

## Solar Services and Site Lease Agreement

This Solar Services and Site Lease Agreement (as it may be amended from time-to-time, this "Agreement"), dated as of April \_\_, 2007 (the "Effective Date"), is by and between ), Chevron Energy Solutions Company, a Division of Chevron U.S.A., Inc., a Pennsylvania corporation ("Power Provider" or "Lessee ) and Los Angeles Community College District, a political subdivision of the State of California ("Purchaser" or "Landlord"). The Power Provider, and Purchaser may be referred to hereinafter individually as "Party," or collectively as "Parties."

### WITNESSETH:

WHEREAS, Power Provider desires to install an electricity grid-connected photovoltaic, solar power plant with a total generating capacity rated at approximately 1190 kWp (referred to as the "Generating Facility") located at Purchaser's East Los Angeles College campus, 1301 Avenida Cesar Chavez, Monterey Park, CA 91754 (the "Site"); and

WHEREAS, the Purchaser, as Landlord, is the owner of the Site; and

WHEREAS, Lessee desires to lease certain premises from Landlord in order to install, maintain and operate the Generating Facility, and Landlord desires to permit such installation, maintenance and operation 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 Generating Facility will be performed and provided for in the Government Code Section 5956 Design, Build Finance Agreement to be executed between Chevron Energy Solutions and Los Angeles Community College District ; and

WHEREAS, Purchaser desires to purchase from Power Provider and Power Provider desires to sell to Purchaser the entire energy output of the Generating Facility; and

WHEREAS, following a competitive selection process, on February 21, 2007, Purchaser's Board of Trustees authorized Purchaser to enter into this Agreement with Power Provider pursuant to the provisions of Government Code Section 5956 through Section 5956.10; and

WHEREAS, the Parties wish to characterize this Agreement for income tax purposes as a services contract under Section 7701(e) of the Internal Revenue Code of 1986 and not a lease.

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

### **1. Definitions**

- (a) "Access Property" has the meaning given in Section 2(a).

(b) “Commercial Operation” means an event that is deemed to occur when the Generating Facility is (i) mechanically complete and operating and (ii) energy is delivered through the Generating Facility’s meter and to the Site’s electrical system under an approved and executed Utility interconnection agreement.

(c) “Commercial Operation Date” means the date on which the Generating Facility has achieved Commercial Operation.

(d) “Energy Delivery Point” means the energy delivery point within the Site’s electrical system on Purchaser’s side of the Site’s Utility meter, as designated in the Utility interconnection agreement described in Section 1(b).

(e) “Energy Output” means the total quantity of all actual net energy generated by the Generating Facility (measured in kWhac) and delivered in accordance with Section 9 hereof to the Energy Delivery Point, in any given period of time. Energy Output does not include the Environmental Incentives.

(f) “Environmental Attributes” means the characteristics of electric power generation at the Generating Facility that have intrinsic value, separate and apart from the Energy Output, arising from the perceived environmental benefits of the Generating Facility of the Energy Output, including but not limited to all environmental and other attributes that differentiate the Generating Facility or the Energy Output from energy generated by fossil-fuel based generation units, fuels or resources, characteristics of the Generating Facility that may result in the avoidance of environmental impacts on air, soil or water, such as the absence of emission of any oxides of nitrogen, sulfur or carbon or of mercury, or other gas or chemical, soot, particulate matter or other substances attributable to the Generating Facility or the compliance of the Generating Facility or the Energy Output with the law, rules and standards of the United Nations Framework Convention on Climate Change (the “UNFCCC”) or the Kyoto Protocol to the UNFCCC or crediting “early action” with a view thereto, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency or successor administrator or any state or federal entity given jurisdiction over a program involving transferability of Environmental Attributes and Reporting Rights.

(g) “Environmental Incentives” means all rights, credits (including tax credits), rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled or named (including carbon credits and allowances), whether arising under federal, state or local law, international treaty, trade association membership or the like arising from the Environmental Attributes of the Generating Facility or the Energy Output or otherwise from the development or installation of the Generating Facility or the production, sale, purchase, consumption or use of the Energy Output. Without limiting the foregoing, “Environmental Incentives” includes green tags, renewable energy credits, tradable renewable certificates, portfolio energy credits, the right to apply for (and entitlement to receive) incentives under the Self-Generation Incentive Program, the Emerging Renewables Program or other incentive programs offered by the State of California and the right to claim federal income tax credits under Sections 45 and/or 48 of the Internal Revenue Code.

- (h) “Force Majeure” has the meaning given to it in Section 17.
- (i) “Generating Facility” means the electric power generation equipment, controls, meters, switches, connections, conduit, wires and other equipment connected to the Energy Delivery Point, installed by Power Provider as a fixture on the Site for the purposes of providing electric power to Purchaser under this Agreement.
- (j) “Kiosk” means a small stand-alone device providing live PV system-related information via visual display which will be located on the Site .
- (k) “kWp” means kilowatt rated power.
- (l) “kWac” means kilowatt alternating current.
- (m) “kWhac” means kilowatt-hour alternating current.
- (n) “Premises” means that portion of the northwest parking lot of the Site in which the Generating Facility shall be constructed and installed.
- (o) “Project” means the photovoltaic carport project consisting of support structure and the Generating Facility to be installed by Power Provider .
- (p) “Property” means the Premises and Access Property collectively.
- (q) “PUC” means the Public Utilities Commission of California.
- (r) “Reporting Rights” means the right of Power Provider to report to any federal, state, or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, or under any present or future domestic, international or foreign emissions trading program, that Power Provider owns the Environmental Attributes and the Environmental Incentives associated with the Energy Output.
- (s) “Site” means Purchaser’s facility at 1301 Avenida Cesar Chavez, Monterey Park, CA 91754, or at such other location agreed to by Power Provider and Purchaser.
- (t) “Term” has the meaning given in Section 6.
- (u) “Utility” means the electric distribution company responsible for electric energy transmission and distribution service at the Site.

## **2. Lease**

- (a) Lease. Landlord does hereby lease to Lessee in accordance with the terms and conditions hereinafter set forth, the approximately 196,700 square feet of the real property located in the northwest parking lot of the Site and described in further detail attached hereto as Exhibit A (individually and collectively, the “Premises”) for the sole purposes of installing, maintaining,

and operating the Generating Facility. Landlord hereby also grants to Lessee, for the Term as defined in Section 3, a non-exclusive right-of-way for vehicular and pedestrian ingress and egress to the Premises or the Generating Facility to the extent required by Lessee and as mutually agreed upon by the Parties (the "Access Property". The Premises and Access Property shall collectively be referred to as the "Property."

(b) Benefits. Lessee hereby covenants to pay Landlord, on or before the Commercial Operation Date, and on or before each anniversary of the Commercial Operation Date during the Term as defined Section (6(c), as and for rent of the Premises \$1.00 (one U.S. dollar).

### **3. Access to Premises**

Lessee will give Landlord reasonable written or telephonic notice before any entry onto the Premises by Lessee's employees, agents or contractors. Landlord will make available to Lessee access to the Generating Facility and the Premises for the purposes set forth in Section 4. Notwithstanding anything to the contrary in this Agreement, Lessee shall be permitted to access the Premises twenty-four (24) hours a day, seven (7) days a week for emergency purposes, as reasonably determined by Lessee. Within twenty-four (24) hours of such emergency access, Lessee shall provide Landlord with a written explanation of the nature of the emergency. All such emergency work shall be diligently prosecuted to completion to the end that such work shall not remain in a partly finished condition any longer than necessary for completion.

### **4. Installation, Operation and Ownership of the Generating Facility**

(a) Landlord hereby consents to the installation of the Generating Facility on the Premises, including, without limitation, solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and Utility interconnections.

(b) Power Provider shall (i) use commercially reasonable efforts to cause the installation of the Generating Facility to be completed and to cause the Generating Facility to begin Commercial Operation on or before December 31, 2007; provided, however, in the event that the necessary financing, permits, authorities and agreements contemplated in parts (i) – (iv) of Section 4(c) are not completed by July 31, 2007 (the "Commercial Operation Deadline"), Power Provider (or such other date as the Parties mutually agree upon) shall have the option to terminate this Agreement by giving written notice to Purchaser without triggering the default provisions of this Agreement or any liability under this Agreement. Alternatively, in the event that such conditions precedent are not satisfied by the Commercial Operation Deadline, the Parties may mutually agree to amend this Agreement to revise the Commercial Operation Date.

(c) Power Provider shall be responsible for all costs and the performance of all tasks required for installation of the Generating Facility. By no later than May 21, 2007, Power Provider shall commence pre-installation activities relating to the Generating Facility, which shall include, without limitation, using commercially reasonable efforts to:

- (i) obtain: (A) funding for construction of the Generating Facility; and (B) self-generation incentive credits for operation of Generating Facility;
- (ii) obtain all Permits (as defined in Section 4(d)), contracts, and agreements required for the installation of the Generating Facility;
- (iii) effect the execution of all agreements required for Utility interconnection of the Generating Facility;
- (iv) enter into contract(s) for installation of the Generating Facility, subject to the terms of the proposed financing.

(d) Lessee, at no additional cost and expense to Purchaser, will obtain all governmental permits, licenses, certificates, approvals, variances and other entitlements for use (“Permits”) necessary for the installation and operation of the Generating Facility. Landlord hereby gives its consent to any action taken by Lessee in applying for any and all Permits Lessee finds necessary or desirable for the operation of the Generating Facility, and Landlord hereby appoints Lessee its agent for applying for such Permits. Lessee will carry out the activities set forth in this Section 4 in accordance with all applicable laws, rules, codes and ordinances and in such a manner as will not unreasonably interfere with Landlord’s operation or maintenance of the Site.

(e) Title to the Generating Facility and all improvements placed on the Premises by Lessee shall be held by Lessee during the Term. Pursuant to Government Code Section 5956.6, at the expiration of the Term, ownership of the Generating Facility and all improvements placed on the Premises by Lessee shall revert to Landlord at no charge to Landlord. Lessee shall take whatever actions or necessary to transfer fee title ownership of the Generating Facility and all improvements placed by Lessee on the Premises to Landlord, free and clear from any lien or monetary encumbrance. Should this Agreement be terminated for any reason prior to the expiration of the Term, other than as provided in Section 4(b) or as a result of Landlord exercising its option to purchase the Generating Facility provided for in Section 6(e)(ii), all of Generating Facility and the improvements placed by Lessee on the Premises shall remain the property of Lessee and shall be removed by Lessee within ninety (90) days upon termination of this Agreement.

(f) Except as otherwise expressly provided in Section 4(g), Landlord acknowledges and agrees that notwithstanding that the Generating Facility is a fixture on the Premises, Landlord has no ownership interest in the Generating Facility and Lessee is the exclusive owner and operator of the Generating Facility, that the Generating Facility may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered (collectively, a “Transfer”) with the fee interest or leasehold rights to the Property by Landlord. Landlord shall give Lessee at least fifteen (15) days written notice prior to any transfer of all or a portion of the Property identifying the transferee, the portion of Property to be transferred and the proposed date of transfer. Landlord agrees that this Agreement and the right-of-way granted in Section 2 shall run with the Property and survive any Transfer of the Property.

(g) Lessee shall be solely responsible for operation and maintenance of the Generating Facility (subject, however, to the obligations and responsibilities of Landlord herein), including without limitation the obligation to promptly make or pay (as determined by Landlord) for any repairs to the Property to the extent directly caused by Lessee, its employees, agents, contractors or subcontractors, and shall, at all times during the Term, maintain the Generating Facility in good operating condition. Lessee shall bear all risk of loss with respect to the Generating Facility, except for actions or negligence by Landlord or its agents and employees, and shall have full responsibility for its operation and maintenance in compliance with all laws, regulations and governmental permits. However, if such loss results in the cessation or reduction of the energy output by the Generating Facility, Lessee shall be relieved of its energy output guarantee obligations during such cessation or reduction of the energy output. The energy output guarantee shall recommence upon assumption of normal operation of the Generating Facility. Lessee shall coordinate in advance all such repair and maintenance work with the Site President or his/her designee so as not to restrict parking access or interfere with scheduled activities on the Site. Upon such Lessee request for repair and maintenance work, Landlord shall respond to such request within ten (10) business days; if Landlord does not respond to such request within such ten (10) day period, such request shall be deemed approved by Landlord. All such work shall be diligently prosecuted to completion to the end that such work shall not remain in a partly finished condition any longer than necessary for completion. Neither Purchaser nor any party related thereto shall have the right or be deemed to operate the Generating Facility for purposes of Section 7701(e)(4)(A)(i) of the Internal Revenue Code.

(h) In Commercial Operation, the Generating Facility is targeted to have a combined generating capacity rating as shown in Exhibit B.

(i) In addition, if the Generating Facility must be moved to or replaced at an alternate location at the Site during the Term, the alternate location is subject to the approval (such approval not to be unreasonably withheld or delayed) of Power Provider and Purchaser, and, upon such approval, the obligations of the Parties remain as set forth in this Agreement. Notwithstanding the Generating Facility's presence as a fixture on the Site, the Party requiring such movement or replacement shall be responsible for all associated costs of removal and reinstallation. If Purchaser requires movement or replacement, Purchaser shall pay to Power Provider, in addition to other amounts set forth in this Section 4(i), a monthly payment (prorated as needed) equal to the average power purchase set forth in Section 6 for the preceding twelve (12) months, or however long the Generating Facility has been in Commercial Operation if less than twelve (12) months, for the period of time during which the Generating Facility is not in Commercial Operation due to the movement or replacement.

(j) In addition, if temporary removal of the Generating Facility is required due to Site work unrelated to the Generating Facility, Purchaser is responsible for all associated costs of removal and reinstallation and must proceed diligently. During any period while the Generating Facility is off-line in connection with a relocation, Purchaser shall also pay Power Provider a monthly payment (prorated as needed) equal to the average power purchase set forth in Section 6 for the preceding twelve (12) months, or however long the Generating Facility has been in Commercial Operation if less than twelve (12) months.

(k) Notwithstanding the Generating Facility's presence as a fixture on the Site, Purchaser shall not cause or permit any interference with the Generating Facility's isolation and access to sunlight, as such access exists as of the Effective Date.

(l) Landlord will have the option to add-on additional electric power generation equipment to the Generating Facility; however, any such addition shall be separate and apart from this Project and require a separate agreement between the Parties, unless otherwise agreed to by each Party hereof. Lessee shall not be responsible or liable hereunder for any damage resulting from such addition by Landlord.

## **5. Publicity**

(a) The Parties share a common desire to generate favorable publicity regarding the Generating Facility and their association with it. The Parties agree that they will, from time-to-time, issue press releases regarding the Generating Facility and that they shall cooperate with each other in connection with the issuance of such releases including, without limitation, completed review of press releases proposed to be issued by the other Party by no later than four (4) business days after submission by such other Party. Each Party agrees that it shall not issue any press release regarding the Generating Facility without the prior consent of the other, and each Party agrees not to unduly withhold or delay any such consent. Purchaser shall have the right to publicize that it is serving as a "solar host" for the Generating Facility and to display photographs of the Generating Facility in its advertising and promotional materials, provided that any such materials identify Power Provider as the owner and developer of the Generating Facility and shall be consistent with Section 7. Power Provider shall use commercially reasonable efforts to cause Purchaser to maintain the area in the immediate vicinity of the Generating Facility in a reasonably neat and clean condition. On all signage at Site, and in all publicly distributed materials and other public communications issued by either Party that refer to the Generating Facility by name, such name shall be followed by a statement to the effect that Power Provider owns and operates the Generating Facility. The Parties agree that there shall be no signage at the Site.

(b) The Parties agree that there shall be curriculum enhancement related to the Generating Facility that includes the following:

(i) Power Provider shall cause to develop an interactive website to provide electricity output data.;

(ii) Power Provider will install one visual display (such as a Kiosk or a video monitor) at an appropriate visible location on the Site that will display live information regarding the Generating Facility such as the amount of kWh being generated. Once installed, Purchaser shall operate and maintain the visual display, as well as the information provided on such visual display.

## **6. Purchase and Sale of Power; Term**

(a) Purchase and Sale. Beginning on the Commercial Operation of the Generating Facility and continuing for the Term, Purchaser shall purchase and accept delivery from Power Provider at the purchase price set forth in Exhibit C and Power Provider shall sell and deliver to Purchaser, the Energy Output (in such amount of output as the Generating Facility produces from time to time), but in no event, other than a Force Majeure event (as defined in Section 17), shall the Energy Output of the Generating Facility be less than the “Guaranteed Energy Output” described in part (ii) below. Purchaser shall not resell any of the Energy Output.

(i) Purchase Price. Purchaser shall pay Power Provider an amount equal to the Energy Output multiplied by the Purchase Price (per Exhibit C) per kWhac. In addition, Purchase shall pay Power Provider an annual fixed capacity payment of \$130,000. Such amounts shall be paid in accordance with the terms of Section 10.

(ii) Guarantee. Power Provider provides a Cumulative Output Guarantee from the Generating Facility (as set forth on the chart below) commencing on the date of Commercial Operation and continuing until the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date or achievement of the twentieth year cumulative output guarantee of 26,247,880 kWh, whichever comes first. The guarantee is defined to be 90% of the expected annual production from the Generating Facility to be measured in kWh.

In order to control for variations in weather, the actual output will be compared to the Cumulative Output Guarantee on a cumulative basis on the third (3<sup>rd</sup>), sixth (6<sup>th</sup>) ninth (9<sup>th</sup>), twelfth (12<sup>th</sup>), fifteenth (15<sup>th</sup>) and twentieth (20<sup>th</sup>) year during the cumulative output Guarantee Term. Actual production shall accrue to the cumulative balance each year and be compared on the anniversary dates noted above of the Commercial Operation Date to the aggregate cumulative output guarantee for the years in that measurement period as indicated in the table below. In the event that the Guaranteed Energy Output is not achieved as described above during the term of this Agreement (the “Guaranteed Energy Output Shortage”), and Purchaser is required to purchase replacement kWhac from Southern California Edison, then Power Provider shall refund the difference between the amount Purchaser pays Southern California Edison for the replacement power and the PPA price. The Southern California Edison replacement power price is defined as the blended average annual TOU-8 tariff for that portion of kWhac representing the Guaranteed Energy Output Shortage. This guarantee shall immediately terminate if the Generating Facility title is transferred to Purchaser.

**Example of hypothetical shortfall payment calculation.** In year 3, The campus consumes 7 million kWh of electricity and pays Southern California Edison one million fifty thousand dollars for its total annual energy use under the TOU-8 rate. Therefore the blended average annual TOU-8 rate is equal to \$0.15 per kWh ( $\$1,050,000 / 7,000,000$ )



kWh = \$0.15 per kWh). The cumulative output guarantee in year 3 is 4,193,486 kWh. The actual delivered cumulative output is 4,100,000 kWh. The shortfall is therefore 93,486 kWh. The PPA rate is \$0.14333 per kWh in year 3. The shortfall payment paid by Power Provider to Purchaser is \$624 (93,486 kWh x [\$0.15 - \$0.14333] = \$624).

The following chart specifies the Expected Annual Production from the Generating Facility as well as the Annual Production Level at 90% and the cumulative output guarantee. The Actual Output of the Generating Facility will be measured cumulatively and compared to the cumulative output guarantee level on the third, sixth ninth, twelfth, fifteenth and twentieth year during the cumulative output guarantee term.

**East Los Angeles College - 1MW Photovoltaics**

System Size (kWp) 1190

Module Degradation/Year Factor 0.75%

Year	Solar Electricity Produced (kWh)	Guaranteed kWh (90% est. output)	Cumulative Output Guarantee (kWh)
	A	B	C
1	1,564,850	1,408,365	
2	1,553,114	1,397,802	
3	1,541,465	1,387,319	<b>4,193,486</b>
4	1,529,904	1,376,914	
5	1,518,430	1,366,587	
6	1,507,042	1,356,338	<b>8,293,324</b>
7	1,495,739	1,346,165	
8	1,484,521	1,336,069	
9	1,473,387	1,326,048	<b>12,301,607</b>
10	1,462,337	1,316,103	
11	1,451,369	1,306,232	
12	1,440,484	1,296,435	<b>16,220,377</b>
13	1,429,680	1,286,712	
14	1,418,958	1,277,062	
15	1,408,315	1,267,484	<b>20,051,635</b>
16	1,397,753	1,257,978	
17	1,387,270	1,248,543	
18	1,376,865	1,239,179	
19	1,366,539	1,229,885	
20	1,356,290	1,220,661	<b>26,247,880</b>
<b>Total</b>	<b>29,164,312</b>	<b>26,247,880</b>	

(b) Taxes. All property insurance shall be the responsibility of Purchaser. Purchaser represents that it is statutorily exempt from the payment of property taxes.

(i) Sale of Energy. In the event that any state or local taxes are assessed against the generation, sale, delivery or consumption of Energy Output, Purchaser shall either pay or reimburse Power Provider for all such amounts due, including any taxes assessed thereon, as set forth in Section 10, except any income taxes imposed on Power Provider based on such sales.

(ii) Real Estate or Property. Lessee shall pay all real estate or personal property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority due to Lessee occupancy and use of the Premises (or any portion or component thereof), except (i) real and personal property taxes relating to the real property on which the Premises is situated, (ii) inheritance or estate taxes imposed upon or assessed against the Premises, or any part thereof or interest therein, (iii) taxes computed upon the basis of the net income or payments derived from the Premises by Landlord or the owner of any interest therein, and (iv) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the date hereof. Landlord shall pay all amounts in connection with clauses (i), (ii), (iii) and (iv) of this Section 6(b)(ii).

(c) Term. The initial term of this Agreement shall commence as of the Effective Date and shall expire at 2400 hours on the date twenty (20) years following the Commercial Operation Date (the "Initial Term"). At the end of the Initial Term, this Agreement, including the purchase and sale obligation under Section 6(a) with respect to Energy Output from the Generating Facility, will be extended for an additional ten (10) years (the "Additional Term") unless either Party delivers written notice to the other Party at least six (6) months prior to the end of the Initial Term that the Party wants the Agreement to terminate at the end of the Initial Term. Unless otherwise agreed to by the Parties, upon an automatic renewal, the terms and conditions of this Agreement shall remain. The Initial Term and Additional Term shall be referred to collectively as the "Term."

(d) Early Termination and Substitute Site. Purchaser may not terminate this Agreement or require a substitute Site within the first six (6) years from the Commercial Operation Date, except as the result of an Event of Default (defined in Section 15) by Power Provider. In the event Purchaser determines in Purchaser's sole discretion that the Premises are needed for educational purposes at any time on or after the expiration of the sixth (6th) year following the Commercial Operation Date, the Parties agree that the Generating Facility will be relocated, at Purchaser's sole cost, expense and risk, and at no cost to Power Provider, to a mutually agreed upon location on the Site. Purchaser shall provide Power Provider with not less than twelve (12) months prior written notice of Purchaser's proposed relocation of the Generating Facility. Additionally, Purchaser shall be responsible for payment to Power Provider as set forth in section 4(i).

(e) Upon expiration of this Agreement or termination by either Party pursuant to this section, Purchaser may choose one of the following options:

- (i) Removal of Generating Facility. Power Provider shall remove the Generating Facility from Site by a mutually convenient date but in no case later than one hundred eighty (180) days after such expiration or termination, subject to Purchaser's reimbursement of Power Provider's reasonable costs of removal (not to exceed \$1/watt DC) if removal occurs during the Term of the Agreement as the result of the default of Purchaser, or at Power Provider's expense at the end of the Term or expiration of the Term. Purchaser shall provide Power Provider with reasonable access to perform such activities.
  
- (ii) Purchase of Generating Facility. Provided no default of Purchaser shall have occurred and be continuing, Purchaser may purchase the Generating Facility no earlier than seventy-two (72) months from the Commercial Operation Date. If Purchaser elects to purchase the Generating Facility prior to the expiration of the Term, the purchase price shall be the greater of the then Fair Market Value or Buy Out Value set forth in Exhibit D. If Purchaser exercises the purchase option at the expiration of the Term, Power Provider shall, consistent with Government Code Section 5956.6, take whatever actions are necessary to transfer fee title ownership to Purchaser of the Generating Facility and all improvements placed by Power Provider on the Premises, at no charge to Purchaser, and free and clear from any lien or monetary encumbrance. Not less than ninety (90) days prior to the exercise of the purchase option, Purchaser shall provide written notice to Power Provider of Purchaser's exercise thereof. Upon the exercise of the foregoing purchase option plus receipt of the then Fair Market Value or Buy Out Value, as applicable, and all other amounts then owing by Purchaser to Power Provider, the Parties will execute all documents necessary to cause title to the Generating Facility to pass to Purchaser as-is, where-is; provided, however, that Power Provider shall remove any encumbrances placed on the Generating Facility by Power Provider. The "Fair Market Value" of the Generating Facility shall be the value determined by the mutual agreement of Purchaser and Power Provider within ten (10) days of Purchaser's termination notice pursuant to this Section 6. If Purchaser and Power Provider cannot mutually agree to a Fair Market Value, then the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to value such equipment. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. To the extent transferable, the remaining period, if any, on all warranties for the Generating Facility will be transferred from Power Provider to Purchaser at Purchaser's sole expense. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be selected by the two appraiser firms proposed by each Party

(f) Termination Value. In the event that a termination occurs for reasons attributable to Purchaser (including termination pursuant to Section 6(e), but not including a Force Majeure event which continues for at least one (1) year or a Purchaser default pursuant to Section 15), Purchaser shall pay to Power Provider the greater of Fair Market Value or the Termination Value as set forth in Exhibit D (which shall be prorated for partial years), plus all other amounts then owing by Purchaser to Power Provider. The Parties further agree the Termination Value is not an approximation of the Fair Market Value. The Termination Value shall include Power Provider's cost of removal.

(g) Termination for convenience. If the Power Provider is unable to assign this Agreement pursuant to the terms set forth in Section 21 below by or before May 21, 2007, Power Provider shall have the right to terminate this Agreement for convenience upon written notice to the Purchaser. If the Agreement is so terminated, Power Provider shall reimburse Purchaser for legal costs it has incurred to date, in an amount not to exceed fifteen thousand dollars (\$15,000).

## **7. Environmental Attributes**

(a) Delegation of Attributes to Power Provider. Notwithstanding the Generating Facility's presence as a fixture on the Site, Power Provider shall own, and may assign or sell in its sole discretion, all right, title and interest associated with or resulting from the development and installation of the Generating Facility or the production, sale, purchase or use of the Energy Output including, without limitation:

- (i) all Environmental Incentives except for Solar Renewable Energy Credits associated with the Generating Facility; and
- (ii) the Reporting Rights and the exclusive rights to claim that: (A) the Energy Output was generated by the Generating Facility; (B) Power Provider is responsible for the delivery of the Energy Output to the Energy Delivery Point; (C) Power Provider is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of the Energy Output and the delivery thereof to the Energy Delivery Point; and (D) Power Provider is entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing;

(b) Delegation of Attributes to Purchaser. Purchaser shall own, and may assign or sell in its sole discretion, all right, title and interest associated with or resulting from the following:

- (i) All Environmental Attributes and Solar Renewable Energy Credits associated with the Generating Facility; and
- (ii) the Reporting Rights and the exclusive rights to claim that Purchaser is entitled to all Solar Renewable Energy Credits evidencing or representing any of the foregoing.

## **8. Metering**

(a) Power Provider shall install and maintain a standard revenue quality meter with electronic data acquisition system (“DAS”) capabilities at the Generating Facility. The meter shall measure the alternating current output of the Generating Facility on a continuous basis. Power Provider shall be responsible for maintaining the metering equipment in good working order and, if Purchaser so requests, for testing at Purchaser’s sole expense the same once per calendar year and certifying the results of such testing to Purchaser. In the event of a failure of the electronic meter reading system and until such failure has been corrected, Power Provider shall be responsible for conducting monthly on-site readings of the standard electricity meter to determine the output of the Generating Facility delivered to Purchaser. Data retrieved from any such meter shall serve as the basis for invoicing Purchaser for all delivered energy.

(b) Power Provider shall maintain all DAS data and shall provide to Purchaser a report of the Site’s individual metered energy, as read and collected on a monthly basis, once each month within fourteen (14) business days after the last day of the preceding month. Power Provider shall verify and adjust all DAS data at least once per calendar year based on readings from the foregoing standard meter. Subject to Section 8(a), such data, as verified and adjusted, shall serve as the basis for invoicing Purchaser for all delivered energy. Power Provider shall preserve all data compiled hereunder for a period of at least two (2) years following the compilation of such data.

(c) As may be periodically requested by Purchaser, Purchaser shall have the right to audit all such DAS data upon reasonable notice, and any such audit shall be at Purchaser’s sole cost (unless an audit reveals at least a ten percent (10%) overcharge to Purchaser, in which case Power Provider shall bear the cost of that audit). Purchaser shall have a right of access to all meters at reasonable times and with reasonable prior notice for the purpose of verifying readings and calibrations. If the metering equipment is found to be inaccurate, it shall be corrected and past readings shall be promptly adjusted in an equitable manner.

(d) Power Provider shall provide connection points for Purchaser’s Data Acquisition/Building/Energy Management Systems upon Purchaser’s request and at Purchaser’s sole cost and expense.

## **9. Delivery**

(a) Title and risk of loss of the Energy Output shall pass from Power Provider to Purchaser upon delivery of the Energy Output at the Energy Delivery Point. All deliveries of Energy Output hereunder shall be in the form of three-phase, sixty-cycle alternating current or similar to properly integrate with the Site’s electrical system. Purchaser shall purchase and accept delivery of metered Energy Output at the Energy Delivery Point.

(b) Power Provider shall ensure that all energy generated by the Generating Facility conforms to Utility specifications for energy being generated and delivered to the Site’s electric distribution system, which shall include the installation of proper power conditioning and safety

equipment, submittal of necessary specifications, coordination of Utility testing and verification, and all related costs.

(c) Purchaser shall be responsible for arranging delivery of Energy Output from the Energy Delivery Point to Purchaser and any installation and operation of equipment on Purchaser's side of Energy Delivery Point necessary for acceptance and use of the Energy Output. The Parties acknowledge that adjustments in the terms and conditions of this Agreement may be appropriate to account for rule changes in the respective Utility or Utility control areas, by the respective independent system operators, or their successors, that could not be anticipated at the date of execution of this Agreement or that are beyond the control of the Parties, and the Parties agree to make such commercially reasonable amendments as are reasonably required to comply therewith.

## **10. Invoices and Payment**

Power Provider shall deliver to Purchaser an invoice by the fourteenth (14<sup>th</sup>) business day of each calendar month (or upon a monthly schedule reasonably acceptable to Purchaser and Power Provider), stating the Energy Output delivered to Purchaser during the preceding calendar month and calculating the purchase price therefor. Purchaser shall pay the undisputed purchase price by wire transfer, warrant, or ACH payment, on or before sixty (60) days following the date of the invoice, which shall be referred to as the "Due Date." If the Due Date is a bank holiday or a weekend, payment shall be due on the next following business day. Any undisputed amount remaining unpaid after the Due Date shall bear an interest rate as provided in Section 11. Invoices and payments schedule shall commence following Commercial Operation. Power Provider in its sole discretion may bill Purchaser the annual fixed capacity charge in either prorated monthly amounts or as an annual fee.

## **11. Invoice Adjustments; Disputes over Invoices**

Either Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered or adjust any invoice for any arithmetic, computational or meter-related error within twelve (12) months of the date the invoice or adjustment to an invoice was rendered. In the event a Party disputes all or a portion of an invoice, or any other claim or adjustment arises, that Party shall pay the undisputed portion when due and provide the other Party notice of the dispute and the amount in dispute. In such event, the Parties shall first use good faith, reasonable, diligent efforts to resolve such dispute within a reasonable period of time not to exceed thirty (30) days from the date of such notice. If the Parties do not resolve such a dispute within such thirty (30) days, then the Parties may pursue their rights appropriately. Purchaser shall pay to Power Provider any disputed amount which is ultimately determined to have been properly billed to Purchaser, together with interest at a rate of 1% per month or as set forth in the California Code of Civil Procedure section 685.010, (whichever amount is greater ) on any disputed amount which is ultimately determined to have been properly billed to Purchaser, until such properly billed amount is paid, which shall be Power Provider's sole and exclusive remedy with respect to a dispute concerning any invoice.

## 12. 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, the California Public Utilities Code or the California Public Contract Code as applies to such Party.

Landlord represents and warrants to Lessee that there are no circumstances known to Landlord and commitments to third parties that may damage, impair or otherwise adversely affect the Generating Facility or its function (including activities that may adversely affect the Generating Facility's exposure to sunlight). Landlord covenants that Landlord has lawful title to the Property and the Premises and full right to enter into this Agreement and that, subject to Lessee's compliance with all material provisions contained in this Agreement, Lessee shall have quiet and peaceful possession of the Premises throughout the term of this Agreement. Landlord will not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect the Generating Facility or its function (including activities that may adversely affect the Generating Facility's exposure to sunlight), without Lessee's prior written consent, which consent shall not be unreasonably withheld or delayed.

## 13. Covenants

(a) **Security.** Purchaser shall provide and take reasonable measures for security of the Generating Facility, including commercially reasonable monitoring of the Site's alarms, if any.

(b) **Liens.** Notwithstanding the Generating Facility's presence as a fixture on the Site, Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim on or with respect to the Generating Facility or any interest therein. Purchaser also shall pay promptly before a fine or penalty may attach to the Generating Facility any taxes, charges or fees of whatever type of any relevant governmental authority for which Purchaser is responsible. If Purchaser breaches its obligations under this Section 13(b), it

shall immediately notify Power Provider in writing, shall promptly cause such liens to be discharged and released of record without cost to Power Provider, and shall indemnify Power Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such liens.

#### **14. Indemnification; Insurance**

(a) Power Provider and Purchaser (each, in such case, an "Indemnifying Party.") shall indemnify, defend and hold the other Party and its employees, directors, officers, managers, members, shareholders and agents (each, in such case, an "Indemnified Party") harmless from and against any and all third party claims, suits, damages, losses, liabilities, expenses and costs (including reasonable attorney's fees) including, but not limited to, those arising out of property damage (including environmental claims) and personal injury and bodily injury (including death, sickness and disease) to the extent caused by the Indemnifying Party's (i) material breach of any obligation, representation or warranty contained herein and/or (ii) negligence or willful misconduct.

(b) Power Provider shall maintain during the Term of this Agreement, with Purchaser named as additional insured therein as its interest may appear, for the duration of this Agreement the insurance coverage outlined in (1) through (3) below, and all such other insurance as required by applicable law. Evidence of coverage will be provided to Purchaser on an annual basis, prior to policy expiration, via a Certificate of Insurance or a Self Administered Claims Letter., Commercial General Liability insurance applying to the use and occupancy of the Premises, and the business operated by Power Provider thereon in the following amounts:

1. Commercial General Liability  
Limits: 2,000,000 General Aggregate  
1,000,000 Products & Completed Operations Aggregate  
1,000,000 Each occurrence  
1,000,000 Personal Injury (Advertising Injury excluded)  
50,000 Fire Damage, Any One Fire  
5,000 Medical Payments, Each Person
2. Excess Liability  
Limits: 1,000,000 Each occurrence  
1,000,000 Aggregate
3. Standard for property insurance ("All Risk" coverage) equal to at least 90% of the replacement cost covering the Generating Facility, and all other improvements placed by Lessee on the Premises.

Any policy or policies of worker's compensation, extended coverage or similar casualty insurance, which either Party obtains in connection with the Premises, 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. Power Provider and Purchaser waive any rights of recovery against the other for injury or loss due to hazards covered by insurance obtained under this Agreement. Within thirty (30) days after execution of this Agreement and upon Purchaser's request annually thereafter,



Power Provider shall deliver to Purchaser true and correct copies of all certificates of insurance evidencing such coverage. These certificates shall specify that Purchaser shall be given at least thirty (30) days prior written notice by the insurer in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Purchaser. Should any such policy of insurance be cancelled or changed, Power Provider agrees to immediately provide Purchaser true and correct copies of all new or revised certificates of insurance.

(c) Any insurance maintained by Purchaser is for the exclusive benefit of Purchaser and shall not in any manner inure to the benefit of Power Provider, except to the extent that any payments made for claims related to the loss or damage of the Generating Facility owned by Power Provider.

(d) If the Generating Facility 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, to the extent there are sufficient insurance or condemnation proceeds available to Lessee, Lessee shall either cause (A) the Generating Facility to be rebuilt and placed in Commercial Operation at the earliest practical date or (B) another materially identical Generating Facility to be built in the proximate area of the Site and placed in Commercial Operation as soon as commercially practicable.

(e) All property insurance shall be the responsibility of Landlord. Landlord represents that it maintains and covenants that it shall maintain during the term of this Agreement property insurance sufficient to insure it against complete loss or destruction of the Property, including losses occasioned by operation of the Generating Facility, whether or not involving the fault of Lessee.

## **15. Default and Remedies**

(a) Event of Default. With respect to a Party, there shall be an "Event of Default" if:

- (i) such Party fails to pay any amount within ten (10) days after such amount is due;
- (ii) except as otherwise set forth in this Section 15(a), such Party is in breach of any representation or warranty set forth herein or fails to perform any material obligation set forth in this Agreement and such breach or failure is not cured within sixty (60) 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;
- (iii) such Party admits in writing its inability to pay its debts generally as they become due;

- (iv) such Party files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any State, district or territory thereof;
- (v) such Party makes an assignment for the benefit of creditors;
- (vi) such Party consents to the appointment of a receiver of the whole or any substantial part of its assets;
- (vii) such Party has a petition in bankruptcy filed against it, and such petition is not dismissed within 90 days after the filing thereof;
- (viii) a court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of such Party's assets, and such order, judgment or decree is not vacated or set aside or stayed within 90 days from the date of entry thereof; or
- (ix) under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of such Party's assets and such custody or control is not terminated or stayed within 90 days from the date of assumption of such custody or control.

(b) Termination; Liquidated Damages. Upon an Event of Default by one Party, the other Party shall have the right, but not the obligation, to terminate or suspend this Agreement with respect to all obligations arising after the effective date of such termination or suspension (other than payment obligations relating to obligations arising prior to such termination or suspension). The Parties acknowledge that given the complexity of this technology and the volatility of energy markets, adequate damages in the event of breach of contract will be difficult if not impossible to calculate. Consequently, the Parties agree that in the event of a default under this Agreement that leads to termination, the non-defaulting Party may pursue all remedies available to it in equity and the defaulting Party's liability hereunder shall be determined as follows:

(i) As to Power Provider's liability after Commercial Operation Date, the present value (discounted at the Prime Rate) of the cash flows equal to the product of (A) the positive difference, if any, of the price per kWhac for commercially available, utility-provided energy in the applicable market(s) minus the purchase price per kWhac of Energy Output, as set forth under Section 6 (as such purchase price would have been escalated over time pursuant to Exhibit C times (B) the number of days remaining in the term of the Agreement times the daily Average kWhac Output (as defined below); or

(ii) as to Purchaser's liability, an amount equal to the costs of removing the Generating Facility, the present value of Purchaser's purchase obligations hereunder with respect to the Energy Output of the Generating Facility for the remaining term of the Agreement, and during the term of this Agreement, the value of any Environmental Incentives and Environmental Attributes (including any applicable tax credits) that would have accrued to Power Provider if the default did not occur. These damages shall be calculated by applying the present value discount to the product of the following: the number of days remaining in the Term of the Agreement then in effect times the product of (x) the purchase price per kWhac Purchaser would otherwise pay for such Energy Output pursuant to Section 6 (as such Purchase Price would have been escalated over time

pursuant to Exhibit C times (y) the Average kWhac Output. For purposes of calculating damages, “Average kWhac Output” means the daily average number of kWhac of energy actually delivered to Purchaser from the applicable Generating Facility beginning on the start of Commercial Operation through the date of Purchaser’s default. If a Purchaser’s default occurs prior to the completion of the first one (1) full year after the start of Commercial Operation of the Generating Facility, for purposes hereof, it shall be assumed that the “Average kWh Output” of the Generating Facility during such partial year of Commercial Operation was the expected daily number of kWhac of Energy Output, calculated by dividing the “Estimated Annual 1<sup>st</sup> Year Production” as set forth by the Generating Facility in Exhibit A by 365 days. The present value discount shall be equal to the prevailing prime rate of interest as published in The Wall Street Journal (the “Prime Rate”) on the day preceding the date of such default. Purchaser’s liability for such liquidated damages may be partially mitigated to the extent that Power Provider, in its sole discretion, is able to enter into alternative arrangements with another power purchaser to install the Generating Facility at another site and sell its energy output to the substitute power purchaser on equal or superior terms than stated in this Agreement.

In either case, the defaulting Party shall be liable to reimburse the non-defaulting Party for such non-defaulting Party’s expenses and costs relating to such default (including but not limited to reasonable attorney’s fees).

(c) No Waiver. Any waiver at any time by either Party of its rights with respect to an event of default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any subsequent default or other matter. Any waiver under this Agreement must be in writing.

(d) Notwithstanding any provision to the contrary under this Agreement, neither Purchaser nor any party related to Purchaser shall bear or be deemed to bear any significant financial burden if there is nonperformance by Power Provider under this agreement, as the phrase “any significant financial burden if there is nonperformance” is used in Section 7701(e)(4)(A)(ii) of the Internal Revenue Code.

(e) Notwithstanding any provision to the contrary under this Agreement, neither Purchaser nor any party related to Purchaser shall be deemed to receive any significant financial benefit if the operating costs of the Generating Facility are less than the standard of performance and/or operation set forth in this Agreement, as the phrase “significant financial benefit if the operating costs of the Generating Facility]are less than the standards of performance or operation” is used in Section 7701(e)(4)(A)(iii) of the Internal Revenue Code.

## **16. Limitation of Liability**

FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE RIGHTS OF THE NON-DEFAULTING PARTY AND THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN THIS AGREEMENT, AS THE SOLE AND EXCLUSIVE FULL, AGREED-UPON AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, AND ALL OTHER DAMAGES OR REMEDIES ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NONEXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE.

## **17. 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) an annual level of direct beam solar resource availability that is less than or equal to 90% of historical averages as measured by long-term weather data (minimum of five (5) years) collected at the Site and/or other reliable calibrated and appropriate weather station representative of the Site, (vi) volcanic eruptions, earthquake, hurricane, flood, ice storms, explosion, fire, lightning, landslide or similarly cataclysmic occurrence, (vii) requirement by Utility that the Generation Facility discontinue operation for any reason, (viii) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, or (ix) any other action by any governmental authority which prevents or prohibits the Parties from carrying out their respective obligations under this Agreement (including, without limitation, an unstayed order of a court or administrative agency having the effect of subjecting the sales of Energy Output to federal or state regulation of prices and/or services, or elimination or alteration of one or more Environmental Incentives or other change in law that results in a

material adverse economic impact on Power Provider). Economic hardship of either Party shall not constitute a Force Majeure under this Agreement.

## **18. Records**

Each Party hereto shall keep complete and accurate records of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item relevant to this Agreement. Each Party shall have the right to examine all such records insofar as may be necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of costs relating to transactions hereunder.

## **19. 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 19). All such communications shall be mailed, sent or delivered, addressed to the Party for whom it is intended, at its address set forth below:

If to Power Provider/Lessee:

Chevron Energy Solutions Company  
A Division of Chevron U.S.A., Inc.  
150 East Colorado Boulevard, Suite 360  
Pasadena, CA 91105  
Attn: Greg Coxson  
Phone: (626) 304-4700  
Facsimile: (626) 304-4701

If to Purchaser/Landlord:

Los Angeles Community College District  
770 Wilshire Boulevard  
Los Angeles, CA 90017  
Attn: Larry Eisenberg, Executive Director, Facilities Planning & Development  
Phone: (213) 891-2366  
Facsimile: (213) 891-2490

with a copy to:

East Los Angeles College  
1301 Avenida Cesar Chavez  
Monterey Park, CA 91754  
Attn: President  
Phone: (323) 265-8669  
Facsimile: (323) \_\_\_\_\_

All notices shall be deemed to have been received when delivered in person, sent by facsimile with electronic confirmation of successful transmission, or three days after being sent by certified mail or overnight air courier service as provided above.

## **20. Confidentiality**

All non-public information (including the terms of this Agreement and, in particular, the purchase price set forth in Section 6 and Exhibit C hereof) provided by either Party to the other or which is identified by the disclosing Party in writing as confidential or proprietary information shall be treated in a confidential manner and shall not be disclosed to any third party without the prior written consent of the non-disclosing Party, which consent shall not be unreasonably withheld. Notwithstanding the preceding, this Section and the restrictions herein contained shall not apply to any data or documentation which is

- (a) required to be disclosed pursuant to state or federal law, an order or requirements of a regulatory body or a court, after five business days notice of such intended disclosure is given by the disclosing Party to the non-disclosing Party or if five business days notice is not practical, then such shorter notice as is practical;
- (b) disclosed by a Party to an affiliate of such Party or in connection with an assignment permitted by Section 21; or
- (c) is, as of the time of disclosure, public knowledge without the fault of the disclosing Party.

## **21. Assignment**

(a) Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may upon written notice, without the need for consent from the other Party (and without relieving itself from liability hereunder), (i) transfer, pledge or assign this Agreement as security for any financing or to an affiliated special purpose entity created for the financing or tax credit purposes related to Generating Facility; (ii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party, provided, however, that any such assignee shall agree to be bound by the terms

and conditions hereof; or (iii) assign its rights under this Agreement to a successor entity in a merger or acquisition transaction, provided, however, that any such assignee shall agree to be bound by the terms and conditions hereof. No such assignment shall be effective until written notice of such assignment is provided to Landlord/Purchaser. Lessee/Power Provider shall not be relieved from future performance, liabilities, and obligations under this Agreement, unless assignee assumes all of Lessee/Power Provider's obligations herein and a copy of such executed assignment is provided to Landlord/Purchaser. Lessee/Power Provider shall not have the right to sublet the Premises, without Landlord/Purchaser's prior written consent or approval, which consent or approval may be withheld by Landlord/Purchaser in its absolute discretion. Any such approved sublease shall require that the sublessee agree to abide by the terms and conditions of this Agreement, and written evidence of such agreement by the sublessee is provided to Landlord/Purchaser prior to the effective date of the sublease.

(b) With respect to an assignment pursuant to clause (ii) in Section 21(a), Landlord/Purchaser acknowledges and agrees that, upon receipt of written direction by a financing-transaction assignee of Lessee ("Lender"), and notwithstanding any instructions to the contrary from Lessee/ Power Provider , Landlord will recognize Lender, or any third party to whom Lender has reassigned the rights of Lessee/Power Provider under this Agreement, as the proper and lawful lessee of the Premises and as the proper and lawful successor to Lessee Power Provider with respect to access to the Premises across or through the Property and fully entitled to receive the rights and benefits of Lessee/ Power Provider hereunder so long as Lender (or its assignee) performs the obligations of Lessee/ Power Provider hereunder.

In addition, Landlord/ Purchaser agrees and consents as follows:

(i) Landlord/ Purchaser agrees to notify Lender in writing, at the address to be designated by Lender upon not less than five (5) business days' written notice to Landlord prior to any notice by Landlord/ Purchaser hereunder, of any act or event of default of Lessee/Power Provider under the Agreement of which Landlord has knowledge that would entitle Landlord/ Purchaser to cancel, terminate, annul, or modify the Agreement or dispossess or evict Lessee/Power Provider from the Premises or otherwise proceed with enforcement remedies against Lessee/ Power Provider, and Lender shall have the same amount of time as Lessee/ Power Provider, but at least ten (10) days with respect to any monetary default and at least thirty (30) days with respect to any non-monetary default, to cure any default by Lessee/Power Provider under the Agreement; provided that in no event shall Lender be obligated to cure any such default.

(ii) Notwithstanding that the Generating Facility is a fixture on the Premises, and subject to the terms and conditions hereof, Landlord/Purchaser hereby subordinates any lien it may have in and to the property used by Lessee/ Power Provider in the conduct of its business and which is or may from time to time hereafter be located at the Premises, and to which Lessee/ Power Provider has granted or will grant a security interest to Lender (all such property and the records relating thereto, but specifically excluding the Premises which shall not be subject to subordination, shall be hereafter called the "Collateral") to the lien of Lender; provided, however, that this subordination shall not prevent Landlord from exercising any right or remedy against Lessee to which Landlord/

Purchaser may be entitled under the terms of the Agreement or as may be provided by applicable law, nor shall it prevent Landlord/ Purchaser from exercising any lien it may have on any property of Lessee/ Power Provider, including the Collateral, so long as Landlord/ Purchaser recognizes Lender's prior right to the Collateral described above. Landlord/ Purchaser recognizes and acknowledges that any claim or claims ("Claims") that Lender has or may have against such Collateral by virtue of any lien or security interest, is superior to any lien, security interest, or claim of any nature which Landlord/ Purchaser now has or may hereafter have to such Collateral by statute, agreement or otherwise. The subordination of lien provided for herein shall be effective until the discharge of the Claims. Landlord/ Purchaser further agrees to notify any purchaser of the Premises, and any subsequent mortgagee or other encumbrance holder, of the existence of the foregoing waiver of Landlord/ Purchaser 's lien, which shall be binding upon the executors, administrators, successors and transferees of Landlord/ Purchaser, and shall inure to the benefit of the successors and assigns of Lender.

(iii) Landlord/ Purchaser consents to Lender's security interest in the Collateral and waives all right of levy for rent and all claims and demands of every kind against the Collateral, such waiver to continue so long as any sum remains owing from Lessee/ Power Provider to the Lender. Landlord/ Purchaser agrees that the Collateral shall not be subject to distraint or execution by, or to any claim of, Landlord/ Purchaser.

(iv) Landlord/ Purchaser hereby irrevocably agrees and consents to refrain from taking any action to bar, restrain or otherwise prevent Lender from the Premises and the Property for the purpose of inspecting the Collateral.

## **22. Set-Off**

Except as otherwise set forth herein, each Party reserves to itself all rights, set-offs, counterclaims and other remedies and/or defenses to which it is or may be entitled, arising from or out of this Agreement or arising out of any other contractual arrangements between the Parties. All outstanding obligations to make, and rights to receive, payment under this Agreement may be offset against each other.

## **23. 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.

## **24. Amendments**

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



## **25. 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.

## **26. 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 (other than the Utility interconnection agreement referred to in Section 1(b)).

## **27. 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.

## **28. Severability**

Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and non-appealable order of any court or regulatory body having jurisdiction, such decision shall not affect the validity of the remaining portions, and the remaining portions shall remain in full force and effect as if this Agreement had been executed without the invalid portion.

## **29. 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.

## **30. Governing Law**

This Agreement shall be interpreted and construed in accordance with the laws of the State of California, as if executed and to be performed wholly within the State of California.

## **31. Legal Effect of Contract**

(a) The Parties acknowledge and agree that the transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

(b) The Parties acknowledge and agree that, for accounting or tax purposes, this Agreement is not and shall not be construed as a capital lease and, pursuant to Section 7701(e)(3) of the Internal Revenue Code, this Agreement is and shall be deemed to be a service contract with respect to the sale to the Purchaser of electric energy produced at an alternative energy facility.

### **32. Cooperation**

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents (e.g., Utility interconnection agreement), 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 arrangement in which the cooperation of all of them will be required. Landlord consents to and hereby appoints Lessee as its attorney in fact for the purpose of recording a memorandum of this Agreement in the land registry or title records of the county where the Premises are located or other applicable government office. From time to time, upon written request by Lessee (or its lenders), Landlord shall provide within seven (7) days thereafter an estoppel certificate attesting, to the knowledge of Landlord, of Lessee's compliance with the terms of this Agreement or detailing any known issues of noncompliance.

### **33. No Partnership**

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.

### **34. 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.

### **35. 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.

**36. Exhibits**

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

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, the undersigned have duly executed and delivered this Solar Services and Site Lease Agreement as of the day and year first above written.

**Power Provider and Lessee**

Chevron Energy Solutions Company, a Division of  
Chevron U.S.A., Inc., a Pennsylvania corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Purchaser and Landlord**

Los Angeles Community College District, a  
political subdivision of the State of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit A

Site Plan and Legal Description of Premises

Photovoltaic Site Location  
Map 5 Northwest Parking (North of Avalanche Way)

THAT PORTION OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 12 WEST, S. 3. M. IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL MAP OF THE COUNTY OF SAID LAND, ON FILE A THE SURVEY OF LAND MANAGEMENT, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 12 OF TRACT NO. 279, AS PER MAP RECORDED IN BOOK 272 PAGES 3 AND 4 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THENCE NORTH 91° 0' 0" WEST, 100 FEET TO THE EAST LINE OF SAID LOT 12, A DISTANCE OF 250.77 FEET, MORE OR LESS, TO THE NORTH-EAST CORNER OF SAID LOT; THENCE SOUTH 0° 0' 0" EAST, 20.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 0' 0" EAST, 20.88 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 250 FEET; THENCE EASTWARD, ALONG SAID CURVE, 264.77 FEET, MORE OR LESS, TO THE WESTERLY LINE OF THE SAID LOT DESCRIBED IN MAP 5; AS WITH BEARS EASERS ON APRIL 5, 1949 IN BOOK 29750 PAGE 312, OF OFFICIAL RECORDS OF SAID COUNTY, THENCE SOUTH 6° 0' 0" WEST, A LONG SOUTHWESTERLY LINE, 252.96 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF BROOKLYN AVENUE, 50 FEET WIDE, AS DESCRIBED IN DEEDS RECORDED IN BOOK 12585 PAGE 77 AND BOOK 12331 PAGE 379, OF OFFICIAL RECORDS OF SAID COUNTY, A 640.24 FEET OF THE CURVE, HAVING A RADIUS OF 320 FEET, SOUTH 33° 33' WEST FROM SAID EAST MEASURED POINT; THENCE WESTERLY, ALONG SAID NORTHWESTERLY LINE, ON A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 2700 FEET, A DISTANCE OF 531.11 FEET, MORE OR LESS, TO THE END OF SAID CURVE; THENCE SOUTH 89° 0' 0" WEST, ALONG SAID NORTHERLY LINE, 374.39 FEET, MORE OR LESS, TO A POINT WHICH BEARS SOUTH 0° 0' 0" WEST FROM THE TRUE POINT OF BEGINNING, THENCE NORTH 6° 10' 20" EAST 1248.86 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

PARCEL 4

THAT PORTION OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 12 WEST, SAN FERNADEO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL MAP OF THE COUNTY OF SAID LAND, ON FILE A THE SURVEY OF LAND MANAGEMENT, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 12 OF TRACT NO. 279, AS PER MAP RECORDED IN BOOK 272 PAGES 3 AND 4 OF MAPS, RECORDS OF SAID COUNTY, THENCE NORTH 91° 0' 0" WEST, 100 FEET TO THE EAST LINE OF SAID LOT 12, A DISTANCE OF 250.77 FEET, MORE OR LESS, TO THE NORTH-EAST CORNER OF SAID LOT; THENCE SOUTH 0° 0' 0" EAST, 20.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 0' 0" EAST, 20.88 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 250 FEET; THENCE EASTWARD, ALONG SAID CURVE, 264.77 FEET, MORE OR LESS, TO THE WESTERLY LINE OF THE SAID LOT DESCRIBED IN MAP 5; AS WITH BEARS EASERS ON APRIL 5, 1949 IN BOOK 29750 PAGE 312, OF OFFICIAL RECORDS OF SAID COUNTY, THENCE SOUTH 6° 0' 0" WEST, A LONG SOUTHWESTERLY LINE, 252.96 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF BROOKLYN AVENUE, 50 FEET WIDE, AS DESCRIBED IN DEEDS RECORDED IN BOOK 12585 PAGE 77 AND BOOK 12331 PAGE 379, OF OFFICIAL RECORDS OF SAID COUNTY, A 640.24 FEET OF THE CURVE, HAVING A RADIUS OF 320 FEET, SOUTH 33° 33' WEST FROM SAID EAST MEASURED POINT; THENCE WESTERLY, ALONG SAID NORTHWESTERLY LINE, ON A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 2700 FEET, A DISTANCE OF 531.11 FEET, MORE OR LESS, TO THE END OF SAID CURVE; THENCE SOUTH 89° 0' 0" WEST, ALONG SAID NORTHERLY LINE, 374.39 FEET, MORE OR LESS, TO A POINT WHICH BEARS SOUTH 0° 0' 0" WEST FROM THE TRUE POINT OF BEGINNING, THENCE NORTH 6° 10' 20" EAST 1248.86 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

LEGAL DESCRIPTION: Appendix A

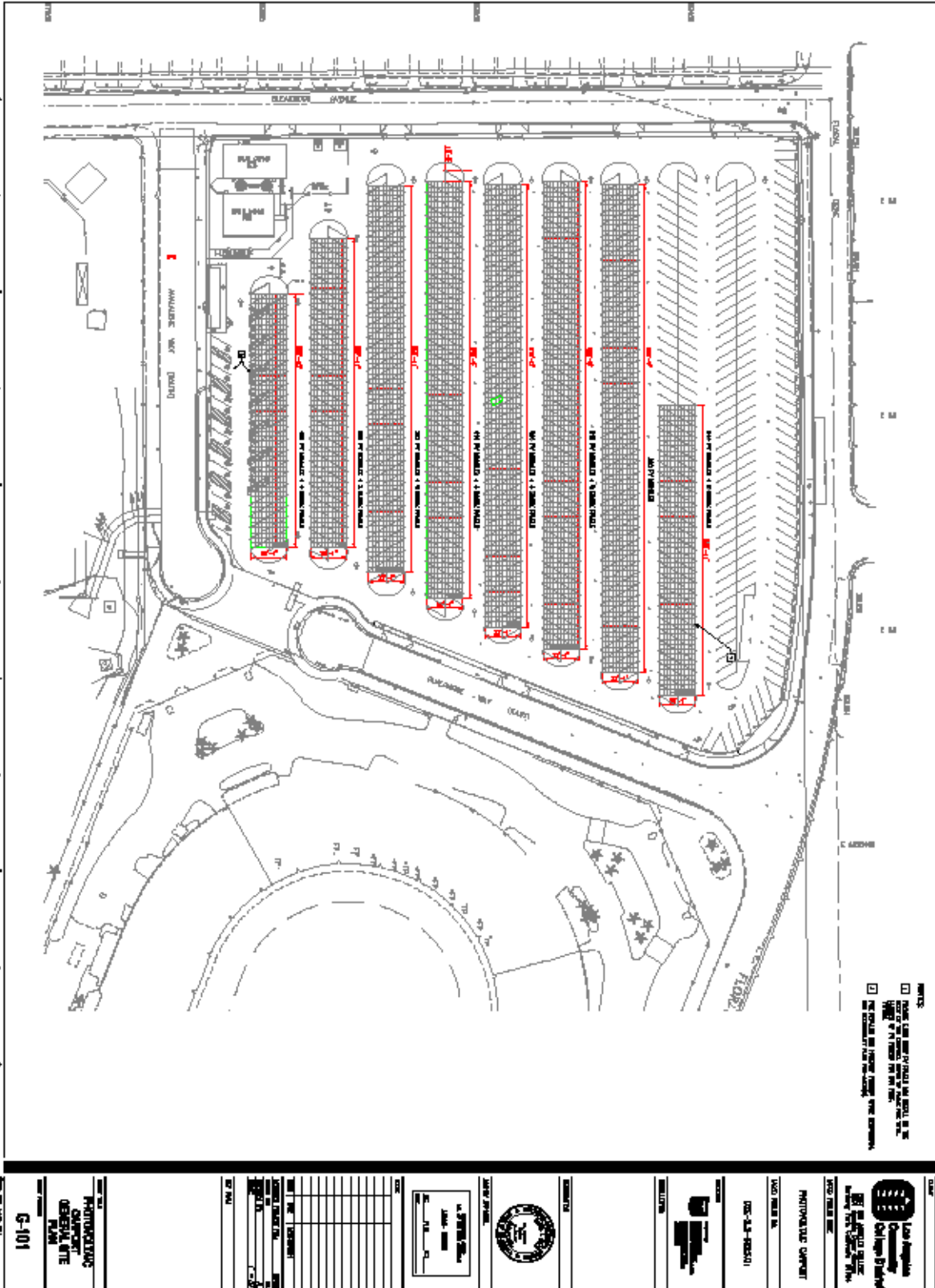
PARCEL 1

THAT PORTION OF THE WEST ONE-HALF OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 12 WEST, SAN FERNADEO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL MAP OF THE COUNTY OF SAID LAND, ON FILE A THE SURVEY OF LAND MANAGEMENT, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 12 OF TRACT NO. 279, AS PER MAP RECORDED IN BOOK 272 PAGES 3 AND 4 OF MAPS, RECORDS OF SAID COUNTY, THENCE NORTH 91° 0' 0" WEST, 100 FEET TO THE EAST LINE OF SAID LOT 12, A DISTANCE OF 250.77 FEET, MORE OR LESS, TO THE NORTH-EAST CORNER OF SAID LOT; THENCE SOUTH 0° 0' 0" EAST, 20.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 0' 0" EAST, 20.88 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 250 FEET; THENCE EASTWARD, ALONG SAID CURVE, 264.77 FEET, MORE OR LESS, TO THE WESTERLY LINE OF THE SAID LOT DESCRIBED IN MAP 5; AS WITH BEARS EASERS ON APRIL 5, 1949 IN BOOK 29750 PAGE 312, OF OFFICIAL RECORDS OF SAID COUNTY, THENCE SOUTH 6° 0' 0" WEST, A LONG SOUTHWESTERLY LINE, 252.96 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF BROOKLYN AVENUE, 50 FEET WIDE, AS DESCRIBED IN DEEDS RECORDED IN BOOK 12585 PAGE 77 AND BOOK 12331 PAGE 379, OF OFFICIAL RECORDS OF SAID COUNTY, A 640.24 FEET OF THE CURVE, HAVING A RADIUS OF 320 FEET, SOUTH 33° 33' WEST FROM SAID EAST MEASURED POINT; THENCE WESTERLY, ALONG SAID NORTHWESTERLY LINE, ON A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 2700 FEET, A DISTANCE OF 531.11 FEET, MORE OR LESS, TO THE END OF SAID CURVE; THENCE SOUTH 89° 0' 0" WEST, ALONG SAID NORTHERLY LINE, 374.39 FEET, MORE OR LESS, TO A POINT WHICH BEARS SOUTH 0° 0' 0" WEST FROM THE TRUE POINT OF BEGINNING, THENCE NORTH 6° 10' 20" EAST 1248.86 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

PARCEL 2

THAT PORTION OF THE WEST ONE-HALF OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 12 WEST, SAN FERNADEO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL MAP OF THE COUNTY OF SAID LAND, ON FILE A THE SURVEY OF LAND MANAGEMENT, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 12 OF TRACT NO. 279, AS PER MAP RECORDED IN BOOK 272 PAGES 3 AND 4 OF MAPS, RECORDS OF SAID COUNTY, THENCE NORTH 91° 0' 0" WEST, 100 FEET TO THE EAST LINE OF SAID LOT 12, A DISTANCE OF 250.77 FEET, MORE OR LESS, TO THE NORTH-EAST CORNER OF SAID LOT; THENCE SOUTH 0° 0' 0" EAST, 20.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 0' 0" EAST, 20.88 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 250 FEET; THENCE EASTWARD, ALONG SAID CURVE, 264.77 FEET, MORE OR LESS, TO THE WESTERLY LINE OF THE SAID LOT DESCRIBED IN MAP 5; AS WITH BEARS EASERS ON APRIL 5, 1949 IN BOOK 29750 PAGE 312, OF OFFICIAL RECORDS OF SAID COUNTY, THENCE SOUTH 6° 0' 0" WEST, A LONG SOUTHWESTERLY LINE, 252.96 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF BROOKLYN AVENUE, 50 FEET WIDE, AS DESCRIBED IN DEEDS RECORDED IN BOOK 12585 PAGE 77 AND BOOK 12331 PAGE 379, OF OFFICIAL RECORDS OF SAID COUNTY, A 640.24 FEET OF THE CURVE, HAVING A RADIUS OF 320 FEET, SOUTH 33° 33' WEST FROM SAID EAST MEASURED POINT; THENCE WESTERLY, ALONG SAID NORTHWESTERLY LINE, ON A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 2700 FEET, A DISTANCE OF 531.11 FEET, MORE OR LESS, TO THE END OF SAID CURVE; THENCE SOUTH 89° 0' 0" WEST, ALONG SAID NORTHERLY LINE, 374.39 FEET, MORE OR LESS, TO A POINT WHICH BEARS SOUTH 0° 0' 0" WEST FROM THE TRUE POINT OF BEGINNING, THENCE NORTH 6° 10' 20" EAST 1248.86 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

Power Purchaser will install a 1190 kWp Photovoltaic Panel System at the Los Angeles Community College District (LACCD) East Los Angeles College (ELAC) campus. The System will consist of: 5952 multicrystal photovoltaic panels on eight steel carport structures constructed on the Northwest parking lot on campus, plus associated electrical equipment and monitoring devices.



**Exhibit B**  
**Estimated Annual Production for Agreement Term**

<u>Year</u>	<u>Expected Solar Electricity Produced (kWh)</u>
1	1,564,850
2	1,553,114
3	1,541,465
4	1,529,904
5	1,518,430
6	1,507,042
7	1,495,739
8	1,484,521
9	1,473,387
10	1,462,337
11	1,451,369
12	1,440,484
13	1,429,680
14	1,418,958
15	1,408,315
16	1,397,753
17	1,387,270
18	1,376,865
19	1,366,539
20	1,356,290
21	1,346,118
22	1,336,022
23	1,326,002
24	1,316,057
25	1,306,186
26	1,296,390
27	1,286,667
28	1,277,017
29	1,267,439
30	1,257,933
Total	42,180,142

Note:

1. Guaranteed output level is at 90% of expected production level, for Year 1 to Year 20.



**Exhibit C  
Purchase Price**

<b>Year</b>	<b>Rate (\$/kWh)</b>	<b>Annual Price Escalation</b>	<b>Annual Fixed Capacity Charge</b>
1	\$0.13000	5%	\$ 130,000
2	\$0.13650	5%	\$ 130,000
3	\$0.14333	5%	\$ 130,000
4	\$0.15049	5%	\$ 130,000
5	\$0.15802	5%	\$ 130,000
6	\$0.16592	5%	\$ 130,000
7	\$0.17421	5%	\$ 130,000
8	\$0.18292	5%	\$ 130,000
9	\$0.19207	5%	\$ 130,000
10	\$0.20167	5%	\$ 130,000
11	\$0.21176	5%	\$ 130,000
12	\$0.22234	5%	\$ 130,000
13	\$0.23346	5%	\$ 130,000
14	\$0.24513	5%	\$ 130,000
15	\$0.25739	5%	\$ 130,000
16	\$0.27026	5%	\$ 130,000
17	\$0.28377	5%	\$ 130,000
18	\$0.29796	5%	\$ 130,000
19	\$0.31286	5%	\$ 130,000
20	\$0.32850	5%	\$ 130,000
Thereafter	\$0	0	\$0

**Annual Price Escalator:** Each year<sup>1</sup> during the term of the Agreement, the purchase price shall be adjusted upward by the price escalator listed in this Exhibit C.

<sup>1</sup> Each year starts at 0000 hours on the Date of Commercial Operation (or anniversary) and runs through 2400 hours on the date before the following anniversary (e.g., 0000 hours on January 1 through 2400 hours on December 31).

**Exhibit D**  
**Termination Buy out and Termination Value**

Due to tax implications, there is no buyout / termination value provided in the first six years. The customer is not permitted to exercise the buyout option in the first six (6) years of operation. The buyout / termination value shown for Year 6 refers to buyout / termination at the end of Year 6 / beginning of Year 7.

<u>Year</u>	<u>Buyout Value</u>	<u>Termination Value</u>
1	no buyout/termination option	no buyout/termination option
2	no buyout/termination option	no buyout/termination option
3	no buyout/termination option	no buyout/termination option
4	no buyout/termination option	no buyout/termination option
5	no buyout/termination option	no buyout/termination option
6	3,172,750	Buyout Value + Removal Fee *
7	3,072,750	Buyout Value + Removal Fee *
8	2,972,750	Buyout Value + Removal Fee *
9	2,872,750	Buyout Value + Removal Fee *
10	2,772,750	Buyout Value + Removal Fee *
11	2,672,750	Buyout Value + Removal Fee *
12	2,572,750	Buyout Value + Removal Fee *
13	2,472,750	Buyout Value + Removal Fee *
14	2,372,750	Buyout Value + Removal Fee *
15	2,272,750	Buyout Value + Removal Fee *
16	2,172,750	Buyout Value + Removal Fee *
17	2,072,750	Buyout Value + Removal Fee *
18	1,972,750	Buyout Value + Removal Fee *
19	1,872,750	Buyout Value + Removal Fee *
20	1,772,750	Buyout Value + Removal Fee *
21	1,622,750	Buyout Value + Removal Fee *
22	1,472,750	Buyout Value + Removal Fee *
23	1,322,750	Buyout Value + Removal Fee *
24	1,172,750	Buyout Value + Removal Fee *
25	1,022,750	Buyout Value + Removal Fee *
26	872,750	Buyout Value + Removal Fee *
27	672,750	Buyout Value + Removal Fee *
28	472,750	Buyout Value + Removal Fee *
29	272,750	Buyout Value + Removal Fee *
30	0	Buyout Value + Removal Fee *

Notes:

1. Buyout value: Lump sum payment from Purchaser to Power Provider prior to the end of the Agreement Term, to take ownership of the Generating Facility and terminate the Agreement.
2. Termination value: Lump sum payment from Purchaser to Power Provider upon termination of the Agreement.
3. Termination value = Buyout Value + Removal Fee
4. Removal Fee = All costs associated with the removal of the Generating Facility, if Purchaser elects to have the Power Provider to remove the Generating Facility upon early termination of

the Agreement.