



COMMUNITY SOLAR SUBSCRIBER AGREEMENT
C&I CUSTOMERS

This Community Solar Subscriber Agreement (the “Agreement”) provides a simple way to support solar energy and save money on electricity. Under this Agreement, the Subscriber will receive monetary bill credits each month that reduce the amount the Subscriber has to pay for its electric utility bill, in exchange for paying a monthly subscription fee equal to 90% of the monetary value of those bill credits. Thank you for your support of community solar!

Community Distributed Generation Disclosure Form	
Customer Information	Name:
	Service Address:
	Mailing Address:
	Email:
	Phone:
Distribution Utility	Electric Distribution Utility: <input type="text"/>
Overview	This document describes your Community Solar Subscription. In the event that the terms in this statement conflict with terms appearing elsewhere in your contract, the terms in this statement are controlling. Read this document and the contract carefully so that you fully understand this Agreement.
Price, Fees, and Charges	<p>Under this Agreement, you agree to pay us a monthly Subscription Payment equal to 90% of the value of the monetary Bill Credit that will be applied to your electric utility bill each month based on the percentage of solar power production that is allocated to you from the solar facility (“Facility”) described in <u>Exhibit B</u>. For example, if the Bill Credit is \$100 for a month, the Subscription Payment for that month would be \$90.</p> <p>The value of the Bill Credits, and thus the amount of the Subscription Payment, may vary from month to month based on the actual amount of solar power generated by the Facility and based on applicable governmental and utility rules. The Bill Credit and the Subscription Payment will be specified each month in an invoice.</p> <p>This Agreement does not grant to Subscriber the right to any Energy Attributes associated with the Facility. “Energy Attributes” means any and all direct, indirect, or derivative benefits or incentives of owning and/or operating the Facility including but not limited to ancillary services, environmental attributes, renewable energy credits, green tags, green tag reporting rights, carbon offset credits, rebates, tax attributes, tax credits, depreciation, depreciation bonuses, cost recovery deductions, federal, state or local incentives, or any other attributes, benefits, or incentives of owning the Facility of any kind.</p>
Project Location and Customer Allocation	Subscriber will receive notice in writing of which Facility Subscriber will be assigned to receive Bill Credits (the “Facility Assignment Notice”). The Facility Assignment Notice will include updated versions of <u>Exhibit A</u> and <u>Exhibit B</u> , which will become part of this Agreement.

	<p>Subscriber will be assigned to an eligible Facility located in one of the following municipalities: [] County</p> <p>Subscriber's allocation of the production of that Facility is expected to be []%.</p> <p>Subscriber's final allocation will be determined in accordance with applicable law and will be based on Subscriber's historical annual consumption of electricity.</p>
Length of Agreement and Renewal	<p>Term: 25 years.</p> <p>Renewal Options: The Agreement may be renewed for up to two (2) additional five (5) year periods.</p>
Early Termination	<p>Subscriber may terminate this Agreement upon giving Provider written notice at least two (2) years before the desired termination date ("Termination Date"). Following Subscriber's notice of termination, Subscriber will continue to pay the Subscription Payments allocated to Subscriber until the earlier of (a) the Provider replacing the Subscriber with a new subscriber satisfactory to the Provider, in its sole discretion, at approximately the same Percentage Allocation which new subscriber and allocation has been approved by the Utility, and (b) the Termination Date. Termination pursuant to the above is not subject to a termination fee.</p>
Estimated Benefits	<p>Under this Agreement, Subscriber will receive monetary Bill Credits based on the Value Stack methodology established under the New York Public Service Commission's Value of Distributed Energy Resources proceedings.</p> <p>At Subscriber's expected allocation of []%, Subscriber would be projected to be allocated [] kWh of generation annually from a Facility with [] kWh of projected annual production.</p>
Guarantees	<p>This Agreement does not guarantee savings. This Agreement does not guarantee a minimum level of system performance or production of energy.</p>
Data Sharing and Privacy Policy	<p>Subscriber authorizes Provider to request the following data ("Subscriber's Data") from Subscriber's Utility and to use that data in order to accomplish the goals of this Agreement: (i) Subscriber's energy consumption history; (ii) Subscriber's billing information and classifications; and (iii) Subscriber's utility account number. Subscriber's authorization to allow Provider to obtain and to use Subscriber's Data shall last for the Term of this Agreement. Unless Provider is required to do so by law, Provider will not share Subscriber's Data with third parties other than Provider's financiers, lawyers, accountants, or agents. More details on Provider's privacy policy are available at https://oyasolar.com/privacy-policy.</p>
Customer Rights	<p>If you have inquiries or complaints that the Provider is unable to resolve, you have the right to call the Department of Public Service Helpline at 1-800-342-3377. You may file a complaint on the Helpline or by following the instructions at http://www.dps.ny.gov/complaints.html.</p>
Preparer Name and Contact Information	<p>Janet Janzen, janet.janzen@oyasolar.com</p>

By signing below, all parties acknowledge the delivery and receipt of the above disclosures to Subscriber.

Signature of Authorized Company Official or Representative:

Date:

Signature of Subscriber:

Date:

LIST OF EXHIBITS

Exhibit A - Subscriber Information

Exhibit C - Terms and Conditions

Exhibit B - Facility Information

By signing this Agreement, Subscriber acknowledges that Subscriber has read and understands this Agreement and its Exhibits in their entirety, and that Subscriber has received a copy of this Agreement and its Exhibits.

AGREED AND ACCEPTED:

SUBSCRIBER

Entity Name	
Signature	
Name of Signatory	
Title of Signatory	
Date	

PROVIDER

Entity Name	
Signature	
Name of Signatory	
Title of Signatory	
Date	

EXHIBIT A
SUBSCRIBER INFORMATION

Entity Name	
Mailing Address	
Email Address	
Phone	
Electric Utility Service Address	
Electric Distribution Utility	
Electric Utility Account Number	
NYISO Load Zone	
Expected Percentage Allocation	
Percentage Allocation*	

* The Percentage Allocation will be determined in part by the Facility that Subscriber is assigned to. An updated version of Exhibit A will be provided to Subscriber as part of the Facility Assignment Notice, which will become part of the Agreement at such time.

EXHIBIT B*
FACILITY INFORMATION

System Name	
System Location	
NYISO Load Zone	
System Size (kW AC)	
Commercial Operation Date	

* This Exhibit B shall be completed at the time the Subscriber is sent the Facility Assignment Notice, which will become part of the Agreement at such time.

EXHIBIT C**TERMS AND CONDITIONS**

1. **OVERVIEW.** The Effective Date of this Agreement is the date on which it has been signed by both the “Provider” ([] and its successors, assigns, designees, and agents) and the “Subscriber” (the person(s) or entity set forth in Exhibit A) (each a “Party” and collectively, the “Parties”). Provider is, or will be, the owner and/or operator of the photovoltaic electric generation facility (the “Facility”) described in Exhibit B. Prior to the Commercial Operation Date (defined below in Section 4(a)), Provider shall provide Subscriber with written notice of the Facility Subscriber will be assigned to receive Bill Credits (the “Facility Assignment Notice”). The Facility Assignment Notice shall include updated versions of Exhibit A and Exhibit B, which will become part of this Agreement.
2. **TERM.** The Term of this Agreement shall commence on the Effective Date and shall expire on the twenty-fifth (25th) anniversary of the date on which Provider first invoices Subscriber for a Subscription Payment in accordance with Section 4 (“Term”). Unless Subscriber contacts Provider at least sixty (60) days prior to the expiration of the Term requesting in writing that the Term not be renewed, the Term shall be renewed for an additional five (5) years. The Term may be renewed a maximum of two (2) times.
3. **SUBSCRIBER ELIGIBILITY.** Subscriber’s eligibility to enter into this Agreement and to continue to perform and receive the benefits provided by this Agreement are expressly conditioned upon Subscriber meeting all eligibility criteria included in applicable law and regulations and/or Utility rules (the “Subscriber Eligibility Criteria”) as of the Effective Date and throughout the Term. Provider shall evaluate Subscriber’s credit rating within fifteen (15) days after the Effective Date (the “Initial Credit Review”), and may, from time-to-time thereafter during the Term, evaluate Subscriber’s credit rating (each subsequent evaluation being a “Periodic Credit Review”). If, in connection with the Initial Credit Review or a Periodic Credit Review, Provider determines that the Subscriber’s credit rating is below Investment Grade, Provider shall notify Subscriber of such determination, and Provider may terminate the Agreement by providing Subscriber with written notice. Notwithstanding anything to the contrary, neither Party shall bear any liability, or be obligated to pay any termination fee, to the other as a result of a termination of the Agreement pursuant to the previous sentence. “Investment Grade” shall mean (i) Subscriber’s S&P or Moody’s senior unsecured or underlying rating falls below BBB- or Baa3, or (ii) Subscriber is not rated by S&P or Moody’s and does not meet or exceed other criteria of creditworthiness, determined by Provider acting reasonably and otherwise acceptable by Provider’s Financing Parties.
4. **PURCHASE OF ALLOCATION AND BILL CREDITS.**
 - a. **Percentage Allocation.** In exchange for the Subscription Payment, Provider agrees to sell to Subscriber, and Subscriber agrees to purchase from Provider, monetary Bill Credits corresponding to a percentage of the Facility’s generation of electricity (the “Percentage Allocation”) that exceeds the Facility’s use of electricity (the “Excess Generation”) for the Term of this Agreement. Each **billing month determined by the Utility** during the Term of this Agreement and during which Bill Credits are allocated to Subscriber shall be referred to as a “Bill Period.” Subscriber understands that no Bill Credits will be allocated to Subscriber until after the date on which the Facility is authorized to connect to the electrical grid by the local electric utility (“Utility”) and until after the Utility approves the allocation of Bill Credits to Subscriber (“Commercial Operation Date”). Subscriber’s Percentage Allocation is specified in Exhibit A, but is subject to one or more subsequent adjustments by Provider according to the terms of Section 4(e).
 - b. **Bill Credit.** The Percentage Allocations gives the Subscriber the right to receive Bill Credits. “Bill Credits” are monetary credits applied to Subscriber’s electric utility bill to offset the charges in that bill. The Bill Credit for a Bill Period is calculated by finding the product of (i) the number of kilowatts of Excess Generation in the previous Bill Period, (ii) the Percentage Allocation, and (iii) the Credit Rate applicable to Subscriber under New York law. “Credit Rate” means the Value of Distributed Energy Resources (“VDER”) rate as established by the New York State Public Service Commission. The application of Bill Credits shall occur no more than once per calendar month. If the amount of Bill Credits allocated to Subscriber in a Bill Period exceeds the amount that can be applied to Subscriber’s electric utility bill in that Bill Period, the excess Bill Credits shall be applied to Subscriber’s next electric utility bill.
 - c. **Monthly Subscription Payment.** In exchange for the Bill Credits, Subscriber shall pay to Provider the monthly Subscription Payment for each Bill Period during the Term. The monthly “Subscription Payment” is calculated by finding the product of (i) the Excess Generation of the Facility in the previous Bill Period, (ii) the Percentage Allocation, (iii) the Credit Rate, and (iv) ninety percent (90%). Subscriber shall pay the monthly Subscription Payment for each month that this Agreement is in effect, even if the Subscriber is not able to use all of the Bill Credits allocated to Subscriber prior to the termination of the Agreement.
 - d. **Invoicing.** Following the conclusion of the first Bill Period, Provider shall invoice Subscriber for the monthly Subscription Payment. Subscriber agrees to make its Subscription Payments promptly upon receipt of the invoice. Any amounts not paid within thirty (30) days of

the invoice date will accrue a one-time late payment fee of ten percent (10%) of the amount due. After non-payment of more than sixty (60) days from the date of the invoice, the Provider reserves the right to terminate this Agreement. Interest on unpaid Provider bills beyond sixty (60) days will accrue at a rate of eight percent (8%) per annum (or the maximum rate permitted by applicable law) from the invoice due date until Provider receives payment. The Subscription Payment due for a period that is less than a full Bill Period shall be prorated as applicable.

- e. **Provider and Subscriber Adjustments.** Subscriber consents to Provider, in its sole and absolute discretion, modifying Subscriber's Percentage Allocation, provided that Provider complies with all applicable laws and Subscriber Eligibility Criteria. Subscriber also consents to Provider, in its sole and absolute discretion, allocating to Subscriber additional Bill Credits during any given Bill Period and invoicing Subscriber for ninety percent (90%) of the monetary value of those Bill Credits, provided that Provider complies with all applicable laws and Subscriber Eligibility Criteria. In the event Subscriber's annual kilowatt usage changes, Subscriber may submit a written request to Provider to modify Subscriber's Percentage Allocation. Provider may honor such request in its sole and absolute discretion.
- f. **No Guarantee.** Provider does not guarantee, and Subscriber acknowledges that Provider does not guarantee, the amount of electrical energy the Facility will generate, the monetary value of the Bill Credits received by Subscriber, or that Subscriber will save on their electric utility bills.
- g. **Energy Attributes.** This Agreement does not grant to Subscriber the right to any Energy Attributes associated with the Facility. "Energy Attributes" means any and all direct, indirect, or derivative benefits or incentives of owning and/or operating the Facility including but not limited to ancillary services, environmental attributes, renewable energy credits, green tags, green tag reporting rights, carbon offset credits, rebates, tax attributes, tax credits, depreciation, depreciation bonuses, cost recovery deductions, federal, state or local incentives, or any other attributes, benefits, or incentives of owning the Facility of any kind.
- h. **Title; Risk of Loss.** Subscriber and Provider agree that title to, control of, and risk of loss of the Bill Credits sold to Subscriber under this Agreement shall transfer to Subscriber at the Facility's point of interconnection with the Utility's electric transmission or distribution system.

order to accomplish the goals of this Agreement: (i) Subscriber's energy consumption history; (ii) Subscriber's billing information and classifications; and (iii) Subscriber's utility account number. Subscriber's authorization of Provider to obtain and to use Subscriber's Data shall last for the Term of this Agreement.

- b. Unless Provider is required to do so by applicable law, Provider will not share Subscriber's Data with third parties other than the Utility or Provider's financiers, lawyers, accountants, agents or representatives.

6. **TAXES.**

- a. Subscriber and Provider agree that this Agreement shall be treated as a service contract pursuant to Internal Revenue Code Section 7701(e) and the transactions contemplated by the Parties' execution of this Agreement shall not grant Subscriber with any right, title, interest, benefit, burden, or option such that Internal Revenue Code Section 7701(e)(3) does not apply to Subscriber's relationship to the Provider and/or the Facility. Subscriber shall not take the position on any tax return or in any other filings suggesting that the Agreement is anything other than a service contract.
- b. Provider does not make any representations regarding the tax implications to Subscriber entering into this Agreement.
- c. Subscriber agrees that it shall be responsible for all sales, use, gross receipts, or other similar taxes, as well as any fees, charges, or assessments, imposed on Subscriber in connection with this Agreement by any governmental authority.

7. **REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

- a. **Mutual.** Each Party represents, warrants, and covenants to the other Party:
- i. The Party is duly organized, validly existing, and in good standing in the jurisdiction of its organization and is duly qualified to do business in the State of New York;
 - ii. The Parties have full legal capacity and authorization to enter into and perform this Agreement;
 - iii. To the best of each Party's knowledge, there is no litigation, action, arbitration, proceeding, or investigation pending before any court or other governmental authority by, against, affecting, or involving its ability to carry out the transactions contemplated in this Agreement;

5. **SUBSCRIBER DATA AUTHORIZATION.**

- a. Subscriber authorizes or has previously authorized Provider to request the following data ("Subscriber's Data") from Subscriber's Utility and to use that data in

- iv. The execution and delivery of this Agreement by the Parties and the performance by the Parties of their obligations hereunder do not and will not result in a breach of any of the terms, conditions, or provisions of, or constitute a default under any indenture, mortgage, deed of trust, credit agreement, note or other evidence of indebtedness, or any lease or other agreement or understanding, or any license, permit, franchise or certificate, to which the Parties are a party or by which they are bound or to which their properties are subject;
 - v. This Agreement constitutes a legally valid and binding obligation enforceable against Provider and Subscriber in accordance with its terms; and
 - vi. Each Party is in good financial condition, there are no bankruptcy proceedings against it, no filings against it for involuntary bankruptcy, and it has no knowledge of any material legal and/or financial claims, issues, or proceedings against it that would have any adverse material effect on its financial condition.
- b. **Subscriber.** Subscriber represents, warrants, and covenants to Provider:
- i. Subscriber is able to pay the Subscription Payment;
 - ii. Subscriber's execution of this Agreement is duly authorized according to its governing documents;
 - iii. Subscriber acknowledges that no authorization, consent, or approval of, or registration or filing with, any governmental authority or any other person is required to be obtained or made by the Subscriber in connection with the execution, delivery, or the Subscriber's performance of this Agreement.
 - iv. Subscriber acknowledges and agrees it will have no interest in or entitlement to any Energy Attribute;
 - v. Subscriber acknowledges that it will have no ownership of, possession of, right of control over, or right to access the Facility;
 - vi. Subscriber understands and agrees it is acquiring the Percentage Allocation and Bill Credits for its own electric utility account and it will not assign, convey, transfer, resell, or otherwise distribute the Percentage Allocation and Bill Credits to another person or entity;
 - vii. Subscriber acknowledges and agrees that this Agreement and the Percentage Allocation will not be treated and are not intended to be treated as a security under Article 8 of the New York Uniform Commercial Code or the federal Securities Act of 1933;
 - viii. Subscriber acknowledges and agrees that Provider does not guarantee the Facility's production or that any amount of Bill Credits will be allocated to Subscriber, and Subscriber has no defenses, set-offs, basis for withholding payments, counterclaims, or failure of performance claims against Provider;
 - ix. Subscriber acknowledges and agrees that it has an ownership interest, a lease, or other valid real property interest in Subscriber's Electric Utility Service Address as set forth in Exhibit A;
 - x. Subscriber acknowledges and agrees Subscriber has been given the opportunity to ask questions and receive answers from Provider concerning the terms of this Agreement and any other information necessary for Subscriber to evaluate the merits and risks of entering into this Agreement;
 - xi. Subscriber is *not* entering into this Agreement for personal, family or household purposes;
 - xii. Subscriber acknowledges and agrees it is not relying on statements made by Provider or any statements made by Providers' employees, agents, or representatives with respect to any tax or other financial implications that may arise as a result of entering into or the implementation of this Agreement. Subscriber acknowledges and agrees that nothing in this Agreement or any other information provided by or on behalf of Provider in connection with this Agreement constitutes legal, tax, or financial advice; and
 - xiii. Subscriber acknowledges and agrees it will promptly notify Provider of any changes in Subscriber's Data or of any other changes in Subscriber's status relevant to Provider's discharging of its duties under this Agreement.
8. **EARLY TERMINATION.** Subscriber may terminate this Agreement by providing Provider with written notice at least two (2) years before the desired termination date ("Termination Date"). Following Subscriber's notice of termination, Subscriber will continue to pay the Subscription Payments for the Bill Credits allocated to Subscriber until the earlier of (a) the Provider replacing the Subscriber with a new subscriber satisfactory to the Provider, in its sole discretion, at approximately the same Percentage Allocation which new subscriber and the allocation have been approved by the Utility, and (b) the Termination Date. Subscriber may propose a new subscriber to Provider, but its acceptance of any proposed new

subscriber is at Provider's sole discretion. Until the Commercial Operation Date, Provider may terminate this Agreement at any time and for any reason (including but not limited to change in applicable law, failure to obtain required permits, approvals or financing commitments) by submitting written notice of the intended termination date on or before the Commercial Operation Date by providing not less than thirty (30) days' written notice to Subscriber. Upon such termination, neither Party shall have any liability to the other except in respect of such liability accruing or arising prior to such termination.

9. **ASSIGNMENT; TRANSFER.** Subscriber may not assign or transfer this Agreement. Provider may assign, collaterally assign, or transfer this Agreement without providing Subscriber with prior notice and without obtaining Subscriber's prior consent to any affiliate, any financial institution, or any entity that has agreed in writing to recognize Subscriber's rights under this Agreement. Upon any such assignment or transfer, Provider shall be released from all future obligations under this Agreement.

10. **DEFAULT.**

a. **Events of Default.** The following shall constitute an "Event of Default":

- i. A Party fails to make any payment due under this Agreement and such failure continues for a period of sixty (60) days;
- ii. A Party breaches, fails to perform, or fails to comply with any representation, warranty, obligation, covenant or agreement described in this Agreement and such failure continues for a period of thirty (30) days after written notice thereof;
- iii. A Party has provided false or misleading financial or other information to enter into this Agreement;
- iv. Subscriber assigns, transfers, encumbers, or sells this Agreement or any part of its Percentage Allocation or Bill Credits; or
- v. Subscriber makes an assignment for the benefit of creditors, admits in writing its insolvency, or is subject to a petition for dissolution or reorganization under the U.S. Bankruptcy Code.

b. **Remedies.** Upon the occurrence of an Event of Default, either Party may take any rights and/or remedies available to it at law or in equity, including but not limited to terminating this Agreement by providing the defaulting Party with written notice. Provider agrees that it shall not request that the Utility terminate or suspend electric service to the Subscriber's Electric Utility Service Address. All rights, powers, and remedies provided under this Agreement are cumulative and not

exclusive of any rights, powers, or remedies provided by applicable law. Provider may terminate this Agreement and replace the defaulting Subscriber, which will not waive payments or fees due and owed to Provider.

11. **LIMITATION OF LIABILITY, INDEMNIFICATION & DISPUTE RESOLUTION.**

- a. **Force Majeure.** Except as specifically provided in this Agreement, if by reason of Force Majeure, Provider is unable to carry out, either in whole or in part, any of its obligations described in this Agreement, Provider shall not be deemed to be in default during the continuation of such inability, provided that, within a reasonable time after the occurrence of the Force Majeure event, Provider gives Subscriber notice describing the particulars of the occurrence and the anticipated period of delay, and uses reasonable efforts to remedy the cause(s) preventing it from carrying out its obligations. "Force Majeure" means any event or circumstance beyond the reasonable control of Provider and not resulting from Provider's negligence.
- b. **Limitation of Liability.** NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER ARISING IN CONTRACT, TORT, UNDER STATUTE, OR IN EQUITY, AND EACH PARTY HEREBY WAIVES ITS RIGHTS TO ANY SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, PROVIDER'S LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT MAY NOT EXCEED THE SUM PAID BY SUBSCRIBER IN THE PREVIOUS CALENDAR YEAR (OR CURRENT CALENDAR YEAR IF THE AGREEMENT IS IN ITS FIRST YEAR).
- c. **Indemnification.** To the maximum extent permitted by law, Subscriber agrees to indemnify, protect, defend, and hold harmless Provider and its successors and assigns, and their employees, partners, members, officers, directors, contractors, and agents, from any and all damages, losses, claims, costs, expenses (including reasonable attorneys' fees) or any liability resulting from any action or suit by any third party, of any kind, resulting from Subscriber's failure to comply with any of the terms or conditions of this Agreement.
- d. **No Warranty.** Except as expressly provided in this Agreement, Provider makes no warranty or representation, either express or implied, regarding the Facility or its obligations under this Agreement. Provider disclaims all warranties of merchantability or fitness for a particular use or purpose.
- e. **Waiver.** Any delay or failure of a Party to enforce any of the provisions of this Agreement, or to require performance by the other Party of any of the provisions of this Agreement, shall not be construed to (i) be a

waiver of such provisions or a Party's right to enforce that provision, or (ii) affect the validity of this Agreement.

- f. **Severability.** If any portion of this Agreement is determined to be invalid or unenforceable in any respect under applicable law, the remainder of this Agreement shall not be affected thereby, and each term, covenant, or condition of this Agreement will be valid and enforceable to the fullest extent permitted by applicable law, unless such invalidity or unenforceability frustrates or negates an essential purpose of this Agreement.
- g. **Dispute Resolution.** In the event of a dispute, disagreement, or claim between Subscriber and Provider arising out of or in connection with this Agreement, the Parties shall use their best efforts to resolve the dispute, disagreement, or claim amicably and in good faith. Notwithstanding the foregoing, a dispute, disagreement, or claim may be submitted by either Party at any time to the New York State Department of Public Service by visiting their website at www.dps.state.ny.us, by calling 1 (800) 342-3377, or by writing to the following address: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223.
- h. **Waiver of Jury Trial; No Class Action.** EACH OF THE PARTIES, BY SIGNING THIS AGREEMENT, HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO A JURY TRIAL IN ANY LEGAL, ARBITRATION OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY AGREES THAT IT MAY ONLY BRING CLAIMS AGAINST THE OTHER PARTY IN ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.
12. **MISCELLANEOUS.**
- a. **No Profit.** This Agreement, and Subscriber's payments made hereunder, entitle Subscriber solely to the Bill Credits, which may only be used towards Subscriber's electricity consumption from its Utility account as and when applied to the Subscriber's Utility account by the Utility. While Subscriber's net electricity cost may be reduced as a result of entering into this Agreement, Subscriber will not be entitled to any profit (through any tax credits, rebates, earnings, capital appreciation or otherwise) related to the Facility.
- b. **Cooperation.** Subscriber shall cooperate with Provider and the Utility as reasonably necessary to effectuate the goals of this Agreement and to ensure this Agreement complies with applicable laws and policies.
- c. **Entire Agreement.** This Agreement and its Exhibits contain the entire agreement between Parties with respect to the subject matter hereof, and supersede all other understandings or agreements between the Parties relating to the subject matter hereof.
- d. **No Joint Venture or Third-Party Beneficiaries.** Nothing in this Agreement shall be deemed to create a joint venture or partnership between the Parties. This Agreement is intended solely for the benefit of the Parties hereto and any Financing Party providing the Provider or the Facility with debt or equity financing.
- e. **Binding Effect.** This Agreement is binding upon the Parties and their successors and permitted assigns.
- f. **Survival.** The provisions of Section 4, Section 11, and Section 12 of this Agreement shall survive the expiration or earlier termination of this Agreement as well as any other section which, by its sense and context, is intended to so survive.
- g. **Governing Law.** This Agreement is made in the state of New York and will be governed by New York law, without regard to principles of conflicts of law, together with any applicable federal law. The Parties agree that any dispute, disagreement, or claim that cannot be resolved pursuant to Section 11(g) shall be resolved by a court of competent jurisdiction in the County in which the Facility is located and Subscriber agrees to submit to the personal jurisdiction of the New York state courts located in such County for the purposes of litigating all such disputes, disagreements, and claims.
- h. **Counterparts.** This Agreement may be executed and delivered in identical counterparts by exchange of electronic copies showing the signatures of the Parties, which shall constitute originally signed copies of the same Agreement requiring no further execution. Each counterpart, when assembled, will be a complete original and fully effective instrument. Any acceptance of this Agreement by affirmation through a DocuSign Electronic Signature, or similar system, shall be deemed a binding acceptance of this Agreement and shall be valid as a signature.
- i. **Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
- j. **Complaints and Inquiries.** Subscriber may contact Provider with any complaints or inquiries at the following toll-free or local number: 1-844-516-9343 or 1-646-846-3258. Provider will acknowledge any such communication within two (2) days and will provide a complete response within fourteen (14) days.
- k. **Financing Parties.** Subscriber acknowledges that Provider may finance the construction, development, and

operation of the Facility through one or more financial partners (“Financing Party” or “Financing Parties”). Upon the request of Provider or a Financing Party, Subscriber agrees to execute and deliver to Provider or Financing Party any document, instrument, or statement as Provider or Financing Party may reasonably request in order to create, perfect, continue, modify or terminate a Financing Party’s security or equitable interest in this Agreement or the Facility. Subscriber acknowledges and agrees that under no circumstances shall a Financing Party be liable to Subscriber for any act, omission, or breach of any representation, warranty, or covenant by Provider.

1. **Publicity.** Subscriber agrees that Subscriber will not use any name, trade name, service mark or trademark of Provider’s in any promotional or advertising material without Provider’s prior written consent. To avoid any conflicts with regulations regarding claims of solar or renewable energy use, Subscriber will submit to Provider for approval any press releases regarding Subscriber’s use of solar or renewable energy and will not publish any such releases without Provider’s prior written approval, which shall not be unreasonably withheld. Subscriber agrees that Provider may publish any publicity materials, press releases or other public statements regarding this Agreement and the Facility. Subscriber shall not make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of Provider.
- m. **Change in Law.** In the event of any change in law which prevents Provider from performing its obligations under this Agreement or which has a material adverse effect on the revenue received by Provider under this Agreement, Provider shall have the option of terminating this Agreement upon thirty (30) days written notice to Subscriber.
- n. **Notices.** All notices and other communications to a Party under this Agreement must be in writing and delivered via either email or by mail. For notices and communications to Subscriber, the contact information contained in Exhibit A shall be used. For notices and communications to Provider, the contact information contained on the first page of this Agreement shall be used. A notice or communication shall be deemed delivered on the date of actual delivery.