

PHOTOVOLTAIC SYSTEM ROOFTOP LICENSE AGREEMENT

This **PHOTOVOLTAIC SYSTEM ROOFTOP LICENSE AGREEMENT** (this "Agreement"), is dated as of the June 17th, 2016 ("Effective Date"), is by and between, Blue Sky Utility LLC, a California limited liability company (hereinafter referred to as "Licensee") and Winery Square Station LP, a Delaware limited liability company (hereinafter referred to as "Licensor"). Licensee and Licensor may be referred to hereinafter individually as "Party," or collectively as "Parties."

WITNESSETH:

WHEREAS, Licensee desires to install an approximately 366kW peak power photovoltaic (PV) electric generation system, including solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections (hereinafter the "PV System"), at a location on the rooftop on Licensor's existing building located at 1955 W Texas St, Fairfield CA 94533 (the "Building") which is part of the shopping center known as Winery Square (the "Shopping Center");

WHEREAS, Licensor is the owner of the Shopping Center;

WHEREAS, Licensee desires to (1) use certain rooftop premises from Licensor to replace and maintain the rooftop for purposes of the installation, maintenance and operation of the PV System, to (2) generate electric energy ("Energy") and sell, to Licensor and certain tenants and occupants of the Shopping Center which receive electrical service through meters owned or controlled by Licensor, clean energy credits ("Clean Energy Credits"), in each case as part of their individual participation in a virtual net metering program ("VNMP") established pursuant to the interconnecting utility's Electric Rate Schedule NEMV (Virtual Net Metering for a Multi-Tenant or Multi-Meter Property Served at the Same Service Delivery Point) ("VNMP Schedule") (collectively the "Use"), and Licensor desires to permit the Use on the terms and conditions herein contained; and

WHEREAS, all necessary construction services, including but not limited to, engineering equipment and material procurement, construction management, and construction relating to the PV System will be performed and provided for by Licensee;

NOW, THEREFORE, in consideration of the promises and the mutual benefits from the covenants hereinafter set forth, Licensee and Licensor agree as follows:

1. **License.** Subject to the terms of this Agreement, Licensor does hereby grant to Licensee an exclusive license to use for the License Term, in accordance with the terms and conditions hereinafter set forth, limited areas of the roof of the Building as specifically identified on Exhibit A (the "Licensed Area") for the sole purpose of engaging in the Use; provided, that Licensee shall have obtained Licensor's prior written approval (not to be unreasonably withheld) of the plans and specifications for all work required in connection with installation and maintenance of the PV System, including, without limitation, replacement of the rooftop, modification of any outlets, receptacles or any other electrical equipment necessary to provide

electrical power to the PV System and the specific areas of the Building in which Licensee proposes to install any portion of the PV System. Licensor does hereby further agree and acknowledge that Licensee shall have all rights and delegated authorities necessary to implement the VNMP program, subject to the terms and conditions established in Exhibit B.

2. Conditions Precedent.

(a) Conditions Precedent. For purposes of this Agreement the “Conditions Precedent” are as follows:

(i) Permits. Licensee shall have obtained all the necessary licenses, permits and other authorizations (“Permits”) to utilize the Licensed Area for the Use. Such approvals shall include, without limiting same, all building, participation agreements for the sale of electricity to the local utility grid, separate meters, and construction permits for its intended use by the appropriate governmental and/or administrative authorities. Licensee will use commercially reasonable efforts to obtain the Permits. Licensor agrees to reasonably cooperate at no expense to Licensor with Licensee and with all state, county or municipal authorities to assist Licensee in obtaining the Permits and will execute such documents reasonably necessary to obtain the Permits, provided that no liability, cost or expense to Licensor, actual or potential, shall accrue thereby.

(ii) Site Layout. Licensee must approve, in its sole discretion, an acceptable site layout for the installation of the PV System and the sale of electricity thereby.

(b) Failure of Condition Precedent.

(i) Licensee. Licensee shall have the option to terminate this Agreement prior to the expiration of one hundred eighty (180) days (the “Approval Period”) after the Effective Date of this Agreement by giving written notice of such termination to Licensor if the Conditions Precedent (as herein defined) are not satisfied. Notwithstanding the foregoing, upon expiration of the Approval Period, if an application is pending before any governmental or municipal authority and Licensee has been diligent in its efforts to make all applications before such governmental or municipal authority, or if the Conditions Precedent are not satisfied because Licensor has not completed its requirements hereunder, so long as the Approval Period shall be extended for a period of up to ninety (90) additional days upon Licensee’s delivery of written notice thereof to Licensor and provided that Licensee provides written notice to Licensor detailing the reasons for such extension at least thirty (30) days prior to the expiration of the Approval Period.

(ii) Licensor. In the event Licensor is unable to obtain any consents required under Applicable Laws before the end of the Approval Period, Licensor may terminate this Agreement by delivering written notice to Licensee of such

termination this Agreement within sixty (60) days of the Effective Date and this Agreement shall be void and of no further effect upon such delivery.

(c) Electrical Consumption. Licensors and Licensee hereby acknowledge that in order for Licensee to use the Licensed Area for the Use, upon Licensee request Licensors shall delegate, authorize or assign its responsibilities for the operation and maintenance of the meter located at the Shopping Center to the Licensee. Both Parties further acknowledge that the meter shall not constitute part of the PV System, and that Licensors shall retain ownership or rights of control to such meter located at the Shopping Center separate from Licensee's Use. Furthermore, Licensee agrees to provide Licensors, monthly, a copy of the electrical bill for the meter, indicating the consumption used by the Licensors for its underlying commercial purpose. Licensors shall promptly pay Licensee for the consumption of electricity generated by the PV System and used by Licensors.

3. **Access to Licensed Area.** Licensee will provide Licensors reasonable advance written or telephonic notice (except in the event of emergency, in which event no notice shall be required) before any entry onto any portion of the Shopping Center by Licensee's employees, agents or contractors and shall have afford Licensors an opportunity to have a representative present if it desires. Notwithstanding anything to the contrary in this Agreement, Licensee shall be permitted to access the Licensed Area twenty-four (24) hours a day, seven (7) days a week for emergency purposes, if it is reasonable to do so under the circumstances. Within twenty-four (24) hours after any such emergency access, Licensee shall provide Licensors with a written explanation of the nature of the emergency, unless such emergency was directly caused by or attributable to, Licensors's actions.

4. **Installation, Operation and Ownership of the PV System.**

(a) Performance of Work. Licensee shall be responsible for all costs and expenses associated with the Use, and shall perform any work associated with the Use in a safe and workmanlike manner consistent with generally accepted construction standards and in compliance with all applicable laws, ordinances, rules, statutes, constitutions, regulations, court orders, treaties and codes now or hereafter in force and effect (collectively, "Applicable Laws"). Licensee agrees that it will not suffer or permit the Licensed Area to be used for any purpose prohibited by (i) zoning or similar laws or regulations, or (ii) covenants, conditions and restrictions of record. Licensee shall not permit any article to be brought on or any act to be done on or in the Shopping Center which shall render the Licensed Area, the Building, or the Shopping Center uninsurable, nor shall Licensee permit any vibration, noise or noxious odor to emit from the Licensed Area. Licensee shall keep the Licensed Area and the Shopping Center free from any mechanics' liens, vendors' liens and any other liens arising out of any work performed, materials furnished or obligations incurred by Licensee, and agrees to protect, defend, indemnify and hold Licensors harmless from and against any and all actions, adjudications, awards, causes of action, claims, costs, damages, demands, expenses (including, without limitation, attorneys' fees and costs and court costs), fees, fines, forfeitures, injuries, judgments, liabilities, liens, losses, obligations, orders, penalties,

proceedings, stop notices and suits (collectively, "Claims") in any way arising or resulting from or in connection with or related to any such lien or claim or action thereon. Before commencing any work of alteration, addition or improvement to the Licensed Area, Licensee shall give Licensors at least twenty (20) business days' written notice of the proposed commencement of such work (to afford Licensors an opportunity to post appropriate notices of non-responsibility). Additionally, Licensee shall perform all such work in such a way as to minimize any interference with the operations of the Shopping Center and the operations of any tenants, licensees and other occupants of the Shopping Center, and at such times and in accordance with rules and regulations as Licensors may reasonably require in order to minimize such interference. Licensee shall reimburse Licensors for any reasonable architects' and engineers' fees incurred in connection with Licensors' review and approval of the plans and specifications for the work within thirty (30) days following Licensee's receipt of an invoice therefor, provided, however, under no circumstances shall Licensee have any obligation to reimburse Licensors for any such architects' and engineer's fees that cumulatively exceed \$10,000.00.

(b) Maintenance, Cleaning and Repair. Licensee shall at all times maintain the PV System and the Licensed Area, at Licensee's sole cost and expense, in good condition and repair and shall comply with all Applicable Laws pertaining to the use, operation, enjoyment, service, repair and maintenance or improvement of the Shopping Center and the conduct of Licensee's business at the Shopping Center including, without limitation, in connection with this Agreement and the Use.

(c) Interference. The PV System shall not interfere with the use of the Shopping Center by Licensors or any tenant, subtenant, assignee, provider of services, licensee, owner or other occupant of the Shopping Center. Licensee shall correct any interference that occurs immediately upon Licensee's receipt of notice of the interference from Licensors or the affected party.

(d) Title. All right, title and interest in the PV System shall be held by Licensee during the License Term, and Licensee shall be entitled to sell all right, title and interest associated with or resulting from the production, sale, purchase or use of the PV System, the Energy output of the PV System, including but not limited to any Clean Energy Credits or other environmental attributes, and any tax credits or other financial incentives associated with or attributable to the PV System or the Use. Licensee shall be entitled to own, claim and retain any and all federal, state or local tax benefits associated with the ownership of the PV System, including any federal income tax credits or grants, as well as any and all state and local incentives for the installation of renewable energy facilities or the production of Energy from renewable energy sources. Licensors shall have no right to sell, License, assign, mortgage, pledge or otherwise alienate or encumber the PV System or any asset or product associated with the Use. Without the express written consent of Licensee, which consent shall not be unreasonably withheld, conditioned or delayed, Licensee shall not make or publish any public statement or notice regarding any commodities or products relating to the PV System except as may be required to comply with Applicable Laws (in which event Licensors will notify Licensee of such requirement prior to publishing any such public standard or notice). Except as

otherwise expressly provided, Licensor acknowledges and agrees that Licensor has no ownership interest in the PV System and Licensee is the exclusive owner and operator of the PV System, and that the PV System may not be sold, licensed, assigned, mortgaged, pledged or otherwise encumbered or alienated or encumbered (collectively, a "Transfer") by Licensor. Should this Agreement be terminated for any reason prior to the expiration of the License Term, the PV System shall remain the property of Licensee and shall be removed by Licensee within one hundred and twenty (120) days upon termination of this Agreement and Licensee shall restore the Licensed Area to the condition of such area to its condition after completion of the New Roof Work, less any reasonable wear and tear. Should Licensee fail to remove such improvements, Licensor shall have the right, but not the obligation, to remove such improvements.

(e) No Liens. Except as otherwise provided for in this License, Licensee shall keep the Licensed Area and the Shopping Center free from any mechanic's, materialman's or other liens or encumbrances in connection with any work on or respecting the PV System, other work or the Licensed Area or otherwise created by Licensee and shall defend, indemnify and hold Licensor harmless from and against any claims, liabilities, judgments, or costs (including attorneys' fees) arising out of the same or in connection therewith. Licensee shall remove any such lien or encumbrance, by bond, or otherwise, within twenty (20) days after receiving notice thereof, and if Licensee shall fail to do so Licensor may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof, and the amount so paid shall be reimbursed to Licensor by Licensee upon demand, without limiting other remedies available to Licensor under this License. Nothing contained in this License shall authorize Licensee to do any act which shall subject the Licensed Area or, the Shopping Center or any portion thereof to any liens or encumbrances, whether claimed by operation of Applicable Laws or by express or implied contract.

(f) Taxes. Licensee shall pay all taxes, fees and charges of any kind which are assessed, levied, charged, confirmed, or imposed on Licensee by any governmental authority due to Licensee's occupancy and use of the Licensed Area (or any portion or component thereof) and the ownership and use of the PV System thereon.

(g) Sunlight. Licensor shall not cause any interference with the PV System's access to sunlight, as such access exists as of the Effective Date.

(h) Permitted Use. Licensee shall use the Licensed Area solely for the operation of the PV System for administration of the VNMP, and related uses, and for no other purpose. Licensee shall not do or suffer or permit anything to be done in or about the Licensed Area which will in any way obstruct or interfere with the rights of other tenants or occupants of the Shopping Center or injure or annoy them or damage their property, or use or suffer or permit the PV System to be used for any immoral, unlawful or objectionable purpose, nor shall Licensee cause, maintain, suffer or permit any nuisance in, on or about the Shopping Center, or commit or suffer to be committed any waste in, on or about the Licensed Area or the Shopping Center.

5. Relocation.

(a) Relocation within Shopping Center. Licensor shall have the one-time right to relocate up to five percent (5%) of the Licensed Area to other portions of the Shopping Center upon at least sixty (60) days prior written notice to Licensee. The relocation area shall contain approximately the same number of square feet as the portion of the Licensed Area to be relocated. Licensee shall have thirty (30) days to reasonably review such information and discuss siting and installation requirements with Licensor; provided, however, to the extent that Licensee, using commercially reasonable efforts, is unable to obtain any necessary approval or permit associated with relocating the PV System in response to any notice provided under this Section 5(a), Licensor agrees Licensee shall have no obligation to relocate the PV System until such necessary approval or permit is obtained. Such relocation shall not terminate or otherwise affect or modify this License except that, from and after the date of such relocation, the "Licensed Area" shall include the relocation space in lieu of the portion of the Licensed Area surrendered to Licensor. Licensee's License Fee for the first thirty (30) days after such notice of relocation shall be waived by Licensor, and all reasonable, out of pocket expenses incurred by Licensee, provided such expenses do not exceed the previous full year's License Fee, shall be reimbursed by Licensor within ninety (90) days after Licensor's receipt of a written invoice therefor (together with reasonable supporting evidence of such costs).

(b) Redevelopment or other Relocation. After the first sixty (60) months from the date the PV System is placed in commercial operations and generating Energy, in the event Licensor elects to redevelop all or a portion of the Shopping Center, or otherwise relocate more than five percent (5%) the Licensed Area, Licensor shall have the right to cause Licensee to relocate or remove (or both) the PV System from the corresponding portion of the Licensed Area for up to nine (9) months by providing at least ninety (90) days prior written notice. Such redevelopment or relocation notice shall also contain the future layout of the Licensed Area after completion of the redevelopment or relocation. The new Licensed Area shall contain approximately the same number of square feet as the original Licensed Area and enable Licensee access to sell no less than an equal amount of Clean Energy Credits to tenants and/or Licensor. Licensee shall have thirty (30) days to reasonably review such information and discuss removal and storage requirements with Licensor. Licensee's License Fee for the first one hundred and twenty (120) days after relocation of the Licensed Area shall be waived by Licensor, and Licensor shall reimburse Licensee for its actual and verifiable, third-party, out-of-pocket costs and expenses for the removal, storage and reinstallation of the PV System after the completion of the redevelopment or relocation; provided, however, Licensor's costs shall be limited to no more than the aggregate License Fees paid by Licensee as of the date Licensor exercises its rights under this Section 5(b). Licensor shall in no event be responsible for any other loss of profit or revenues caused by the removal and relocation of the Licensed Area.

(c) Termination. Notwithstanding anything to the contrary in this License, if Licensor elects to remodel a portion of the Shopping Center which requires the relocation

of the Licensed Area for a period of more than twelve (12) months, then Licensors shall terminate this License in accordance with the terms of this paragraph. Licensors shall provide Licensee with no less than ninety (90) days prior written notice of such remodel and required termination. Licensee shall have thirty (30) days to reasonably review such information and discuss PV System removal requirements with Licensors. Licensors shall reimburse Licensee for its actual and verifiable, third party, out-of-pocket costs and expenses for the removal of the PV System, and the remaining unamortized value of the PV System and roof repair, as of the date of termination notice (using a straight line amortization over the term of the License), provided, however, Licensors's costs shall be limited to no more than the aggregate License Fees paid by Licensee as of the date Licensors exercises its rights under this Section 5(c), as well as the value of the roof repair (value of the roof repaid not to exceed two dollars and twenty-five cents per square foot (\$2.25/sq. ft.)). Notwithstanding anything to the contrary in this paragraph, Licensors shall not be entitled to terminate this License in the first sixty (60) months of the Initial License Term.

6. **License Fee; Late Charges; Interest.** Licensee hereby covenants to pay Licensors annual License payments of \$19,473.00 per annum, escalating at 2% per annum, paid in quarterly installments (the "License Fee") beginning on or before the fifth (5th) business day after the PV System is placed in commercial operations. In addition to the License Fee, Licensee shall pay to Licensors two (2) semi-annual payments in the sum of 5% of Licensee's gross revenue from the PV System (the "Percentage Fee") beginning six (6) calendar months after the Effective Date, and continuing throughout the License Term, as such gross revenue shall be validly demonstrated by Licensee as part of each payment. Licensee shall pay the License Fee and Percentage Fee to the following address: Shasta Station LLC, P.O. Box 645327 Pittsburgh, PA 15264-5327. Licensors shall have the right, no more than once per year, to review and audit Licensee's accounting and other financial documentation related to the License, upon reasonable advance written notice and at Licensors's sole expense.

If Licensee fails to pay any amount due under this Section 6 within ten (10) days after such amount becomes due and payable, Licensee shall pay to Licensors a late charge of five percent (5%) of such amount. In addition, any late payment of any amount due by Licensee under this Agreement shall bear interest from the date that such payment became due and payable to the date of payment by Licensee at the interest rate of fifteen percent (15%) per annum, provided that in no case shall such rate be higher than the highest rate permitted by Applicable Laws. Late charges and interest shall be due and payable within two (2) days after written demand therefor from Licensors. Licensee shall pay to Licensors all expenses reasonably incurred in the collection of any such past due amounts, including but not limited to court costs and attorney fees.

7. **New Roof Work.** Licensee hereby covenants to remove the existing roofing membrane from the Building and install a new roofing membrane in its place (collectively, the "New Roof Work") at the same time as Licensee is installing the PV System. The material and method of installation of the new roofing membrane shall be subject to the prior written approval of Licensors. All work performed in connection with the New Roof Work shall be subject to the terms and conditions of Section 4 of this Agreement and Applicable Laws.

8. **Licensors Self-Help.** If Licensee at any time fails to perform any of its obligations under this Agreement in a manner reasonably satisfactory to Licensors, in accordance with Applicable Laws, Licensors shall have the right, but not the obligation, upon giving Licensors at least thirty (30) days' prior written notice of its election to do so (except in the event of an emergency when no prior notice shall be required or upon giving Licensee at least two (2) days' prior written notice in the event of any roof leak), to perform such obligations on behalf of and for the account of Licensee and to take all such action necessary to perform such obligations without liability to Licensee for any loss or damage which may result to Licensee's business or the PV System by reason of such repairs. In such event, Licensors's costs and expenses incurred therein shall be paid for by Licensors as additional rent forthwith upon demand therefor, with interest thereon from the date Licensors performs such work bearing interest at the lesser of eight percent (8%) per annum, compounding monthly, or the maximum rate permissible under any Applicable Laws, from the date of demand. The performance by Licensors of any such obligation shall not constitute a relicense or waiver of Licensee therefrom.

9. **No Warranties; No Liability.** Licensee accepts and shall use the Building in its AS-IS, WHERE-IS, WITH ALL FAULTS condition. Licensee represents, warrants and agrees that Licensors has not made and shall at no time in the future be deemed to have made any express or implied representations or warranties with respect to the condition of the Licensed Area or the Building, their suitability for the Use, or their compliance with Applicable Laws. Without limitation as to any of the other terms and conditions of this Agreement, Licensors shall not be liable for damage, theft, misappropriation or loss of any of the PV System, and in no event shall Licensors be liable to Licensee for, or be responsible for the repair of damage to, the PV System caused by casualty.

10. **License Term.**

(a) Term. Subject to the terms and conditions of this Agreement, the term of this Agreement (the "Initial License Term"; and together with any extensions of the Initial License Term, collectively, the "License Term") shall commence upon the Effective Date and end on the day before the twenty fifth (25th) anniversary of the Effective Date (the "Expiration Date"); provided, however, Licensee shall have one (1) option (the "Option") to extend the Initial License Term for an additional period of nine (9) years and eleven months each (the "Option Term") on the same terms and conditions contained in this Agreement, except that (i) there shall be no additional options to extend the License Term, and (ii) the License Fee during the Option Term shall be increased by three percent (3%) over the License Fee in effect during, with respect to the Option Term and the Initial License Term. Each Option shall be exercised, if at all, only by written notice delivered to Licensors no later than one (1) year prior to the expiration of the Initial License Term or the then-current Option Term, as applicable. If Licensee fails to deliver to Licensors written notice of the exercise of any Option on or before such date, such Option and any remaining Option shall lapse, and there shall be no further right to extend the License Term. The Option shall be exercisable by Licensee only on the express condition that (A) at the time of the exercise, and at all times prior to the commencement of the applicable Option Term, Licensee is not in default under any of the provisions of

this Agreement beyond any applicable notice and cure periods, and (B) Licensee shall not have been thirty (30) or more days late in the payment of the License Fee more than twice during the License Term.

(b) Termination Right of Licensee For Change in Law. In the event there is a change in municipal, county, state, or federal law, regulation, code or other act by a governing authority that will prevent or significantly affect, or otherwise have a material adverse impact on, Licensee's intended Use of the Licensed Area, Licensee may, at any time after the first full year of the Initial License Term, terminate this Agreement by providing Licensor with thirty (30) days' prior written notice, which notice shall contain a reasonable explanation of the applicable change in municipal, county, state, or federal law, regulation, code or other act by a governing authority. Promptly after delivery of such written notice of termination, Licensee shall endeavor to remove the PV System and all components from the Licensed Area and restore the Licensed Area to the condition of such area to its condition after completion of the New Roof Work, less any reasonable wear and tear.

(c) Relocation Termination; Right of First Refusal. In accordance with Section 5(c), in the event that Licensor terminates this Agreement as a result of remodeling, relocation or redevelopment of the Licensed Area, Licensor hereby grants Licensee a right of first refusal with respect to the siting, building, installing, owning and operation of an onsite solar generating facility to be located on any portion of the Shopping Center owned by Licensor. If at any time through the remainder of the License Term or equivalent time period, Licensor intends to accept one or more bona fide offers from third parties to site, build, own and operate such solar generating facility, then Licensor shall immediately deliver written notice ("Offer Notice") to Licensee stating the nature and size of such intended onsite generating facility for the Shopping Center. Licensee shall have the option, for a period of thirty (30) days after receiving the Offer Notice, to give Licensor written notice of its election to site, build, own and operate one or more onsite solar generating facilities on terms no less favorable than the License provided hereunder. After receiving an Offer Notice, if Licensee fails to timely exercise or elects not to exercise its right of first refusal pursuant to this Section 10(c), then Licensee's right of first refusal related to such Offer Notice shall expire and be of no further force and effect. This Section 10(c) and the Licensor's grant to Licensee of the right of first refusal shall survive the termination or expiration of this Agreement in accordance with Section 22.

11. Representations and Warranties; Covenants of the Parties. Each Party represents and warrants to the other Party that (a) such Party is duly organized, validly existing and in good standing under the laws of the state of its formation and has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; (b) the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized by all necessary company action; (c) this Agreement is a legal, valid and binding obligation of such Party enforceable against such Party in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to: (i) bankruptcy and other

similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law); (d) to such Party's knowledge, no governmental approval (other than any governmental approvals which have been previously obtained or disclosed in writing to the other Party) is required in connection with the due authorization, execution and delivery of this Agreement by such Party or the performance by such Party of its obligations hereunder which such Party has reason to believe that it will be unable to obtain in due course; and (e) neither the execution and delivery of this Agreement by such Party nor compliance by such Party with any of the terms and provisions of this Agreement conflicts with, breaches or contravenes the provisions of such Party's organizational documents.

12. Indemnification; Compliance With Laws; Insurance.

(a) Each Party hereby agrees to protect, defend, indemnify, and hold the other party from any and all Claims arising from the negligence or intentional misconduct of the other party, its contractors, employees, or licensees, but excluding tenants or other occupants of the Shopping Center, in connection with or related to this Agreement or the PV System, Licensee's Use of the Building or Licensee's (or its invitees', employees', contractors', or agents') entry into or placement, installation or removal of the PV System or anything else in, on or from the Building, or the breach by Licensee or the Licensor, as applicable, of any of the obligations imposed under this Agreement or upon any invitees, employees, or contractors under this Agreement.

(b) At all times during the License Term and at Licensee's sole cost and expense, Licensee shall comply with all Applicable Laws, including, without limitation, Applicable Laws pertaining to (i) the use of the Building, (ii) the installation or removal of any improvements or of the PV System or personal property from all or any part of the Building, and (iii) Licensee's Use and the conduct of Licensee's business at the Building, including, without limitation, all Applicable Laws relating to the use, generation, disposal, transportation or storage of hazardous wastes, toxic substances or related materials (including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801; and the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.).

(c) All Insurance Carriers will be rated A-VIII or better by A.M. Best Company. Liability insurance applying to the use and occupancy of the Licensed Area, and the business operated by Licensee thereon, shall be held in the following amounts and in accordance with the following requirements:

A. Each party and/or their contractors, subcontractors and independent contractors shall maintain during the Term of this Agreement (or any extensions thereof), the insurance coverage outlined below, and all such other insurance as required by applicable law. Evidence of coverage will be provided to the other party and Licensor's Financing Parties on an annual basis, no later

than 30 days prior to policy expiration, via a Certificate of Insurance or other reasonable form of certification as specified herein:

B. Commercial General Liability with limits of:

\$1,000,000 per occurrence for 3rd Party Property Damage & Property Damage;
\$1,000,000 per occurrence for Products Completed Operations;
and
\$2,000,000 General Aggregate.

C.

D. To the extent permitted by Applicable Laws, each party shall name the other, and Licensor's Financing Parties as Additional Insureds with respect to the insurance coverage required under this Agreement. All listing and provision of the other party as an Additional Insured shall be on ISO form CG2011 (11/85) or equivalent.

E. Each policy should provide that the coverage is Primary and Non-Contributory with any other available insurance of the other party and/or of Licensor's Financing Parties.

F. Each policy shall be endorsed to provide for no less than 30 days advance notice of cancellation or non-renewal (10 days for non-payment of premium).

G. Auto Liability with minimum limits of:

\$1,000,000 Combined single limit for all owned, non-owned and hired vehicles

H. Excess/Umbrella Liability Policy with minimum limits of:

\$4,000,000 per occurrence for 3rd Party Bodily Injury and Property Damage; and

I.

J. Workers' Compensation/Employers Liability limits as follows:

Workers' Compensation – Statutory Coverage.
Employers Liability:

i. Bodily Injury by accident \$1,000,000 each accident;

- ii. Bodily Injury by disease \$1,000,000 each employee; and
- iii. Bodily Injury by disease \$1,000,000 policy limit.

(d)

(e)

(e) Licensee will maintain professional liability insurance:

i. Minimum Limits: \$2,000,000 per claim and \$4,000,000 annual aggregate

ii. claims made firm

(f) Any insurance policy or policies covering or associated with worker's compensation, extended coverage or similar casualty insurance, which either Party obtains in connection with the Licensed Area, shall include a clause or endorsement denying the insurer any rights of subrogation against the other party to the extent the insured party has waived rights of recovery against such other party prior to the occurrence of injury or loss. Licensee and Licensor waive any rights of recovery against the other for injury or loss due to hazards covered by insurance obtained under this Agreement.

(g) Within a reasonable period but no later than sixty (60) days after execution of this Agreement and upon Licensor's request annually thereafter, Licensee shall certify to that all certificates of insurance required under this License have been obtained and provide reasonable evidence of such coverage. Should any such policy of insurance be cancelled or changed, Licensee agrees to immediately certify to Licensor that, and provide reasonable evidence of, all new or revised certificates of insurance have been obtained by Licensee. Licensee will name Licensor as "Additional Insured" and include endorsements to the effect that the insurer agrees to notify Licensor in advance of any modification, cancellation or termination thereof. Licensee will furnish to Licensor copies of evidence of all coverages or reasonable evidence of such coverages, and evidence of payment of the premiums therefore as Licensor may request. Evidence of coverage must be sent to: PECOCERTS@NEACELUKENS.COM or to: Phillips Edison Risk Management, a division of Neace Lukens, 4000 Smith Road, Suite 400, Cincinnati, Ohio 45209.

(h) If the PV System is (i) materially damaged or destroyed, or suffers any other material loss or (ii) condemned, confiscated or otherwise taken, in whole or in material part, or the use thereof is otherwise diminished so as to render impracticable or unreasonable the continued production of energy, provided there are sufficient insurance or condemnation proceeds available to Licensee, Licensee shall have the option, but not the obligation to either cause: a) the PV System to be rebuilt and placed in commercial operation at the earliest practical date, or b) another materially identical PV System to be built in the proximate area of the Shopping Center and placed in Commercial Operation as soon as commercially practicable in accordance with Section 5.

13. **Default and Remedies.** With respect to a Party, there shall be an “Event of Default” if:

(a) such Party fails to pay any amount within five (5) days after such amount is due; and

(b) except as otherwise set forth in this Section, such Party fails to perform any obligation set forth in this Agreement and such breach or failure is not cured within thirty (30) days after notice from the non-defaulting Party; provided, however, that the cure period shall be extended by the number of days during which the defaulting Party is prevented from taking curative action solely by Force Majeure if the defaulting Party had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

Upon the occurrence of an Event of Default, and during the continuance thereof, the non-defaulting Party may terminate this Agreement and pursue all rights and remedies available to such Party at law or in equity.

14. **Force Majeure.**

(a) In the event that either Party is delayed in or prevented from performing or carrying out its obligations under this Agreement by reason of any cause beyond the reasonable control of, and without the fault or negligence of, such Party (an event of “Force Majeure”), such circumstance shall not constitute an event of default, and such Party shall be excused from performance hereunder and shall not be liable to the other Party for or on account of any loss, damage, injury, or expense resulting from, or arising out of, such delay or prevention; provided, however, that the Party encountering such delay or prevention shall use commercially reasonable efforts to remove the causes thereof (with failure to use such efforts constituting an event of default hereunder). The settlement of strikes and labor disturbances shall be wholly within the control of the Party experiencing that difficulty.

(b) As used herein, the term “Force Majeure” shall include, without limitation, (i) sabotage, riots or civil disturbances, (ii) acts of God, (iii) acts of the public enemy, (iv) terrorist acts affecting the Site, (v) volcanic eruptions, earthquake, hurricane, flood, ice storms, explosion, fire, lightning, landslide or similarly cataclysmic occurrence, (vi) requirement by the utility company that the PV System discontinue operation for any reason, (vii) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, or (viii) any other action by any governmental authority which prevents or prohibits the Parties from carrying out their respective obligations under this Agreement. Economic hardship of either Party shall not constitute a Force Majeure under this Agreement.

15. **Notices.** Any notice required or permitted to be given in writing under this Agreement shall be mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight air courier service, or personally delivered to a representative of the receiving party, or

sent by facsimile (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section). All such communications shall be mailed, sent or delivered, addressed to the Party for whom it is intended, at its address set forth below:

(a) if to Licensor, then to:

Winery Square Station LP
11501 Northlake Drive
Cincinnati, Ohio 45249
Attn: Robert F. Myers, COO

with a copy to:

Legal Services
Phillips Edison & Company
11501 Northlake Drive
Cincinnati, Ohio 45249

(b) if to Licensee, then to:

Blue Sky Utility LLC
P.O. Box 5571
Napa, CA 94558
Attn: Ran Bujanover

with a copy to:

Crowell & Moring LLP
275 Battery St., 23rd Floor
San Francisco, CA 94111
Attn: Baird Fogel

Such notices, demands, approvals and other communications shall be effective upon the earliest of the following to occur: (i) three (3) business days after deposit in a sealed envelope in the United States mail by certified or registered mail (postage prepaid, return receipt requested), addressed to the recipient as set forth above, or (ii) when delivered to the recipient by nationally recognized overnight mail carrier, professional messenger service or personal delivery. The foregoing addresses may be changed by written notice given in accordance with this Section.

16. **Assignment.** Licensee may not assign or transfer this Agreement without the written consent of the Licensor, consent to which shall not be unreasonably withheld; except that, upon written notice to the Licensor, Licensee may, without obtaining Licensor's prior consent, assign this Agreement to: (a) any entity providing any debt financing for the PV

System, subject to the terms and conditions established in Exhibit C, (b) any firm or corporation which Licensee controls, is controlled by or is under common control with, (c) any partnership in which Licensee has a controlling interest; or (d) to any entity which succeeds to all or substantially all of Licensee's assets whether by merger, sale or otherwise, provided that in each case (i) the assignee assumes in full the obligation of Licensee under this Agreement, (ii) prior to the effectiveness of such assignment, Licensee provides to Licensor any documentation evidencing such assignment as Licensor shall reasonably request, (iii) such assignee has at least an equal or greater net worth as assignor. Notwithstanding the foregoing, unless otherwise expressly agreed in writing by Licensor, no assignment of Licensee's interests under this Agreement shall relieve Licensee of its obligations hereunder. Any such purported assignment in violation of this Section shall be void and of no force and effect. Licensor agrees to be bound by the terms, covenants and conditions contained herein only so long as Licensor owns any interest in the Building. Notwithstanding anything to the contrary contained herein, effective immediately upon transfer by Licensor of Licensor's interest in the Building, Licensor shall be released from all obligations and liabilities arising out of this Agreement. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successor and assigns.

17. **Binding Effect.** The terms and provisions of this Agreement, and the respective rights and obligations hereunder of each Party, shall be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

18. **Amendments.** No modification of this Agreement shall be effective except by written amendment executed by the Parties.

19. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other prior agreements, written or oral, between the Parties concerning such subject matter.

20. **Relationship of Parties.** This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

21. **Counterparts.** Any number of counterparts of this Agreement may be executed and each shall have the same force and effect as the original. Facsimile signatures shall have the same effect as original signatures and each Party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court or arbitration proceedings between the Parties.

22. **Survival.** Any provision(s) of this Agreement that expressly or by implication comes into or remains in full force following the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

23. **No Third Party Beneficiaries.** Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

24. **Governing Law.** This Agreement shall be interpreted and construed in accordance with the laws of the State where the Shopping Center is located.

25. **Cooperation.** Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. Without limiting the foregoing, the Parties acknowledge that they are entering into a long-term agreement in which the cooperation of the Parties will be required. From time to time, upon written request by either Party (or its lenders), the other Party shall provide within ten (10) business days thereafter an estoppel certificate attesting, to the knowledge of the other Party, of the requesting Party's compliance with the terms of this Agreement or detailing any known issues of noncompliance.

26. **Remedies Cumulative.** No remedy herein conferred upon or reserved to either Party shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

27. **Headings.** The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement.

28. **Exhibits.** All exhibits referred to in this Agreement and attached hereto are incorporated herein by reference.

29. **No Recording.** Neither this Agreement, nor any memorandum, affidavit, notice or other writing with respect thereto, shall be recorded by Licensee or by anyone acting through, under or on behalf of Licensee, and the recording thereof in violation of this provision shall, without any limitation as to any other of Licensor's rights and remedies under this Agreement, at law and in equity, make this Agreement null and void at Licensor's election.

[Remainder of Page Intentionally Left Blank]

Exhibit A

Site Plan of Licensed Area



Exhibit B

VIRTUAL NET METERING PROGRAM

1. Establishment of Virtual Net Metering Program; Licensee Obligations.

(a) Licensee shall establish a virtual net metering program for the Shopping Center (as such term is defined in the License) under the terms of the interconnecting utility that maintains an electric rate schedule NEMV (Virtual Net Metering for a Multi-Licensee or Multi-Meter Property Served at the Same Service Delivery Point)¹ or other similar net metering or community solar program (hereinafter the applicable "Utility"), whose terms may be amended or revised from time to time.

(b) Licensee shall take all actions necessary to manage and administer the VNMP arrangement in a first-class manner, which shall include but not be limited to: (i) application to establish a VNMP arrangement in accordance with the terms and conditions of the VNMP Schedule; (ii) preparation and submission of all VNMP Schedule application materials; establishment and management of a generator account for the benefit of Licensee; (iii) establishment and exclusive control by Licensee of one or more benefitting accounts on behalf of the Licensee, Licensor, the participating tenants, or the Shopping Center, and in each circumstance as reasonably determined by the Licensee and approved by Licensor (not to be unreasonably withheld); (iv) notification to Utility of Licensee's authorized agent status eligible to receive delivery of all Licensor, participating tenants bills and monthly invoices for utility services; (v) maintenance of transparent accounts and records related to the PV System and administration of the VNMP program; (vi) provision of Utility invoice management and Clean Energy Credit settlement services for the benefit of the Licensor and/or one or more of Licensor's tenants or occupants in accordance with one or more solar services participation agreements; (vii) contracting with the Licensor for the common areas and participating tenants of the Shopping Center for the sale of Clean Energy Credits under the VNMP arrangement; *provided, however*, any contract by and between Licensee and Licensor and any third party contract by and between the Licensee and any participating tenant(s) shall be in accordance with standard terms and conditions established by a Solar Services Participation Agreement ("SSPA") approved by the Parties (which approval shall not be unreasonably withheld, conditioned or delayed) and in a form substantially similar to the SSPA attached hereto as Schedule 1 to this Exhibit B (collectively the "VNMP Services"). Licensee shall have the right, but not the obligation, to enter into one or more SSPAs with any tenants of the Shopping Center, provided that such tenant SSPA(s) do not adversely and materially affect the VNMP Services provided by Licensee to Licensor.

2. VNMP License; Licensor Obligations.

(a) Upon achievement of commercial operations of the PV System, Licensor hereby agrees to appoint Licensee, for a period co-terminus with this License, as its exclusive agent with all necessary delegated authorities to perform the VNMP Services as defined in Section 1 to this Exhibit B.

(b) Licensor shall use commercially reasonable efforts to negotiate License agreements with any new tenant within the Shopping Center (other than Licensee) executed after the date hereof to include provisions requiring such new tenant's participation in the VNMP arrangement pursuant to terms and conditions set forth in the template SSPA attached hereto as Exhibit B. Any such failure of Licensor to include such provisions in new Licenses shall not constitute a default by Licensor.

(c) Subject to the terms and conditions of this License, Licensor affirmatively agrees to use commercially reasonable efforts to facilitate the Licensee's implementation and administration of the VNMP arrangement on behalf of Participating Tenants of the Shopping Center, including but not limited to maintaining the level of tenant occupancy of the Shopping

¹ Utility NEMV Schedule found here: <http://www.pge.com/tariffs/tm2/pdf/ELEC_SCHS_NEMV.pdf>

Center at a level equal to 50% or greater of total tenant capacity with regard to the Participating Tenants only as of the date hereof and to maintain the Shopping Center operating as a retail shopping center as the term "shopping center" is defined by the International Council of Shopping Centers (a "**Retail Shopping Center**"). If Licensor fails to maintain the level of tenant occupancy in the Shopping Center with regard to the Participating Tenants only above 50% of total tenant capacity (calculated as of the date hereof) for any six (6) consecutive months during the Term, or if less than 50% of all such Participating Tenants fail to participate in the VNMP or purchase Clean Energy Credits from the Licensee during a six (6) consecutive month period during the Term, or if Licensor fails to maintain the Shopping Center as a Retail Shopping Center, such failure shall not constitute a Licensor Default for purposes of the License or otherwise. In such event, Licensee may deliver written notice to Licensor and if the tenant occupancy in the Shopping Center with regard to the Participating Tenants only fails to return to at least 50% of such total tenant capacity, or if the Shopping Center fails to return to a Retail Shopping Center, within six (6) months then Licensee may, as its sole remedy, terminate the License upon written notice delivered to Licensor, in which event the Parties shall have no further liability or obligations under the License, except for those provisions which expressly survive termination as set forth therein.

(d) Licensor affirmatively agrees to use commercially reasonable efforts to provide, and to cooperate in the provision or acquisition of, all information, consents, and third party or Utility authorizations necessary for Licensee to implement and administer the VNMP arrangement. Title to all records, reports, documents, patent and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, brand names, inventions, processes and formulae, copyrights and copyright rights, trade secrets, trade dress, business and product names, logos, industrial models, designs, methodologies, computer programs, databases and related documentations, technical information, manufacturing, engineering and drawings, know-how and other services provided by Licensee, or the use, operation, maintenance or repair of the PV System (collectively, the "**Intangible PV SYSTEM Property**") shall vest in the Licensee unless otherwise agreed to in writing between the Licensee and Licensor.

(e) For all Licensor controlled Utility meters Licensor agrees to purchase for the common areas all Clean Energy Credits during the term of this License equal to the amount of Clean Energy Credits allocated to, associated with, or attributable to Utility electric energy services provided to such common area(s), all in accordance with that certain SSPA signed the date hereof by and between the Licensor and the Licensee and attached hereto as Schedule 1.

(f) Notwithstanding the foregoing, Licensee agrees that (i) in no event shall Licensee charge any processing or administrative fees in connection with Licensee's administration of the VNMP, (ii) Licensee shall notify Licensor in writing of any issues that arise with, or failures by, the Utility, tenants and Licensee shall use commercially reasonable efforts to resolve any such issues in a reasonable time, (iii) upon request by Licensor, Licensee shall provide copies of any payments, invoices, contracts (including SSPA's) or other items in connection with Licensee's administration of the VNMP, (iv) Licensor shall have the right to audit Licensee's records with respect to the administration of the VNMP at any time upon reasonable advance written notice, (v) upon any default by Licensee under the License or with respect to its administration of the VNMP (beyond any applicable cure period), in addition to Licensor's other rights and remedies, Licensor shall have the right, at its election by delivery of written notice to Licensee, to appoint another third party service provider to perform administration of the VNMP, (vi) in no event shall Licensor or Licensor Indemnitees have any liability in connection with any separate SSPA between Licensee and any Electing Tenants, and (vii) in the event there are any inconsistencies or conflicts between the terms and conditions of the License (including this Exhibit B) and the terms and conditions of any SSPA, the terms and conditions of the License (including this Exhibit B) shall control.

SCHEDULE 1 TO EXHIBIT B

SOLAR SERVICES PARTICIPATION AGREEMENT

This Solar Services Participation Agreement ("**Agreement**"), dated _____, 201_ between _____ ("**Applicant**") and [SERVICE ENTITY] ("**Service Provider**") establishes and governs the provision of solar energy services ("**Services**") by Service Provider to Applicant during the time period commencing on the later to occur of (i) the signature date of this Agreement or (ii) the date that the **Service Provider's** NEMV Arrangement (as defined below) has been approved and commences (as applicable, "**Commencement Date**"), and ending in accordance with the terms and conditions contained herein.

Applicant Service Address (License include building number, street, apartment number (if applicable), city, and state):

Meter Location: _____

RECITALS

WHEREAS, Service Provider desires to establish a virtual net metering program (hereinafter the "**NEMV Arrangement**") for _____, a _____ limited liability company ("**Licensor**") for certain areas which receive electrical service through master meters controlled by Licensor of its multi-Licensee property commonly referred to as _____ ("**Property**"), which NEMV Arrangement shall be administered under the terms of the interconnecting utility's ("**Utility**") Electric Rate Schedule NEMV (Virtual Net Metering for a Multi-Licensee or Multi-Meter Property Served at the Same Service Delivery Point)² or other similar net metering or aggregated community solar program, whose terms may be amended or revised from time to time (the "**NEMV Schedule**");

WHEREAS, Service Provider intends to install, own and operate a solar photovoltaic electric generating facility (hereinafter the "**Renewable Electrical Generation Facility**") on the roof of the enclosed mall at the Property to generate solar energy for certain areas owned or Licensed by Licensor or Applicant;

WHEREAS, Applicant is a tenant or owner of premises or property within the Property and seeks to engage Service Provider to provide the Services and deliver solar energy credits to Applicant in accordance with the NEMV Schedule; and

² Utility NEMV Schedule found here: <http://www.pge.com/tariffs/tm2/pdf/ELEC_SCHEDS_NEMV.pdf>

WHEREAS, the Service Provider wishes to perform the Services on behalf of the Applicant subject to the terms and conditions set forth in this Agreement.

TERMS AND CONDITIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. The Applicant affirms that Applicant, pursuant to that certain License agreement with the Licensor dated _____ (as amended, "**Applicant's License**"), Licenses certain premises from Licensor or otherwise owns property located at the address above, herein referred to as "Applicant's Service Address." Applicant further affirms that such address identifies premises that are interconnected to and takes electric service from Utility using a master metered or separately or individually metered unit. Applicant provides permission for Service Provider to install a submeter at Applicant's premises at Service provider's cost.
2. Applicant hereby authorizes Service Provider to act as its independent agent and designee to take all actions deemed reasonably necessary to provide the Services, which will include: (i) participating in the NEMV Arrangement on behalf of the Applicant under the terms of the NEMV Schedule, (ii) discounting a designated portion of Applicant's ongoing electric energy service usage (measured in kWh) with solar energy credits (hereinafter the Applicant's "**Allocation**"), (iii) establishing and/or reporting Applicant's Allocation to Utility, and (iv) managing and administering Applicant's electric service billing account(s) and payments to Utility for the benefit of Applicant.
3. Applicant shall be entitled to receive all solar energy credits attributable to its Allocation, and agrees to be solely responsible for all costs, billing, invoices, and any other charges associated with the provision of electric service by Utility under the NEMV Schedule to the Applicant's Service Address.
4. Service Provider will provide notice of Applicant's Allocation during the first monthly billing period of Applicant's participation in the NEMV Arrangement. The Allocation will be equal to a fixed percentage share of the Renewable Electrical Generation Facility's solar energy production during each monthly billing period. Applicant's Allocation may be modified by Service Provider from time to time in accordance with Paragraph 7. Per the NEMV Schedule, each month Service Provider will manage and apply the SCE discount to Applicant's electric service use in an amount equal to the solar energy credit Allocation. Applicant acknowledges and agrees it will not have any rights or interests in, nor be entitled to claim or receive, the actual electric energy output of, or any other economic benefit attributable to, the Renewable Electrical Generation Facility or its production, other than any Utility credits attributable to Applicant's Allocation under the NEMV Schedule.

5. Applicant agrees to promptly comply with any request to provide Service Provider copies of any documents, records, or electric service metering information that are reasonably necessary to enable Service Provider to implement this Agreement or substantiate any claim, charge, or calculation made by the Applicant under this Agreement. Service Provider agrees to provide Applicant, promptly upon request, commercially reasonable information about Applicant's participation in the NEMV Arrangement or the Renewable Electrical Generation Facility's production, including copies of any related documents or records.

6. Unless otherwise agreed to in writing between the Parties, for each applicable monthly billing period during the Term (defined in Section 9 below), Applicant agrees to pay Service Provider for the Services, and Service Provider accepts as payment from Applicant therefor, an amount equal to 95% of the cost (calculable in U.S. dollars) that Applicant would have been required to pay to Utility for the electric service attributable to or associated with the solar energy credits that Applicant receives per its Allocation. For the sake of clarity, the Services fee payment will be calculated based on the amount of kWhs delivered by Utility to the Applicant's Service Address during the prior monthly billing period that equals the Applicant's Allocation, multiplied by the applicable Utility electric service rate under Applicant's Utility otherwise-applicable metered rate schedule ("OAS"), taking into account the applicable OAS terms and conditions (including time of day and seasonable adjustments) that include all components of the standard rate tariff including taxes, surcharges, or any other charges included in the OAS rate tariff that continue to be charged or would have otherwise been charged as part of Applicant taking electric service from Utility with respect to the Allocation; provided, however, the Service Provider will not invoice or charge the Applicant for any fees or charges directly associated with Applicant's participation in the NEMV Arrangement if those fees or charges would not have otherwise been incurred. In addition to the Services fee payment, for each applicable monthly billing period during the Term the Applicant shall transfer and pay to Service Provider (acting as Applicant's agent pursuant to Section 2(iv)) all amounts identified by Utility as due to owing for Applicant's receipt and use of electric service not attributable to or associated with the Allocation.

7. Throughout the term, Service Provider shall prepare and render to Applicant within ten (10) business days after the end of each month an invoice for the Services as calculated pursuant to Paragraph 6 above. Each invoice will contain a copy of each Utility performance report on the amount of electricity generated by the Renewable Electrical Generation Facility during the prior month. Applicant's Payment shall be made by any method acceptable to Service Provider on or before the thirtieth (30th) day following receipt by Applicant of Service Provider's invoice. If the Applicant fails to pay and transfer the Services fee when due under this Agreement for any reason, and such failure is not cured within ten (10) days after written notice from Service Provider, the Service Provider shall have the right to revise, modify or otherwise change the Applicant's Allocation.

8. Service Provider will operate and maintain the applicable Renewable Electrical Generation Facility consistent with prudent industry practices and in a manner to generate electric energy for delivery to Utility in accordance with the terms and conditions of the Utility NEMV Schedule. Service Provider shall retain all right, title and interest to all environmental attributes or solar energy attributes generated by or associated with the Renewable Electrical Generation Facility.

9. This Agreement shall expire on the earlier to occur of (i) the date Applicant's License expires by its terms or is terminated or the date Applicant is no longer an owner within the Property, (ii) the Renewable Electrical Generation Facility ceases to produce solar energy and is removed from the Licensor's property, or (iii) other termination of this Agreement pursuant to the terms hereof (as applicable, "**Termination Date**"). The period commencing on the Commencement Date and ending on the Termination Date shall be referred to herein as the "Term." If this Agreement is terminated for any reason, Applicant shall remain responsible for the payment of all Services fees or charges that are attributable to providing the Services prior to the date of termination.

10. Applicant agrees that Service Provider shall not be held responsible and will be indemnified by Applicant for any damages resulting from Service Provider's failure to perform any part of this Agreement as a result of Applicant's failure to pay the Services fee or Applicant's breach of this Agreement. Notwithstanding any provisions hereunder to the contrary, Service Provider reserves the right to discontinue providing the Services to the Applicant in the event of Services fee non-payment that is not cured within sixty (60) days following receipt by Applicant of Service Provider's invoice under Section 6 and 7. Applicant further acknowledges and agrees that Licensor is not a party to this Agreement shall not be liable for any costs, claims, damages, liabilities or issues arising from the terms and conditions of this Agreement.

11. The Parties hereby warrant that the persons executing this Agreement are authorized to execute and obligate the respective Parties to perform under this Agreement in accordance with its terms.

12. Service Provider represents that Applicant's participation in the NEMV Arrangement will not cause interruption to Applicant's electric service from Utility. Service Provider further represents and acknowledges that the Applicant's Allocation will be attributable to a portion of electric energy generated from the single Renewable Electrical Generation Facility located or that will be located at a multi-tenant property that shares the same service delivery point with the Applicant's electric service meter consistent with the Utility NEMV Schedule requirements and California Public Utilities Commission (CPUC) Decisions 11-07-031 and 08-10-036 (as the same may be modified or amended from time to time).

13. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary, or any similar relationship between the Parties. This Agreement is made and entered into for the protection and legal benefit of the Applicant and the Service Provider 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. This Agreement may be assigned by Applicant to an assignee or sublicensee of the premises located at Applicant's Service Address, provided Applicant has provided prior written notice to the Service Provider and received written consent to such assignment, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, if Service Provider has not provided a written response within thirty (30) days of receipt of such prior written notice by Applicant, such failure to respond shall be considered consent by Service Provider for purposes of this Section 13.

14. The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement by prompt negotiations noticed in writing.

15. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of California, excluding any choice of law rules that might direct the application of the laws of a different jurisdiction.

16. Correspondence regarding this Agreement and administration of the Services should be sent electronically or mailed to the Service Provider at the following contact points:

[INSERT CONTACT POINTS]

17. This Agreement shall at all times be subject to such changes or modifications by the CPUC as said commission may, from time to time, direct in the exercise of its jurisdiction.

18. This Agreement may be executed by the Parties in one or more counterparts, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same instrument.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the signature date.

PROVIDER

APPLICANT

Signature

Signature

Name of Authorized Representative

Name of Authorized Representative

Title

Title

Phone

Phone

Date _____

EXHIBIT C

CERTAIN AGREEMENTS FOR THE BENEFIT OF THE FINANCING PARTIES

Licensor acknowledges that Licensee will be financing the installation of the PV SYSTEM either through a Licensor, lender or with financing accommodations from one or more financial institutions and that the Licensee may sell or assign the PV System and/or may secure the Licensee's obligations by, among other collateral, a pledge or collateral assignment of the License and a first security interest in the PV SYSTEM. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such financial institutions of which Licensee has notified Licensor in writing Licensor agrees as follows:

(a) Consent to Collateral Assignment. Licensor consents to either the sale or conveyance to a Licensor or the collateral assignment by Licensee to a lender that has provided financing of the PV SYSTEM (a "**Financing Party**"), of the Licensee's right, title and interest in and to the License, upon the condition that all rights acquired by such Financing Party shall be subject to each and all of the covenants, conditions and restrictions set forth in the License, and to all rights and interests of Licensor therein and that any License mortgage in favor of Financing Party may not be secured with any other property and may not be cross-defaulted with any other loan. None of such covenants, conditions or restrictions is or shall be waived by Licensor by reason of the right given to mortgage such interest in this License, except as expressly provided herein.

(b) Notices of Default. Provided that the Financing Party shall have notified Licensor in writing of its status as a Financing Party and its name and address, Licensor will deliver to the Financing Party, concurrently with delivery thereof to Licensee, a copy of each notice of default given by Licensor under the Agreement, inclusive of a reasonable description of Licensee default. No such notice will be effective absent delivery to the Licensee. Failure of Licensor to provide notice to Financing Party under any provision of this Exhibit C shall not give rise to a cause of action by either Licensee or Financing Party against Licensor in either law or equity.

(c) Rights Upon Event of Default. Notwithstanding any contrary term of the License:

- i. The Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Licensee, any and all rights and remedies of Licensee under the License in accordance with the terms of the License and only in the event of Licensee's default. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to the License and the PV SYSTEM. Notwithstanding anything herein to the contrary, The Financing Party shall not have any right to access Licensor's roof, nor remove any of the PV system without Licensor's prior written consent. Additionally, The Financing Party shall not have a right to pursue any foreclosure, or file a lien, against Licensor's real or personal property.

- ii. The Financing Party shall have the right, but not the obligation, to pay all sums due under the License and to perform any other act, duty or obligation required of Licensee

thereunder or cause to be cured any default of Licensee thereunder in the time and manner provided by the terms of the License. Nothing herein requires the Financing Party to cure any default of Licensee under the License or (unless the Financing Party has succeeded to Licensee's interests under the License) to perform any act, duty or obligation of Licensee under the License, but Licensors hereby gives it the option to do so.

iii. Upon the exercise of remedies under its security interest in the PV SYSTEM, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Licensee to the Financing Party (or any assignee of the Financing Party) in lieu thereof, the Financing Party shall give notice to Licensors of the transferee or assignee of the License and obtain Licensors's consent thereto, which shall not be unreasonably withheld, conditioned or delayed. Any such exercise of remedies shall not constitute a default under the License.

iv. For purposes of clarity, upon the occurrence or notice by Licensors of any Event of Default caused by or associated with any insolvency or bankruptcy proceedings involving the Licensee, for purposes of subsection (c) of this Exhibit C, the Financing Party shall have the right to cure and remedy such Event of Default by notifying Licensors of its intent assume the rights and obligations of the Licensee under the License within the cure periods provided herein. Upon such notification by Financing Party, such Event of Default caused by or associated with any insolvency or bankruptcy proceedings involving Licensee shall be deemed remedied and not constitute a default under the License.

(d) Right to Cure.

i. Licensors will not exercise any right to terminate or suspend the License due to a default by Licensee unless it shall have given the Financing Party and Licensee prior written notice by sending notice to the Financing Party (at the address provided by Licensee if at all, otherwise Licensors shall have no such obligation) and Licensee of its intent to terminate or suspend the License, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in the License. The Parties respective obligations will otherwise remain in effect during any cure period; provided that if such Licensee default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional sixty (60) days.

ii. If the Financing Party (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Licensee's assets and shall, within the time periods described in Sub-section (d)(i) above, cure all defaults under the License existing as of the date of such change in title or control in the manner required by the License and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under the License, and the License shall continue in full force and effect.

(e) No Merger. So long as any debt secured by a License mortgage upon the License created by this License shall remain unpaid, unless Financing Party shall otherwise consent in writing, the fee title to the Demised Premises and the License estate in the Demised Premises shall not merge but shall always be kept separate estates, notwithstanding the union of such estates either in Licensors or in Licensee or in a third party by purchase or otherwise.

(f) Licensors Right to Cure. As a condition to encumbering the License, Licensee agrees that it shall obtain from any Financing Party an agreement to the effect that (i) such Financing Party shall notify Licensors of any default by Licensee under the License mortgage in favor of such Financing Party (the "**License Mortgage**") at the time that Financing Party serves upon Licensee any notice of such default, (ii) Lensors shall have the right, but not the obligation, to cure any default under such License Mortgage on Licensee's behalf within the time permitted for Licensee to cure such default, provided that if such Licensee default reasonably cannot be cured by Lensors within such period and the Lensors commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional sixty (60) days, and (iii) such Financing Party shall not take any action to foreclose upon its License Mortgage or accept a transfer of the License in lieu of foreclosure so long as Lensors shall cure any default thereunder (other than those not susceptible to cure, such as the bankruptcy of Licensee) within the foregoing time period. Any sums paid by Lensors to cure a default under the License Mortgage shall be payable to Lensors by Licensee as additional Rent within thirty (30) days following receipt of an invoice therefor. Notwithstanding anything herein to the contrary, the License Mortgage shall only be secured by the PV System, and not by any real or personal property owned by Lensors.

(g) Option to Pay-Off License Mortgage. Lensors shall have the option, but not the obligation, to pay off the debt secured by the License mortgage and obtain a relicense of the License mortgage from the License prior to the foreclosure thereof or a transfer of the License in lieu of foreclosure upon the following terms and conditions. Prior to the commencement of foreclosure proceedings or the acceptance of a transfer of the License in lieu of foreclosure, the Financing Party shall give Lensors written notice thereof. For a period of thirty (30) days following Lensors's receipt of such written notice, Lensors shall have the right, but not the obligation, to pay off the debt secured by the License Mortgage and obtain a relicense of the License Mortgage from the License by giving written notice thereof to the Financing Party. The amount Lensors shall be required to pay the Financing Party in order to pay off the debt secured by the License Mortgage shall be the outstanding principal balance secured by the Licensed Mortgage, together with accrued interest and penalties. The pay-off of the debt secured by the License Mortgage shall be consummated within thirty (30) days following Lensors's election to pay off the debt secured by the Licensed Mortgage. All sums paid by Lensors to pay off the debt shall be payable to Lensors by Licensee as additional Rent within thirty (30) days following receipt of an invoice therefor.

(h) Option to Assume Licensed Area Mortgage. Lensors shall have the option, but not the obligation, to assume the debt secured by the License Area Mortgage and require Licensee to assign its interest in the License to Lensors prior to the foreclosure of the License Mortgage or a transfer of the License in lieu of foreclosure upon the following terms and conditions. Prior to the commencement of foreclosure proceedings or the acceptance of a

transfer of the License in lieu of foreclosure, the Financing Party shall give Licenser written notice thereof. For a period of thirty (30) days following Licenser's receipt of such written notice, Licenser shall have the right to exercise such option by giving written notice thereof to the Financing Party and Licensee. The assumption of the debt and assignment of the License shall be consummated within thirty (30) days following Licenser's exercise of such option. All sums paid by Licenser to cure any default under the Licenser Mortgage as of such assumption and assignment shall be payable to Licenser by Licensee within thirty (30) days following receipt of an invoice therefor and Licensee shall remain obligated for such payment notwithstanding the assignment of the License to Licenser.

(i) Right of First Refusal Upon Transfer. With respect to a proposed assignment of the License by a Financing Party (or its designee) following the foreclosure of its License Mortgage or an assignment in lieu of foreclosure, Licenser shall have the right of first refusal to acquire the License upon the same financial terms as provided in the proposed assignment by giving written notice thereof to the Financing Party within ten (10) business days following the date Licenser receives written notice of the proposed assignment as required by Article 17 of the License, which notice shall include a description of such financial terms. If Licenser exercises its right of first refusal, Licenser and Financing Party shall promptly enter into an agreement evidencing such acquisition.

(j) Licenser's Lien Rights. In addition to any statutory Licenser's lien, Licensee grants to Licenser, to secure performance of Licensee's obligations under the License, a security interest in all of the PV SYSTEM and all proceeds therefrom (collectively, the "**Collateral**") and the Collateral shall not be removed from the Demised Premises without the consent of Licenser until all obligations of Licensee under the License have been fully performed. All Collateral pledged by Licensee under the License shall secure the timely payment and performance of all obligations under the License. Except as expressly provided in the License, no Collateral pledged under the License shall be relicensed until such time as all obligations under the License have been satisfied in full. Upon a Licensee Default, Licenser may, in addition to all other remedies, without notice or demand except as provided below, exercise the rights afforded a secured party under the California Uniform Commercial Code (the "**UCC**"). Licenser may retain or sell all or any part of the Collateral, at public or private sales, to itself, a wholesaler, retailer or investor, for cash, upon credit or for future delivery, and at such price or prices as Licenser may deem commercially reasonable. To the extent permitted by law, Licensee hereby specifically waives all rights of redemption and any rights of stay or appraisal which it has or may have under any applicable law in effect from time to time. Any such public or private sales shall be held at such times and at such place(s) as Licenser may determine. In case of the sale of all or any part of the Collateral on credit or for future delivery, the Collateral so sold may be retained by Licenser until the selling price is paid by the purchaser, but Licenser shall not incur any liability in case of the failure of such purchaser to pay for the Collateral and, in case of any such failure, such Collateral may be resold. Licenser may, instead of exercising its power of sale, proceed to enforce its security interest in the Collateral by seeking a judgment or decree of a court of competent jurisdiction. In connection with any public or private sale under the UCC, Licenser shall give Licensee five (5) days prior written notice at the time and place of any public sale of the Collateral or at the time after which any private sale or other intended disposition thereof needs to be made, which is agreed to be a reasonable notice of such sale or other disposition. To perfect or continue the perfection of Licenser's security interest under this paragraph, Licensee

authorizes Licensor to prepare and file any financing statements or fixture filings describing the Collateral without otherwise obtaining the Licensee's consent with respect to the filing of such financing statements. Except as expressly provided in the License (including this Exhibit C), Licensee may not grant any security interest in the Collateral to a lender or other creditor without Licensor's written consent.

(k) Subordination of Licensor's Liens. Licensor hereby subordinates any statutory Licensor's lien and any security interest Licensor may have in any trade fixtures, equipment (including the PV SYSTEM), machinery and inventory of Licensee in favor of any Financing Party having a security interest in such property, except that the above subordination shall not apply to (a) any equipment, fixtures or improvements which belong to or will belong to Licensor after installation by Licensee; or (b) any cash on hand or on deposit in Licensee's accounts which Licensor may claim through legal collection procedures. Licensee acknowledges that, notwithstanding Licensor's agreement to subordinate any statutory lien and any security interest as provided above, Licensee shall not have the right to hypothecate or collaterally assign its interest on the License, except as may be expressly provided in the License (including this Exhibit C).