



4931 North 300 West, Provo, UT 84604
Phone: (877) 404-4129 Fax: (801) 765-5758
E-Mail: support@vivintsolar.com
www.vivintsolar.com

Employer Identification No.: 80-0756438
California C-46 Contractor License No.: 973756

AR No.: 4127575

RESIDENTIAL POWER PURCHASE AGREEMENT

This RESIDENTIAL POWER PURCHASE AGREEMENT (this "Agreement") is entered into by and between VIVINT SOLAR DEVELOPER, LLC, a Delaware limited liability company ("We", "Us", "Our") and the undersigned Customer(s) ("You", "Your"), as of the Transaction Date set forth below.

Customer(s):	Full Name (First, MI, Last) Property Owner: ☒ Yes ☐ No	Full Name (First, MI, Last) Property Owner: ☐ Yes ☐ No
	Telephone No.: 209-605-4824	E-Mail: scanconway@stglobal.net
Property Address:	Street Address: 1421 Pontiac Street	
	City, County, State, Zip: Oakland, Ca. 95361	

DOB 6-16-61

1. SERVICES

A. DESCRIPTION OF THE PROJECT AND DESCRIPTION OF THE SIGNIFICANT MATERIALS TO BE USED AND EQUIPMENT TO BE INSTALLED. We will design, install, service and maintain a solar photovoltaic system on Your Property, which will include all solar panels, inverters, meters, and other components (collectively, the "System"), as further described in the Customer Packet and the Work Order that We will provide to You hereafter. All material portions of the System will be installed by Our employed technicians and electricians, and not subcontractors. With Your cooperation, We will (i) design, install and connect the System in material compliance with all applicable laws; (ii) complete all required inspections; and (iii) obtain all required certifications and permits. In order to design a System that meets Your needs, You agree that We may obtain Your electrical usage history from Your electric utility (the "Utility") and You shall provide Us with copies of Your Utility bills as We may reasonably request. Other than the activation fee described in Section 1.B, We will design and install the System at no cost to You.

B. ACTIVATION. You agree to pay Us a one-time activation fee in the amount of \$ 0. We will interconnect the System with the Utility, and cause the System to generate energy measured in kilowatt hours ("kWh") (the "Energy"). Installation of the System generally takes one day and is anticipated to begin and be substantially complete between two (2) and six (6) weeks hereafter.

C. OWNERSHIP OF SYSTEM. We shall own the System as Our sole personal property. You will have no property interest in the System.

D. OPERATIONS AND MAINTENANCE. We will operate and maintain the System (i) at Our sole cost and expense; (ii) in good condition; and (iii) in material compliance with all applicable laws and permits and the Utility's requirements.

E. INSURANCE. We carry commercial general liability insurance, workers' compensation insurance, and property insurance on the System. For more information concerning Our insurance, and to obtain a copy of Our certificate of insurance, please visit: www.vivintsolar.com/insurance.

2. TERM, PRICE, PAYMENTS, AND FINANCIAL DISCLOSURES

A. ENERGY PRICE. For all Energy produced by the System, You shall pay Us \$0. 15 per kWh (the "Energy Price"), plus applicable taxes. The Energy Price shall increase each year by two and nine-tenths percent (2.9%). A good faith estimate of the System output, measured in kilowatt hours, will be provided to You in the Customer Packet. THIS AGREEMENT IS FOR THE SALE OF ENERGY BY US TO YOU AND NOT FOR THE SALE OF A SOLAR ENERGY DEVICE.

B. TERM. This Agreement shall be effective as of the Transaction Date and continue until the twentieth (20th) anniversary of the In-Service Date (the "Term"). The "In-Service Date" shall be the first day after all of the following have been achieved: (i) the System has been installed and is capable of generating Energy, (ii) all permits necessary to operate the System have been obtained, (iii) the System has been interconnected with the Utility, and (iv) all inspections and certificates required under applicable law or by the Utility have been completed or received.

C. PAYMENTS. Beginning with the first month following the In-Service Date and throughout the Term, We will send You an invoice reflecting the charges for Energy produced by the System in the previous month. You shall make monthly payments to Us by automatic payment deduction from Your designated checking account or credit card. It is Your responsibility to ensure that there are adequate funds or adequate credit limit. There is no financing charge associated with this Agreement. For all payments more than ten (10) days past due, We may impose a late charge equal to Twenty-Five Dollars (\$25) and interest at an annual rate of ten percent (10%), plus applicable taxes. If You continue to fail to make any payment within ten (10) days after We give You written notice, then We may exercise all remedies available to Us pursuant to Section 13(b).

D. RENEWAL. At the end of the Term, You may elect to (i) continue with this Agreement on a year-to-year basis, (ii) enter into a new Agreement with Us and cancel this Agreement, (iii) purchase the System at the end of the Term and cancel this Agreement (the "Purchase Option"); or (iv) cancel this Agreement and have the System removed at no cost to You. You will need to notify Us in writing concerning Your election sixty (60) days prior to the end of the Term. If You elect the Purchase Option, the "Purchase Option Price" will be the then-current fair market value of the System based on an independent appraiser's valuation of similarly sized photovoltaic systems in Your geographic region. The appraiser's valuation will be provided to You in writing and will be binding. If We receive Your payment of the Purchase Option Price, costs of the appraisal, applicable taxes, and all other amounts then owing and unpaid hereunder, We will transfer ownership of the System to You at the end of the Term on an "As Is, Where Is" basis. If You elect to have the System removed, We will remove the System from Your Property within ninety (90) days after the end of the Term. IF YOU DO NOT NOTIFY US OF YOUR ELECTION TO CANCEL BY SENDING A WRITTEN NOTICE TO US, THEN THIS AGREEMENT WILL AUTOMATICALLY RENEW ON A YEAR-TO-YEAR BASIS UNTIL YOU NOTIFY US IN WRITING OF YOUR ELECTION TO CANCEL AT LEAST SIXTY (60) DAYS PRIOR TO THE END OF THE RENEWAL TERM.

E. CREDIT CHECK. In connection with the execution of this Agreement and at any time during the Term, You hereby authorize Us to (i) obtain Your credit rating and report from credit reporting agencies; (ii) to report Your payment performance under this Agreement to credit reporting agencies; and (iii) disclose this and other information to Our affiliates and actual or prospective lenders, financing parties, investors, insurers, and acquirers.

WE MAY HAVE PRESCREENED YOUR CREDIT. PRESCREENING OF CREDIT DOES NOT IMPACT YOUR CREDIT SCORE. YOU CAN CHOOSE TO STOP RECEIVING "PRESCREENED" OFFERS OF CREDIT FROM US AND OTHER COMPANIES BY CALLING TOLL-FREE (888) 567-8688. SEE PRESREEN & OPT-OUT NOTICE (SECTION 29) BELOW FOR MORE INFORMATION ABOUT PRESCREENED OFFERS.

3. LIMITED WARRANTY

A. LIMITED INSTALLATION WARRANTY. We provide a workmanship warranty that the System shall be free from material defects in design and workmanship under normal operating conditions for the Term. We further warrant that all rooftop penetrations We install shall be watertight as of the date of installation. We do not provide any warranty to You with respect to any component of the System. Any manufacturer's warranty is in addition to, not in lieu of, this limited installation warranty. This warranty does not cover problems resulting from exposure to harmful materials and chemicals, fire, flood, earthquake, or other acts of god, vandalism, alteration of system by anyone not authorized by Us, or any other cause beyond Our control.

B. MANUFACTURERS' WARRANTIES. The System's solar modules carry a minimum manufacturer's warranty of twenty (20) years as follows: (a) during the first ten (10) years of use, the modules' electrical output will not degrade by more than ten percent (10%) from the originally rated output; and (b) during the first twenty (20) years of use, the modules' electrical output will not degrade by more than twenty percent (20%) from the originally rated output. The System's inverters carry a minimum manufacturer's warranty of ten (10) years against defects or component breakdowns. During the Term, We will enforce these warranties to the fullest extent possible.

C. DISCLAIMER OF WARRANTY. EXCEPT AS SET FORTH IN THIS SECTION 3, WE MAKE NO OTHER WARRANTY TO YOU OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE MERCHANTABILITY OR FITNESS FOR ANY PURPOSE OF THE EQUIPMENT, INSTALLATION, DESIGN, OPERATION, OR MAINTENANCE OF THE SYSTEM, THE PRODUCTION OR DELIVERY OF ENERGY, OR ANY OTHER ASSOCIATED SERVICE OR MATTER HEREUNDER, ALL OF WHICH WE HEREBY EXPRESSLY DISCLAIM. OUR LIABILITY FOR ANY BREACH OF ANY WARRANTY IS LIMITED TO REPAIRING THE SYSTEM OR YOUR PROPERTY TO THE EXTENT REQUIRED UNDER THIS AGREEMENT. YOU ACKNOWLEDGE THAT WE ARE RELYING ON THIS SECTION 3.C. AS A CONDITION AND MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION OF THE FACE HEREOF.

4. REMOVAL OF THE SYSTEM

You shall not make any Alterations (as defined in Section 9(c)) to the System. If You want to make repairs or improvements to Your Property that require the temporary removal of the System or that could interfere with its performance or operation, You must give Us at least thirty (30) days' prior written notice (a "Customer-Requested Shutdown"). You agree that any repair or improvement to Your Property shall not materially alter Your roof where the System is installed. As compensation for Our removal, storage, and reinstallation of the System, You agree to pay to Us a fee equal to Four Hundred and Ninety-Nine Dollars (\$499) before We remove the System. You shall be required to pay the Shutdown Payment (as defined in Section 15) if the System is not reinstalled within thirty (30) days of removal. In the event of an emergency affecting the System, You shall contact Us immediately. If We are unable to timely respond, You may (at Your own expense) contract with a licensed and qualified solar installer to remove the System as necessary to make repairs required by the emergency. You shall be responsible for any damage to the System that results from actions taken by Your contractor.

5. ARBITRATION OF DISPUTES

Most customer concerns can be resolved quickly and amicably by calling Our customer service department at (877) 404-4129. If Our customer service department is unable to resolve Your concern, You and We agree to resolve any Dispute (as defined below) through binding arbitration or small claims court instead of courts of general jurisdiction. BY SIGNING BELOW, YOU ACKNOWLEDGE AND AGREE THAT (I) YOU ARE HEREBY WAIVING THE RIGHT TO A TRIAL BY JURY; AND (II) YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. You and We agree to arbitrate all disputes, claims and controversies arising out of or relating to

(i) any aspect of the relationship between You and Us, whether based in contract, tort, statute or any other legal theory; (ii) this Agreement or any other agreement concerning the subject matter hereof; (iii) any breach, default, or termination of this Agreement; and (iv) the interpretation, validity, or enforceability of this Agreement, including the determination of the scope or applicability of this Section 5 (each, a "Dispute"). Prior to commencing arbitration, a party must first send a written "Notice of Dispute" via certified mail to the other party. The Notice of Dispute must describe the nature and basis for the Dispute and the relief sought. If You and We are unable to resolve the Dispute within thirty (30) days, then either party may commence arbitration. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures (available at: <http://www.jamsadr.com/rules-streamlined-arbitration>, the "JAMS Rules") and under the rules set forth in this Agreement. The arbitrator shall be bound by the terms of this Agreement. No matter the circumstances, the arbitrator shall not award punitive, special, exemplary, indirect, or consequential damages to either party. If You initiate arbitration, You shall be responsible to pay \$250. All attorneys' fees, travel expenses, and other costs of the arbitration shall be borne by You and Us in accordance with the JAMS Rules and applicable law. The arbitration shall be conducted at a mutually agreeable location near Your Property. Judgment on an arbitration award may be entered in any court of competent jurisdiction. Nothing in this Section 5 shall preclude You or We from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE BUSINESS AND PROFESSIONS CODE OR OTHER APPLICABLE LAWS. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY. YOU HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

I/WE AGREE TO ARBITRATION AND WAIVE THE RIGHT TO A JURY TRIAL:

Customer(s) Initials:

S.C. ☐

6. NOTICE TO CUSTOMERS

A. LIST OF DOCUMENTS TO BE INCORPORATED INTO THE CONTRACT: (i) this Agreement, (ii) the Additional Terms and Conditions, (iii) the Customer Packet, and (iv) the Work Order. These documents are expressly incorporated into this Agreement and apply to the relationship between You and Us.

B. IT IS NOT LEGAL FOR US TO ENTER YOUR PREMISES UNLAWFULLY OR COMMIT ANY BREACH OF THE PEACE TO REMOVE GOODS INSTALLED UNDER THIS AGREEMENT.

C. DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ ALL OF ITS PAGES. You acknowledge that You have read and received a legible copy of this Agreement, that We have signed the Agreement, and that You have read and received a legible copy of every document that We have signed during the negotiation.

D. DO NOT SIGN THIS AGREEMENT IF THIS AGREEMENT CONTAINS ANY BLANK SPACES. You are entitled to a completely filled in copy of this Agreement, signed by both You and Us, before any work may be started.

E. YOU MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO THE LATER OF: (I) MIDNIGHT OF THE THIRD (3RD) BUSINESS DAY AFTER THE TRANSACTION DATE, OR (II) THE START OF INSTALLATION OF THE SYSTEM. SEE THE NOTICE OF CANCELLATION BELOW FOR AN EXPLANATION OF THIS RIGHT.

VIVINT SOLAR DEVELOPER, LLC

By: _____

Printed Name: _____

Salesperson No.: 95089V7A

CUSTOMER(S):

By: Sean Conway

Printed Name: Sean Conway

By: _____

Printed Name: _____

Transaction Date: 2-14-15

INFORMATION ABOUT THE CONTRACTORS' STATE LICENSE BOARD (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors. Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB. Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees. For more information: VISIT: CSLB's website at www.cslb.ca.gov; CALL: CSLB at (800) 321-2752; WRITE: CSLB at P.O. Box 26000, Sacramento, CA 95826

NOTICE OF CANCELLATION

YOU, THE CUSTOMER, HAVE THE RIGHT TO CANCEL THIS CONTRACT WITHIN THREE (3) BUSINESS DAYS, OR (IF LATER) UNTIL THE START OF INSTALLATION OF THE SYSTEM. YOU MAY CANCEL BY E-MAILING, MAILING, FAXING, OR DELIVERING A WRITTEN NOTICE TO VIVINT SOLAR DEVELOPER, LLC AT 4931 N 300 W, PROVO, UT 84604 AT ANY TIME PRIOR TO THE LATER OF: (I) MIDNIGHT OF THE THIRD (3RD) BUSINESS DAY AFTER YOU RECEIVED A SIGNED AND DATED COPY OF THE CONTRACT THAT INCLUDES THIS NOTICE, OR (II) THE START OF INSTALLATION OF THE SYSTEM. INCLUDE YOUR NAME, YOUR ADDRESS, AND THE DATE YOU RECEIVED THE SIGNED COPY OF THE CONTRACT AND THIS NOTICE. IF YOU CANCEL, THE CONTRACTOR MUST RETURN TO YOU ANYTHING YOU PAID WITHIN TEN (10) DAYS OF RECEIVING THE NOTICE OF CANCELLATION. FOR YOUR PART, YOU MUST MAKE AVAILABLE TO THE CONTRACTOR AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS YOU RECEIVED IT, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE. OR, YOU MAY, IF YOU WISH, COMPLY WITH THE CONTRACTOR'S INSTRUCTIONS ON HOW TO RETURN THE GOODS AT THE CONTRACTOR'S EXPENSE AND RISK. IF YOU DO MAKE THE GOODS AVAILABLE TO THE CONTRACTOR AND THE CONTRACTOR DOES NOT PICK THEM UP WITHIN TWENTY (20) DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY KEEP THEM WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE CONTRACTOR, OR IF YOU AGREE TO RETURN THE GOODS TO THE CONTRACTOR AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

I HEREBY CANCEL THIS TRANSACTION DATED: _____

AR No.: 4127575

Customer's Signature: _____

ADDITIONAL TERMS AND CONDITIONS

7. REPRESENTATIONS AND WARRANTIES.

You represent, warrant and agree that each of the following is true and correct: (i) all information concerning You herein is true, correct, and complete; (ii) You are the only fee simple owner(s) of the Property (i.e., You have full and exclusive ownership rights to the Property); (iii) You are at least eighteen (18) years of age; (iv) You currently have and agree to maintain customary property and liability insurance with respect to Your Property; and (v) You have had the opportunity to review and discuss this Agreement with Our sales agent and any other advisor You may desire to consult. You understand that any mistake, misrepresentation, or omission in this Agreement made by You is a material breach of this Agreement and entitles Us to the remedies provided for in Section 13(b). We make no representations or warranties except as expressly set forth in this Agreement.

8. OUR SERVICES. (a) **Metering.** We will install performance meter(s) as needed to measure the Energy produced by the System. We will collect performance data remotely or use Our personnel to collect the data. We will provide this data to You upon Your reasonable request. You agree to allow Our personnel reasonable access to Your Property to collect such data. At Our discretion, We may test the accuracy of the performance meters from time to time. If testing indicates that the meter is inaccurate by more than +/- 5%, We will (i) repair and recalibrate the meter, at no cost to You; and (ii) make retroactive adjustments to Your payments based on corrected meter data for the period of such inaccuracy. If the meter is inoperable for any reason, including Your failure to maintain working broadband internet or electrical connections, We may charge You for the Shutdown Payment. (b) **Casualty Losses.** If the System is damaged or destroyed by fire, storm, flood, earthquake, or other disaster or accident (each, a "Casualty Event") covered by Our insurance, We will promptly repair and replace the damaged portions of the System as necessary to restore it to good working condition. If the System is damaged or destroyed by a Casualty Event not covered by Our insurance, We may, at Our option (i) repair and restore the System to good working condition; or (ii) terminate this Agreement and, at Your election, either convey the System in its then-existing condition, "As Is, Where Is", to You for no additional consideration or remove the System from Your Property. (c) **Disconnection of System.** We may cause the System to be disconnected from the Utility's facilities if they require such disconnection or We are required to do so under applicable law.

9. YOUR DUTIES. (a) **Use of the System.** You shall use the Energy for residential purposes only and not for heating a swimming pool. At all times, You shall ensure that the Property remains grid-connected to the Utility. (b) **Broadband Internet Connection.** You must provide the System with continuous access to a functioning internet connection with one wired Ethernet port and standard electrical outlet, at Your cost. If You fail to maintain broadband internet or electrical connection for a period of time, We may charge You the Shutdown Payment. (c) **System Alterations.** You shall not (i) alter, repair, or otherwise modify any component of the System (collectively, "Alterations"); and (ii) take any action that could void or impair any warranty relating to the System. You will be responsible for any damage to the System that is caused at any time by You or Your guests, invitees, contractors, or agents. (d) **Property Alterations.** You shall (i) trim all trees on Your Property, not install structures on Your roof, and take other reasonable steps to ensure that shading of the System is no worse than on the Transaction Date; and (ii) maintain, in good condition and repair, the roof and all electrical systems of Your Property. (e) **Authorizations.** You shall obtain from Your mortgagee, home owners' association, or any other person with an interest in Your Property all authorizations necessary for Us to install, operate, and maintain the System. Your failure to obtain these authorizations in a timely manner may result in termination of this Agreement. (f) **Taxes.** You will pay all taxes assessed on or arising from installation or operation of the System, including any general excise or sales tax on the Energy produced by the System. We shall be responsible for income tax and property tax assessed in relation to Our ownership of the System. (g) **Changes.** If You, the Utility, or any governmental agency requires (i) any change to the System after its installation, You shall pay Our standard parts and labor charges; or (ii) that We pay any tax, fee, or other charge in relation to the System or this Agreement after the In-Service Date, then You shall be responsible to reimburse Us for such tax, fee, or other charge (except for income and property taxes that are Our responsibility under Section 9(d)). (h) **Further Assurances.** Upon Our request, You shall promptly sign and return (i) any application, agreement or other document necessary for Us to obtain any credits, rebates, incentives, allowances, or certificates that are attributed, allocated, or related to the System, the Energy, or environmental attributes thereof (collectively, the "System Interests"); (ii) any permits, interconnection, net metering agreements, and other documents required by the Utility; and (iii) any document necessary to verify Our ownership interest in the System and System Interests. (i) **Duty to Notify.** You shall promptly notify Us if (i) You notice any person or thing interfering with the operation of the System; (ii) Your Property has any ordinance or permit violations or encumbrance that may prevent proper System permitting; or (iii) You take any emergency action with respect to the System. Your failure to promptly notify Us of such matters shall be a Customer Default under Section 13(a).

10. SALE OF SOLAR ENERGY. (a) **Sale of Electricity.** Beginning with the In-Service Date, We will sell to You and You will buy from Us all of the Energy produced by the System. Title to and risk of loss with respect to the Energy shall transfer from Us to You at the point where the System is interconnected with Your Property's electrical wiring. Energy from the System will be delivered to You in compliance with all requirements of the Utility. (b) **Payments.** You agree that the obligation to pay any amount due under this Agreement shall be absolute and unconditional, and shall not be subject to any abatement, defense, counterclaim, setoff, recoupment or reduction. You and We agree that all amounts payable by You hereunder shall be payable in all events including by Your heirs and estate. Except as permitted by the Notice of Cancellation, You hereby waive all rights You may have to reject or cancel this Agreement, to revoke acceptance of the System, or to grant a security interest in the System. (c) **Limits on Obligation to Deliver.** WE DO NOT WARRANT OR GUARANTEE THE AMOUNT OF ENERGY PRODUCED BY THE SYSTEM FOR ANY PERIOD OR ANY COST SAVINGS. We are not a utility or public service company and do not assume any obligations of a utility or public service company to supply Your energy requirements. We are not subject to rate review by governmental authorities. During the Term, You understand that You may require more electricity than the System may generate. If You need any such additional energy, then You shall be solely responsible to obtain such energy from the Utility at Your cost.

11. OWNERSHIP OF SYSTEM. (a) **Our Ownership of the System.** We shall own and hold all property rights in the System and the System Interests. You shall have no property interest in the System or the System Interests except for (i) the Energy that the System generates, and (ii) any credits or payments available under Your Utility's "net metering" program for the Energy that the System generates. You agree to keep the System and System Interests free from all liens and encumbrances. (b) **Personal Property Nature of the System.** Notwithstanding the manner in which the System is attached to Your Property, nor any fixture filing by Us, You and We hereby agree that the System and the System Interests shall remain Our sole personal property and shall not be deemed or characterized as a "fixture" or any part of the "realty", as those terms may be defined by applicable law. It is further agreed that the installation of the System shall not be a repair, remodel, alteration, conversion, modernization of, or addition to, Your Property. (c) **Grant of Access.** You hereby grant to Us and Our employees, agents, and contractors the right to access and use Your Property so that We may (i) install, operate, and maintain the System throughout the Term, (ii) enforce Our rights as to this Agreement and the System, and (iii) take any other action reasonably necessary in connection with the construction, installation, operation, maintenance, repair, or removal of the System. The foregoing rights of access to Your Property shall constitute a license coupled with an interest and shall be irrevocable for up to ninety (90) days after this Agreement expires to provide Us with time to remove the System at the end of the Term. (d) **Notice of System Ownership.** You authorize Us to make filings and recordings with relevant governmental authorities as may be necessary to provide notice of Our ownership in the System and the System Interests, and Our right to access Your Property. Upon termination of this Agreement, each such filing will be terminated. You understand that the System shall be marked and identified as Our property.

12. ASSIGNMENT & TRANSFER. (a) **Assignment.** We may assign, sell, or transfer (in whole or in part) this Agreement, the System, or the System Interests without Your consent and without notice. If such assignee agrees in writing to assume Our rights under this Agreement, We will have no further liability or obligation under this Agreement upon the effectiveness of such assignment. (b) **Transfer of Property.** You shall provide Us with thirty (30) days' prior written notice of a proposed fee simple sale of Your Property. This written notice shall include the name of the proposed purchaser or transferee ("Property Transferee") and the proposed date of sale or transfer. You will also provide any additional information regarding Property Transferee that We reasonably request. You will request that Property Transferee agree in writing with Us that Property Transferee will assume Your obligations under this Agreement. Property Transferee shall enter into such agreement on or before the date Your Property is sold. Alternatively, if We determine that Property Transferee is not adequately creditworthy to assume Your obligations under this Agreement, or Property Transferee refuses to assume Your obligations under this Agreement, We

may terminate this Agreement on written notice to You and You will be obligated to pay to Us an amount equal to Four Dollars (\$4) per watt installed, subject to a reduction of five percent (5%) per year (e.g. in year 20, the Transfer Payment will be \$1.56 per watt installed), plus applicable taxes (the "Transfer Payment"). After You pay to Us the Transfer Payment, We will transfer ownership of the System to You on an "As Is, Where Is" basis. Notwithstanding any other provision in this Agreement, if the proposed transfer of Your Property to Property Transferee is a lease or other transfer that is not a fee simple sale, You will remain responsible for performance of Your obligations under this Agreement. You agree that the death of all Customers hereunder shall be deemed a transfer of Your Property, and We will work with Your successors and heirs to transfer this Agreement pursuant to the terms and conditions of Section 12(b).

13. EVENTS OF DEFAULT. (a) **Customer Default.** A "Customer Default" shall mean the occurrence of any of the following: (i) Your failure to make any payment under this Agreement within ten (10) days of when due and such failure is not cured within ten (10) days after We give You written notice of such failure; (ii) Your failure to perform any obligation under this Agreement and such failure is not cured within thirty (30) days after We give You written notice of such failure; (iii) You deny Us. Our contractors or agents, governmental authorities, or the Utility access to Your Property and such access is not given within thirty (30) days after We give You written notice of the failure to provide such access; (iv) Your bankruptcy, insolvency or admission of Your inability to pay Your debts as they mature; or (v) Your Property becoming subject to a foreclosure proceeding. (b) **Remedies for Customer Default.** If a Customer Default occurs, We may exercise any of the following remedies: (i) terminate this Agreement and demand You pay the Default Payment; (ii) leave the System in place on Your Property, but deny You access to and use of the Energy it produces, which may be redirected and sold at Our election; (iii) disconnect or take back the System as permitted by applicable law; (iv) place a lien on Your Property; (v) engage a collection agency to collect payments from You; (vi) report Your default to credit reporting agencies; and/or (vii) exercise any other remedy available to Us in this Agreement or under applicable law. (c) **Seller Default.** A "Seller Default" shall mean the occurrence of any of the following: (i) Our failure to perform any of Our material obligations under this Agreement and the effect of such failure is not cured within thirty (30) days after You give Us written notice of such failure; or (ii) Our bankruptcy, insolvency or admission of Our inability to pay Our debts as they mature. (d) **Remedies for Seller Default.** If a Seller Default occurs and is continuing, You may: (i) terminate this Agreement and request removal of the System from Your Property; and/or (ii) except as provided below, exercise any other remedy available to You in this Agreement or under applicable law. Notwithstanding the foregoing, You will have no right to claim damages as a result of the termination of this Agreement, except for (x) the actual costs to remove the System, if We fail to remove the System from Your Property pursuant to Section 14; and (y) any damages to Your Property resulting from the removal of the System by Us or Our contractor. (e) **Default Payments.** If this Agreement is terminated for any reason, other than pursuant to the Notice of Cancellation, Section 16, or a Seller Default, You will pay to Us the Default Payment. The "Default Payment" shall be an amount equal to Seven Dollars (\$7) per watt installed, subject to a reduction of five percent (5%) per year (e.g. in year 20, the Default Payment will be \$2.68 per watt installed), plus applicable taxes. You agree that the Default Payment fairly reflects the value of the System, and, in the case of a Customer Default, is a fair representation of the damages and losses that We expect to incur. After You pay to Us the Default Payment, We will transfer ownership of the System to You on an "As Is, Where Is" basis.

14. TERMINATION. (a) **Termination by Seller.** We may, in Our sole discretion, terminate this Agreement (i) if prior to the In-Service Date, upon delivery of written notice to You; or (ii) upon the occurrence of a Customer Default. Within ninety (90) days after termination of this Agreement, other than under the circumstances in which the System is transferred to You under Section 2, Section 12, or Section 13, We will remove the System and restore all rooftop penetrations to be free from leaks. If We elect to terminate this Agreement, We will have no further liability to You. (b) **Termination by Customer.** You may terminate this Agreement (i) pursuant to the terms of the Notice of Cancellation, or (ii) upon a Seller Default.

15. SYSTEM SHUTDOWNS. (a) **Safety Shutdown.** In addition to Our right to shut down the System for maintenance, We may shut down the System if We reasonably believe that Property conditions or activities of persons on the Property, which are not under Our control, whether or not under Your control, may interfere with the safe operation of the System (a "Safety Shutdown"). During the pendency of a Safety Shutdown, You will pay Us the Shutdown Payment. (b) **Property Vacated.** In the event that You vacate Your Property for any period of time as a result of an event that is not a Force Majeure Event or Seller Default, You will continue to pay Us for all the Energy produced by the System. (c) **Interconnection Deactivation.** If interconnection with the Utility becomes deactivated for reasons that are not (i) a Force Majeure Event, or (ii) caused by or related to Our unexcused action or inaction, such that the System is no longer able to produce electricity or transfer electricity to You or to the Utility, You will pay Us the Shutdown Payment. (d) **Shutdown Payment.** The "Shutdown Payment" shall equal the sum of (i) payments of the Energy Price that You would have made to Us as described in Section 2.A, for the Energy that would have been produced by the System during the period of the shutdown; (ii) the value to Us of the System Incentives that We would have received with respect to the Energy that the System would have produced following such shutdown; and (iii) applicable taxes. Determination of the amount of Energy that would have been produced during the period of the shutdown shall be based (A) during the first year after the In-Service Date, on estimated levels of production; and (B) after the first year after the In-Service Date, based on actual operation of the System during the same period in the previous year. If a shutdown pursuant to Section 4 or this Section 15 continues for one hundred and eighty (180) days or longer, We may, in Our sole discretion, terminate this Agreement and require You to pay the Default Payment.

16. FORCE MAJEURE. If You or We are unable to perform any of the obligations under this Agreement because of a Force Majeure Event, such affected party will be excused from whatever performance is affected by the Force Majeure Event, provided that the suspension of such obligations is of no greater scope and of no longer duration than is required by the Force Majeure Event. "Force Majeure Event" shall mean any event, condition or circumstance beyond the control of the affected party which, by the exercise of due foresight such party could not reasonably have been expected to avoid, and which by the exercise of due diligence such party without fault attributable to it is unable to overcome, including, but not limited to, action by a governmental authority, the failure to act on the part of any governmental authority or the Utility (provided that such action has been timely requested and diligently pursued), failure to obtain or maintain a permit, license, consent or approval (provided that such party has made timely and reasonable commercial efforts to obtain and maintain the same), labor dispute, strike, work stoppage, slow-down, lock-out, flood, earthquake, fire, lightning, wind, epidemic, war, terrorism, riot, economic sanction or embargo, civil disturbance, act of god, unavailability of electricity from the Utility, equipment, supplies or products, power or voltage surge caused by someone other than the affected party, or failure of equipment not utilized by or under the control of the affected party.

17. LIMITATION OF LIABILITY. You understand that: (a) We are not an insurer of Your Property, personal property, or personal safety of persons in or on Your Property; (b) You are solely responsible for providing any insurance with respect to Your Property and its contents; (c) the amount You pay to Us is based only on the value of the Energy produced by the System and not on the value of Your Property or its contents; (d) the System may not always operate properly for various reasons; (e) it is difficult to determine in advance the value of the components of the System that might be lost or destroyed if the System fails to operate properly; (f) it is difficult to determine in advance what portion, if any, of any property loss, personal injury or death would be proximately caused by Our failure to perform. Our negligence, or a failure of the System, or the System installation.

NOTWITHSTANDING ANY BREACH OF THIS AGREEMENT, ANY FAILURE OF THE SYSTEM, OR ANY NEGLIGENT ACT THAT CAUSED ANY INJURY OR LOSS (WHETHER PROPERTY DAMAGE, PERSONAL INJURY OR DEATH) TO ANYONE, WE AND YOU AGREE THAT, UNLESS SUCH INJURY OR LOSS WAS CAUSED BY A PARTY'S GROSS NEGLIGENCE, FRAUD, OR WILLFUL INJURY, SUCH PARTY'S LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL IN NO EVENT EXCEED THE DEFAULT PAYMENT. YOU AND WE AGREE THAT THIS AMOUNT IS A FAIR REPRESENTATION OF THE DAMAGES THAT YOU OR WE EXPECT TO INCUR IN THE CASE OF ANY INJURY OR LOSS HEREUNDER.

NO CLAIM SHALL BE MADE BY YOU AGAINST US OR ANY OF OUR AFFILIATES, DIRECTORS, EMPLOYEES, AGENTS, OR CONTRACTORS FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (WHETHER OR NOT THE CLAIM THEREFORE IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF, OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH. YOU HEREBY WAIVE, RELEASE, AND AGREE NOT TO SUE UPON ANY SUCH CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN YOUR FAVOR. YOU FURTHER AGREE THAT NO CLAIM, LAWSUIT, OR ANY OTHER LEGAL OR ARBITRATION PROCEEDING IN CONNECTION WITH, ARISING OUT OF, OR IN ANY WAY RELATED TO THIS AGREEMENT MAY BE BROUGHT, COMMENCED OR FILED MORE THAN ONE (1) YEAR AFTER THE INCIDENT GIVING RISE TO SUCH CLAIM. YOU ACKNOWLEDGE THAT WE ARE RELYING ON THIS SECTION 17 AS A CONDITION AND MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT.

18. INDEMNIFICATION. To the fullest extent permitted by applicable law, You hereby agree to indemnify, advance expenses, and hold harmless Us and Our affiliates, directors, employees, agents, contractors, and Our successors and assigns (each, a "Covered Person") from any and all third party claims, actions, costs, expenses (including reasonable attorneys' fees and expenses), damages, liabilities, penalties, losses, obligations, injuries, demands and liens of any kind or nature in connection with, arising out of, or in any way related to (i) Your breach of this Agreement, or (ii) Your negligence or willful misconduct; *provided* that Your indemnification obligations under this Section 18 shall not apply if the harm or damage that is the basis for such third party claim occurred while one of Our employees or agents was at Your Property and such harm or damage was solely caused by the active negligence or willful misconduct of such employee or agent.

19. SUBROGATION. You agree to release all Covered Persons from any claims of any parties suing through Your authority or in Your name, such as Your insurance company, and You agree to defend Us against any such claim. **YOU AGREE TO NOTIFY YOUR INSURANCE COMPANY OF THIS RELEASE.**

20. AMENDMENTS AND WAIVERS. This Agreement may only be amended or modified by an instrument in writing signed by both You and Us.

21. ENTIRE AGREEMENT. This Agreement, the Additional Terms and Conditions, the Customer Packet, the Work Order, and any other agreements or documents incorporated herewith, constitute the entire agreement between You and Us and supersede all prior oral and written negotiations, communications, discussions and correspondence pertaining to the subject matter hereof.

22. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of You and Us and Our and Your respective heirs, legal representatives, successors, and permitted assigns. Except as otherwise expressly provided in this Agreement, or by operation of law, neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by You without Our prior written consent. Any assignment by You without Our prior written consent shall be void.

23. GOVERNING LAW. This Agreement, and any instrument or agreement required hereunder, shall be governed by, and construed under, the internal laws of the state where the Property is located.

24. NOTICE. All notices, requests, demands, and other communications required or permitted to be given under this Agreement shall be in writing delivered to the applicable party at the address set forth in this Agreement or to such other address as any party may designate from time to time by written notice to the other party.

25. SURVIVAL. After termination or expiration of this Agreement, any provisions which by their nature are intended to survive such termination or cancellation shall survive, including (without limitation) Sections 2, 3, 5, 11, 13, 14, 17, 18, and 19.

26. SEVERABILITY. If any provision of this Agreement is held to be invalid, prohibited, or otherwise unenforceable by an arbitrator or court of competent jurisdiction, this Agreement shall be considered divisible and such provision shall be

deemed inoperative to the extent it is deemed invalid, prohibited, or unenforceable, and in all other respects this Agreement shall remain in full force and effect; *provided*, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.

27. COUNTERPARTS. This Agreement may be executed in one or more counterparts, and all such counterparts shall be deemed to constitute one instrument. A facsimile or portable document format ("pdf") shall constitute an original for purposes hereof.

28. PUBLICITY. You hereby authorize Us to use Your and Your Property's voice, photograph, video, and likeness in print media, radio, television, e-mail, social media, web materials, and any audio or video recording; *provided* that We agree that We will not disclose any of Your personally identifying information (except as provided in Section 21(e)). You waive and forever release Us for any Dispute relating to or arising out of this Section 28.

29. PRESCREEN AND OPT-OUT NOTICE. THIS "PRESCREENED" OFFER OF CREDIT IS BASED ON INFORMATION IN YOUR CREDIT REPORT INDICATING THAT YOU MEET CERTAIN CRITERIA. THIS OFFER IS NOT GUARANTEED IF YOU DO NOT MEET OUR CRITERIA. IF YOU DO NOT WANT TO RECEIVE PRESCREENED OFFERS OF CREDIT FROM US AND OTHER COMPANIES, CALL THE CONSUMER REPORTING AGENCIES TOLL-FREE, (888) 567-8688; OR WRITE: EXPERIAN OPT OUT, P.O. BOX 919 ALLEN, TX 75013; TRANSUNION NAME REMOVAL OPTION, P.O. BOX 505 WOODLYN, PA 19094; EQUIFAX OPTIONS, P.O. BOX 740123 ATLANTA, GA 30374-0123.

30. CALIFORNIA NOTICE: MECHANICS' LIEN WARNING. Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder. Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit. To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a "20-day Preliminary Notice."

This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid. **BE CAREFUL.** The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices. You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property. **PROTECT YOURSELF FROM LIENS.** You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive. **PAY WITH JOINT CHECKS.** One way to protect yourself is to pay with a joint check.

When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier. For other ways to prevent liens, visit CSLB's Website at www.cslb.ca.gov or call CSLB at (800) 321-2752. **REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME.** This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe. *Pursuant to the terms of this Agreement, if You fail to make any payment when due hereunder, We may file a lien on Your Property.*

31. CALIFORNIA NOTICE: NOTE ABOUT EXTRA WORK AND CHANGE ORDERS. Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments. We are not required to perform additional work or changes without written approval in a "Change Order" before any of the new work is started. Extra work or a Change Order is not enforceable against You as the buyer unless the Change Order also identifies all of the following in writing prior to commencement of any work covered by such Change Order: (i) the scope of work encompassed by such Change Order; (ii) the amount to be added or subtracted from the Agreement; and (iii) the effect the order will make in the progress payments or the completion date. Our failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment. *Pursuant to the terms of this Agreement, the initial design and installation of the System shall be done at Our sole cost and expense, and the above notice does not apply to such work.*