supplies that are to become a permanent part of the SGFs (including, from the time they are delivered to Contractor, all Owner-Furnished Materials), while awaiting installation at their respective Sites and until completion of such installation and final acceptance by Owner and the Applicable Local Unit at Substantial Completion. This insurance shall be in a form reasonably acceptable to Owner, the Authority, the Applicable Local Unit and Financing Parties and shall be for the full replacement value of the property insured, with deductible levels not exceeding \$100,000 (or such other deductible levels reasonably acceptable to Owner). The policy shall provide that the net proceeds of such insurance shall be payable to the Authority, for disbursement.
- (vii) In Transit Insurance. In transit insurance maintained on "All risk" basis on all materials, equipment and supplies during transit from the manufacturing and warehouse sites to the respective Sites (or while in off-Site storage). This insurance shall be in a form reasonably acceptable to Owner and include deductible levels not exceeding \$100,000.

(b) Contractor Insurance Policies.

- (i) Except for Workers' Compensation, Employer's Liability and Professional Liability insurance and subject to the limits and coverages specified in clause (a) of this Part II, Contractor shall name Owner, designated affiliates of Owner, the Authority, the Applicable Local Units, the County of Morris, and the Financing Parties (including the respective officers, directors, employees and agents of each of the foregoing) as additional insureds on Contractor's liability policies as required to be carried by Contractor by the provisions of clause (a) of this Part II for liabilities of Contractor under this Agreement. Contractor shall name Owner, the Authority, the Applicable Local Units and the Financing Parties as additional insureds on the installation or builder's risk insurance specified in clause (a)(vi) of this Part II. Except for Workers' Compensation, Employer's Liability and Professional Liability insurance, each insurance policy shall provide, either in its printed text or by endorsement, (A) that it shall be primary with respect to the interest of the aforementioned additional insureds and (B) that any other insurance maintained by any of the aforementioned additional insureds is in excess and not contributory to Contractor's insurance policies in all instances regardless of any like insurance coverage that the aforementioned additional insureds may have.
- (ii) Contractor's policies, where applicable in accordance with clause (b)(i) above, by form or amendment, shall in substance: (A) include the additional insureds specified in clause (b)(i) above under the applicable policies without any representation or warranty by or obligation upon such Persons, (B) include a waiver of all rights of subrogation against the additional insureds, whether by attachment or otherwise, in respect of any liability of any Person insured under such policies, and (C) contain a severability of interest provision, including that (x) the inclusion of a named insured thereunder shall not in any way affect the rights of any additionally insured as respects any claim, demand, suit or judgment made, brought or recovered, by or in favor of any other insured, or by or in favor of any employee of such other insured, and (y) each additional insured Person is protected

thereby in the same manner as though a separate policy had been issued to each, but nothing therein shall operate to increase the insurance company's liability as set forth elsewhere in the policy beyond the amount for which the insurance company would have been liable if only one Person or interest had been named as insured. None of the additional insureds shall be liable for the payment of premiums under any policy to which they are named as additional insureds.

(c) Evidence of Contractor Coverage. Within five (5) days after the Effective Date or, if later, the date required under the Program Documents, Contractor shall furnish original certificate(s) of insurance to Owner and the other additional insureds evidencing that all insurance coverage required of Contractor as set forth in this Part II is in force and that it will not be canceled or materially changed with less than thirty (30) days prior notice to Owner and the other additional insureds. Replacement certificates of insurance evidencing replacement or renewed coverage will be delivered to Owner and all other additional insureds prior to the termination or expiration of the required coverages. Contractor shall not do anything to cause any of the insurance required to be provided to be invalidated in whole or in part without consent of Owner. Evidence of the required insurance shall be provided by certificate of insurance naming Owner and the other required additional insureds as the certificate holders.

(d) Remedy on Failure to Insure. If Contractor shall fail to obtain and keep in force the Contractor Insurance Policies, Owner may, upon notice to Contractor and without limiting any other remedy it may have, obtain and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and recover from Contractor whether by way of deduction, offset or otherwise the cost of obtaining and maintaining such insurance.

(e) Deductibles. All deductibles under Contractor's insurance shall be paid by Contractor and shall not constitute a reimbursable cost under this Agreement.

(f) Notice from Contractor. Contractor shall immediately notify Owner regarding the occurrence of any of the following events: (i) any significant loss covered by a policy required to be maintained by Contractor under this Part II; (ii) any significant dispute with an insurer; (iii) the early cancellation of any policy; (iv) the failure to pay any premium payment; (v) the failure, for any reason, to maintain any policy required to be maintained by Contractor under this Part II; and (vi) any significant change in any insurance coverage contracted for by a Subcontractor. Such notice shall not relieve Contractor of any of its obligations hereunder or deprive Owner of any of its rights.

(g) Insurance Does Not Excuse Obligations; Limitations of Liability Do not Excuse Insurers. The maintenance by Contractor of the insurance described in this Part II shall not relieve Contractor from any liability or obligation to Owner under this Agreement. The limitations of liability set forth in this Agreement shall not operate to limit the liability of the insurers under the insurance policies provided pursuant to this Part II; provided, however, for the avoidance of doubt, the foregoing statement shall not be construed to alter the limits of coverage specified in this Part II.

Part III – Subcontractor Insurance.

Before permitting any of its Subcontractors to perform any Work on the Project or at any Site, Contractor shall obtain a certificate of insurance from each such Subcontractor evidencing that such Subcontractor has obtained the insurance required of Subcontractors by this Agreement. Policies provided by Subcontractors shall be in amounts and upon conditions as are in full compliance with the requirements set forth in Part II (Contractor's Insurance), except that (i) Umbrella Excess Liability coverage need not exceed a combined single limit of \$4,000,000, (ii) the requirement of Installation or Builder's Risk Insurance and In Transit Insurance shall not apply, and (iii) the requirement of Professional Liability

Insurance shall apply only to Subcontractors performing design or engineering services. Any Subcontractor covered by Contractor's insurance coverage is not required to have duplicative insurance coverage; and to the extent a Subcontractor cannot comply with the Professional Liability Insurance or the Excess Umbrella insurance requirements due to the fact such Subcontractor's existing insurance policy does not have sufficient limits, Contractor shall include such Subcontractor as an additional insured under Contractor's own policies to provide the required level of coverage.

ATTACHMENT XXXIII

APPLICABLE SOLAR PROGRAM (New Jersey Clean Energy Program or NJCEP)

Contractor shall perform this Agreement consistently with the requirements of the New Jersey Clean Energy Program (the "NJCEP") as in effect at the time of the performance of this Agreement.

1. Project Manager. Contractor shall identify a project manager as provided in this Agreement.
2. Final Application. Owner shall prepare the final application, inspection, and any other paperwork required by the NJCEP.
3. Equipment Procurement and Installation. Contractor shall procure (except for Owner-Furnished Materials) and install equipment as provided in this Agreement.
4. Site Preparation. Contractor shall prepare the Site as provided in this Agreement.
5. Permitting and Engineering Stamps; Interconnection. Contractor shall be responsible for obtaining permits, and for interconnection of the SGF to the Local Utility, as provided in this Agreement. Owner shall complete utility interconnection applications.
6. Training. Contractor shall provide to the Owner of the eligible generating unit training as provided in this Agreement.
7. Operations and Maintenance. Contractor shall provide operations and maintenance for the Owner of the eligible generating unit as required by this Agreement.
8. Compliance with Law. Contractor shall comply with all applicable state and local law as provided in this Agreement.
9. Technical Requirements and Quality Control Requirements. Contractor shall comply with the Technical Requirements and the Quality Control Requirements of the NJCEP, set out in Appendices 3A and 3B, respectively, to the NJCEP Guidebook (<http://www.NJCleanEnergy.com>).
10. Minimum Insurance Requirements. Contractor shall provide certificates of insurance as provided in this Agreement.
11. Budget. The budget, key project components, and timeline, including payment schedule, shall be as provided in this Agreement.
12. Inspections. Contractor shall schedule and participate in all required inspections as provided in this Agreement.
13. Warranty Services. Contractor shall provide warranty services as provided in this Agreement and in accordance with the requirements of the NJCEP.

ATTACHMENT XXXIV

PROCEDURES FOR SECTION 1603 CASH GRANT

For each SGF, Contractor shall provide Owner with assistance and documentation necessary for Owner's 1603 Cash Grant submission, as follows:

1. Providing and certifying the total procurement and construction cost to Owner under the terms of this Agreement for the SGF and a breakdown of such cost in accordance with guidelines provided by Owner, with details and cost breakdown as follows:
 - Cost of inverters
 - Cost of construction, project management and overhead
 - Cost of racking materials
 - Cost of wire, conduit, combiner boxes, electrical materials and miscellaneous materials
 - Cost of engineering and permits (if applicable)
2. Certifying that the 1603 grant materials for the SGF, provided by Owner as Owner-Furnished Materials for the SGF, have been installed at the SGF.
3. As-built photographs of the completed SGF, in electronic format.

ATTACHMENT XXXV

FORM OF CONSTRUCTION PERFORMANCE BOND

[Note: in providing the below Construction Performance Bond, such Construction Performance Bond shall not contain any conditions to its issuance or any conditions to the obligations of the surety company issuing same, except as expressly provided in this form of Construction Performance Bond.]

Date: [•] [•], 2016

[•], PRINCIPAL

[•], SURETY

THE MORRIS COUNTY IMPROVEMENT AUTHORITY ("Authority"), and SUNLIGHT GENERAL MORRIS SOLAR, LLC ("Owner"), OBLIGEES

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named OBLIGEES, in the just and full sum of [•] Dollars (\$[•]) for the payment of which sum well and truly to be made, the said PRINCIPAL and SURETY bind themselves, their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Owner has entered into a certain written agreement with Authority, dated as of December 1, 2011, entitled, "Power Purchase Agreement, Morris County Renewable Energy Program, Series 2011" (the "General Contract"), whereby Owner shall provide certain services to the Authority; and

WHEREAS, in furtherance of the General Contract between Owner and the Authority (individually, "OBLIGEE," collectively, "OBLIGEES"), the PRINCIPAL has entered into a certain written agreement with Owner, dated [•] [•], 2016 entitled, "Procurement and Construction Contract," (the "Subcontract"), whereby the PRINCIPAL shall provide certain construction related services to Owner for the benefit of the Authority, which Subcontract is by reference made a part hereof, as if set forth in full herein; and

WHEREAS, in accordance with the General Contract, the Owner has pledged its rights under this Construction Performance Bond to the Authority,

NOW THEREFORE, the condition of this obligation is such that, if the PRINCIPAL shall faithfully perform its obligations under the Subcontract, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER:

Whenever the PRINCIPAL shall be, and is, declared to be in default of its obligations under the Subcontract by OBLIGEES or either of them, such OBLIGEE(S) having performed its obligations under the Subcontract, the SURETY may promptly remedy the default or shall promptly as follows:

(a) Perform the obligations under the Subcontract in accordance with the terms and conditions of the Subcontract, or

(b) Obtain a Proposal or Proposals for performance of the obligations under the Subcontract in accordance with the terms and conditions of the Subcontract, and upon a determination by SURETY and OBLIGEE(S) of the lowest responsible Respondent, arrange for a contract between such Respondent and OBLIGEE(S), and make available as services continue (even though there should be a default or a succession of defaults under the contract or contracts arranged under this paragraph) sufficient funds to pay the cost of performance of such said obligations; but not exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof; or

(c) After investigation, determine the amount for which it may be liable to OBLIGEES and, as soon as practicable after the amount is determined, tender payment therefor to OBLIGEES; or

(d) Without waiver of any rights of OBLIGEES, notify OBLIGEES of the denial of liability in whole or in part citing reasons therefor.

Notwithstanding any term or condition contained in the Subcontract to the contrary, it is understood and agreed that the PRINCIPAL's and SURETY's obligation under this bond shall not be assigned without the written consent of the PRINCIPAL and the SURETIES, which consent shall not unreasonably be withheld; provided however, that this bond may be assigned to a trustee in connection with the issuance of any debt obligations issued by OBLIGEE Authority for or with respect to the Services.

No right or action shall accrue on this bond to or for the use of any person or corporation other than OBLIGEES named herein or their heirs, executors, administrators, successors, or assigns of OBLIGEES.

The PRINCIPAL and the SURETY shall not be liable to OBLIGEES in the aggregate in excess of the penal sum above stated. Any payment made by the SURETY in good faith under this bond shall reduce the bond amount stated by a like amount.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date the PRINCIPAL ceased performing those obligations covered by this bond.

The SURETY hereby stipulates and agrees that no modifications, omissions or additions in or to the terms of the Subcontract, the General Contract, or both, or in the work to be performed, or in or to the specifications therefor shall in any way affect the obligation of the SURETY on this Bond.

Notice to the SURETY shall be by certified or registered mail and sent to:

The SURETY shall have no liability under this bond for any obligation of the PRINCIPAL to defease, pay for, assume responsibility with respect to or otherwise incur liability for any debt obligations issued by OBLIGEES.

IN WITNESS WHEREOF, the above-bounded PRINCIPAL and SURETY have executed this instrument under their several seals on the date indicated above.

Witness:

PRINCIPAL:

Name: _____

Name: _____
Title: _____

Witness:

SURETY:

Name: _____

Name: _____
Title: _____